

The Texas Commission on Environmental Quality (TCEQ or commission) adopts new §§91.10, 91.20, 91.30, 91.100, 91.110, and 91.120. Sections 91.20, 91.30, and 91.120 are adopted *with changes* to the proposed text as published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7831). Sections 91.10, 91.100, and 91.110 are adopted *without changes* and will not be republished.

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

House Bill (HB) 2201, passed by the 79th Legislature, 2005, directs the commission to establish by rule, streamlined permitting procedures for FutureGen projects. FutureGen refers to a combination of technologies for carbon sequestration, carbon dioxide enhanced oil recovery, electric generation, and hydrogen production. FutureGen is a technology demonstration project that is a partnership between industry participants and the United States Department of Energy. In HB 2201, the legislature concluded in its findings that this technology demonstration project could result in major economic, social, and environmental benefits for Texas, and that streamlining the permitting process for FutureGen projects would serve the public's interest by improving the state's ability to compete for federal funding for FutureGen projects. A specific requirement of HB 2201 is that FutureGen permit applications shall not be subject to a contested case hearing. Under these adopted rules, the eligible permit applications for FutureGen projects will be subject to the same permitting and public participation processes that would otherwise apply to applications for most types of commission permits, except for contested case hearings. Other portions of HB 2201 reflected in the adopted rules define relevant terms, establish an emissions profile, and clarify jurisdiction issues between TCEQ and the Railroad Commission of Texas. Much of the content of the adopted rules originates from new

Texas Health and Safety Code (THSC), §382.0565, Clean Coal Project Permitting Procedure, and Texas Water Code (TWC), new §5.558 and §27.022, which were created by HB 2201.

Adopted Chapter 91 establishes procedural requirements only. Chapter 91 provides the streamlined processes for issuing permits, registrations, licenses, or other types of authorization under the commission's jurisdiction required to construct, operate, or authorize a component of the FutureGen project. Applications subject to the streamlined permitting process are still subject to the same technical requirements that apply to the type of authorization sought. The commission is required to adopt rules implementing the provisions of HB 2201 not later than September 1, 2006.

Corresponding rulemakings are published in this issue of the *Texas Register* that include changes to 30 TAC Chapter 39, Public Notice; 30 TAC Chapter 50, Action on Applications and Other Authorizations; 30 TAC Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification; and 30 TAC Chapter 331, Underground Injection Control.

## SECTION BY SECTION DISCUSSION

### *SUBCHAPTER A: PURPOSE AND APPLICABILITY*

#### *§91.10, Purpose.*

The commission adopts this new section to state the purpose of this new chapter. The chapter is intended to establish streamlined permitting processes for the commission to issue permits,

registrations, licenses, or other types of authorization required to construct, operate, or authorize a component of the FutureGen project.

*§91.20, Applicability.*

The commission adopts this new section to specify the applicability of Chapter 91. Subsection (a) provides that the chapter applies procedural requirements for authorizations required to construct, operate, or authorize a component of the FutureGen project as defined under §91.30, Definitions, including applications for permits, registrations, licenses, or other types of authorization. Subsection (b) explains that the applications subject to the Chapter 91 procedures are subject to the technical requirements that apply to the type of authorization sought. Subsection (c) provides that the chapter does not apply to an application for a permit to construct or modify a new or existing coal-fired electric generating facility that will use pulverized or supercritical pulverized coal based on TWC, §5.558(d). Subsection (d) is intended to encompass, under Chapter 91, any type of application under the commission's jurisdiction that may be required for authorizing a component of the FutureGen project whether or not the type of authorization is specifically identified in the chapter. Subsection (e) provides that if the executive director determines that an application is not subject to the requirements of the chapter, the application will be subject to procedural requirements that would otherwise apply to the type of authorization sought. Subsection (f) provides that an applicant may appeal a determination by the executive director that Chapter 91 does not apply to a particular application by filing a motion under §50.139, Motion to Overturn Executive Director's Decision. Subsection (h) has been added as a result of comments received during the comment period, and establishes a sunset date of January 1, 2018.

Applications or other requests for authorization submitted after January 1, 2018, would not be eligible to use the streamlined permitting provisions of Chapter 91.

*§91.30, Definitions.*

The commission adopts definitions for several terms used in the chapter, including a definition for clean coal project, coal, FutureGen project, component of the FutureGen project, and FutureGen project profile. The definitions for these terms originate from TWC, §5.001 and other provisions of HB 2201.

*SUBCHAPTER B: PUBLIC NOTICE AND PUBLIC PARTICIPATION*

*§91.100, Contested Case Hearings.*

The commission adopts this new section to state that an application for a permit, registration, license, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30, is not subject to a contested case hearing. This implements the requirement of TWC, §5.558(c).

*§91.110, Public Notice.*

The commission adopts this new section to require the same public notice procedures that would otherwise apply to a particular application, for most types of commission permits, except to modify the text of the notice to indicate that the application is not subject to a contested case hearing. Subsection (a) provides that an application for a permit, registration, license, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30, is subject to the applicable notice requirements under Chapter 39 or other rule under this title for the

type of authorization sought, except as provided in this section. Subsection (b) provides that the text of the notice must include the following statements: “The application is for authorization of a component of the FutureGen project and is not subject to a contested case hearing. The commission may hold a public meeting, an informal conference, or form an advisory committee to gather the opinions and advice of interested persons on the application when there is a significant degree of public interest.” Subsection (c) provides that the text of the notice must not include a description of procedures for requesting a contested case hearing or the deadline for requesting a contested case hearing.

*§91.120, Public Participation.*

The commission adopts this new section that states, except for contested case hearings, an application subject to the streamlined process in Chapter 91 is subject to the same public participation requirements, such as public notice, public meeting opportunities, and public commenting, that would otherwise apply to the application, for most types of commission applications. In addition, the commission may conduct public meetings, informal conferences, or advisory committees to gather the opinions and advice of interested persons on an application. Subsection (a) provides that the commission may hold public meetings, informal conferences, or advisory committees to gather the opinions and advice of interested persons on an application subject to this chapter when there is a significant degree of public interest. This implements the requirement of TWC, §5.558(b). Subsection (b) provides that except as provided in §91.100, which provides that these applications are not subject to a contested case hearing, an application under this chapter is also subject to the public meeting and public comment processing requirements in Chapter 55 or elsewhere under this title applicable to the type of authorization sought.

#### FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rules do not meet the definition of a “major environmental rule.” Under Texas Government Code, §2001.0225, “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 adopted rules are intended to establish a streamlined process for authorizing certain types of projects required for the FutureGen project. The adopted rules are only procedural rules establishing a system to administer the program for permitting FutureGen projects and are not specifically intended to protect the environment or to reduce risks to human health. The rules are intended to provide an alternative mechanism for public participation and do not alter the underlying technical review requirements. Therefore, because this rulemaking will not 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 does not fit the Texas Government Code, §2001.0225 definition of “major environmental rule.”

Furthermore, the rulemaking does not meet any of the four applicable requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225(a) only applies to a major environmental rule adopted by an agency, 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.

In this case, the adopted rules do not meet any of these applicability requirements. First, the rules are consistent with, and do not exceed, the standards set by federal law. Second, the rules do not exceed an express requirement of state law, instead these rules implement HB 2201. Third, the rules do not exceed an express 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. Fourth, the commission does not adopt these rules solely under the general powers of the agency, but rather under the authority of THSC, §382.0565, as added by HB 2201, which directs the commission to by rule implement reasonably streamlined processes for issuing permits required to construct a component of a FutureGen project, as authorized by federal law; TWC, §5.558, as amended by HB 2201, which directs the commission to by rule implement reasonably streamlined processes for issuing permits required to construct a component of a FutureGen project, as authorized by federal law; and TWC, §27.022, as added by HB 2201, which establishes the commission's jurisdiction over the injection of carbon dioxide produced by a clean coal project to the extent authorized by federal law.

Because this adoption does not constitute a major environmental rule, a regulatory impact analysis is not required.

The commission evaluated the adopted rules and performed an assessment of whether this action would constitute a takings under Texas Government Code, Chapter 2007. The adopted rules are intended to establish a streamlined process for authorizing certain types of projects required for the FutureGen project. The adopted rules are only procedural rules establishing a system to administer the program for permitting FutureGen projects and are not specifically intended to protect the environment or to reduce risks to human health. The rules are intended to provide an alternative mechanism for public participation and do not alter the underlying technical review requirements. Promulgation and enforcement of the rules will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The adopted rules also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Consequently, the adoption of these rules does not meet the definition of a takings under Texas Government Code, §2007.002(5). Therefore, the adopted rules will not constitute a takings under Texas Government Code, Chapter 2007.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission determined that this rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 *et seq.*), and commission rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with Texas Coastal Management Program. As required by §281.45(a)(3), Actions Subject to Consistency with the Goals and Policies of the Texas Coastal Management Program (CMP), and 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the

Coastal Management Program, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and determined that the action is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking is the goal to protect, preserve, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(l)). The adopted rules include procedural mechanisms to authorize new sources of air contaminants; however, the adopted rules do not create any new types of authorizations for new sources of air contaminants. The CMP policy applicable to this rulemaking is the policy that commission rules comply with federal regulations in 40 Code of Federal Regulations to protect and enhance air quality in the coastal areas (31 TAC §501.14(q)). This rulemaking complies with 40 Code of Federal Regulations Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §505.22(e), the commission affirms that this rulemaking is consistent with CMP goals and policies.

#### PUBLIC COMMENT

A public hearing for this rulemaking was held on December 20, 2005, in Austin, and the comment period closed on December 27, 2005. The commission received comments on the proposed rule from the United States Environmental Protection Agency (EPA), Environmental Defense (ED), the Sierra Club Houston Regional Group (HSC), and the Center for Energy and Economic Development (CEED).

#### RESPONSE TO COMMENTS

HSC indicated support for the provisions of Chapter 91 which implement public notice, public meeting opportunities, and public comment opportunities before the executive director, and indicated support that the commission can conduct public meetings and hear an appeal of the decision of the executive director.

HSC expressed general opposition to the proposed rules which would allow a permit to be issued for a FutureGen project without providing the public with an opportunity to request and receive a contested case hearing.

**The adopted rules implement HB 2201, passed by the 79th Legislature. Sections 3 and 7 of HB 2201 amend portions of the THSC and TWC to provide that permit applications for facilities that are a component of the FutureGen project are not subject to contested case hearings. The commission is required by HB 2201 to adopt rules to implement the statutory changes specified by HB 2201. Under the adopted rules, the public retains the ability to participate in the permitting process by submitting written comments during the comment period, and/or by requesting a notice and comment hearing on the permit. The commission is not changing the rules in response to this comment.**

HSC asked that TCEQ provide a description of the economic, social, and environmental benefits of the FutureGen project.

**In its findings articulated in HB 2201, the legislature described a number of economic and social benefits the FutureGen project could bring to Texas, including the creation of more than 11,000 jobs, compensation for workers exceeding \$374 million, increased tax revenue of \$98 million, and an estimated total economic benefit of \$1.2 billion. With respect to the environment, the FutureGen project has the potential to produce power with reduced emissions of air contaminants compared to other widely used power generation technologies, and may result in the subsequent wider adoption of clean coal technology in future power generating projects.**

HSC commented that FutureGen represents a complex, unproven set of technologies which may have significant impact on air quality, groundwater quality, and surface and subsurface land. HSC commented that an environmental impact statement is needed for any FutureGen proposal so all impacts can be considered by TCEQ and the public. HSC urged that TCEQ determine all air, water, and land environmental impacts and reveal them to the public, such that the public will have an opportunity to comment in an inclusive and comprehensive manner.

**As a normal part of the commission's permit review process, the environmental effects on all affected media will be considered. The public will have an opportunity to review and comment on these effects through the public notice and public comment process that is available for each type of applicable permit.**

HSC submitted numerous comments speculating on the effects of carbon dioxide sequestration and underground injection, and acknowledged that little data exists on this technology. HSC urged the

commission to determine air, water, and land effects through its permitting authority. Examples of their concerns included: 1) the effects of existing wells in the carbon sequestration area; 2) the effect of carbon dioxide injection on saline aquifer water quality; and 3) the harm that may come to soil bacteria as a result of carbon sequestration.

**The commission's federally authorized Underground Injection Control (UIC) Program has significant experience and data relating to protection of fresh water from the potential adverse impact of underground injection of liquid waste, including proper evaluation of injection and confining zones, subsurface faults and fractures, and other wells in the area of review. While the commission does not have data on some of the specific carbon dioxide injection concerns listed by HSC, the commission notes that underground injection of carbon dioxide has been commonly used for enhanced recovery of oil and gas under the Railroad Commission of Texas jurisdiction without any known harmful effects. The commission also recognizes that the technical concerns posed by HSC are the subject of significant research efforts being conducted by the Texas Bureau of Economic Geology in association with a number of other research institutions, participating industries, and government agencies. The commission will review individual requests for well authorization under these rules using the environmentally protective rules and procedures of the UIC well permitting program. Therefore, the commission is not changing the rules in response to these comments.**

HSC suggested defining the terms “integrated sequestration,” “sequester,” and “carbon sequestration” since these terms are relevant to define eligible projects. HSC also suggested defining the terms “carbon dioxide capture technology” and the phrase “significant degree of public interest.”

**The commission reviewed the use of these terms in the context of the FutureGen project and determined that the rule language provides sufficient limits on eligible projects and that definitions of these terms are not necessary. The commission is not changing the rules in response to this comment.**

The EPA commented that the definition of coal used in the proposed rules should be revised to match the definition of coal specified in 40 Code of Federal Regulations Part 60, Subpart Da, §60.41Da.

**HB 2201 specified a definition of coal to be used in association with permitting of FutureGen sources and the commission believes it is necessary to maintain the proposed definition of coal for consistency with the statute. The commission is not changing the rules in response to this comment.**

CEED commented that there was no need for a sunset provision in the rules, because the FutureGen initiative represented a one-of-a-kind project. HSC commented that an expiration date, no later than 2010, should be included in the rules. ED commented that an expiration date of January 1, 2015, would be appropriate.

**The commission is changing the rule in response to these comments and is establishing a sunset date of January 1, 2018. Applications or other requests for authorization submitted after this date would not be excluded from contested case hearings. This change will ensure that the streamlined permitting processes of Chapters 91 and 116 are only used for their intended purpose of providing an incentive for the FutureGen project construction.**

ED commented that the proposed rules should contain a provision ensuring that the commission shall use public meetings, informal conferences, or advisory committees to gather the opinions and advice of interested persons, as mandated by HB 2201.

**The suggested provision was proposed and is being adopted in §91.120.**

## **SUBCHAPTER A: PURPOSE AND APPLICABILITY**

### **§§91.10, 91.20, 91.30**

#### **STATUTORY AUTHORITY**

The new sections are adopted under TWC, §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 TWC; and under THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The new sections are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; §382.0518, concerning preconstruction permits; §382.056, concerning notice of intent to obtain permit or permit review and hearing; §382.0565, concerning clean coal project permitting procedure; and TWC, §5.558, concerning clean coal project permitting.

#### **§91.10. Purpose.**

The purpose of this subchapter is to establish streamlined processes under Texas Water Code, §5.558, for the commission to issue permits, registrations, licenses, or other types of authorization

under the commission's jurisdiction required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions).

**§91.20. Applicability.**

(a) This subchapter applies to procedural requirements for authorizations required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions), including applications for permits, registrations, licenses, or other types of authorization under the following:

- (1) Chapter 295 of this title (relating to Water Rights, Procedural);
- (2) Chapter 297 of this title (relating to Water Rights, Substantive);
- (3) Chapter 305 of this title (relating to Consolidated Permits);
- (4) Chapter 312 of this title (relating to Sludge Use, Disposal, and Transportation);
- (5) Chapter 329 of this title (relating to Drilled or Mine Shafts);
- (6) Chapter 330 of this title (relating to Municipal Solid Waste);

(7) Chapter 331 of this title (relating to Underground Injection Control);

(8) Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Solid Waste); and

(9) Chapter 336 of this title (relating to Radioactive Substance Rules).

(b) Applications for permits, registrations, licenses, or other types of authorization required to construct, operate, or authorize a component of the FutureGen project as defined under §91.30 of this title are subject to the technical requirements under the commission program, rule, or statute that the application is sought.

(c) This subchapter does not apply to an application for a permit to construct or modify a new or existing coal-fired electric generating facility that will use pulverized or supercritical pulverized coal.

(d) The executive director may apply the requirements of this subchapter to any application not otherwise specified in this subchapter for which the executive director determines constitutes a bona fide component of the FutureGen project.

(e) If the executive director determines that an application is not subject to the applicability of this subchapter, the application will be subject to the permitting and public participation process that would otherwise apply to the type of authorization sought.

(f) An applicant may appeal a determination by the executive director under subsection (e) of this section, by filing a motion under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision).

(g) Applications for authorization submitted under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) shall be subject to the public notice and participation procedures stated in Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities), and any applicable rules in Chapters 39 and 55 of this title (relating to Public Notice and Requests for Reconsideration and Contested Case Hearings; Public Comment).

(h) This chapter does not apply to any applications or other requests for authorization submitted after January 1, 2018.

**§91.30. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) **Clean coal project**--The installation of one or more components of the coal-based integrated sequestration and hydrogen research project to be built in partnership with the United States Department of Energy, commonly referred to as the FutureGen project. The term includes the construction or modification of a facility for electric generation, industrial production, or the production

of steam as a by-product of coal gasification to the extent that the facility installs one or more components of the FutureGen project.

(2) **Coal**--All forms of coal, including lignite.

(3) **Component of the FutureGen project**--A process, technology, or piece of equipment that:

(A) is designed to employ coal gasification technology to generate electricity, hydrogen, or steam in a manner that meets the FutureGen project profile;

(B) is designed to employ fuel cells to generate electricity in a manner that meets the FutureGen project profile;

(C) is designed to employ a hydrogen-fueled turbine to generate electricity where the hydrogen is derived from coal in a manner that meets the FutureGen project profile;

(D) is designed to demonstrate the efficacy at an electric generation or industrial production facility of a carbon dioxide capture technology in a manner that meets the FutureGen project profile;

(E) is designed to sequester a portion of the carbon dioxide captured from an electric generation or industrial production facility in a manner that meets the FutureGen project profile in conjunction with appropriate remediation plans and appropriate techniques for reservoir characterization, injection control, and monitoring;

(F) is designed to sequester carbon dioxide as part of enhanced oil recovery in a manner that meets the FutureGen project profile in conjunction with appropriate techniques for reservoir characterization, injection control, and monitoring;

(G) qualifies for federal funds designated for the FutureGen project;

(H) is required to perform the sampling, analysis, or research necessary to submit a proposal to the United States Department of Energy for the FutureGen project; or

(I) is required in a final United States Department of Energy request for proposals for the FutureGen project or is described in a final United States Department of Energy request for proposals as a desirable element to be considered in the awarding of the project.

(4) **FutureGen project**--A common reference to the coal-based integrated sequestration and hydrogen project to be built in partnership with the United States Department of Energy.

(5) **FutureGen project profile**--A standard or standards relevant to a component of the FutureGen project, as provided in a final or amended United States Department of Energy request for proposals or contract.

**SUBCHAPTER B: PUBLIC NOTICE AND PUBLIC PARTICIPATION**

**§§91.100, 91.110, 91.120**

**STATUTORY AUTHORITY**

The new sections are adopted under TWC, §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 TWC; and under THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The new sections are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; §382.0518, concerning preconstruction permits; §382.056, concerning notice of intent to obtain permit or permit review and hearing; §382.0565, concerning clean coal project permitting procedure; and TWC, §5.558, concerning clean coal project permitting.

**§91.100. Contested Case Hearings.**

With the exception of any other provision in this title, an application for a permit, registration, license, or other type of authorization required to construct, operate, or authorize a component of the

FutureGen project as defined in §91.30 of this title (relating to Definitions) is not subject to a contested case hearing.

**§91.110. Public Notice.**

(a) An application for a permit, registration, license, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions) is subject to the applicable notice requirements under Chapter 39 of this title (relating to Public Notice) or other rule under this title for the type of authorization sought, except as provided in this section.

(b) The text of the notice must include the following statements: “The application is for authorization of a component of the FutureGen project and is not subject to a contested case hearing. The commission may hold a public meeting, an informal conference, or form an advisory committee to gather the opinions and advice of interested persons on the application when there is a significant degree of public interest.”

(c) The text of the notice must not include a description of procedures for requesting a contested case hearing or the deadline for requesting a contested case hearing.

**§91.120. Public Participation.**

(a) The commission may hold public meetings, informal conferences, or advisory committees to gather the opinions and advice of interested persons on an application subject to this chapter when there is a significant degree of public interest.

(b) Except as provided in §91.100 of this title (relating to Contested Case Hearings), an application under this chapter is also subject to the public meeting and public comment processing requirements of Chapter 55 of this title (relating to Requests for Reconsideration and Contested Case Hearings; Public Comment) or elsewhere under this title that is applicable to the type of authorization sought.