

The Texas Commission on Environmental Quality (commission) adopts amendments to §§39.703, 39.707, and 39.709. Section 39.707 is adopted *with change* to the proposed text as published in the August 22, 2003 issue of the *Texas Register* (28 TexReg 6719). Sections 39.703 and 39.709 are adopted *without changes* and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

The changes adopted in this chapter are part of a larger rulemaking action to revise the commission's radiation control rules. The primary purpose of the adopted rules is to implement House Bill (HB) 1567, 78th Legislature, 2003, and its amendments to Texas Health and Safety Code, Chapter 401 (also known as the Texas Radiation Control Act). Changes to implement HB 1567, relating to the licensing of low-level radioactive waste disposal, that are specific to this chapter include changes in procedures for providing notice of draft license and opportunity for hearing. Some additional changes outside the scope of the bill implementation are adopted to provide corrections to rule section titles, improve grammar, and correct typographical errors.

SECTION BY SECTION DISCUSSION

Section 39.703, Notice of Completion of Technical Review

The amendment to §39.703(b) corrects the title for 30 TAC Chapter 336, Subchapter F, Licensing of Alternative Methods of Disposal of Radioactive Material.

Section 39.707, Published Notice

The amendment to §39.707(a) corrects the title for Chapter 336, Subchapter F. The amendment to §39.707(b) changes the requirements for providing published notice of the draft license and opportunity for hearing. The amendment provides that notice shall be published in a newspaper of general circulation in each county in which the proposed disposal facility site is located. The amendment also requires that the draft license and application materials be available for review at the offices of the commission and in a public place in the county or counties in which the proposed disposal facility site is located. Public places may include a county courthouse, public library, city hall, or other public location where members of the public may have access to the materials for review and photocopying. The amendment conforms with new statutory requirements given in Texas Health and Safety Code, §401.238. In response to comment, §39.707(c) was modified to clarify that HB 1567 requires *Texas Register* publication of the initial notice of draft license and opportunity to comment in addition to *Texas Register* publication of amendments to an existing license.

Section 39.709, Notice of Contested Case Hearing on Application

The amendment to §39.709(a) deletes the acronym “SOAH” and substitutes “the State Office of Administrative Hearings” because the term is only used once in the section. The amendment to §39.709(b) corrects the title for Chapter 336, Subchapter F.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the action is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in that 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 amendments to Chapter 39 are not anticipated to 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, because there are no significant requirements added to the noticing of draft licenses for radioactive material disposal facilities. The rulemaking action implements legislative requirements in HB 1567, including a change in the publication of notice of a draft license issued under Chapter 336, Subchapter H, Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste. The rulemaking also makes non-substantive changes to Chapter 39 to correct citations to other laws.

Furthermore, the rulemaking action does not meet any of the four applicability requirements listed in §2001.0225(a). Section 2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) 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; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. The rulemaking action does not exceed a standard set by federal law, an express requirement of state law, a requirement of a delegation agreement, nor does it adopt a rule solely under the general powers of the agency.

Texas Health and Safety Code, Chapter 401, authorizes the commission to regulate the disposal of most radioactive material in Texas. Sections 401.051, 401.103, 401.104, and 401.412 authorize the commission to adopt rules for the control of sources of radiation and the licensing of the disposal of radioactive materials. In addition, the State of Texas is an “Agreement State” authorized by the United States Nuclear Regulatory Commission (NRC) to administer a radiation control program under the Atomic Energy Act of 1954, as amended (Atomic Energy Act). The rules do not exceed the standards set by federal law.

The rules do not exceed an express requirement of state law. Texas Health and Safety Code, Chapter 401, establishes general requirements for the licensing and disposal of radioactive materials. The purpose of the rulemaking action is to implement statutory requirements consistent with recent amendments to Texas Health and Safety Code, Chapter 401, as provided in HB 1567. The rules amendments change the requirements for newspaper notice in accordance with the requirements of HB 1567.

The rules do not exceed a requirement of a delegation agreement or contract between the state and an agency of the federal government. The State of Texas has been designated as an “Agreement State” by the NRC under the authority of the Atomic Energy Act, which requires that the NRC find that the state radiation control program is compatible with the NRC requirements for the regulation of radioactive materials and is adequate to protect health and safety. Under the *Agreement Between the United States Nuclear Regulatory Commission and the State of Texas for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended*, the NRC requirements must be implemented to maintain a compatible state

program for protection against hazards of radiation. The rule amendments do not exceed the NRC requirements nor do they exceed the requirements for retaining status as an "Agreement State."

The rules are adopted under specific authority of Texas Health and Safety Code, Chapter 401. Sections 401.051, 401.103, 401.104, and 401.412 authorize the commission to adopt rules for the control of sources of radiation and the licensing of the disposal of radioactive materials.

TAKINGS IMPACT ASSESSMENT

The commission evaluated this rulemaking action and performed an assessment of whether Texas Government Code, Chapter 2007, is applicable. The rulemaking action implements legislative requirements in HB 1567, including a change in the publication of notice of a draft license issued under Chapter 336, Subchapter H. The amendments to Chapter 39 affect only the procedural requirements for issuing notices of draft licenses. The rulemaking also makes non-substantive changes to Chapter 39 to correct citations to other laws.

Promulgation and enforcement of these rules will be neither a statutory nor a constitutional taking of private real property. The subject regulations do not affect a landowner's rights in private real property because this rulemaking action does not burden (constitutionally), nor restrict or limit, the owner's right to property and reduce its value by 25% or more beyond which would otherwise exist in the absence of the regulations. The rules implement non-substantive changes to existing rules and reflect a change in the procedural requirements for the notice of draft licenses provided in HB 1567.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed this rulemaking action and determined that the rules are neither identified in, nor will their amendment affect, any action/authorization identified in Coastal Coordination Act Implementation Rules in 31 TAC §505.11, relating to Actions and Rules Subject to the Coastal Management Program. Therefore, the rulemaking action is not subject to the Texas Coastal Management Program.

PUBLIC COMMENT

Written and/or oral comments were received from the Advocates for Responsible Disposal in Texas (ARDT); the American Electric Power (AEP); the League of Women Voters of Dallas (LWV-Dallas); the League of Women Voters of Texas (LWV-Texas); the Nuclear Regulatory Commission (NRC); the South Texas Project Nuclear Operating Company (STP); the Texas Department of Insurance (TDI); the Texas Radiation Advisory Board (TRAB); Texas Radiation Online (TRO); State Representative Lon Burnam representing the Texas Radioactive-Waste Defense Fund (TRWDF); TXU Energy (TXU); US Ecology, Incorporated (US Ecology); Hance Scarborough Wright Woodward & Weisbart, L.L.P., and BakerBotts, L.L.P., on behalf of Waste Control Specialists (WCS); and 237 individuals. One individual endorsed the recommendations submitted by the TRWDF, and TRO agreed with the concerns voiced by the Sierra Club. The TRWDF includes the Lone Star Chapter of the Sierra Club, Public Citizen, Sustainable Energy & Economic Development, the LWV-Texas, and the Nuclear Information and Resource Service.

RESPONSE TO COMMENTS

General Comments

ARDT, AEP, TRAB, and TXU generally supported the proposed rules. One individual stated opposition to the weak regulations as currently developed. LWV-Dallas, LWV-Texas, TRO, TRWDF, and 234 individuals urged the commission to establish regulations that are second to none or rules that are more stringent than the proposed rules. ARDT, AEP, LWV-Dallas, LWV-Texas, NRC, STP, TDI, TRAB, TRO, US Ecology, TRWDF, WCS, TXU, and 237 individuals raised issues or suggested changes to the rules.

Access to Information - Application and Staff Analysis

TRWDF stated that the public's ability to understand and participate in licensing proceedings turns on meaningful access to the details of the license and renewal and amendment applications and access to the commission's staff analyses that support the agency's decisions. All applications for the initial license and for subsequent amendments and renewals of the license, as well as the commission staff analyses of those applications, should be made available on the Internet in a web-browser-accessible format.

LWV stated that the complete permit application and supporting materials should be posted on the commission's Web site and by a method other than the web.

211 individuals stated that the public should have access to all documentation associated with the licensing, building, and operation of a disposal facility.

The commission is committed to ensuring meaningful public participation in its decision-making processes. The commission strives to provide clear, concise, and accurate information related to all applicable licensing and certification procedures via written materials and the official Web site. In response to these comments, new §336.716(j) has been added to require that all records maintained by the licensee in accordance with §336.740 are public information, unless otherwise exempt from public disclosure. Section 39.707 requires that upon completion of technical review and preparation of the draft license, whether for a new license, renewal, or major amendment, that the draft license be available for review on the commission's Web site and the draft license and application materials be available for review at the commission offices and in a public place in the county or counties in which the proposed facility site is located. At the commission agenda on December 17, 2003, §336.805(4) was added to require complete copies of applications to be available on a publicly accessible Web site with a Web address link for application materials provided to the commission. The application and supporting materials will continue to be made available both at the commission offices and in a public place in the county or counties in which the proposed site is located.

Access to Information - Licensee Records

TRWDF stated that by allowing a non-public entity to operate the facility, facility-related records will be shielded from public view. The proposed regulations should be modified to specify, as a license-application requisite, the license applicant's commitment to public information access, generally paralleling that available from public entities under the Texas Public Information Act, to facility specific information.

211 individuals stated that the public should have access to all documentation associated with the licensing, building, and operation of a disposal facility

208 individuals stated that the facility was originally to be state-owned and operated, and expressed a belief that the principles of open government should still apply to a site with such serious implications for the state.

In HB 1567, the Texas Legislature repealed Texas Health and Safety Code, §401.203, which provided that a low-level radioactive waste (LLRW) disposal license may only be issued to a public entity. The legislature intended to allow non-public entities to operate a LLRW disposal facility. While it is possible that not all of a non-public entity's business records would be considered public information under the Texas Public Information Act, the commission disagrees that key facility records of a non-public entity will be inaccessible to the public.

The commission's rules require that a variety of information be maintained for or submitted to the commission. Any records required to be maintained for the commission and any records

submitted to the commission, not otherwise exempt from disclosure, would be considered public information. In response to these comments, new §336.716(j) has been added to require that all records maintained by the licensee in accordance with §336.740 are public information, unless otherwise exempt from public disclosure. Specifically, Texas Government Code, §552.002, provides that “public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business of a governmental body or for a governmental body and the governmental body owns the information or has a right of access to it.

Public Notice/Participation - Proposed Rules

One individual commented that most people in the state were unaware of the public comment period for this policy. The individual only learned of the issue before the end of the comment period and was challenged to respond both in terms of time and available information. One individual stated that given the impact of these rules, there needs to be much more public review and discussion.

Texas Government Code, §2001.023, relating to notice of a proposed rule, provides that a state agency shall give at least a 30-day notice of its intention to adopt a rule before it adopts the rule, and that the notice of the proposed rule be published in the *Texas Register*. The commission complied with the requirements in the August 22, 2003 issue of the *Texas Register* (28 TexReg 6719). Moreover, the commission published notice of the proposed rules in several newspapers throughout the state: the *Amarillo Globe-News* on August 14, 2003, the *Austin American-Statesman* on August 11, 2003, the *Fort Worth Star-Telegram* on August 10, 2003, the *Houston*

Chronicle on August 11, 2003, the Lubbock Avalanche-Journal on August 10, 2003, and the Odessa American on August 12, 2003.

Public Notice/Participation - Adequacy of Public Participation In General

TRO stated that the opportunity for public comment is, in some cases, in conflict with the federal rules at 10 Code of Federal Regulations Part 2, and is too short, particularly regarding the technical review comment period of ten days.

TRWDF stated that the current rules only allow the public 30 days in which to comment on the draft license and on license amendments and renewals. This time period is so short that it deprives the public of a meaningful role in decision-making, unless the public has forewarning. TRWDF stated that all administratively complete applications for licenses, renewals, and amendments should be noticed by newspaper publication.

TRWDF stated that for nearly all other air, water, solid waste, and hazardous waste permits and permit amendments, members of the public are given newspaper notice and an opportunity to comment on preliminary decisions. The proposed rules should be modified at §39.703 to provide for a notice and comment process that mirrors the process for other applications.

LWV-Texas and LWV-Dallas stated that there should be the opportunity for any resident of Texas to request to be on a mailing list that receives notice and the opportunity to respond is greater than the ten days after mailing that is currently listed in the rules.

LWV-Texas and LWV-Dallas stated that since mixed waste will be accepted at the LLRW site, the permitting process should offer the same level of public involvement as the rules for hazardous waste disposal sites.

211 individuals stated that the rules must establish a large and vigorous role for public participation in this critical process, and that if Texas is going to open its borders to vast amounts of dangerous materials, there should be a citizen oversight committee. One individual urged the commission to include citizens of West Texas, who will have to live with what the commission does, in the whole process. One individual stated that public scrutiny is vital and this issue cannot be rushed through without risking the health of this and future generations of Texans.

LWV-Texas and LWV-Dallas supported the existence of a citizen oversight committee and stated that the Keystone education project is a good model (for community involvement in the permitting process). LWV-Texas and LWV-Dallas expressed a belief that the rules for licensing an LLRW facility should include, at a minimum, the level and types of public participation found in rules governing hazardous waste disposal site permits and air permits. LWV-Texas and LWV-Dallas implored the commission to promote public participation in decision-making throughout the process of permitting and subsequent monitoring of any LLRW facility established in Texas. LWV-Texas and LWV-Dallas requested that the commission allow citizens to voice their concerns at the beginning of the permit application process.

Under the Texas Administrative Procedure Act, the commission is required to provide interested persons a reasonable opportunity to comment on a proposed rule or proposed changes to an existing rule. The commission proposed no changes to §39.403 and §39.405, relating to

Applicability and General Notice Provisions, respectively. Nevertheless, the commission responds as follows. The Texas Radiation Control Act provides specific time requirements for application processing and specific public notice requirements. The commission rules were written in accordance with those statutory requirements.

Section 336.809 provides notice of an administratively complete application. The executive director shall conduct at least one public meeting in the county or counties where a facility is proposed to be located to receive public comments on the administratively complete application(s). The applicant shall publish notice of the public meeting once each week during the three weeks preceding the public meeting. Notice of the meeting shall also be mailed to certain specified entities and persons. The notice shall include, among other things, the location and availability of the application.

Upon completion of the technical review of an application for a new license, major amendment, or renewal of a license issued under Chapter 336, or for a minor amendment issued under Chapter 336, Subchapter H, notice shall be mailed and published in the *Texas Register* and in the newspaper of largest circulation in the county in which the facility is located or proposed to be located. Section 39.707 requires that the published notice specify the requirements for requesting a contested case hearing and include that the draft license be available for review on the commission's Web site and the draft license and application materials be available for review at the commission offices and in a public place in the county or counties in which the proposed site is located. The deadline to file public comment, protests, or hearing requests is 30 days after publication. Section 39.707(c) has been modified to clarify that HB 1567 requires *Texas Register*

publication of the initial notice of draft license and opportunity to comment in addition to *Texas Register* publication of amendments to an existing license.

Section 39.703(b) provides that for any application for a minor amendment to a license issued under Chapter 336, Subchapter F or Subchapter G, notice shall be mailed. The deadline to file public comment, protests, or hearing requests is ten days after mailing. The ten-day notice requirement does not apply in the case of the license application for an LLRW disposal facility under Chapter 336, Subchapter H.

Section 39.407 provides that the commission's Office of the Chief Clerk shall maintain a mailing list of persons requesting notice. Thus, once on the mailing list, persons other than adjacent property owners can receive all of the mailed notices relating to an application.

The rules regarding the processing of public comments for LLRW applications are subject to 30 Texas Administrative Code (TAC), Chapter 55, Subchapter G, including responding to public comment. The commission made no change in response to these comments.

Public Notice/Participation - License Transfer

TRWDF stated that the transfer of a radioactive waste disposal license should in all cases require full public notice and participation.

Under the Texas Administrative Procedure Act, the commission is required to provide interested persons a reasonable opportunity to comment on a proposed rule or proposed changes to an

existing rule. The commission proposed no changes to §39.15 and §39.403, relating to Public Notice Not Required for Certain Types of Applications, and Applicability, respectively.

Nevertheless, the commission responds as follows. Texas Health and Safety Code, §401.119, provides that a license issued by the department or commission may be assigned only to a person qualified under the rules of the issuing agency. 30 TAC §305.62(c)(1), provides that changes in the operator of the facility and transfers of the license to the custodial agency are major amendments.

Section 39.703 provides that upon completion of technical review of a major amendment, notice shall be mailed and published. The comment period is 30 days. Section 39.707 requires that the published notice specify the requirements for requesting a contested case hearing and requires that the draft license be available for review on the commission's Web site and the draft license and application materials be available for review at the commission offices and in a public place in the county or counties in which the proposed site is located.

30 TAC Section 336.721 provides that following closure and the period of post-closure observation and maintenance, the licensee may apply for a major amendment to transfer the license to the custodial agency so long as certain findings are made by the commission. Before a licensee may close a facility, it must file a license termination plan with the commission. Section 39.713 provides that, upon the receipt of a license termination plan or decommissioning plan from the licensee, the commission shall notify and solicit comments from local and state governments in the vicinity of the site; and the United States Environmental Protection Agency for cases where the licensee proposes to release a site under §336.609; publish a notice in the *Texas Register* and in a

forum, such as local newspapers, letters to state or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site; and solicit comments from affected parties.

The commission made no changes in response to these comments.

Public Notice/Participation - Minor Amendment

TRWDF stated that the proposed rules exclude minor amendments from published notice and the definition of minor is ambiguous. The rules should be amended to either: 1) eliminate the distinction between minor and non-minor amendments; or 2) specify a small universe of changes that may be characterized as minor.

TRWDF stated that if the minor amendment category of license amendments is retained, then a minimum of 45 days in which to comment on preliminary decisions or minor amendment applications should be allowed.

Changes to the minor amendment notice sections were not proposed as part of this rulemaking action. The rules remain as follows: 1) for a minor amendment issued under Chapter 336, Subchapter H, notice shall be mailed and published and the deadline to file public comment, protests, or hearing requests is 30 days after publication; and 2) for a minor amendment to a license issued under Chapter 336, Subchapter F or Subchapter G, notice shall be mailed and the deadline to file public comment, protests, or hearing requests is ten days after mailing. The commission made no changes in response to these comments.

Public Notice/Participation - Exemptions

TRWDF stated that preliminary decisions on exemptions should be publicly noticed and subject to a 45-day comment period.

Under the Texas Administrative Procedure Act, the commission is required to provide interested persons a reasonable opportunity to comment on a proposed rule or proposed changes to an existing rule. The commission proposed no changes to §336.5, relating to Exemptions.

Nevertheless, the commission responds that applications for exemptions are subject to 30 TAC Chapter 90, which provides that the applicant publish notice at least once in a newspaper of general circulation in the county in which the facility is located or proposed to be located and that there is a 30-day comment period. The commission made no changes in response to this comment.

Public Notice/Participation - Newspaper Notice

LWV-Dallas stated that the proposed rules in Chapter 39, which only require notice in the county in which the facility would be located, are inadequate. LWV-Dallas and LWV-Texas stated that rules should include the requirement that it is the responsibility of the applicant to provide notice statewide.

TRWDF stated that all notices should be published in major newspapers throughout the state. The notices should be published in newspapers in Dallas, Houston, San Antonio, Austin, El Paso, Lubbock, Midland-Odessa, and Amarillo. Notices should also be required in New Mexico, Colorado, and Oklahoma newspapers to the extent the laws of those states would require newspaper notice of an in-state hazardous waste facility located along the Texas border.

The rules contain no changes to the location of newspapers for published notice. The publication requirement in §39.707(b) continues to be the newspaper of largest general circulation in the county in which the facility is located or proposed to be located. This requirement is consistent with Texas Health and Safety Code, §401.114, and Texas Government Code, Chapter 313. The commission made no change in response to these comments.

SUBCHAPTER M: PUBLIC NOTICE FOR RADIOACTIVE MATERIAL LICENSES

§§39.703, 39.707, 39.709

STATUTORY AUTHORITY

The amendments are adopted under Texas Water Code, §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the state. The amendments are also adopted under Texas Health and Safety Code, Chapter 401, concerning Radioactive Materials and Other Sources of Radiation (also known as the Texas Radiation Control Act); §401.011, concerning Radiation Control Agency, which authorizes the commission to regulate and license the disposal of radioactive substances; §401.051, concerning Adoption of Rules and Guidelines, which authorizes the commission to adopt rules and guidelines relating to control of sources of radiation; §401.103, concerning Rules and Guidelines for Licensing and Registration, which authorizes the commission to adopt rules and guidelines that provide for licensing and registration for the control of sources of radiation; §401.104, concerning Licensing and Registration rules, which requires the commission to provide rules for licensing for the disposal of radioactive material; §401.201, concerning Regulation of Low-Level Radioactive Waste Disposal, which authorizes the commission to regulate the disposal of low-level radioactive waste; and §401.412, concerning Commission Licensing Authority, which authorizes the commission to issue licenses for the disposal of radioactive substances.

§39.703. Notice of Completion of Technical Review.

(a) When the executive director has completed the technical review of an application for a license, major amendment, or renewal of a license issued under Chapter 336 of this title (relating to Radioactive Substance Rules) or for a minor amendment issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), notice shall be mailed and published under this subchapter. The deadline to file public comment, protests, or hearing requests is 30 days after publication.

(b) For any other application for a minor amendment to a license issued under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material) or Subchapter G of this title (relating to Decommissioning Standards), notice shall be mailed under this subchapter. The deadline to file public comment, protests, or hearing requests is ten days after mailing.

§39.707. Published Notice.

(a) For applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material) or Subchapter G of this title (relating to Decommissioning Standards), when notice is required to be published under this subchapter, the applicant shall publish notice at least once in a newspaper of largest general circulation in the county in which the facility is located.

(b) For applications for a new license, renewal license, or major amendment to a license issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), on completion of technical review and preparation of the draft license, the commission shall publish, at the applicant's expense, notice of the draft license and specify the requirements for requesting a contested case hearing by a person affected. The notice shall include a statement that the draft license is available for review on the commission's Web site and that the draft license and application materials are available for review at the offices of the commission and in a public place in the county or counties in which the proposed disposal facility site is located. Notice shall be published in a newspaper of general circulation in each county in which the proposed disposal facility site is located.

(c) In addition to published notice requirements in subsection (b) of this section, for an initial notice of draft license and opportunity to comment and for any subsequent license amendment of a license under Chapter 336, Subchapter H of this title, the chief clerk shall publish notice once in the *Texas Register*.

§39.709. Notice of Contested Case Hearing on Application.

(a) The requirements of this section apply when an application is referred to the State Office of Administrative Hearings for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(b) For applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material) or Subchapter G of this title (relating to Decommissioning Standards), notice shall be mailed no later than 30 days before the hearing. For applications under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), notice shall be mailed no later than 31 days before the hearing.

(c) When notice is required under this section, the text of the notice must include the applicable information specified in §39.411(b)(13) and (d) of this title (relating to Text of Public Notice).