

By: Fraser

S.B. No. 913

A BILL TO BE ENTITLED

AN ACT

relating to air quality permitting of rock crushers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.003(6), Health and Safety Code, is amended to read as follows:

(6) "Facility" means a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. Except as provided by Section 382.0531, a [A] mine, quarry, well test, or road is not considered to be a facility.

SECTION 2. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.0531 to read as follows:

Sec. 382.0531. PERMITS FOR ROCK CRUSHERS. (a) The commission may not issue a permit under Section 382.0518 to construct a new rock crusher if:

(1) the rock crusher or the property boundary of the quarry where the rock crusher is to be located is within one-half mile of:

(A) an established:

(i) residence;

(ii) place of worship;

(iii) school;

(iv) hospital;

1 (v) day care center; or

2 (vi) dedicated public park; or

3 (B) a surface water body used as a public
4 drinking water supply; or

5 (2) the commissioners court of the county in which the
6 rock crusher is to be located notifies the commission that the
7 commissioners court has determined that:

8 (A) the proposed rock crusher or its associated
9 quarry will be in such proximity to another rock crusher or quarry
10 that the health, safety, and welfare of the county residents will be
11 impaired if the rock crusher begins operation; or

12 (B) operating the rock crusher at the proposed
13 site would be an inappropriate land use considering surrounding
14 land uses.

15 (b) Before the commission may issue a permit to construct a
16 new rock crusher, the applicant must:

17 (1) submit an environmental impact analysis to the
18 United States Fish and Wildlife Service, the Parks and Wildlife
19 Department, and the commissioners court of the county in which the
20 rock crusher will be located for review by each of those entities;
21 and

22 (2) submit with the application the results of a study
23 to determine the effect of the rock crusher and its associated
24 activities on:

25 (A) groundwater and surface water in the area of
26 the rock crusher; and

27 (B) roads in the area of the rock crusher,

1 considering any increase in vehicle traffic due to the operation of
2 the rock crusher.

3 (c) In addition to complying with the notice requirements
4 under Section 382.056, an applicant for a permit to construct a new
5 rock crusher shall mail notice to each residential or business
6 address located within one mile of the property boundary of the
7 property on which the rock crusher is to be located and to each
8 owner of real property located within one mile of the boundary of
9 the property on which the rock crusher is to be located that is
10 listed in the real property appraisal records of the appraisal
11 district in which the rock crusher is to be located as of the date
12 the applicant submits the application to the commission. If the
13 property owner is not an individual, the notice may be mailed to an
14 officer, agent, or legal representative of the owner. The notice
15 must be deposited with the United States Postal Service not later
16 than the 30th day after the date the applicant submits the
17 application to the commission.

18 (d) A permit to construct a new rock crusher shall:

19 (1) include any conditions determined by the
20 commission to be necessary to ensure that emissions from the rock
21 crusher and its associated quarry, stockpiles, roads, and screens
22 and other equipment used to produce crushed stone do not
23 substantially degrade:

24 (A) the quality of the air within a five-mile
25 radius of the rock crusher; or

26 (B) the quality of the water in the area,
27 considering current uses of and demand for water and likely future

1 uses of and demand for water due to population growth;

2 (2) require the owner or operator of the rock crusher
3 to install, operate, and maintain air quality monitors in the area
4 affected by the rock crusher for the duration of the permit;

5 (3) require the regulation, monitoring, and recording
6 of rock crushing and quarrying activities, including:

7 (A) blasting;

8 (B) operating heavy equipment;

9 (C) stockpiling, loading, unloading, crushing,
10 and screening material; and

11 (D) storing, transferring, and distributing
12 crushed stone;

13 (4) require the replacement of vegetation at the
14 associated quarry so that no more than 50 acres of active mining
15 area may be exposed at any time;

16 (5) require that sufficient topsoil and vegetative
17 cover be maintained to minimize emissions from the quarry
18 associated with the rock crusher;

19 (6) require the reclamation of the quarry associated
20 with the rock crusher in stages of a maximum of twenty acres as the
21 mining process progresses and the completion of reclamation of the
22 quarry not later than the first anniversary of the date the quarry
23 is closed; and

24 (7) require the owner or operator of the rock crusher
25 to comply with any recommendations made by the United States Fish
26 and Wildlife Service, the Parks and Wildlife Department, or the
27 commissioners court as a result of the review of the environmental

1 impact analysis under Subsection (b)(1).

2 (e) A permit to construct a new rock crusher shall limit:

3 (1) the number of acres of land comprising the quarry
4 and the depth of the quarry;

5 (2) blasting operations associated with the rock
6 crusher or its associated quarry by:

7 (A) limiting the size of the charge used so that
8 physical motion, dust, or noise does not damage other property in
9 the area; and

10 (B) requiring that the blasting area be covered
11 to contain dust that may result from the blast;

12 (3) impervious cover at a quarry associated with the
13 rock crusher;

14 (4) the size, weight, and number of vehicles using
15 roads associated with the rock crusher; and

16 (5) the amount of material that may be stockpiled for
17 crushing and the period for which the material may be stockpiled or
18 require the use of enclosed storage to minimize dust.

19 (f) For the purposes of Subsection (d)(1), the baseline
20 against which air quality degradation is measured must be
21 determined by making a direct and specific measurement of the air
22 quality in the five-mile radius of the rock crusher before the rock
23 crusher begins operation. If a rock crusher is to be located within
24 five miles of two existing rock crushers the commission shall
25 monitor the air quality in the five-mile radius of the proposed rock
26 crusher for at least one year to establish a baseline against which
27 air quality degradation is measured.

1 (g) The requirements of this section other than the
2 requirements of Subsection (a) also apply to a permit under Section
3 382.0518 to modify an existing rock crusher. Modification of an
4 existing rock crusher includes an expansion of the associated
5 quarry.

6 SECTION 3. This Act takes effect September 1, 2003, and
7 applies only to a permit to construct or modify a rock crusher that
8 is issued by the Texas Commission on Environmental Quality on or
9 after that date. A permit issued by the commission before the
10 effective date of this Act is covered by the law in effect on the
11 date the permit is issued, and the former law is continued in effect
12 for that purpose.