

Amend CSHB 2877 by adding four appropriately numbered sections as follows, and renumbering all other sections accordingly:

AMENDMENT SECTION 1. Section 382.056(r), Health and Safety Code, is amended as follows:

(r) This section does not apply to:

(1) the relocation or change of location of a portable facility to a site where a portable facility [~~permitted by the commission is located if no portable facility~~] has been located at the proposed site at any time during the previous two years; [~~or~~]

(2) a facility located temporarily in the right-of-way, or contiguous to the right-of-way, of a public works project; or

(3) a facility described by Section 382.065(c), unless that facility is in a county with a population of 2.4 million or more or in a county adjacent to such a county.

AMENDMENT SECTION 2. Section 382.056, Health and Safety Code, as added by Chapter 965, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Section 382.065. CERTAIN LOCATIONS FOR OPERATING CONCRETE CRUSHING FACILITY PROHIBITED. (a) The commission by rule shall prohibit the [~~location of or~~] operation of a concrete crushing facility at a location within 440 yards of a building in use [~~used~~] as a single or multifamily residence, school, or place of worship at the time the application for a permit to operate the facility at a site near the residence, school, or place of worship is filed with the commission. The measurement of distance for purposes of this subsection shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the residence, school, or place of worship that is nearest the concrete crushing facility.

(b) Subsection (a) [~~This section~~] does not apply to a [~~an existing~~] concrete crushing facility:

(1) at a location for which commission authorization for the operation of a concrete crushing facility was in effect on September 1, 2001; or

(2) at a location that satisfies the distance

requirements of Subsection (a) at the time the application for the initial authorization for the operation of that facility at that location is filed with the commission, provided that the authorization is granted and maintained, regardless of whether a single or multifamily residence, school, or place of worship is subsequently built or put to use within 440 yards of the facility.

(c) Except as provided by Subsection (d), Subsection (a) does not apply to a concrete crushing facility that:

(1) is engaged in crushing concrete and other materials produced by the demolition of a structure at the location of the structure and the concrete and other materials are being crushed primarily for use at that location;

(2) operates at that location for not more than 180 days;

(3) the commission determines will cause no adverse environmental or health effects by operating at that location; and

(4) complies with conditions stated in commission rules, including operating conditions.

(d) Notwithstanding Subsection (c), Subsection (a) applies to a concrete crushing facility in a county with a population of 2.4 million or more or in a county adjacent to such a county.

AMENDMENT SECTION 3. The Texas Commission on Environmental Quality shall adopt rules to implement Section 382.065, Health and Safety Code, as amended by this Act, as soon as practicable and not later than January 1, 2004.

AMENDMENT SECTION 4. A change in law made by this Act the effect of which is to restrict the location or operation of a concrete crushing facility does not apply to a facility for which an application for authorization to operate at a particular location is filed before the effective date of this Act.