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Texas Commission on Environmental Quality (TCEQ)
P.O. Box 13087
Austin, TX 78711-3087

Dear TCEQ Commissioners,

This letter includes comments on the proposed rulemaking to amend 30 TAC Chapter 39 and Chapter 55 on Project Number 2024-003-039-LS.

1. Enhanced Public Engagement and Opportunities for Participation

- a. Increase Public Engagement:** To ensure broad participation, especially from marginalized communities, hold pre-application informational sessions, workshops, and community meetings at accessible venues. All meetings and hearings should include a virtual option.
- b. Outreach Programs:** Distribute printed materials in multiple languages at public places to inform affected communities of their rights and resources.
- c. Streamline the Process Across All Permits:** Ensure that all TCEQ permits follow the same public notice, participation, reconsideration, and contested case hearing process.

2. Focus on Accessibility

- a. Application Review:** Ensure thorough application reviews for completeness and accuracy, addressing outreach and translation requirements. Applications should not be approved unless all reviewers have had the chance to sign off on their approval, regardless of internal TCEQ timelines.
- b. Simplified Language:** Use plain language in notices and provide summaries in multiple languages. Distribute with an online public database, newspapers, bulletins, and radio.

- c. **Targeted Outreach:** Implement community meetings and collaborations with local organizations and mail notifications to persons within the potential impact area based on risk assessment (at least a minimum of three miles for permits that may affect water quality and five miles for permits that may affect air quality).
- d. **Language Access:** Ensure notices, hearings, and responses to comments are culturally sensitive and accessible in multiple languages.

3. Improve Transparency and Communication

- a. **Public Accessibility:** All documents should be publicly accessible online in one easy-to-use database, and physical copies should be provided at local facilities for all TCEQ permit types.
- b. **Digital and Traditional Notifications:** Use digital platforms and traditional methods like community bulletins, newspapers, and radio for dissemination.
- c. **Real-Time Alerts:** Create a community alert system for real-time emergency communications and air quality data via SMS.
- d. **Clear Communication:** Use non-technical language in notices and summarize key issues, health, and ecological impacts. Use visual aids when possible.
- e. **Enhanced Coordination:** Improve inter-agency coordination on consolidated permits and provide updates through community meetings.

4. Expand Information Availability and Time to Comment

When requesting a contested case hearing, individuals must provide a detailed statement of the issues they intend to raise. This includes specifying how they will be adversely affected by the proposed permit in a manner not common to the general public and describing relevant and material issues of fact they intend to contest.

The phased approach and recommendations below ensure that the public is better informed and prepared to engage meaningfully in the permitting process, addressing the current knowledge gap and timing issues.

- a. **Pre-hearing information sessions**
- b. **Preliminary response to comments**
- c. **Second comment period**

- d. Broader eligibility for affected person status** to align with Article III of the U.S. Constitution that establishes that courts can only hear cases and controversies, meaning there must be a real dispute between parties with a genuine interest in the outcome. The party must demonstrate:
 - i.** An injury that is concrete, particularized, and actual or imminent because of the proposed agency action.
 - ii.** A causal connection between the injury and the proposed agency action.
 - iii.** A likelihood that a favorable decision in the contested case hearing will redress the injury.

5. Legal and Technical Assistance

- a. Provision of Legal Aid:** Implement free or subsidized legal aid programs, partnering with local non-profits.
- b. Technical Assistance Programs:** Help the public understand complex permit applications through community workshops.
- c. Alternative Dispute Resolution:** Introduce alternative dispute resolution mechanisms such as mediation to resolve issues before they escalate to contested case hearings.

6. Cost Allocation and Accountability

- a. Applicant Responsibility for Outreach and Assessments:** Require applicants to fund independent assessments and conduct outreach, including informational sessions and distributing notices.
- b. Fee Structures:** Develop a fee structure where applicants contribute to a fund supporting public participation and legal assistance.
- c. Verification and Accountability:** Applicants must submit detailed outreach and assessment plans for TCEQ approval during the application period and be responsible for periodic verification once approved.

7. Comprehensive and Cumulative Impact Assessments

- a. Health Impact Assessments:** Mandate comprehensive health impact assessments and distribute summaries in local health clinics and local government building.

- b. Environmental Impact Statements:** Require detailed environmental impact statements with simplified summaries located digitally and in public facilities.
- c. Cumulative Impact Assessments:** Include assessments of cumulative impacts from multiple permits and make them accessible in government offices and community centers.

These recommendations aim to enhance public engagement, transparency, and environmental justice in TCEQ's permitting processes. Thank you for considering these comments.

Sincerely,
Gina Biekman