Texas Commission on Environmental Quality
Interoffice Memorandum

To: Commissioners

Date: November 1, 2019

Thru: Bridget C. Bohac, Chief Clerk
Toby Baker, Executive Director

From: Tonya Baer, Deputy Director
Office of Air

Docket No.: 2019-1059-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 101, General Air Quality Rules
SB 698: Amendments to the Expedited Permitting Program
Rule Project No. 2019-127-101-AI

Background and reason(s) for the rulemaking:
Senate Bill (SB) 698, 86th Texas Legislature, 2019, amended the Texas Health and Safety Code (THSC), Texas Clean Air Act, §385.05155, to allow the Texas Commission on Environmental Quality (agency or commission) to use full-time equivalent employees to process expedited air permits and fully fund the full-time equivalent employees with the surcharge collected for an expedited application. This rulemaking would amend §101.601 to align commission rules with the state law.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:
The rulemaking would amend §101.601 by adding full-time equivalent employees to the list of expenses allowed to be reimbursed by the surcharge collected for processing an expedited air permitting application.

B.) Scope required by federal regulations or state statutes:
The rulemaking implements SB 698.

C.) Additional staff recommendations that are not required by federal rule or state statute:
None.

Statutory authority:
The rulemaking is proposed under Texas Water Code, §§5.013, 5.102, 5.103, and 5.105; and THSC, §§382.017, 382.002, 382.011, 382.012, 382.051, 385.0513, 382.0515, 382.0518, 382.05195, 382.05196, 382.056, and 382.561.

A.) Regulated community:
The regulated community would be impacted because having additional resources to process expedited permit applications will result in shorter permit processing times due to the implementation of this rulemaking.

B.) Public:
The impact to the public from this rulemaking would be clarity and consistency with state laws regarding the expedited processing of air permitting applications.
C. Agency programs:
The re would be no direct impact to the agency programs due to implementing this rulemaking.

Stakeholder meetings:
None. However, a public hearing will be offered in Austin during the 30-day comment period.

Potential controversial concerns and legislative interest:
None.

Will this rulemaking affect any current policies or require development of new policies?
No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?
This rulemaking implements SB 698 which amended the statute, and if no action is taken by the commission this would result in the statute and rule to not be aligned.

Key points in the proposal rulemaking schedule:
- Anticipated proposal date: November 20, 2019
- Anticipated Texas Register publication date: December 13, 2019
- Anticipated public hearing date: January 7, 2020
- Anticipated public comment period: December 13, 2019 - January 21, 2020
- Anticipated adoption date: May 6, 2020

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Attachments:
SB 698

cc: Chief Clerk, 2 copies
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