

Public Hearing 30 TAC Chapter 39 and 55-20250908_193434UTC-Meeting Recording

September 8, 2025, 5:45PM

Speech disfluencies omitted

Formal Public Testimony

Gwen Ricco: Good afternoon. I would like to welcome everyone to this public hearing being conducted by the Texas Commission on Environmental Quality. My name is Gwen Ricco and I'm coordinator with the General Law Division and I would like to introduce Amy Browning and Elizabeth Black from our Environmental Law Division.

Ryan Kelly: [Speaks in Spanish]

Gwen Ricco: We will continue to accept written comments on this proposed rule until 11:59 PM on September 9th, 2025. This hybrid in person and virtual hearing is structured strictly for the receipt of oral comments. Open discussion during the formal session of the hearing is not allowed. However, if anyone has additional questions or informal comments regarding the proposal, there will be another opportunity after the hearing to have your informal questions answered.

Interpreter 1: [Speaks in Spanish]

Gwen Ricco: We will now begin receiving testimony in the order in which you registered. Once I call your name, please unmute your mic, state your name and who you represent, and then present your testimony. And please be mindful of the interpreters and allow pauses for them to continue their interpretation. Upon conclusion of your testimony, please mute your mic to allow the next participant the opportunity to comment.

Interpreter 1: [Speaks in Spanish]

Gwen Ricco: Our first commenter is Amy Dinn. Amy, go ahead and meet your microphone.

Amy Dinn: Hello, I am Amy Dinn. I'm an attorney at Lone Star Legal Aid representing our client Better Brazoria Clean Air and Clean Water in Brazoria County. We'll be submitting written comments on the entire proposed rulemaking, but I wanted to make a few additional points. Should I pause for translation now or just keep going?

Gwen Ricco: Yeah, that'd be great if you could. Yeah, pause now.

Amy Dinn: OK.

Interpreter 1: [Speaks in Spanish]

Amy Dinn: So first, to ensure public participation, the TCEQ's current language access plan approved by the EPA remains an important policy for the agency to follow, and we're glad to see it acknowledged in the proposed rules in *Rules in Role* 39.422(d).

Interpreter 1: [Speaks in Spanish]

Amy Dinn: Second, as we transition away from fax machines to emails in these proposed rules, which is a good necessary change that reflects updates and technology. We still need to be aware that some people don't use e-mail or have regular access to e-mail due to technological gaps in rural counties or low-income households. As identified in the Sunset Bill, the agency needs to be aware of these participation gaps and make plans to fill them, just as it's had to do with its language access plan. Outreach to these communities remains important to ensure their participation.

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Interpreter 1: [Speaks in Spanish]

Amy Dinn: A third, now that a specific distance is expressly included in the definition of affected person, how that distance is measured needs an answer. And there are too many cases that Lone Star Legal Aid has been a part of where the distance is measured for standing, which seems to vary or be confusing despite the known statutory distance for concrete batch plant standard permits. For example, the agency needs to be clear at the time the application is submitted that the applicant is bound by its application and cannot change or revise its plans to avoid distance limitations.

Interpreter 1: [Speaks in Spanish]

Amy Dinn: Fourth, the TCEQ has asked for comment on when these changes should take effect. Across the board, TCEQ should strive for the earliest adoption date for all the proposed changes that it can possibly manage. Most are slated for March 1st, 2026, and we support that rather than delaying to July 1st.

Interpreter 1: [Speaks in Spanish]

Amy Dinn: The publication of general circulation and the notice provision of the rules is being abused regularly by applicants in Harris County. Applicants need more direction here as we have applicants publishing notice in remote papers in different parts of Harris County where the facility is located or proposed; trying to avoid use of the Houston Chronicle. Instead, for a Pasadena facility, ITC has used the Pearland Journal. For a concrete crusher in Houston, the applicant used the Crosby Star Courier. These smaller, more focused publications do not serve the area where the plant or the new facility is based, and that's not public notice. The TCEQ needs to be aware of this issue and require the applicant to re-notice applications if the notice is not in a publication of general circulation.

Interpreter 1: [Speaks in Spanish]

Amy Dinn: And finally, I want to thank the TCEQ's rules team who's worked on the proposed rules and incorporated public feedback. The proposed rule set is an improved version of Chapter 39 and 55 overall. Thank you.

Interpreter 1: [Speaks in Spanish]

Gwen Ricco: Thank you for your comments. Our next commenter for "EB ward" is Chris Pepper. And yeah, if you want to come up to the podium, that would be.

Interpreter 1: [Speaks in Spanish]

Chris Pepper: My name is Chris Pepper. I'm here representing the Texas Aggregates and Concrete Association. We have real simple comment and that's to tell staff thank you so much for working through the public notice rulemaking process in regard to Sunset. We agree with Ms. Dinn that it's an improvement and it's been a lot of hard work. The comment for the record from our trade association, the Aggregate and Concrete Association, which represents concrete sand and "Portland" cement in Texas. It concerns the signposting requirement and the posting of the application at a public place requirement for the concept

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of the final action on the permit. That's new for us. That's new for the regulated industry in the state of Texas. We want to see if the ED staff can put some discretion on that portion of the rulemaking to account for situations where the signs accidentally fell down or the signs were stolen or the signs were burned by wildfires or where the signs were blown down from a tornado or from a hurricane. And as far as the, in other words, we wouldn't want to be kicked back to first notice or redo something because of an immaterial error on the signs not being posted 100% of the time. The same would hold true for any public notice of the application posted at a public place, say, like a library or local city hall or a local post office. From time to time, that application is supplemented. The idea would be that the executive director could insert rule language to create times certain dates when the application could be supplemented, just like when we were in law school. Sometimes those applications go missing. Sometimes the application pages go missing from those public places. So if we could have some ED discretion on continuing with the technical review of the permit in light of what I would call immaterial "dazed" when they weren't there posted. From a conceptual standpoint, the signposting is important to our trade association for straight renewal air permit applications. For no increased renewal applications is another moniker or first simple de minimis style amendments or for an uncontested application. Typically, by rule you'll be allowed up to maybe 270 days for a renewal application. That's a long time to leave a large notice sign subject to wildlife, wildfires, and the nefarious behavior for a straight-line renewal application. Anyway, we thank the staff for the hard work. We thank the staff for going through the Sunset process. Look forward to "working with y'all in the future."

Interpreter 1: [Speaks in Spanish]

Gwen Ricco: Thank you for your comment. Our last registered commenter is Genesis Granados.

Genesis Granados: Hi everyone. Good afternoon. This is Genesis Granados with Air Alliance Houston. We will be submitting a written comment as well, so I will just be covering a few points.

Ryan Kelly: [Speaks in Spanish]

Genesis Granados: Overall, thank you TCEQ for having this opportunity to talk about the changes- the proposed changes to overall the TCEQ Sunset bill in part coming from changes in Chapters 39 and 55. We believe that some of these changes will definitely strengthen public participation, especially when it comes to language access, which has been an issue before. Seeing some of these changes that focus on making information more accessible. Ensuring that information about a permit meeting, a public hearing are made more available, readily available to community members is great. Apart from that some of the things that are mentioned for the changes will definitely impact how community really engages with the public meeting process and permitting process.

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Ryan Kelly: [Speaks in Spanish]

Genesis Granados: Expansion on the definitions will help to facilitate public participation and also just overall create a better relationship between the TCEQ and community. And ensure that the TCEQ is really actively trying to engage with the impacted communities by industry. As Amy Dinn had mentioned previously, a few things just to keep in mind is that currently there is a misuse of post public notice guidelines by industry that often limit the exposures of the information mentioned. You know, usage of different newspapers of the community or not having them posted in a relevant location. So we really ask for better agency awareness as well and having a system of accountability that will ensure that applicants will do their due diligence of truly informing and updating communities about their permits throughout the whole process. Because it's not just about submitting an application, it's really, "what is the industry to- what is that industry applicant truly doing to engage and inform the community that they will be located at?"

Ryan Kelly: [Speaks in Spanish]

Genesis Granados: Overall, these rule changes reflect the initial steps that the TCEQ is taking towards building trust, accessibility, and transparency in the permitting process with our communities. TCEQ has an opportunity to become a robust regulator with these changes. And we really urge them to adopt and fully implement that, but to also continue identifying accessible ways to ensure that all Texans have meaningful participation in decisions that affect their health and environment. Thank you.

Ryan Kelly: [Speaks in Spanish]

Gwen Ricco: Thank you for your comment. We have no other registered commenters. We will be continuing to accept written comments on this proposed rulemaking for the updates to public participation rules to implement Sunset legislation, Rule Project Number 2024003039LS until September 9th, 2025, at 11:59 PM.

Ryan Kelly: [Speaks in Spanish]

Gwen Ricco: If there are no further comments, the formal session of this hearing is now closed. We appreciate your comments, and we thank you for participating in this public hearing.