The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes the repeal of §§50.2, 50.13, 50.15, 50.17, 50.19, 50.31, 50.33, 50.35, 50.37, 50.39, 50.41, 50.43, and 50.45.

Background and Summary of the Factual Basis for the Proposed Rules

The rules in Chapter 50, Subchapters A - C were initially adopted to be effective June 6, 1996 (May 28, 1996, issue of the Texas Register (21 TexReg 4734)). In 1999, the 76th Texas Legislature enacted House Bill (HB) 801, which revised public participation in environmental permitting for certain permit applications declared administratively complete on or after September 1, 1999. The rulemaking to implement HB 801 (and other bills) consolidated the public participation rules across the agency and have subsequently been amended to implement legislation and policy decisions of the commission. The commission necessarily retained procedural rules applicable to certain permit applications declared administratively complete before September 1, 1999, including those in Chapter 50, Subchapters A - C.

On June 12, 2019, the commission determined that the rules in 30 TAC 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 were obsolete and no longer needed because no applications that were declared administratively complete before September 1, 1999, and thus subject to these rules, remain pending with the commission (June 28, 2019, issue of the Texas Register (44 TexReg 3304)). This rulemaking would repeal
obsolete rules to eliminate any possible confusion as to what the applicable public participation requirements are and remove unnecessary sections from the commission’s rules.

Concurrently with this rulemaking, the commission is proposing amendments to 30 TAC Chapters 33, 35, 39, 50, 55, 60, 70, 80, 90, 205, 285, 294, 305, 321, 330 - 332, 334, 335, and 350, and new sections in Chapter 39, to make necessary changes due to the proposed repeals (Rule Project Number 2019-121-033-LS). In addition, this rulemaking addresses public notice requirements for certain applications that are not subject to contested case hearing, but are currently subject to rules in Chapter 39, Subchapters A and B, without regard to the applicability date. The public notice requirements for those applications would be relocated to proposed new Chapter 39, Subchapter P.

The commission is also concurrently proposing amendments to 30 TAC Chapters 39, 55, 101, and 116 to make necessary changes due to the proposed repeals for which revisions to the State Implementation Plan are also necessary (Rule Project Number 2019-120-039-LS).

The public’s opportunity to participate in the permitting process will not change nor be affected in any way as a result of these rulemaking projects.
Section by Section Discussion

Subchapter A: Purpose, Applicability, and Definitions
The commission proposes the repeal of §50.2. This rule applies to permitting applications that were administratively complete before September 1, 1999. No pending applications meet that criterion.

Subchapter B: Action by the Commission
The commission proposes the repeal of §§50.13, 50.15, 50.17, and 50.19. These rules apply to permitting applications that were administratively complete before September 1, 1999. No pending applications meet that criterion.

Subchapter C: Action by Executive Director
The commission proposes the repeal of §§50.31, 50.33, 50.35, 50.37, 50.39, 50.41, 50.43, and 50.45. These rules apply to permitting applications that were administratively complete before September 1, 1999. No pending applications meet that criterion.

Fiscal Note: Costs to State and Local Government
Jené Bearse, Analyst in the Budget and Planning Division, determined that for the first five-year period the proposed repeals are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed repeals.
The proposed rulemaking would repeal rules in Chapter 50, Subchapters A - C regarding action by the commission or executive director on certain applications because these rules are obsolete. The obsolete rules generally apply to certain permit applications that were administratively complete before September 1, 1999. HB 801 superseded the public participation rules in Chapter 50, Subchapters A - C for certain permit applications declared administratively complete on or after September 1, 1999. The rules that implemented HB 801 and subsequent rulemakings to implement legislation and commission policy nullified the rules that are proposed for repeal.

The rules are proposed for repeal because the reviews of applications declared administratively complete prior to September 1, 1999 have been completed. The current requirements regarding action by the commission or executive director on certain applications in Chapter 50 are not affected by this proposed rulemaking. No fiscal implications are anticipated for the state or units of local government.

**Public Benefits and Costs**

Ms. Bearse also determined that for each year of the first five years the proposed repeals are in effect, the public benefit anticipated from the repeals will be to eliminate obsolete rules regarding the public participation requirements for certain permit applications.

The proposed repeals are not anticipated to result in fiscal implications for businesses
or individuals. The rules are proposed for repeal because they have been obsolete since the commission completed its reviews of all of the applications declared administratively complete before September 1, 1999. The current requirements action by the commission or executive director on certain applications in Chapter 50 are not affected by this proposed rulemaking. The proposed rulemaking does not remove or add fees and does not affect requirements for any regulated entities.

**Local Employment Impact Statement**

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed repeals are in effect.

**Rural Community Impact Statement**

The commission reviewed this proposed rulemaking and determined that the proposed repeals do not adversely affect a rural community in a material way for the first five years that the proposed repeals are in effect.

**Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rulemaking for the first five-year period the proposed repeals are in effect.
Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rulemaking does not adversely affect a small or micro-business in a material way for the first five years the proposed repeals are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create, expand, repeal, or limit an existing regulation, nor does it increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rulemaking should not impact positively or negatively the state’s economy.

Draft 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 Texas Government Code, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major
environmental rule” is 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 proposed repeal of §§50.2, 50.13, 50.15, 50.17, 50.19, 50.31, 50.33, 50.35, 50.37, 50.39, 50.41, 50.43, and 50.45 is procedural in nature and is not specifically intended to protect the environment or reduce risks to human health from environmental exposure, nor does it 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. Rather, this rulemaking repeals obsolete rules to ensure there is no confusion regarding the applicable rules for public participation for certain permit applications.

Texas Government Code, §2001.0225, applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; 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 adopt a rule solely under the general authority of the commission. The proposed repeal of §§50.2, 50.13, 50.15, 50.17, 50.19, 50.31, 50.33, 50.35, 50.37, 50.39, 50.41, 50.43, and 50.45 does not exceed an express requirement of state law or a requirement of a delegation agreement, and the
rulemaking was not developed solely under the general powers of the agency, but is authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

**Takings Impact Assessment**

The commission evaluated the proposed rulemaking and performed an analysis of whether Texas Government Code, Chapter 2007, is applicable. The proposed repeal of §§50.2, 50.13, 50.15, 50.17, 50.19, 50.31, 50.33, 50.35, 50.37, 50.39, 50.41, 50.43, and 50.45 is procedural in nature and will not burden private real property. The proposed rulemaking does not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under Texas Government Code, §2007.002(5). The proposed rulemaking does not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this rulemaking action will not constitute a taking under Texas Government Code, Chapter 2007.
Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the rules proposed for repeal are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the repeals affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Effect on Sites Subject to the Federal Operating Permits Program

None of the sections proposed for repeal are applicable requirements under 30 TAC Chapter 122 (Federal Operating Permits Program) and therefore, no effect on sites subject to the Federal Operating Permits Program is expected if the commission repeals these rules.

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on December 10, 2019, at 10:00 a.m., in Building E, Room 201S, at the commission’s central office.
located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

**Submittal of Comments**

Written comments may be submitted to Ms. Kris Hogan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: https://www6.tceq.texas.gov/rules/ecomments/. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2019-119-039-LS. The comment period closes on December 16, 2019. Copies of the proposed rulemaking can be obtained from the commission’s website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Amy Browning, Environmental Law Division, at (512) 239-0891.
[SUBCHAPTER A: PURPOSE, APPLICABILITY, AND DEFINITIONS]

[§50.2]

Statutory Authority

The repeal is proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The repeal is also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air.

The rulemaking implements TWC, §§5.013, 5.102, 5.103, 26.011, and 27.019; and
THSC, §361.024 and §382.017.

[§50.2. Applicability.]

(a) Subchapters A-C of this chapter (relating to Purpose, Applicability, and Definitions; Action by the Commission; and Action by Executive Director) apply to any application that is declared administratively complete before September 1, 1999. Any application that is declared administratively complete on or after September 1, 1999 is subject to subchapters E-G of this chapter (relating to Purpose, Applicability, and Definitions, Action by the Commission; and Action by Executive Director).

(b) This chapter does not apply to applications for emergency or temporary orders or temporary authorizations.

(c) Subchapters A-C of this chapter do not apply to air quality applications under Chapter 122 of this title (relating to Federal Operating Permits) except for §50.17 of this title (relating to Commission Actions).]
[SUBCHAPTER B: ACTION BY THE COMMISSION]

[§§50.13, 50.15, 50.17, 50.19]

Statutory Authority

The repeals are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The repeals are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air.

The rulemaking implements TWC, §§5.013, 5.102, 5.103, 26.011, and 27.019; and
THSC, §361.024 and §382.017.

[§50.13. Action on Application.]

[Any application that is declared administratively complete before September 1, 1999 is subject to this subchapter. Any application that is declared administratively complete on or after September 1, 1999 is subject to subchapter F of this chapter (relating to Action by the Commission). After the time for filing a hearing request as provided in §55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment), the commission may act on an application without holding a contested case hearing when:]

[(1) no timely hearing request has been received;]

[(2) all timely hearing requests have been withdrawn or denied by the commission; or]

[(3) a judge has remanded the application because of settlement.]

[§50.15. Scope of Proceedings.]
[The commission may limit consideration in permit amendment or modification proceedings to only those portions of a permit for which the application requests action. The commission may limit consideration in the review of preconstruction permit renewals consistent with the requirements set forth in Texas Health and Safety Code, §382.055. All terms, conditions, and provisions of an existing permit remain in full force and effect during such proceedings, and the permittee shall comply with an existing permit until the commission acts on the application.]

[§50.17. Commission Actions.]

[(a) The commission may grant or deny an application in whole or in part, suspend the authority to conduct an activity or dispose of waste for a specified period of time, dismiss proceedings, amend or modify a permit or order, or take any other appropriate action.]

[(b) For applications involving hazardous waste under the TSWDA, the commission may issue or deny a permit for one or more units at the facility. The interim status of any facility unit compliant with the provisions of Texas Health and Safety Code, §361.082(e), and §335.2(c) of this title (relating to Permit Required) for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.]
[(c) If the commission directs a person to perform or refrain from performing any act or activity, the order shall set forth the findings on which the directive is based. The commission may set a reasonable compliance deadline in its order in which to:]

[(1) terminate the operation or activity;]

[(2) cease disposal, handling, or storage of any waste;]

[(3) conform to the permit requirements, including any new or additional conditions imposed by the commission; or]

[(4) otherwise comply with the commission's order.]

[(d) For good cause, the commission may grant an extension of time to a compliance deadline upon application by the permittee.]

[(e) For applications involving radioactive material licenses under the Texas Radiation Control Act, the commission may incorporate in any license at the time of issuance, or thereafter by appropriate rule or order, additional requirements and conditions as it deems appropriate or necessary to:]
[(1) protect and minimize danger to public health and safety or the environment;]

[(2) require reports and the keeping of records and to provide for inspections of activities under the license as may be appropriate or necessary; and]

[(3) prevent loss or theft of radioactive material subject to this subchapter.]

[§50.19. Notice of Commission Action, Motion for Rehearing.]

[(a) If the commission acts on an application, the chief clerk shall mail notice of the action to the applicant, executive director, public interest counsel, and to other persons who timely filed public comment or hearing requests in response to public notice. The notice shall explain the opportunity to file a motion under §80.271 of this title (relating to Motion for Rehearing). The chief clerk need not mail to persons submitting public comment or hearing requests who have not provided a return mailing address. The chief clerk may mail the information to a representative group of persons when a substantial number of public comments have been submitted.]

[(b) The procedures in §80.271 of this title apply if the commission acts on an application. A motion for rehearing in such a case must be filed within 20 days after]
the date the person is notified in writing of the commission's final decision or order on the application. The commission's decision is final and appealable under Texas Water Code, §5.351 or Texas Health and Safety Code, §§361.321, 382.032, or 401.341, if the motion is denied under:

[(1) §80.271 of this title; and]

[(2) §80.273 of this title (relating to Decision Final and Appealable).]
[SUBCHAPTER C: ACTION BY EXECUTIVE DIRECTOR]

[§§50.31, 50.33, 50.35, 50.37, 50.39, 50.41, 50.43, 50.45]

Statutory Authority

The repeals are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The repeals are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste.

The rulemaking implements TWC, §§5.013, 5.102, 5.103, 26.011, and 27.019; and THSC, §361.024 and §382.017.

[§50.31. Purpose and Applicability.]
[(a) The purpose of this subchapter is to delegate authority to the executive
director and to specify applications on which the executive director may take action on
behalf of the commission.]

[(b) This subchapter applies to any application that is declared administratively
complete before September 1, 1999. Any application that is declared administratively
complete on or after September 1, 1999 is subject to Subchapter G of this chapter
(relating to Action by the Executive Director). Except as provided by subsection (c) of
this section, this subchapter applies to:]

[(1) air quality permits under Chapter 116 of this title (relating to Control
of Air Pollution by Permits for New Construction or Modification);]

[(2) appointments to the board of directors of districts created by special
law;;]

[(3) certificates of adjudication;]

[(4) district matters under Texas Water Code (TWC), Chapters 49 - 66;]
[(5) districts’ proposed impact fees, charges, assessments, or contributions approvable under Texas Local Government Code, Chapter 395;]

[(6) extensions of time to commence or complete construction;]

[(7) industrial and hazardous waste permits;]

[(8) municipal solid waste permits;]

[(9) on-site waste water disposal system permits;]

[(10) radioactive material permits or licenses;]

[(11) underground injection control permits;]

[(12) water rights permits;]

[(13) wastewater permits;]

[(14) weather modification measures permits;]

[(15) driller licenses under TWC, Chapter 32;]
[(16) pump installer licenses under TWC, Chapter 33;]

[(17) irrigator or installer registrations under TWC, Chapter 34;]

[(18) municipal management district matters under Texas Local Government Code, Chapter 375;]

[(19) determination of the financial, managerial, and technical capacity of applicants for loans from the Texas Water Development Board, if requested by that agency; and]

[(20) certification of an organization that is installing plumbing in a "self-help" project, in a county any part of which is within 50 miles of an international border.]

[(c) This subchapter does not apply to:]

[(1) air quality standard permits under Chapter 116 of this title;]

[(2) air quality permits under Chapter 122 of this title (relating to Federal Operating Permits Program);]
[(3) air quality standard exemptions;]

[(4) consolidated proceedings covering additional matters not within the scope of subsection (b) of this section;]

[(5) district matters under TWC, Chapters 49 - 66, as follows:]

[(A) an appeal under TWC, §49.052 by a member of a district board concerning his removal from the board;]

[(B) an application under TWC, Chapter 49, Subchapter K, for the dissolution of a district;]

[(C) an application under TWC, §49.456 for authority to proceed in bankruptcy;]

[(D) an appeal under TWC, §54.239, of a board decision involving the cost, purchase, or use of facilities;]

[(E) an application under TWC, §49.351 for approval of a fire department or fire-fighting services plan; or]
[(F) an application under TWC, §54.030 for conversion of a district to a municipal utility district;]

[(6) emergency or temporary orders or temporary authorizations;]

[(7) actions of the executive director under Chapters 101, 111 - 115, 117, and 118 of this title (relating to General Air Quality Rules; Control of Air Pollution From Visible Emissions and Particulate Matter; Control of Air Pollution From Sulfur Compounds; Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants; Control of Air Pollution From Motor Vehicles; Control of Air Pollution From Volatile Organic Compounds; Control of Air Pollution From Nitrogen Compounds; and Control of Air Pollution Episodes);]

[(8) all compost facilities authorized to operate by registration under Chapter 332 of this title (relating to Composting); and]

[(9) an application for creation of a municipal management district under Texas Local Government Code, Chapter 375.]

[(d) Regardless of subsection (b) or (c) of this section, when the rules governing a particular type of application allow a motion for reconsideration, §50.39(b) - (f) of]
this title (relating to Motion for Reconsideration) applies. If the rules under which the executive director evaluates a registration application provide criteria for evaluating the application, the commission's reconsideration will be limited to those criteria.]

[§50.33. Executive Director Action on Application.]

[(a) The executive director may act on an application subject to this subchapter if:]

[(1) public notice has been issued as required by law and commission rules;]

[(2) the application meets all relevant statutory and administrative criteria;]

[(3) the application does not raise new issues that require the interpretation of commission policy;]

[(4) the executive director's staff and public interest counsel do not raise objections; and]

[(5) the application is uncontested because:]
[(A) no timely hearing requests are filed with the chief clerk;]

[(B) the applicant and the persons who filed timely requests have agreed in writing to the action to be taken by the executive director; or]

[(C) any timely requests have been withdrawn in writing or have been denied.]

[(b) If the executive director acts on an application the chief clerk shall mail to the applicant, the public interest counsel, and to other persons who timely filed public comment in response to public notice, notice of the action, any response to public comment under §55.25 of this title (relating to Public Comment Processing), and an explanation of the opportunity to file a motion under §50.39 of this title (relating to Motion for Reconsideration), if applicable. The chief clerk need not mail to persons submitting public comment who have not provided a return mailing address. The chief clerk may mail the information to a representative group of persons when a substantial number of public comments have been submitted. If there were timely filed hearing requests that the commission denied, the chief clerk should also mail to the persons who timely filed hearing requests.]
[(c) If an application does not meet the requirements of subsection (a) of this section, the executive director shall refer the application to the chief clerk. The chief clerk shall schedule the application for consideration and action by the commission.]

[§50.35. Effective Date of Executive Director Action.]

[A permit or other approval is effective when signed by the executive director.]

[§50.37. Remand for Action by Executive Director.]

[At any time during the processing of an application, if all timely hearing requests concerning the application are withdrawn or denied, the commission or the general counsel, or the judge if SOAH holds jurisdiction over the application, may remand the application to the executive director. If the application has been scheduled for a commission meeting, the chief clerk shall remove it from the commission's agenda.]

[§50.39. Motion for Reconsideration.]

[(a) The applicant, public interest counsel or other person may file with the chief clerk a motion for reconsideration of the executive director's action on an application.]
[(b) A motion for reconsideration must be filed no later than 23 days after the date the agency mails notice of the signed permit, approval, or other action of the executive director to the applicant and persons on any required mailing list for the action.]

[(c) An action by the executive director under this subchapter is not affected by a motion for reconsideration filed under this section unless expressly ordered by the commission.]

[(d) With the agreement of the parties or on their own motion, the commission or the general counsel may, by written order, extend the period of time for filing motions for reconsideration and for taking action on the motions so long as the period for taking action is not extended beyond 90 days after the date the agency mails notice of the signed permit, approval, or other written notice of the executive director's action.]

[(e) Disposition of motion.]

[(1) Unless an extension of time is granted, if a motion for reconsideration is not acted on by the commission within 45 days after the date the agency mails notice of the signed permit, approval, or other action of the executive director, the motion is denied.]
[(2) In the event of an extension, the motion for reconsideration is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date the agency mails notice of the signed permit, approval, or other action of the executive director.]

[(f) Section 80.271 of this title (relating to Motion for Rehearing) and Texas Government Code, §2001.146, regarding motions for rehearing in contested cases do not apply when a motion for reconsideration is denied by commission action or under subsection (e) of this section and no motions for rehearing shall be filed. If applicable, the commission decision may be subject to judicial review under Texas Water Code, §5.351, or Texas Health and Safety Code, §§361.321, 382.032, or 401.341.]

[§50.41. Eligibility of Executive Director.]

[This section is effective upon delegation of national pollutant discharge elimination system (NPDES) permit authority. The executive director may issue Texas pollutant discharge elimination system (TPDES) permits or other TPDES-related approvals only if he or she does not receive, and has not during the previous two years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.]
[(1) For the purposes of this section:]

[(A) "Significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving that portion under retirement pension, or similar arrangement.]

[(B) "Permit holders or applicants for a permit" does not include any department or agency of a state government, such as a Department of Parks or a Department of Fish and Wildlife.]

[(C) "Income" includes retirement benefits, consultant fees, and stock dividends.]

[(2) For purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the identity of the primary sources of income.]

[§50.43. Withdrawing the Application.]
[Upon a request by the applicant at any time before the application is referred to SOAH, the executive director shall allow the withdrawal of the application and shall file a written acknowledgment of the withdrawal with the chief clerk. If the application has been scheduled for a commission meeting, the chief clerk shall remove it from the commission's agenda. The agency may return to the applicant the classified or confidential portion of the application under §1.5(d) of this title (relating to Records of the Agency). For purposes of this rule, an application is referred to SOAH when the commission votes during a public meeting for referral or when the executive director or the applicant file a request to refer with the chief clerk under §55.26 of this title (relating to Hearing Request Processing).

§50.45. Corrections to Permits.]

[(a) This section applies to a permit as defined in §3.2 of this title (relating to Definitions), except that it does not apply to air quality permits under Chapter 122 of this title (relating to Federal Operating Permits Program). The executive director, on his own motion or at the request of the permittee, may make a non-substantive correction to a permit either by reissuing the permit or by issuing an endorsement to the permit, without observing formal amendment or public notice procedures. The executive director must notify the permittee that the correction has been made and forward a copy of the endorsement or corrected permit for filing in the agency’s official records.]
[(b) The executive director may issue non-substantive permit corrections under this section:]

[(1) to correct a clerical or typographical error;]

[(2) to change the mailing address of the permittee, if updated information is provided by the permittee;]

[(3) if updated information is provided by the permittee, to change the name of an incorporated permittee that amends its articles of incorporation only to reflect a name change, provided that the secretary of state can verify that a change in name alone has occurred;]

[(4) to describe more accurately in a water rights permit or certificate of adjudication the boundary of or the point, rate, or period of diversion of water;]

[(5) to describe more accurately the location of the authorized point or place of discharge, injection, deposit, or disposal of any waste, or the route which any waste follows along the watercourses in the state after being discharged;]

[(6) to describe more accurately the pattern of discharge or disposal of any waste authorized to be disposed of;]
[(7) to describe more accurately the character, quality, or quantity of any waste authorized to be disposed of; or]

[(8) to state more accurately or update any provision in a permit without changing the authorizations or requirements addressed by the provision.]

[(c) Before the executive director makes a correction to a permit under this section, the executive director shall inform the general counsel of the proposed correction, and shall provide a copy of such information to the public interest counsel. Review by the general counsel and the public interest counsel under this subsection does not apply to a correction described in subsection (b)(2) or (3) of this section. The public interest counsel shall advise the general counsel of any objections to the proposed correction. The general counsel shall act within five business days of receiving the executive director's proposal. If the general counsel determines that the proposed correction should not be issued under this section, the executive director shall not issue the correction, but may set the matter for commission action during a commission meeting. If the general counsel fails to act within five business days, the executive director may issue the correction as proposed.]