

BILL ANALYSIS

Senate Research Center

S.B. 1045
By: Estes
Natural Resources & Economic Development
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, an applicant for an air permit is required to publish a Notice of Receipt of Application and Intent to Obtain Permit (NORI) when its permit application is determined by the Texas Commission on Environmental Quality (TCEQ) to be administratively complete. Publication of the NORI opens a public comment period under Texas law that must last at least 30 days. If comments are received, then the applicant must subsequently publish a Notice of Application and Preliminary Decision (NAPD) when TCEQ has finished preparing its draft permit. Publication of the NAPD begins a second 30-day public comment period, which is the only 30-day public comment period required by the federal Environmental Protection Agency (EPA). Although publication of the NAPD is the first time that a draft of the permit is available for the public to review, members of the public who wait until this point to comment lose the right to request a contested case hearing. This is because requests for contested case hearings must be made within 30 days (or slightly more for applications requiring alternative language notice) after the publication of the NORI, not within 30 days after publication of the NAPD.

For smaller emissions sources, many types of draft permits are readily-available for issue. In these cases, the draft permit may be ready for publication before TCEQ has determined the application to be administratively complete or within a few days of the determination. In these situations, requiring the applicant to publish notice twice and wait a month between the two publications is wasteful and unnecessary.

To address this issue, S.B. 1045 allows an air permit applicant to consolidate the NORI and NAPD into a single notice in cases where TCEQ determines that the application is administratively complete and finishes preparing the draft permit within 15 days of receiving the application. In practice, the bill will shorten the application period for minor, routinely issued permits. However, the bill does not alter the 30-day comment period required by the EPA. Furthermore, because a draft permit will be available immediately for permits that use the consolidated notice, members of the public will be more informed of the permit's effects and avoid situations where failure to request a contested case hearing during the NORI period currently leads to a loss of options. This bill therefore increases meaningful public participation in the air permitting process, while simultaneously eliminating meaningless red tape for business owners.

S.B. 1045 amends current law relating to the consolidation of public notice requirements for certain air quality permit applications.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 382.056, Health and Safety Code, by adding Subsection (g-1), as follows:

(g-1) Authorizes the notice of intent required by Subsection (a) (relating to a notice of intent to obtain a permit), and the notice of the preliminary decision described by

Subsection (g) (relating to requesting a hearing for a permit), to be consolidated into one notice if, not later than the 15th day after the date the application for which the notice is required is received, the Texas Commission on Environmental Quality (TCEQ) determines the application to be administratively complete and the preliminary decision and draft permit related to the application are available at the time of TCEQ's determination.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.