

By: Zaffirini

S.B. No. 2354

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of acts by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 361.321(a) and (c), Health and Safety Code, are amended to read as follows:

(a) A person affected by a ruling, order, decision, or other act of the commission may appeal the action by filing a petition in a district court of Travis County in the time required by Section 5.351, Water Code.

(c) A [~~Except as provided by Section 361.322(a), the~~] petition described by Subsection (b) must be filed not later than the 30th day after the date of the ruling, order, decision, or other act of the governmental entity whose action is appealed. Service of citation of the petition must be accomplished not later than the 30th day after the date on which the petition is filed.

SECTION 2. Sections 361.322(a) and (f), Health and Safety Code, are amended to read as follows:

(a) Any person subject to an administrative order under Section 361.272 may appeal the order by filing a petition in the time required by Section 5.351, Water Code [~~before the 46th day after the date of receipt, hand delivery, or publication service of the order~~].

(f) The administrative order is final as to a nonappealing

1 party on the date by which the person is required to file a petition
2 under Section 5.351, Water Code [~~46th day after the date of receipt,~~
3 ~~hand delivery, or publication service of the order by, to, or on the~~
4 ~~nonappealing party~~].

5 SECTION 3. Section 382.032(b), Health and Safety Code, is
6 amended to read as follows:

7 (b) The petition must be filed in the time required by
8 Section 5.351, Water Code, unless [~~within 30 days after the date of~~
9 ~~the commission's or executive director's action or, in the case of a~~
10 ~~ruling, order, or decision, within 30 days after the effective date~~
11 ~~of the ruling, order, or decision. If~~] the appeal relates to the
12 commission's failure to take final action on an application for a
13 federal operating permit, a reopening of a federal operating
14 permit, a revision to a federal operating permit, or a permit
15 renewal application for a federal operating permit in accordance
16 with Section 382.0542(b), in which case the petition may be filed at
17 any time before the commission or the executive director takes
18 final action.

19 SECTION 4. Sections 5.351(b) and (c), Water Code, are
20 amended to read as follows:

21 (b) A person affected by a ruling, order, or decision of the
22 commission must file a [~~his~~] petition within 30 days after the
23 effective date of the ruling, order, or decision. A person affected
24 by an act other than a ruling, order, or decision must file a [~~his~~]
25 petition within 30 days after the date the commission performed the
26 act.

27 (c) Notwithstanding Subsection (b) or another provision of

1 law to the contrary, a person affected by a ruling, order, or
2 decision on a matter delegated to the executive director under
3 Section 5.122 or other law may, after exhausting any administrative
4 remedies, file a petition to review, set aside, modify, or suspend
5 the ruling, order, or decision not later than the 30th day after:

6 (1) the effective date of the ruling, order, or
7 decision; or

8 (2) if the executive director's ruling, order, or
9 decision is appealed to the commission as authorized by Section
10 5.122(b) or other law, the earlier of:

11 (A) the date the commission denies the appeal; or

12 (B) the date the appeal is overruled by operation
13 of law in accordance with commission rules.

14 SECTION 5. This Act takes effect September 1, 2019.