



September 9, 2025

Submitted electronically via TCEQ's Public Comment System

**Re: Rule Project No. 2024-003-039-LS; Docket No. 2023-1506-RUL
Texas Association of Manufacturers, Texas Chemistry Council, and Texas Oil and Gas
Association's joint comments on Proposed Public Participation Rule Changes**

Dear Ms. Browning:

The Texas Association of Manufacturers¹ (TAM), Texas Chemistry Council² (TCC), and Texas Oil and Gas Association³ (TXOGA), herein as referred to "the Associations", appreciate the opportunity to provide feedback on the Texas Commission on Environmental Quality's (TCEQ) proposed changes to public participation rules found in 30 Texas Administrative Code (TAC) Chapters 39 and 55.

The Associations commend TCEQ for continuing to update the rules related to public participation in the permitting and contested case process as directed by the Texas Legislature and prescribed in statute. These efforts are intended to provide clarity and transparency to these processes so the public may meaningfully participate while also providing the regulated community certainty when seeking permits for projects across the state.

To that end, the Associations recommend TCEQ confine any rule changes to those required by SB 1397 from the 88th Legislative Session. TCEQ has made great progress on nearly all the required changes the Texas Legislature charged the agency to undertake since 2023. TCEQ currently has a robust public participation process that provides meaningful engagement through its extensive rules and comprehensive guidance documents. The Associations understand this proposed rule package addresses another key aspect from SB 1397, which amended the Texas Health & Safety Code to provide an extension of time to submit public comments or request a hearing following a public meeting for certain air quality permits. The Associations support these changes that strictly adhere

¹ TAM promotes and protects a pro-growth business environment that ensures a strong manufacturing sector and a competitive Texas. Manufacturers in Texas account for 11.3% of the state's total output – more than \$292.6 billion in 2023 – and manufacturers employ more than 970,000 Texans in jobs that pay an average compensation of more than \$108,000 a year. TAM represents over 500 companies of all sizes and is the voice of the manufacturing community and the leading advocate for policies that help manufacturers compete in the global economy and create jobs across Texas.

² TCC represents 60 member companies who own and operate more than 200 manufacturing and research facilities across the state of Texas. Our members have over \$250 Billion in physical assets in the state and support more than 500,000 Texas jobs. Texas chemical manufacturing is the #1 non-energy export in the state with over \$56 Billion in annual exports to customers around the world. The business of chemistry in Texas pays more than \$2 Billion in state and local taxes and over \$3.45 Billion in federal taxes each year.

³ TXOGA is a statewide trade association representing every facet of the Texas oil and gas industry including small independents and major producers. Collectively, the membership of TXOGA produces approximately 90 percent of Texas' crude oil and natural gas and operates the vast majority of the state's refineries, LNG export capacity, and pipelines. In fiscal year 2024, the Texas oil and natural gas industry supported over 490,000 direct jobs and paid \$27.3 billion in state and local taxes and state royalties, funding our state's schools, roads and first responders.

to the statute. However, the Associations strongly urge TCEQ to withdraw the remaining proposed rule changes given the existing public participation framework, availability of plain-language guidance documents, and support by agency staff that allow the public to meaningfully participate.

To the extent TCEQ intends to finalize some of the proposed changes that are not required by recent changes to statute, the Associations respectfully recommend TCEQ consider targeted changes to the proposed rules.

Regarding the new proposed definitions included in Section 55.103, the Associations appreciate the need to define certain terms to alleviate the public's confusion, e.g., defining contested case hearing as distinctly different from a public meeting. However, the Associations believe there is a risk of adding a definition for "personal justiciable interest" that has additional terms, which may unintentionally expand or restrict the agency's determination of an affected person compared to the statute.

Texas courts have considered and interpreted the existing statutory language for affected person in the Texas Water Code for over two decades. Without being prompted by a corresponding change to the statute, the Associations have concerns that this new definition for "personal justiciable interest" will only lead to additional confusion and uncertainty. The Associations commend TCEQ for already finalizing helpful guidance documents that include examples of the requirements to demonstrate personal justiciable interest. Accordingly, the Associations recommend removing the definition of "personal justiciable interest" from the proposed rules because TCEQ has existing resources available to assist the public's understanding of personal justiciable interest that is not further aided by this potentially problematic definition.

The Associations also respectfully request TCEQ consider a few changes to the proposed rules in Chapter 39 to avoid other unintended consequences. Specifically, the Associations strongly support TCEQ's consideration of the comments submitted by the Texas Industry Project concerning the availability of a copy of an application and corresponding notices. The Associations also recommend TCEQ require additional language in the text of public notices that properly informs the public that failing to submit timely comments will preclude a person from being able to potentially request a contested case hearing. This complies with the statutory text of Texas Government Code § 2003.047(e-1).

The Associations also share the concerns raised by the Texas Industry Project regarding the size, spacing, and duration requirements for posting signs as proposed under Section 39.604. There are practical issues with the proposed requirements that may likely undermine the agency's intent to provide proper notice to the public. For example, highly complex industrial facilities can have several concurrent permitting actions taking several months to years for final resolution, which will make it difficult for the public to readily understand and meaningfully engage if signs are posted after public comment periods close. The Associations recommend TCEQ maintain the current requirements for applicants to post signs only during the appropriate public comment periods at the same time as physical and electronic copies of the permit application are available to ensure the public can timely provide comments.

The Associations greatly appreciate TCEQ's efforts to update its rules in response to statutory changes made by the Texas Legislature. The Associations also acknowledge the agency's work to provide clarity to the public participation process to ensure public notice is timely and the public can

achieve meaningful engagement without undue delays in the permitting process. The Associations strongly urge TCEQ to consider these proposed changes that will help prevent unintentional legal, procedural, and practical concerns.

Respectfully,

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Wroe Jackson
Vice President & General Counsel
Texas Association of Manufacturers

Logan Harrell
General Counsel & Director of Regulatory Affairs
Texas Chemistry Council

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Cory Pomeroy
Vice President & General Counsel
Texas Oil & Gas Association