

SUBJECT: Period for which a permit under the Texas Clean Air Act can be reviewed

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 6 ayes — Bonnen, Hancock, Lucio, T. King, Kuempel, West

0 nays

1 absent — Driver

WITNESSES: For — (*Registered, but did not testify:* Walt Baum, Association of Electric Companies in Texas; Debbie Hastings, Texas Oil and Gas Association; Steve Hazlewood, Dow Chemical; Mike Meroney, The Huntsman Corporation; Mary Miksa, Texas Association of Business; Steve Perry, Chevron USA; Shannon Ratliff, CITGO; Donna Warndof, Texas Independent Producers and Royalty Owners; Christina Wisdom, Texas Chemical Council)

Against — None

On — Richard A. Hyde, Texas Commission on Environmental Quality; Beth O'Brien, Public Citizen

BACKGROUND: The Texas Clean Air Act outlines when certain preconstruction permits for an air emission source are subject to review and renewal. Preconstruction permits are applied for before the construction of a new facility or the modification of an existing facility that may emit air contaminants.

Under Health and Safety Code, sec. 382.055(a), a preconstruction permit issued on or after December 1, 1991, by the Texas Commission on Environmental Quality (TCEQ) is subject to review every 10 years after the date of issuance. Alternatively, such a permit for a nonfederal source may be subject to renewal between five and 10 years if stated in the permit's provision.

DIGEST: CSHB 1252 would provide that a preconstruction permit issued by TCEQ on or after December 1, 1991, was subject to review when a permit holder filed for a permit amendment if:

- the applicant was subject to stipulations to provide public notice on the permit;
- the application was filed with TCEQ less than three years before the date the permit was set to expire; and
- the applicant did not object to subjecting the permit to review

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

A preconstruction permit issued by TCEQ may be amended at any point in its term. Under current law, an amended permit must be renewed after its term expires, even though the renewal and amendment processes often require a similar review of the permit. This inefficient system results in the duplicity of work by TCEQ and permit holders. By combining the amendment and renewal process on permits with less than three years remaining before expiration, HB 1252 would reduce the cost and work required by TCEQ and preconstruction permit holders.

While reducing inefficiency, the bill would not sacrifice TCEQ's diligence or oversight of the permitting process. Moreover, the combined consideration of permit amendments and renewals would provide TCEQ with more information when making decisions on proposed amendments. The modifications in CSHB 1252 also would give permit holders greater flexibility in amending and renewing permits. This new process would not reduce the opportunity for public input, as public notice stipulations still would apply.

**OPPONENTS
SAY:**

The bill should state clearly that public notice on the entire permit would be included in the combined process for permit amendments and renewals. Under the current amendment process, the portion of the permit being modified generally is the only portion of the permit open for comment. If the amendment and renewal processes were combined, the public might not know to comment on the entire permit unless the public notice explained that the permit holder sought renewal of the entire permit.

NOTES:

HB 1252 was withdrawn from the Local, Consent, and Resolutions Calendar and transferred to the Calendars Committee.