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To the members of the House Committee on Environmental Regulation. *Via hand delivery.*

March 15, 2021

Re: HB 960 by Rep. Allen - Supporting testimony by Public Citizen

Dear Chairman Landgraf and members of the committee:

Public Citizen appreciates the opportunity to testify for HB 960 by Rep. Alma Allen, relating to the location of certain public meetings for certain permits issued by the Texas Commission on Environmental Quality (TCEQ).

We support HB 960 because we believe that public meetings are an important opportunity to engage in permit decision making. The bill would require public meetings on permit applications to be held in the house district where the facility is located or proposed. This will bring some meetings closer to impacted people and enable their participation.

There are three opportunities for the public to engage in the permitting process: public comments (written, or oral at a public meeting), public meetings, and contested case hearings. Not all of these options are available in each case.

TCEQ processes a huge number of permit applications each year. The list includes:¹

- 7,800 state and federal New Source Review air quality permit applications
- 900 federal air quality permit applications
- 20,230 applications to address water quality impacts
- 50 Concentrated Animal Feeding Operation (CAFO) authorizations
- 250 municipal nonhazardous waste permit applications
- 200 industrial and hazardous waste permit applications

Since 2017, the public only receives one notice of a permit application in most cases.² This consolidation from two notices to one has limited the public's ability to follow the permitting process. The single notice is called a Notice of Receipt of Application and Intent to Obtain Permit, or NORI, and it must be published in a newspaper within 30 days after the TCEQ declares the application administratively complete.³ The NORI gives the public 30 days to comment from the date of publication in the newspaper. Certain landowners receive notice of the NORI. In the case of air permits, notice must also be posted on signs around the property with contact information.

¹ See SB 1 (87R).

² Health & Safety Code § 382.056(g-1).

³ Water Code § 5.552.



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There is no provision for nearby neighbors of a proposed facility to receive direct notice. Notice is only provided through publication, by posting on location, or by request. Similarly, permit applications are not generally available to the public and may only be viewed by request. This means that a public meeting is often the only opportunity for members of the public to receive information about a proposed facility.

A public meeting must be held if requested by a member of the legislature who represents the area where the facility is proposed to be located. The TCEQ can hold a public meeting by choice if it determines there is sufficient public interest.⁴

State law requires a public meeting on a permit application to be held in the county in which the proposed facility is located.⁵ This is also true of a public hearing held for certain concrete batch plants.⁶ There is no requirement that the meeting be held within a certain distance of a proposed facility. HB 960 requires the meeting to be held in the same House district as the facility.

The TCEQ organizes and hosts public meetings. Before 2020, public meetings were held in person only. The TCEQ has 16 regional offices throughout the state. Public meetings are typically held in community gathering spaces such as schools or community centers. In practice, members of the public often learn of public meetings with very little time to prepare to attend. Holding a public meeting a great distance from the proposed facility is a hardship to members of the public who must travel to attend the meeting.

As a matter of policy, our experience has been that a robust public participation process, including a public meeting, can lead to an improved permit and a more productive relationship between a permit holder and their neighbors.

We support HB 960 because it would encourage public participation in the permitting process. Thank you for the opportunity to provide this testimony, if you wish to discuss our position further, I can be reached by email at ashelley@citizen.org or by phone at 512-477-1155.

Respectfully,

Adrian Shelley, Texas Office Director, Public Citizen

CC: VC Alex Dominguez, Rep. Jay Dean, Rep. Vikki Goodwin, Rep. Kyle J. Kacal, Rep. John Kuempel, Rep. Penny Morales Shaw, Rep. Geanie W. Morrison, Rep. Ron Reynolds

Attachments: TCEQ Calendar of Public Meetings and Hearings on Permitting Cases
Example of notice of public meeting for Air Quality Standard Permit Registration No. 162529.

⁴ Health & Safety Code § 382.056(k).

⁵ Water Code § 5.552(f).

⁶ Health & Safety Code § 382.05199.