To: Commissioners

Date: October 4, 2019

Thru: Bridget C. Bohac, Chief Clerk
     Toby Baker, Executive Director

From: Margaret Ligarde, Deputy Director
       Office of Legal Services

Docket No.: 2019-0915-RUL

Subject: Commission Approval for Proposed Rulemaking
       Chapter 39, Public Notice
       Chapter 50, Action on Applications and Other Authorizations
       Chapter 55, Requests for Reconsideration and Contested Case Hearings;
       Public Comment
       Chapter 80, Contested Case Hearings
       Repeal of Obsolete Public Notice and Participation Rules for Certain Permit
       Applications
       Rule Project No. 2019-119-039-LS

Background and reason(s) for the rulemaking:
This rulemaking would repeal rules determined to be obsolete as a result of the
Quadrennial Reviews of Chapters 39, 50, 55, and 80. These rules generally applied to
certain permit applications declared administratively complete before September 1, 1999.
The repeal of these rules would eliminate any possible confusion as to what the
applicable public participation requirements are and remove obsolete sections from the
Texas Commission on Environmental Quality’s (commission or TCEQ) rules.

Concurrently, the commission is considering two rulemaking projects (Rule Project
Numbers 2019-120-039-LS and 2019-121-033-LS) to address updates to rules needed as a
result of these repeals.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:
The rulemaking would repeal the rules in Chapter 39, Subchapters A - E; Chapter 50,
Subchapters A - C; Chapter 55, Subchapters A and B; and Chapter 80, §§80.3, 80.5, and
80.251.

B.) Scope required by federal regulations or state statutes:
The rulemaking is in response to a review of the rules in Chapters 39, 50, 55, and 80 as

C.) Additional staff recommendations that are not required by federal rule or state
statute:
None.

Statutory authority:
Texas Water Code, §§5.013, 5.102, 5.103, 26.011, and 27.019; and Texas Health and
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Effect on the:

A.) Regulated community:
Applicants for certain permits would have greater clarity regarding the applicable public participation requirements.

B.) Public:
The public would have a better understanding of the applicable public participation requirements for certain types of permit applications. The public's opportunity to participate in the permitting process would not change nor be affected in any way as a result of the repeals.

C.) Agency programs:
There would be no workload increase for TCEQ's permitting programs.

Stakeholder meetings:
No stakeholder meetings were held related to this rulemaking; however, a rule public hearing will be held in Austin during the comment period.

Potential controversial concerns and legislative interest:
None.

Will this rulemaking affect any current policies or require development of new policies?
No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?
The commission directed repeal of obsolete rules prior to the next scheduled quadrennial review.

Key points in the proposal rulemaking schedule:
- Anticipated proposal date: October 23, 2019
- Anticipated Texas Register publication date: November 8, 2019
- Anticipated public hearing date (if any): December 10, 2019
- Anticipated public comment period: October 25, 2019 – December 16, 2019
- Anticipated adoption date: March 25, 2020

Agency contacts:
Janis Hudson, Rule Project Manager and Attorney, Environmental Law Division, (512) 239-0466
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Attachments:
None.

cc: Chief Clerk, 2 copies
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