

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The liquefied natural gas (LNG) industry in Texas is a crucial component of the state's energy sector, driven by abundant natural gas reserves and extensive infrastructure. The House Select Committee on Protecting Texas LNG Exports was formed in large part as a response to the Biden Administration announcing a temporary pause on new approvals of LNG exports to countries without a free trade agreement with the United States on January 26, 2024. The committee recommended reforming state permitting regulations and reducing delays in LNG project approvals. Currently, LNG companies undergo a federal permitting process for exports and an additional permitting operation requirements through the Railroad Commission and facility air-quality permits through the Texas Commission on Environmental Quality (TCEQ). As the global demand for LNG continues to expand rapidly, reasonable and defined permitting timelines are necessary for the industry to continue to add to Texas' economy.

Texas-produced natural gas that is transformed into LNG is shipped all over the world via Texas' two commercially operating LNG export facilities. In 2023, the state exported more than 1.3 billion cubic feet, accounting for 31 percent of U.S. LNG exports. Texas has an additional four facilities under construction and two approved export facilities not yet under construction. Multiple projects have experienced delays within the air permitting contested case process, impacting the regulatory certainty for projects. When applying for a minor amendment to an existing air permit, some companies have experienced almost three-year timelines to obtain necessary approvals. This contested case hearing process is unique to Texas, but is also a hurdle that adds an additional six to 12 months to the permitting timeline for projects as opposed to other states like Louisiana.

The bill amends the Water Code by adding Section 5.559, which sets procedures for reviewing permit applications and contested cases for LNG export terminals. TCEQ will establish an expedited review process for permit applications. Applicants must pay an extra fee for this service. The executive director of TCEQ must respond to relevant public comments within 120 days after the comment period ends. If a contested case hearing is requested, the responsibility to conduct the hearing is delegated to the State Office of Administrative Hearings. The administrative law judge is required to hold a preliminary hearing within 30 days of the case referral, with a possible 15-day extension.

As proposed, S.B. 2037 amends current law relating to permit application review and contested case procedures for environmental permits involving a project to construct or modify a liquefied natural gas export terminal and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 5.559, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter M, Chapter 5, Water Code, by adding Section 5.559, as follows:

Sec. 5.559. PROCEDURES FOR PERMIT APPLICATION REVIEW AND CONTESTED CASES INVOLVING PROJECT TO CONSTRUCT OR MODIFY LIQUEFIED NATURAL GAS EXPORT TERMINAL. (a) Provides that this section applies only to a permit application filed with the Texas Commission on Environmental Quality (TCEQ) for a project to construct or modify a liquefied natural gas export terminal.

(b) Requires TCEQ by rule to establish an expedited permit application review process for permit applications described by Subsection (a). Requires that rules adopted under this subsection require an applicant who elects the expedited permit application review process to pay an additional fee in an amount TCEQ determines is necessary to cover the costs of the expedited review.

(c) Requires the executive director of TCEQ, not later than the 120th day after the close of the public comment period for a permit application described by Subsection (a), to issue a written response to any relevant and material public comments received during the public comment period.

(d) Requires TCEQ, notwithstanding any other law, if a party requests a contested case hearing involving a permit application described by Subsection (a), to delegate to the State Office of Administrative Hearings the responsibility to conduct the contested case hearing. Provides that the provisions of Chapter 2001 (Administrative Procedure), Government Code, and Section 2003.047 (Hearings for Texas Commission on Environmental Quality) of that code apply to a contested case hearing held under this subsection to the extent not inconsistent with this section or rules adopted under this section.

(e) Requires the party requesting the hearing, in a request for a contested case hearing under this section, to specify each reason the party is an affected person as defined by Section 5.115(a) (relating to defining "affected person," "person affected," or "person who may be affected"). Provides that, in determining whether a party is an affected person, the administrative law judge is authorized to only consider the reasons specified by the party in the party's request for a contested case hearing.

(f) Requires an administrative law judge, in a contested case under this section, to hold a preliminary hearing for the case not later than the 30th day after the date TCEQ refers the case to the administrative law judge, provided that the judge may grant one extension of the time, not to exceed 15 days, on request of any party.

(g) Requires TCEQ to adopt rules as necessary to implement this section.

(h) Provides that, to the extent of a conflict between this section and another law, this section controls.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2026.