

Important Input: Evolving Public Participation Processes in TCEQ's Permitting Schemes¹

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As Texas's population has grown and as the number of regulated facilities within the state has increased, the public has become increasingly engaged in the Texas Commission on Environmental Quality's ("TCEQ" or "Commission") work regarding such facilities. One aspect of TCEQ's regulatory responsibilities is its duty to ensure public participation in permitting processes. In recent years, TCEQ has taken steps to enhance the public's ability to interface with the Commission regarding and provide valuable input for environmental permitting decisions. These changes at TCEQ have been the result of Commission-initiated measures, federal input, and legislative action on public participation. As TCEQ continues to implement new policies for public participation in permitting, this paper takes stock of the Commission's general approach to public participation and reviews the changes resulting from the Commission's 2020 Title VI Informal Resolution Agreement ("IRA") with the U.S. Environmental Protection Agency ("EPA"), and the Texas Legislature's 2021–2022 Sunset Review of TCEQ.

I. Opportunities for public engagement exist throughout the typical permitting process, though they vary based on the type of permit and other circumstances

The story of public participation in Texas's environmental permitting processes is comparable to a "choose your own adventure" book, where there are multiple possible paths and destinations and a wide array of factors inform the rights, responsibilities, and opportunities that exist for the public. Broadly speaking though, when TCEQ receives a permit application, it first administratively reviews that application.² When TCEQ determines the application is administratively complete, the Commission issues a Notice of Receipt of Application and Intent to Obtain Permit ("NORI"), providing information about the proposed activity. The applicant must publish the NORI in a newspaper within 30 days of the application being deemed administratively complete.³ NORIs contain information on how members of the public can comment on the application and request a public meeting or contested case hearing.⁴

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² TCEQ, *Public Participation in Environmental Permitting* 1 (last visited June 24, 2025) [hereinafter "Public Participation Overview"], <https://www.tceq.texas.gov/downloads/publications/gi/public-participation-in-permitting-gi-445.pdf>. The general permit process described herein applies to applications filed on or after September 1, 2015. *See id.*

³ *Id.* In some cases, applicants must also post signs, or publish the notice in languages besides English, while TCEQ will also mail NORIs to certain landowners and individuals. *See id.*

⁴ *Id.* at 1–2. Individuals who take these actions are automatically added to a mailing list for the application, though the public can also request to be added to more permanent mailing lists for specific permit numbers or counties. *Id.* at 2.

A public meeting⁵ allows the public to engage with the applicant and TCEQ, including the Commission's technical and legal staff, about the application.⁶ The first part of the meeting is generally informational and interactive, allowing the applicant and TCEQ to respond to the public's questions and comments about the project. The second part of the meeting is for the public to make formal comments that will form part of the administrative record and inform the Commission's permitting decision. TCEQ holds public meetings if there is "significant interest" in a permit application, a legislator from the proposed project's area requests it, or a meeting is required by law.⁷ No decision on approving or denying an application is made at a public hearing, and neither TCEQ nor the applicant will respond to formal public comments during a meeting.⁸

In contrast, TCEQ's commissioners grant contested case hearings to hear challenges to a draft permit based in part on information submitted by requesters, who must demonstrate they are "affected person[s]" to become parties to a hearing.⁹ Unlike a public meeting, a contested case hearing is a legal proceeding conducted by the State Office of Administrative Hearings ("SOAH") and presided over by an administrative law judge who considers evidence on the "prima facie case" that a draft permit meets all applicable requirements and would adequately protect human health, the environment, and property.¹⁰

After an application is deemed administratively complete, TCEQ conducts a technical review. When TCEQ deems the application technically complete, it issues a preliminary decision in a Notice of Application and Preliminary Decision ("NAPD") together with a draft permit. The NAPD gives the public an additional chance to comment or request a public meeting or contested case hearing. That public comment period ends at least 30 days after the NAPD's last publication date, though a later-held public meeting extends the period.¹¹ After this final comment period closes, TCEQ's executive director ("ED") issues a written response to comments and preliminary decision letter, or, if there are no pending requests for reconsideration or for a contested case hearing, the executive may issue the permit.¹²

Any member of the public can request the Commission to reconsider the ED's decision on a permit application. However, the Commission is unlikely to grant a request for reconsideration if it is based on issues that were addressed in the ED's response to comments. Contested case hearings, by contrast, are available only for those affected in a manner different from the general public, as determined by the commissioners. The Commission considers requests for contested case hearings together with requests for reconsideration at its regular agenda meetings. The Commission may

⁵ The term, "public meeting," is used interchangeably with the term, "public hearing," which is not to be confused with a "contested case hearing."

⁶ See TCEQ, *What to Expect at a Public Meeting* 1 (Nov. 2024), <https://www.tceq.texas.gov/downloads/agency/decisions/participation/gi638-what-to-expect-at-a-public-meeting-x.pdf>.

⁷ Public Participation Overview at 2; see generally 30 TEX. ADMIN. CODE § 55.154(c). TCEQ also holds public meetings on certain air permit applications if an "interested person," who has expressed interest in an application, requests one. See TCEQ, *Participating in Public Meetings and Hearings on Pending Permits* (June 25, 2025) [hereinafter "Participating in Public Meetings"], <https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation/participating-in-public-meetings-and-hearings-on-pending-permits>.

⁸ See Participating in Public Meetings; Public Participation Overview at 2.

⁹ Public Participation Overview at 2.

¹⁰ *Id.*

¹¹ See *id.* at 3.

¹² See *id.*

reject all such requests and make a final decision on the permit, take action on a request for reconsideration, or refer an affected person to SOAH for a contested case hearing.

After final issuance of the permit, the public has additional opportunities to object. If the ED issues a permit (i.e., where there were no requests for reconsideration or a contested case hearing), any member of the public may file a motion to overturn the ED's decision with the Commission.¹³ If the Commission issues a permit, whether following a contested case hearing or because no one had a right to a contested case hearing, any member of the public may request a rehearing by the Commission. These administrative remedies are a prerequisite for appealing the decision to a district court.¹⁴ On motions to overturn and requests for rehearing, the Commission is looking for legal defects to the permit and generally will not entertain a rehashing of issues that were already addressed in the response to comments or in a contested case hearing.

From the earliest stages of a permit's consideration and through its final approval, the public has various opportunities to engage with TCEQ. While these steps describe the typical avenues for public participation in environmental permitting (e.g., for case-by-case new source review air permits),¹⁵ as previously noted, the ways in which the public can participate in any given permitting process vary depending on the permit at issue. For instance, while some permits require two public notices (i.e., a NORI and NAPD), some applications, such as for concrete batch plant standard permits, have a single consolidated public notice.¹⁶ Further, for concrete batch plant standard permits, only those who permanently reside "within 440 yards of the proposed plant" are considered "a person who may be affected" and allowed standing to request a contested case hearing on the permit.¹⁷ This stands in contrast to other types of case-by-case and standard permits that do not impose proximity-based limitations on who may receive a contested case hearing.¹⁸ Meanwhile, Title V air operating permits do not have opportunities for contested case hearings, though public notice and comment hearings are possible.

Moreover, there is an important distinction between public participation in standard versus case-by-case permitting processes. In commenting on and challenging permits, the public can generally engage on two types of questions: (1) whether the permit is protective; and (2) whether the applicant has demonstrated that it will meet the permit terms. For case-by-case permit applications, TCEQ takes these questions together, and the public has an opportunity to comment on and contest issues related to both questions. In contrast, standard permits are determined to be protective at the time they are adopted (by rule or, more commonly, a non-rule process). The sole opportunity for the public to contest or comment on the protectiveness of a standard permit is when it is proposed for adoption. When an entity registers for a standard permit, thereby identifying a project to be authorized under an existing standard permit, the public cannot contest the protectiveness of the permit, but may only address whether the registrant meets the terms of the permit.

¹³ *Id.* at 3–4.

¹⁴ *Id.* at 4.

¹⁵ *See id.* at 1.

¹⁶ *See* TCEQ, *Requesting a Contested Case Hearing for Wastewater, Waste, or Air Permits* 1 n.2 (Oct. 2024) [hereinafter "Guidance on Contested Case Hearings"], <https://www.tceq.texas.gov/downloads/agency/decisions/participation/gi-649-contested-case-hearing-wastewater-waste-air.pdf>.

¹⁷ TEX. HEALTH & SAFETY CODE § 382.058(c).

¹⁸ *Compare id.*, with Public Participation Overview at 2 (explaining that, to be an "affected person" who is "granted party status" requires a "requester must be personally affected by the permit decision and that granting the permit would specifically affect the requester in ways not shared by the general public").

II. TCEQ and EPA’s Title VI IRA has had multiple, ongoing effects on the Commission’s permit-related public participation programs

One particularly important development in public participation in environmental permitting was TCEQ’s 2020 IRA with EPA. Not only did this IRA lead TCEQ to better organize and document its preexisting public participation processes, but the Commission also adopted new practices aimed at engaging with the public.

A. Background

In November 2019, environmental organizations filed a pair of actions related to TCEQ’s public participation processes.¹⁹ First, these organizations filed a petition for rulemaking on improving TCEQ’s public participation processes for limited English proficient (“LEP”) communities. This petition asked TCEQ to augment its interpretation and alternative language translation processes.²⁰ Second, the two organizations filed a Title VI complaint with EPA regarding TCEQ’s permitting public participation processes, which EPA accepted for investigation.²¹ In November 2020, TCEQ and EPA agreed to the IRA, and EPA resolved the complaint against the Commission.²² Under the terms of this IRA, TCEQ agreed to a number of broad requirements, including: (A) holding multiple community meetings on issues including TCEQ’s public participation processes for environmental permitting;²³ (B) developing a “public participation plan”;²⁴ (C) developing a “language access plan” to ensure “meaningful access to individuals with limited English proficiency”;²⁵ (D) developing “a policy to provide individuals with disabilities the opportunity for meaningful access in its programs and activities”;²⁶ and (E) instituting training for TCEQ staff on topics including the Commission’s nondiscrimination procedures.²⁷

B. Implementation

In 2019, TCEQ considered the environmental organizations’ rulemaking petition at a public Commission Agenda meeting, and the ED ultimately recommended proposed rule revisions on these issues.²⁸ In August 2021, the Commission adopted these rule revisions, which apply to air, wastewater, and waste permit applications subject to 30 Texas Administrative Code Chapters 39 and 55.²⁹ Among other things, these revisions “added new requirements for interpretation at public

¹⁹ See TCEQ, *Report to the Legislature on TCEQ Title VI Efforts and EPA Agreement 1* (Sep. 2023) [hereinafter “Title VI Report to Legislature”], <https://www.tceq.texas.gov/downloads/remediation/publications/sfr-129-report-to-the-legislature-on-tceq-title-vi-efforts-and-epa-agreement-x.pdf>.

²⁰ See *id.*

²¹ See *id.*; EPA, *Re: Resolution of EPA Complaint No. 02NO-20-R6 1* (Nov. 4, 2020) [hereinafter “IRA and Resolution”], <https://www.tceq.texas.gov/downloads/agency/decisions/participation/20-11-4-ira.pdf>. Please note, page numbers in citations to “IRA and Resolution” refer to PDF page numbers.

²² See IRA and Resolution at 1–2.

²³ See *id.* at 6–7.

²⁴ See *id.* at 7–9.

²⁵ See *id.* at 9–11.

²⁶ See *id.* at 11–12.

²⁷ See *id.* at 12.

²⁸ See Title VI Report to Legislature at 2.

²⁹ See *id.* at 2 n.6; see generally TCEQ, *Agenda Item Request for Rulemaking Adoption, Docket No. 2020-0040-RUL* (Aug. 2021), https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/backup/Agendas/2021/08-25-2021/0040RUL.pdf.

meetings; translation of hearing notices, transmittal documents, responses to comments, hearing requests, requests for reconsideration; and posting alternative language notices when applications are likely to affect LEP communities.”³⁰ These rule revisions also created a new Texas Administrative Code section to collect 30 Texas Administrative Code Chapter 39’s “Alternative Language Requirements.”³¹ Per this section, alternative language notices are required “if either the elementary or middle school nearest to the facility or proposed facility is required to provide a bilingual education program” and at least one of three conditions are met, or if the ED deems such notices mandatory “based on public interest.”³²

Separately, following the finalization of the IRA, TCEQ undertook various steps to implement the Agreement’s requirements. Perhaps most importantly, TCEQ developed its new Disability Nondiscrimination,³³ Public Participation,³⁴ and Language Access Plans.³⁵ In its Disability Nondiscrimination Plan, TCEQ elaborated on its commitment to “provid[ing] individuals with disabilities the opportunity for full participation in its programs, services, and activities,” in compliance with applicable federal laws.³⁶ To that end, under this Plan “individuals are responsible for letting TCEQ know,” in a “timely manner,” “what reasonable accommodations they need in advance, so that TCEQ may provide an appropriate response to the accommodation request.”³⁷

Meanwhile, the Public Participation Plan broadly outlines TCEQ’s public engagement policies and opportunities, including on environmental permitting.³⁸ Per this Plan, for instance, TCEQ works to ensure public meetings (and other public events) meet certain conditions (e.g., meetings are “conveniently located near the impacted community,” meeting recordings “are posted online”), while notices for such meetings and hearings include important permit-related information.³⁹ In addition, this Plan outlines the responsibilities of permit applicants, ranging from hosting meetings (as required) to providing necessary information and, in certain circumstances, submitting “a plain language summary of an application to inform the public about a proposed new permit.”⁴⁰ This Plan also directs TCEQ’s divisions, with permit applicants, to create “tailored” Public Involvement Plans (“PIP”).⁴¹ PIPs are “tool[s] that requires permit applicants to consider community

³⁰ Title VI Report to Legislature at 2.

³¹ *See id.*; 30 TEX. ADMIN. CODE § 39.426.

³² TCEQ, *Public Notices: New 30 TAC Section 39.426 Requirement 1* (Nov. 2022), <https://www.tceq.texas.gov/downloads/agency/decisions/participation/rg-633-tac-public-notice-requirements.pdf>.

³³ *See* TCEQ, *TCEQ Disability Nondiscrimination Plan* (Sep. 2021) [hereinafter “Disability Nondiscrimination Plan”], <https://www.tceq.texas.gov/downloads/agency/decisions/participation/non-discrimination-plan-gi-609.pdf>.

³⁴ *See* TCEQ, *TCEQ Public Participation Plan* (June 2021) [hereinafter “Public Participation Plan”], <https://www.tceq.texas.gov/downloads/agency/decisions/participation/public-participation-plan-gi-607.pdf>.

³⁵ *See* TCEQ, *TCEQ Language Access Plan* (Sep. 2021) [hereinafter “Language Access Plan”], <https://www.tceq.texas.gov/downloads/agency/decisions/participation/language-access-plan-gi-608.pdf>.

³⁶ Disability Nondiscrimination Plan at 1 (“We will administer programs, services, and activities in the most integrated setting appropriate to the reasonable needs of individuals with disabilities.”).

³⁷ *Id.* at 4; *see, e.g., id.* at 5 (“persons with disabilities who plan to attend a TCEQ commission meeting . . . and who may need aids or services . . . should contact the Office of the Chief Clerk . . . at least five business days before the agenda”). This Plan also includes contact information for TCEQ’s nondiscrimination coordinator and details on the Commission’s processes related to Title VI complaints. *See id.* at 3–5; Title VI Report to Legislature at 5.

³⁸ *See generally* Public Participation Plan at 1–2; *see id.* at 5 (providing information, including TCEQ contact information, related to public input).

³⁹ *Id.* at 3 (“Notices provide information on the permit application or rule, how to comment, where to find the deadline for the comment period, and how to request more information.”).

⁴⁰ *Id.*

⁴¹ *Id.* at 7–8.

demographics when evaluating whether enhanced community outreach is appropriate” for specific permits.⁴² A PIP must include, but is not limited to, a plain summary of the proposed activity, short descriptions of known stakeholder groups and communities, and a detailed plan on what outreach the relevant TCEQ program office will conduct regarding the permit with the affected public.⁴³

Finally, the Language Access Plan “provides a framework to identify individuals and communities that need language assistance and describes how TCEQ will provide language assistance,” as well as information on when documents may need translation and language accommodations are required for LEP individuals.⁴⁴ In particular, this Plan contains four elements: (1) identifying LEP individuals (e.g., through a new survey used by TCEQ’s divisions, stakeholder outreach); (2) providing effective language assistance, to which TCEQ applies a four-factor analysis for determining “reasonable steps to ensure LEP individuals have meaningful access to its programs”;⁴⁵ (3) staff training; and (4) engaging with LEP individuals to inform them of TCEQ services, programs, and activities.⁴⁶ This Plan also outlines TCEQ’s use of a “prioritization standard” for when the Commission provides written translations of certain documents.⁴⁷ TCEQ maintains a webpage with information on this and the other two Plans, as well as other public participation-related information (e.g., how to access TCEQ’s accommodations, recordings of stakeholder meetings on the Plans).⁴⁸

Beyond these Plans, TCEQ undertook other efforts to satisfy its obligations under the IRA. For instance, TCEQ developed a virtual training on Title VI obligations, which was completed by staff and is required for all new staff at the Commission.⁴⁹ Despite acknowledging that the IRA’s deadlines “did not allow much time for public engagement during the development of the three [public participation-related] plans,” TCEQ also conducted “extensive public outreach” on the Plans following their finalization, including through multiple virtual public meetings and presenting on the plans at Commission and industry events.⁵⁰ The effects of all of these post-IRA actions, as well as TCEQ’s August 2021 rulemaking, have already been felt in Texas’s public participation processes for environmental permitting: The Commission’s newly adopted public participation rules have been received “generally positive[ly],” and increased TCEQ efforts to engage with LEP communities have also “been well-received,” with “requests for interpretation and public meetings with interpretation services hav[ing] increased” since the Commission’s rulemaking.⁵¹

⁴² Title VI Report to Legislature at 5.

⁴³ See Public Participation Plan at 8; *see also id.* at 11 (providing an example PIP).

⁴⁴ Title VI Report to Legislature at 5.

⁴⁵ These factors are: (A) the “[n]umber or proportion of LEP individuals in Texas eligible to be served or likely to encounter TCEQ services”; (B) “[t]he frequency with which LEP individuals encounter a TCEQ program, activity, or service”; (C) “[t]he nature and importance of TCEQ programs, activities, and services to the LEP population”; and (D) “[t]he resources available to TCEQ and the overall cost to provide LEP assistance.” Language Access Plan at 2–4.

⁴⁶ *Id.* at 2.

⁴⁷ See *id.* at 4.

⁴⁸ See generally TCEQ, *Title VI Compliance at TCEQ* (May 12, 2025), <https://www.tceq.texas.gov/agency/decisions/participation/title-vi-compliance>.

⁴⁹ See Title VI Report to Legislature at 5.

⁵⁰ *Id.* at 2–3, 6.

⁵¹ *Id.* at 4.

III. The Texas Legislature’s 2021–2022 Sunset Review of TCEQ has enhanced and expanded the Commission’s public participation processes

Another important event that has led to various changes in TCEQ’s permit-related public participation processes was the Texas Legislature’s 2021–2022 Sunset Review of TCEQ.

A. Background on Texas Sunset Review

Created in 1977 by the Texas Legislature, the Sunset Review is the regular assessment of state programs and agencies for their continued need for existence.⁵² This process, conducted by the Sunset Advisory Commission (“Sunset Commission”), is spurred by the Legislature setting automatic termination dates for agencies in state laws, which determine when an agency is subject to Sunset Review.⁵³ The Sunset Review begins with a Sunset Commission staff evaluation of an agency, which includes research and analysis of agency-provided and other materials and leads staff to develop recommendations and a report for the agency.⁵⁴ The Sunset Commission then deliberates on the staff report and recommendations, conducting public and Commission meetings to receive testimony and develop its final recommendations.⁵⁵ These include managerial recommendations made directly to the agency and legislative recommendations. The Sunset Commission submits legislative recommendations to the Texas Legislature, which considers the recommendations and makes final decisions, with a “Sunset bill” going through the typical legislative process.⁵⁶ The final results of this process can vary: The agency in question can continue to exist, or exist with changes, or the agency can be abolished.⁵⁷ This process can thus lead to anything from programmatic changes to the complete cessation of agency activities.⁵⁸

During TCEQ’s most recent Sunset Review, the Sunset Commission’s staff report recommended various measures to enhance TCEQ’s public engagement, including with respect to permitting.⁵⁹ While many of the Sunset Commission’s recommendations were adopted, or adopted as modified, by the Texas Legislature, one recommendation that was not adopted was an authorization for TCEQ to, at its discretion, hold virtual public meetings instead of in-person meetings.⁶⁰

B. Analysis of Texas Senate Bill 1397

On May 23, 2023, the Texas Legislature adopted TCEQ’s Sunset legislation, Texas Senate Bill 1397 (“SB 1397”).⁶¹ This bill included a number of changes to TCEQ’s public participation

⁵² See Sunset Advisory Commission, *Sunset in Texas* 1 (Sep. 2023), https://www.sunset.texas.gov/public/uploads/2024-06/Sunset%20in%20Texas_2023.pdf.

⁵³ *Id.*

⁵⁴ See *id.* at 2.

⁵⁵ See *id.*

⁵⁶ See *id.*

⁵⁷ See *id.*

⁵⁸ See generally *id.* at 2–3.

⁵⁹ See generally Sunset Commission, *Staff Report with Final Results on Texas Commission on Environmental Quality and Texas Low-Level Radioactive Waste Disposal Compact Commission A1–A2* (June 2023), https://www.sunset.texas.gov/public/uploads/2023-08/Texas%20Commission%20on%20Environmental%20Quality%20Staff%20Report%20with%20Final%20Results_6-26-23.pdf.

⁶⁰ See generally *id.* at A1–A2, A4.

⁶¹ See TCEQ, *2021–2022 Sunset Review of TCEQ* (Aug. 27, 2024) [hereinafter “TCEQ Sunset Review Webpage”], <https://www.tceq.texas.gov/agency/sunset>. Governor Abbott signed this bill into law on June 18, 2023. See *id.*

processes related to permitting. Perhaps most prominently, SB 1397 mandated that, when TCEQ holds public meetings on air permit applications for which a consolidated notice was issued under Texas Health and Safety Code, Chapter 382 Subchapter C, the Commission must “hold open the public comment period and the period for which a contested case hearing may be requested for the permit application for *at least 36 hours* after the end of the meeting.”⁶² By setting a new minimum for the length of public comment periods (and periods for requesting contested case hearings) following public hearings on these permits, the Texas Legislature made clear its intention to expand the opportunities available for the public to provide input on such permit applications.

SB 1397 also included other measures aimed at augmenting the public’s ability to engage with TCEQ’s permitting efforts. For instance, the Texas Legislature established that public notices issued or published by the Commission must include, “to the extent applicable, the name of the permit applicant, the type of permit applied for, and the location of each proposed or existing site subject to the proposed permit.”⁶³ Under SB 1397’s amendments, TCEQ must also “provide outreach and education to the public on participating in the permitting process under the air, waste, and water programs within the commission’s jurisdiction.”⁶⁴ Finally, among other things, the Texas Legislature established new requirements on TCEQ’s general permitting procedures, as well as specific responsibilities for electronically posting permit applications.⁶⁵

C. Implementation and effects on TCEQ

As of March 2025, TCEQ has implemented many of the public participation-related sections of SB 1397.⁶⁶ Indeed, as far as completed tasks go, TCEQ has, among other things: completed community outreach on public engagement in air, water, and waste permitting processes (e.g., creating a “TCEQ and You” video series); adopted rule amendments to 30 Texas Administrative Code Section 281.5 that “requir[e] submittal of electronic copies of permit applications”; developed guidance on the factors TCEQ considers when deciding whether to grant contested case hearings;⁶⁷ and instituted other new public engagement practices, including directing comments on issues outside of TCEQ’s jurisdiction to the proper agency and requesting permit applicants provide security at public meetings.⁶⁸

TCEQ is still in the process of fulfilling certain other requirements on public engagement, though the Commission has made progress on these tasks. For instance, while “TCEQ has implemented the 36-hour extension” for public comments on certain air permit applications, the Commission is still developing the “[r]ulemaking to incorporate these statutory requirements into agency rules.”⁶⁹ TCEQ expects this rulemaking will be adopted in late 2025.⁷⁰ Likewise, TCEQ has made public

⁶² Texas Legislature, *S.B. No. 1397* § 4 (2023) (emphasis added) [hereinafter “SB 1397”], <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/SB01397F.pdf#navpanes=0>; TCEQ, *Sunset Implementation Table 1* (Mar. 13, 2025) [hereinafter “Sunset Implementation Table”], <https://www.tceq.texas.gov/downloads/publications/external-facing-sunset-implementation-table-with-status.pdf>; see TEX. HEALTH & SAFETY CODE § 382.056.

⁶³ SB 1397 § 9; see TEX. WATER CODE § 5.129. This is in addition to the preexisting requirement that the beginning of such notices must have included “a succinct statement of the subject of the notice.” See SB 1397 § 9.

⁶⁴ SB 1397 § 10; see TEX. WATER CODE § 5.136.

⁶⁵ See SB 1397 §§ 11–12; TEX. WATER CODE §§ 5.1734, 5.581–87.

⁶⁶ See generally Sunset Implementation Table.

⁶⁷ See generally Guidance on Contested Case Hearings.

⁶⁸ Sunset Implementation Table at 6–8.

⁶⁹ *Id.* at 1.

⁷⁰ *Id.*

notices available on its website,⁷¹ but, as of March 2025, the Commission was still working to expand its email subscription service⁷² for the public to opt in to receive these permitting notices.⁷³ In sum, while TCEQ is still completing certain requirements under SB 1397, the Commission has undertaken various efforts to boost the public's ability to engage with its environmental permitting processes, and TCEQ's pending tasks are expected to be completed throughout 2025.

IV. Conclusion

As the above discussion illustrates, public participation in environmental permitting is an evolving and somewhat byzantine field in Texas. On its own initiative and as prompted by the IRA with the EPA and the 2021–2022 Sunset Review, the Commission continues to implement various changes in its permit-related public participation processes. TCEQ has already implemented multiple such changes based on this federal- and state-level attention, including developing the Disability Nondiscrimination, Public Participation, and Language Access Plans and providing outreach and education to the public on participating in different permitting processes. And, the Commission will continue responding to these events going forward (e.g., by developing rulemaking to incorporate SB 1397's 36-hour extension for public comments on certain air permit applications into TCEQ's rules). Of course, TCEQ will also continue to revise its public participation processes in response to other developments.

While there are many opportunities for the public to engage on permitting matters, those opportunities vary from one context to another and are subject to change. Those who wish to engage with such processes in the future should take care to understand the procedures applicable to their specific circumstances.

⁷¹ See TCEQ, *Search for TCEQ Public Notices* (last visited June 29, 2025), https://www.tceq.texas.gov/agency/decisions/cc/pub_notice.html.

⁷² See generally TCEQ, *Email and Text Updates* (last visited June 30, 2025), <https://public.govdelivery.com/accounts/TXTCEQ/subscriber/new>.

⁷³ See Sunset Implementation Table at 5. This and other incomplete items in TCEQ's most recent Sunset implementation table may be listed as complete in the Commission's next implementation table.

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