

Texas Commission on Environmental Quality

2023-1506-RUL

Plain Language Summary for Rulemaking Proposal

Chapter 39, Public Notice

Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment Updates to Public Participation Rules to Implement Sunset Legislation and Provide Greater Clarity.

Rule Project No. 2024-003-039-LS

Plain Language Summary:

The Texas Commission on Environmental Quality (TCEQ) underwent Sunset review during the 88th Regular Legislative Session, 2023. The Sunset bill, SB 1397, continuing TCEQ, included provisions requiring changes to certain of TCEQ's public participation rules, which are found primarily in Title 30 Texas Administrative Code Chapters 39 and 55.

The agency engaged in an expanded stakeholder process for this rulemaking. Stakeholder comments were accepted until October 8, 2024. The agency experienced robust participation from stakeholders during this process, receiving many comments and suggestions for changes to improve the agency's public participation rules. During the stakeholder process a large number of comments requested that the extension of the comment period and opportunity to request a contested case hearing following a public meeting be given to all types of permit applications. Although many other comments were beyond the scope of the current rulemaking, there was a general request to make the rules less confusing and more helpful to assist the public participation process. The proposed amendments to Chapter 39, along with the companion rulemaking proposing changes to Chapter 55, seek to clarify the rules in addition to satisfying the requirements of the Sunset bill.

Proposed amendments will extend the comment period and opportunity to request a contested case hearing for at least 36 hours following a public meeting for air quality permit applications with consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision; change notice requirements to specify that applications for air quality permits, waste permits, and wastewater permits be posted electronically by the agency; and update other notice requirements.

The proposed rulemaking also seeks to improve and clarify the rules to make them easier to understand. The rulemaking will create a new section in Title 30 Texas Administrative Code Chapter 39, Subchapter K., Public Notice of Air Quality Permit Applications, to include information about requesting a public meeting, a notice and comment hearing, and a contested case hearing for air quality permit applications for which these opportunities exist. The rulemaking will also increase the size of the required signs for air quality permit applications to 48 inches by 48 inches, with a minimum size of 3 inches for lettering. The rulemaking extends the comment period for certain air quality permit renewal applications based on a facility's or applicant's compliance history, expressly clarifying that more time for public comment is allowed when applicants have a poor compliance history. The rulemaking will remove obsolete date references throughout Chapter 39 and correct minor grammatical issues to reflect current correct usage. A new Subchapter A will be added to Chapter 39 to define commonly used terms. New definitions are proposed to be added to Chapter 55, and

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Re: Docket No. 2023-1506-RUL

language is proposed to clarify processes relating to comments, public meetings, and
contested case hearings.