

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes amendments to §§39.403, 39.405, 39.501, and 39.503.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The primary purpose of this rulemaking is to implement legislation relating to public notice and meeting requirements. House Bill (HB) 2912 (an act relating to the continuation and functions of the Texas Natural Resource Conservation Commission; providing penalties), 77th Legislature, 2001, §2.01, added Texas Health and Safety Code (THSC), §361.0666, Public Meeting and Notice for Solid Waste Facilities. The proposed amendments to §39.501 and §39.503 address the amendments to THSC, §361.0666, which added certain public meeting requirements for facilities that accept municipal solid waste. HB 2947 (an act relating to the posting of notice for water discharge permits), 77th Legislature, 2001, amended Texas Water Code (TWC), §5.552, Notice of Intent to Obtain Permit. The proposed amendments to §39.405 address the requirements of amended TWC, §5.552 relating to newspaper publication requirements. Senate Bill (SB) 688 (an act relating to requirements for public notice and hearing on applications for certain permits that may have environmental impact) added new Texas Clean Air Act (TCAA), §382.05197, and changed the public notice requirements applicable to multiple plant permits. The proposed amendments to §39.403 address the requirements of new TCAA, §382.05197. The proposal also contains grammatical and statutory reference revisions, cross-reference corrections, and changes which conform the rule language to *Texas Register* and agency formatting requirements.

SECTION BY SECTION DISCUSSION

Section 39.403, Applicability, is proposed to be amended to address requirements of new TCAA, §382.01597, relating to notice and hearing requirements for multiple plant permit applications.

Proposed new paragraph (13) of subsection (b) specifies that notices for multiple plant permits are subject to applicable requirements under Chapter 39. Existing paragraph (13) is proposed to be re-designated as paragraph (14). Subsection (d) is proposed to be amended to specify that initial issuance of certain multiple plant permit applications are subject to the same public notice requirements that apply to initial issuance of voluntary emission reduction permits and initial issuance of electric generating facility permits except as otherwise provided in 30 TAC §116.1040, as proposed for amendment in a concurrent rulemaking in this issue of the *Texas Register*. New TCAA, §382.05197(c) provides that public participation for a multiple plant permit application filed before September 1, 2001, will be done in the same manner as provided by TCAA, §382.0561, Federal Operating Permit, and §382.0562, Notice of Decision. Because the commission has developed public notice and participation requirements implementing similar language in TCAA, §382.05191 for initial issuance of voluntary emission reduction permits (VERP) and initial issuance of electric generating facility permits, the existing Chapter 39 requirements are proposed to also apply to certain multiple plant permits under 30 TAC Chapter 116, Subchapter J.

Section 39.405, General Notice Provisions, is proposed to be amended under subsection (f) to address the HB 2947 requirement that certain notices of intent to obtain a permit must be published in a newspaper of general circulation in a municipality, if the facility to which the application relates is located or proposed to be located in the municipality. This proposed rule change reflects the change to

TWC, §5.552(b)(1), which previously provided that for all applications governed by this provision, the applicant was required to publish notice in the newspaper of largest circulation in the county in which the facility was located or proposed to be located. Section 39.405(f) is also proposed to be amended to make clear that the requirements of HB 2947 do not apply to air applications which remain subject to the newspaper publication requirements of TCAA, §382.056(a), and are unchanged by HB 2947.

Sections 39.501 and 39.503 are proposed to be amended to address the public meeting and notice requirements for solid waste facilities under the HB 2912, Article 2 amendments to THSC, §361.0666. Consistent with the provisions of HB 2912, these proposed amendments would require an applicant for a permit under THSC, Chapter 361, for a new facility that would accept municipal solid waste, to hold a public meeting in the county in which the proposed facility is to be located, publish notice of the public meeting, and submit an affidavit certifying the notice was published as required.

Section 39.501, Application for Municipal Solid Waste Permit, is proposed to be amended under subsection (e). Under paragraph (1)(B), the proposed language would require an applicant for a new municipal solid waste permit to hold a public meeting in the county in which the facility is proposed to be located, and would require that the meeting be held before the 45th day after the date the application is filed. Language from existing paragraph (1) concerning the Administrative Procedure Act (APA) and the local review process is proposed to be renumbered as paragraph (2), and the incorrect reference to subsection (a) is proposed to be corrected to subsection (b). In addition, proposed paragraph (2) would add the words “paragraph (1)(A) of” in order to more accurately reflect the allowance that a public meeting held as part of a local review committee process meets the requirements for a meeting to

be held by the agency, if public notice is provided under this subsection. The language from existing paragraph (2) is proposed to be renumbered as paragraph (3), grammatically revised, and expanded to reflect the requirements of THSC, §361.0666(d), relating to content of notice for public meetings held by the applicant. In addition, the rule provides that the text of notice shall include the location, time, and date of the meeting as well as the name, address, and telephone number for the contact person for the applicant as proposed in subparagraphs (A) - (F) of paragraph (3). The language from existing paragraph (3) is proposed to be renumbered as paragraph (4). Because current §39.405(e) already requires the applicant to submit an affidavit certifying compliance with applicable notice requirements, no other changes are proposed to implement the new statutory requirements.

Section 39.503, Application for Industrial or Hazardous Waste Facility Permit, is proposed to be amended under subsection (e) to mirror the changes proposed to §39.501 in this rulemaking. The provisions of newly enacted THSC, §361.0666, apply not only to new municipal solid waste facilities, but also to any new facilities that accept municipal solid waste. Since under certain circumstances, industrial or hazardous waste facilities may also accept municipal solid wastes, the requirements of the new statutory provisions also apply to these facilities. Thus, the commission proposes the corresponding changes necessary to implement these provisions for industrial or hazardous waste facilities.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, has determined that for each year of the first five-year period the proposed amendments are in effect, there will be no significant fiscal implications for the agency due to administration or enforcement of the proposed amendments. There may be public notice costs, which are not anticipated to be significant, for units of state and local government that apply for a municipal solid waste permit.

This rulemaking is intended to implement certain provisions of HB 2912 and HB 2947, which modified existing public notice and meeting requirements. HB 2912 requires public notices, published by the commission or by a person regulated by the commission, to include a detailed beginning statement of the subject of the notice. This bill also requires applicants for a new facility that would accept municipal solid waste to convene a public meeting, and provide public notice, in the county in which the proposed site is to be located. HB 2947 allows applicants for certain permits to publish notice in the newspaper of general circulation in the municipality in which the facility is to be located. Currently, applicants for these permits have to publish notice in a newspaper of largest circulation in the county in which the proposed site is located.

The commission does not anticipate the statement or public meeting provisions of HB 2912 will result in significant fiscal implications for units of state and local government. The commission estimates that the HB 2947 provision may result in economic benefits, which are not anticipated to be significant, to units of government applying for certain permits, because the required notice would only have to be

published in a newspaper of general circulation in the municipality in which the facility is to be located, instead of in a newspaper that covered the entire county.

The commission estimates that there will be public notice costs, which are not anticipated to be significant, to units of state and local government that apply for a new permit and would accept municipal solid waste. The commission currently processes approximately 40 new applications for municipal solid waste permits per year, most of which are submitted by units of government. The proposed amendments would require an applicant to provide notice of the public meeting at least once each week during the three weeks prior to the meeting. The notice must be published in the newspaper of the largest general circulation that is published in the county in which the proposed facility is to be located. The costs for public notice vary significantly depending on the location and the anticipated environmental impact of the facility. Small town/city newspapers generally charge much less than large town/city newspapers for publication of a public notice. The commission estimates that a large city newspaper would charge approximately \$450 for the public notice. A smaller city newspaper would charge approximately \$20 for the public notice.

PUBLIC BENEFITS AND COSTS

Mr. Davis has also determined that for each of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of implementing the amendments will be improved public notification and input due to revised public notice and meeting requirements.

This rulemaking is intended to implement certain provisions of HB 2912 and HB 2947, which modified existing public notice and meeting requirements. HB 2912 requires public notices, published by the commission or by a person regulated by the commission, to include a detailed beginning statement of the subject of the notice. This bill also requires applicants for a new facility that would accept municipal solid waste to convene a public meeting, and provide public notice, in the county in which the proposed site is to be located. HB 2947 allows applicants for certain permits to publish notice in the newspaper of general circulation in the municipality in which the facility is to be located. Currently, applicants for these permits have to publish notice in a newspaper of largest circulation in the county in which the proposed site is located.

The commission does not anticipate the statement or public meeting provisions of HB 2912 will result in significant fiscal implications for individuals and businesses. The commission estimates that the HB 2947 provision may result in economic benefits, which are not anticipated to be significant, to businesses applying for certain permits, because the required notice would only have to be published in a newspaper of general circulation in the municipality in which the facility is to be located, instead of in a newspaper that covered the entire county.

The commission estimates that there will be public notice costs, which are not anticipated to be significant, to individuals and businesses that apply for a new permit and would accept municipal solid waste. The commission currently processes approximately 40 new applications for municipal solid waste permits per year, some of which are submitted by private businesses. The proposed amendments would require an applicant to provide notice of the public meeting at least once each week during the

three weeks prior to the meeting. The notice must be published in the newspaper of the largest general circulation that is published in the county in which the proposed facility is to be located. The costs for public notice vary significantly depending on the location and the anticipated environmental impact of the facility. Small town/city newspapers generally charge much less than large town/city newspapers for publication of a public notice. The commission estimates that a large city newspaper would charge approximately \$450 for the public notice. A smaller city newspaper would charge approximately \$20 for the public notice.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

There may be adverse fiscal implications, which are not anticipated to be significant, for small or micro-businesses as a result of administration or enforcement of the proposed amendments, which are intended to implement provisions of HB 2912 and HB 2947, which modified existing public notice and meeting requirements. HB 2912 requires public notices, published by the commission or by a person regulated by the commission, to include a detailed beginning statement of the subject of the notice.

This bill also requires applicants for a new facility that would accept municipal solid waste to convene a public meeting, and provide public notice, in the county in which the proposed site is to be located. HB 2947 allows applicants for certain permits to publish notice in the newspaper of general circulation in the municipality in which the facility is to be located. Currently, applicants for water discharge permits have to publish notice in a newspaper of largest circulation in the county in which the proposed site is located.

The commission does not anticipate the statement or public meeting provisions of HB 2912 will result in significant fiscal implications for small and micro-businesses. The commission estimates that the HB 2947 provision may result in economic benefits, which are not anticipated to be significant, to small and micro-businesses applying for certain permits, because the required notice would only have to be published in a newspaper of general circulation in the municipality in which the facility is to be located, instead of in a newspaper that covered the entire county.

The commission estimates that there will be public notice costs, which are not anticipated to be significant, to small and micro-businesses that apply for a new permit for a facility that would accept municipal solid waste. The commission currently processes approximately 40 new applications for municipal solid waste permits per year, some of which are submitted by small and micro-businesses. The proposed amendments would require an applicant to provide notice of the public meeting at least once each week during the three weeks prior to the meeting. The notice must be published in the newspaper of the largest general circulation that is published in the county in which the proposed facility is to be located. The costs for public notice vary significantly depending on the location and the anticipated environmental impact of the facility. Small town/city newspapers generally charge much less than large town/city newspapers for publication of a public notice. The commission estimates that a large city newspaper would charge approximately \$450 for the public notice. A smaller city newspaper would charge approximately \$20 for the public notice.

The following is an analysis of the costs per employee for small and micro-businesses that are required to provide public notice concerning an application for a municipal solid waste permit. Small and micro-

businesses are defined as having fewer than 100 or 20 employees respectively. A small business would have to pay up to an additional \$5.00 per employee to comply with the proposed amendments. A micro-business would have to pay up to an additional \$23 per employee to comply with the proposed amendments.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed amendments do not adversely affect a local economy in a material way for the first five years that the proposed amendments are in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rulemaking is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the statute. Furthermore, it does not meet any of the four applicability requirements listed in §2001.0225(a).

A “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, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Because the specific intent of the proposed rulemaking is

procedural in nature and revises procedures concerning public notice and public meetings, the rulemaking does not meet the definition of a “major environmental rule.”

In addition, even if the proposed rules are major environmental rules, a draft regulatory impact assessment is not required because the rules do not exceed a standard set by federal law, exceed an express requirement of state law, exceed a requirement of a delegation agreement, or propose to adopt a rule solely under the general powers of the agency. This proposal does not exceed a standard set by federal law. This proposal does not exceed an express requirement of state law because it is authorized by the following state statutes: Texas Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal state agency procedures; as well as the other statutory authorities cited in the STATUTORY AUTHORITY section of this preamble. In addition, the proposal is in direct response to HB 2912, HB 2947, and SB 688, and does not exceed the requirements of these bills. This proposal does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program. This proposal does not adopt a rule solely under the general powers of the agency, but rather under specific state laws (i.e., Texas Government Code, §2001.004; TWC, §5.129 and §5.552; and THSC, §361.0666 and §382.05197). Finally, this rulemaking is not being proposed or adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

The commission invites public comment on the draft regulatory impact analysis determination.

TAKINGS IMPACT ASSESSMENT

The commission evaluated this proposed rulemaking action and performed a preliminary analysis of whether the proposed rules are subject to Texas Government Code, Chapter 2007. The specific primary purpose of the proposed rulemaking is to revise commission rules relating to procedures for public notice and public meetings. As added by HB 2947, TWC, §5.552 requires that certain notices of intent to obtain a permit must be published in a newspaper of general circulation in a municipality, if the facility to which the application relates is located or proposed to be located in the municipality. As added by HB 2912, THSC, §361.0666 requires that an applicant for a permit under THSC, Chapter 361, for a new facility that would accept municipal solid waste, must hold a public meeting in the county in which the proposed facility is to be located before the 45th day after the application is filed. SB 688 added THSC, §382.05197, which changed the public notice requirements applicable to certain multiple plant permits. The proposed rules will substantially advance these stated purposes by providing specific procedural requirements in response to legislative changes. Promulgation and enforcement of the rules will not burden private real property. The proposed rules do not affect private property in a manner which restricts or limits an owner's right to the property that would otherwise exist in the absence of governmental action. Consequently, the proposed rulemaking action does not meet the definition of a takings under Texas Government Code, §2007.002(5).

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission determined that the proposed rulemaking does not relate to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Management Act of 1991, as amended (Texas Natural Resources Code, §§33.201 *et seq.*) and the

commission rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. The proposed actions concern only the procedural rules of the commission, are not substantive in nature, do not govern or authorize any actions subject to the CMP, and are not themselves capable of adversely affecting a coastal natural resource area (31 TAC Natural Resources and Conservation Code, Chapter 505; 30 TAC §§281.40 *et seq.*).

Interested persons may submit comments on the consistency of the proposed amendments with the CMP during the public comment period.

ANNOUNCEMENT OF HEARING

A public hearing on this proposal will be held in Austin at 2:00 p.m. on May 21, 2002 at the Texas Natural Resource Conservation Commission complex, Building F, Room 2210, 12100 Park 35 Circle. The hearing will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. There will be no open discussion during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

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 Lola Brown, 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 2001-028-039-AD. Comments must be received by 5:00 p.m., May 28, 2002. For further information contact Ray Henry Austin, Policy and Regulations Division, at (512) 239-6814.

SUBCHAPTER H: APPLICABILITY AND GENERAL PROVISIONS

§39.403, §39.405

STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which provides the commission authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state and to adopt rules when adopting, repealing, or amending any agency statement of general applicability that interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §5.552, which requires that certain notices of intent to obtain a permit must be published in a newspaper of general circulation in a municipality, if the facility to which the application relates is located or proposed to be located in the municipality; THSC, §361.0666, which requires that an applicant for a permit under THSC, Chapter 361, for a new facility that accepts municipal solid waste hold a public meeting in the county in which the proposed facility is to be located before the 45th day after the application is filed; and THSC, §382.05197, which sets forth certain notice requirements for multiple plant permits.

The proposed amendments implement TWC, §§5.103, 5.105, 5.129, and 5.552; and THSC, §361.0666 and §382.05197.

§39.403. Applicability.

(a) Permit applications that are declared administratively complete on or after September 1, 1999 are subject to Subchapters H - M of this chapter (relating to Applicability and General Provisions; Public Notice of Solid Waste Applications; Public Notice of Water Quality Applications and Water Quality Management Plans; Public Notice of Air Quality Applications; Public Notice of Injection Well and Other Specific Applications; and Public Notice for Radioactive Material Licenses). Permit applications that are declared administratively complete before September 1, 1999 are subject to Subchapters A - E [F] of this chapter (relating to Applicability and General Provisions; Public Notice of Solid Waste Applications; Public Notice of Water Quality Applications [and Water Quality Management Plans]; Public Notice of Air Quality Applications; and Public Notice of Other Specific Applications [; and Public Notice for Radioactive Material Licenses]). All consolidated permit applications are subject to Subchapter G of this chapter (relating to Public Notice for Applications for Consolidated Permits). The effective date of the amendment of existing §39.403, specifically with respect to subsection [subsections] (c)(9) and (10), is June 3, 2002. Applications for modifications filed before this amended section becomes effective will be subject to this section as it existed prior to June 3, 2002.

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

(b) As specified in those subchapters, Subchapters H - M of this chapter apply to notices for:

(1) applications for municipal solid waste, industrial solid waste, or hazardous waste permits under [the Texas Solid Waste Disposal Act,] Texas Health and Safety Code (THSC), Chapter 361;

(2) applications for wastewater discharge permits under Texas Water Code (TWC), Chapter 26, including:

(A) - (B) (No change.)

(3) applications for underground injection well permits under TWC [Texas Water Code], Chapter 27, or under THSC [the Texas Solid Waste Disposal Act, Texas Health and Safety Code], Chapter 361;

(4) - (6) (No change.)

(7) applications for consolidated permit processing and consolidated permits processed under TWC [Texas Water Code], Chapter 5, Subchapter J, and Chapter 33 of this title (relating to Consolidated Permit Processing);

(8) applications for air quality permits under THSC [Texas Health and Safety Code], §382.0518 and §382.055. In addition, applications for permit amendments under §116.116(b) of this title (relating to Changes to Facilities), initial issuance of flexible permits under Chapter 116,

Subchapter G of this title (relating to Flexible Permits), amendments to flexible permits under §116.710(a)(2) and (3) of this title (relating to Applicability) when an action involves:

(A) - (B) (No change.)

(C) other changes when the executive director determines that:

(i) - (ii) (No change.)

(iii) the application involves a facility or site for which the compliance history contains violations which are unresolved or constitute a recurring pattern of conduct that demonstrates a consistent disregard for the regulatory process; or

(iv) there is a reasonable likelihood of significant public interest in a proposed activity; [or]

(9) - (10) (No change.)

(11) applications for voluntary emission reduction permits under THSC [Texas Health and Safety Code], §382.0519;

(12) applications for permits for electric generating facilities under Texas Utilities Code, §39.264;

(13) applications for multiple plant permits (MPPs) under THSC, §382.05194; and

(14) [(13)] Water Quality Management Plan (WQMP) updates processed under TWC [Texas Water Code], Chapter 26, Subchapter B.

(c) (No change.)

(d) Applications for initial issuance of voluntary emission reduction permits under THSC [Texas Health and Safety Code], §382.0519 and initial issuance of electric generating facility permits under Texas Utilities Code, §39.264 are subject only to §39.405 of this title (relating to General Notice Provisions), §39.409 of this title (relating to Deadline for Public Comment, and for Requests for Reconsideration, Contested Case Hearing, or Notice and Comment Hearing), §39.411 of this title, §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit), §39.602 of this title (relating to Mailed Notice), §39.603 of this title (relating to Newspaper Notice), §39.604 of this title (relating to Sign-Posting), §39.605 of this title (relating to Notice to Affected Agencies), and §39.606 of this title (relating to Alternative Means of Notice for Voluntary Emission Reduction Permits), except that any reference to requests for reconsideration or contested case hearings in §39.409 of this title or §39.411 of this title shall not apply. For MPP applications filed before September 1, 2001, the initial issuance, amendment, or revocation of MPPs under THSC, §382.05194 is subject to

the same public notice requirements that apply to initial issuance of voluntary emission reduction permits and initial issuance of electric generating facility permits, except as otherwise provided in §116.1040 of this title (relating to Multiple Plant Permit Public Notice and Public Participation).

(e) (No change.)

§39.405. General Notice Provisions.

(a) - (e) (No change.)

(f) Published Notice. When this chapter requires notice to be published under this subsection:

(1) the applicant shall publish notice in the newspaper of largest circulation in the county in which the facility is located or proposed to be located or, if the facility is located or proposed to be located in a municipality, the applicant shall publish notice in a newspaper of general circulation in the municipality. For air applications subject to §39.603 of this title (relating to Newspaper Notice), applicants shall instead publish notice as required by that rule [except for air applications required to publish in a newspaper of general circulation in a municipality under §39.603 of this title (relating to Newspaper Notice)]; and

(2) (No change.)

(g) (No change.)

SUBCHAPTER I : PUBLIC NOTICE OF SOLID WASTE APPLICATIONS

§39.501, §39.503

STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which provides the commission authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state and to adopt rules when adopting, repealing, or amending any agency statement of general applicability that interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §5.552, which requires that certain notices of intent to obtain a permit must be published in a newspaper of general circulation in a municipality, if the facility to which the application relates is located or proposed to be located in the municipality; THSC, §361.0666, which requires that an applicant for a permit under THSC, Chapter 361, for a new facility that accepts municipal solid waste hold a public meeting in the county in which the proposed facility is to be located before the 45th day after the application is filed; and THSC, §382.05197, which sets forth certain notice requirements for multiple plant permits.

The proposed amendments implement TWC, §§5.103, 5.105, 5.129, and 5.552; and THSC, §361.0666 and §382.05197.

§39.501. Application for Municipal Solid Waste Permit.

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

(e) Notice of public meeting.

(1) If an applicant [the application] proposes a new facility: [,]

(A) the agency shall hold a public meeting in the county in which the facility is proposed to be located to receive public comment concerning the application; and [.]

(B) the applicant shall hold a public meeting in the county in which the facility is proposed to be located. This meeting must be held before the 45th day after the date the application is filed.

(2) A public meeting is not a contested case proceeding under the APA. A public meeting held as part of a local review committee process under subsection (b) [(a)] of this section meets the requirements of paragraph (1)(A) of this subsection if public notice is provided under this subsection.

(3) [(2)] The applicant shall publish notice of any [the] public meeting under this subsection, in accordance with [, as required by] §39.405(f)(2) of this title, once each week during the

three weeks preceding a public meeting. The published notice shall be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least 3 inches (7.6 centimeters). For public meetings under paragraph (1)(B) of this subsection, the notice of public meeting is not subject to §39.411(d) of this title, but instead shall contain at least the following information:

(A) permit application number;

(B) applicant's name;

(C) proposed location of the facility;

(D) location and availability of copies of the application;

(E) location, date, and time of the public meeting; and

(F) name, address, and telephone number of the contact person for the applicant from whom interested persons may obtain further information.

(4) [(3)] For public meetings held by the agency under paragraph (1)(A) of this subsection, the [The] chief clerk shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice).

(f) (No change.)

§39.503. Application for Industrial or Hazardous Waste Facility Permit.

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

(c) Notice of Receipt of Application and Intent to Obtain Permit.

(1) (No change.)

(2) After the executive director determines that the application is administratively complete:

(A) notice shall be given as required by §39.418 of this title (relating to Receipt of Application and Intent to Obtain Permit). Notice under §39.418 of this title will satisfy the notice of receipt of application required by §281.17(d) of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness); and [.]

(B) (No change.)

(d) Notice of Application and Preliminary Decision. The notice required by §39.419 of this title (relating to Notice of Application and Preliminary Decision) shall be published once as required by

§39.405(f)(2) of this title (relating to General Notice Provisions). In addition to the requirements of §39.419 of this title, the following requirements apply.

(1) - (2) (No change.)

(3) The notice shall comply with §39.411 of this title (relating to Text of Public Notice). The deadline for public comments on industrial solid waste applications shall be not less than 30 days after newspaper publication, and for hazardous waste applications, not less than 45 days after newspaper publication.

(e) Notice of public meeting.

(1) If an [the] applicant proposes a new hazardous waste facility, the agency [executive director] shall hold a public meeting in the county in which the facility is to be located to receive public comment concerning the application.

(2) If an [the] applicant proposes a major amendment of an existing hazardous waste facility permit, this subsection applies if a person affected files a request for public meeting with the chief clerk concerning the application before the deadline to file public comment or hearing requests.

(3) If an applicant proposes a new industrial or hazardous waste facility that would accept municipal solid waste, the applicant shall hold a public meeting in the county in which the

facility is proposed to be located. This meeting must be held before the 45th day after the date the application is filed.

(4) A public meeting is not a contested case proceeding under the APA. A public meeting held as part of a local review committee process under subsection (b) [(a)] of this section meets the requirements of paragraph (1) of this subsection if public notice is provided under this subsection.

(5) [(2)] The applicant shall publish notice of any [the] public meeting under this subsection, in accordance with §39.405(f)(2) of this title, once each week during the three weeks preceding a public meeting. [The applicant shall publish notice under §39.405(f)(2) of this title.] The published notice shall be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least 3 inches (7.6 centimeters). For public meetings under paragraph (3) of this subsection, the notice of public meeting is not subject to §39.411(d) of this title, but instead shall contain at least the following information:

(A) permit application number;

(B) applicant's name;

(C) proposed location of the facility;

(D) location and availability of copies of the application;

(E) location, date, and time of the public meeting; and

(F) name, address, and telephone number of the contact person for the applicant from whom interested persons may obtain further information.

(6) [(3)] For public meetings held by the agency under paragraph (1) of this subsection,
the [The] chief clerk shall mail notice to the persons listed in §39.413 of this title.

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