

By: Armbrister

S.B. No. 1272

A BILL TO BE ENTITLED

AN ACT

relating to the permitting process for the construction of certain concrete plants.

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

SECTION 1. Section 382.05101, Health and Safety Code, is amended to read as follows:

Sec. 382.05101. DE MINIMIS AIR CONTAMINANTS. The commission may develop by rule the criteria to establish a de minimis level of air contaminants for facilities or groups of facilities below which a permit under Section 382.0518 or 382.0519, a standard permit under Section 382.05195 or 382.05198, or a permit by rule under Section 382.05196 is not required.

SECTION 2. Subsection (c), Section 382.0511, Health and Safety Code, is amended to read as follows:

(c) The commission may authorize changes in a federal source to proceed before the owner or operator obtains a federal operating permit or revisions to a federal operating permit if:

(1) the changes are de minimis under Section 382.05101; or

(2) the owner or operator:
(A) has obtained a preconstruction permit or permit amendment required by Section 382.0518; or

(B) is operating under:
(i) a standard permit under Section

1 382.05195 or 382.05198;

2 (ii) [r] a permit by rule under Section
3 382.05196; [r] or

4 (iii) an exemption allowed under Section
5 382.057.

6 SECTION 3. Subchapter C, Chapter 382, Health and Safety
7 Code, is amended by adding Sections 382.05198 and 382.05199 to read
8 as follows:

9 Sec. 382.05198. STANDARD PERMIT FOR CERTAIN CONCRETE
10 PLANTS. (a) The commission shall issue a standard permit for a
11 permanent concrete plant that performs wet batching, dry batching,
12 or central mixing and that meets the following requirements:

13 (1) production records must be maintained on site
14 while the plant is in operation until the second anniversary of the
15 end of the period to which they relate;

16 (2) each cement or fly ash storage silo and weigh
17 hopper must be equipped with a fabric or cartridge filter or vented
18 to a fabric or cartridge filter system;

19 (3) each fabric or cartridge filter, fabric or
20 cartridge filter system, and suction shroud must be maintained and
21 operated properly with no tears or leaks;

22 (4) excluding the suction shroud filter system, each
23 filter system must be designed to meet a standard of at least 0.01
24 outlet grain loading as measured in grains per dry standard cubic
25 foot;

26 (5) each filter system and each mixer loading and
27 batch truck loading emissions control device must meet a

1 performance standard of no visible emissions exceeding 30 seconds
2 in a five-minute period as determined using United States
3 Environmental Protection Agency Test Method 22 as that method
4 existed on September 1, 2003;

5 (6) if a cement or fly ash silo is filled during
6 nondaylight hours, the silo filter system exhaust must be
7 sufficiently illuminated to enable a determination of compliance
8 with the performance standard described by Subdivision (5);

9 (7) the conveying system for the transfer of cement or
10 fly ash to and from each storage silo must be totally enclosed,
11 operate properly, and be maintained without any tears or leaks;

12 (8) except during cement or fly ash tanker connection
13 or disconnection, each conveying system for the transfer of cement
14 or fly ash must meet the performance standard described by
15 Subdivision (5);

16 (9) a warning device must be installed on each bulk
17 storage silo to alert the operator in sufficient time for the
18 operator to stop loading operations before the silo is filled to a
19 level that may adversely affect the pollution abatement equipment;

20 (10) if filling a silo results in failure of the
21 pollution abatement system or failure to meet the performance
22 standard described by Subdivision (5), the failure must be
23 documented and reported to the commission;

24 (11) each road, parking lot, or other area at the plant
25 site that is used by vehicles must be paved with a cohesive hard
26 surface that is properly maintained, cleaned, and watered so as to
27 minimize dust emissions;

1 (12) each stockpile must be sprinkled with water or
2 dust-suppressant chemicals or covered so as to minimize dust
3 emissions;

4 (13) material used in the batch that is spilled must be
5 immediately cleaned up and contained or dampened so as to minimize
6 dust emissions;

7 (14) production of concrete at the plant must not
8 exceed 300 cubic yards per hour;

9 (15) a suction shroud or other pickup device must be
10 installed at the batch drop point or, in the case of a central mix
11 plant, at the drum feed and vented to a fabric or cartridge filter
12 system with a minimum capacity of 5,000 cubic feet per minute of
13 air;

14 (16) the bag filter and capture system must be
15 properly designed to accommodate the increased flow from the
16 suction shroud and achieve a control efficiency of at least 99.5
17 percent;

18 (17) the suction shroud baghouse exhaust must be
19 located more than 100 feet from any property line; and

20 (18) stationary equipment, stockpiles, and vehicles
21 used at the plant, except for incidental traffic and vehicles as
22 they enter and exit the site, must be located or operated more than
23 100 feet from any property line.

24 (b) Notwithstanding Subsection (a)(18), the commission
25 shall issue a standard permit for a permanent concrete plant that
26 performs wet batching, dry batching, or central mixing and does not
27 meet the requirements of that subdivision if the plant meets the

1 other requirements of Subsection (a) and:

2 (1) each road, parking lot, and other traffic area
3 located within the distance of a property line provided by
4 Subsection (a)(18) is bordered by dust-suppressing fencing or
5 another barrier at least 12 feet high; and

6 (2) each stockpile located within the applicable
7 distance of a property line is contained within a three-walled
8 bunker that extends at least two feet above the top of the
9 stockpile.

10 Sec. 382.05199. STANDARD PERMIT FOR CERTAIN CONCRETE BATCH
11 PLANTS: NOTICE AND HEARING. (a) A person may not begin
12 construction of a permanent concrete plant that performs wet
13 batching, dry batching, or central mixing under a standard permit
14 issued under Section 382.05198 unless the commission authorizes the
15 person to use the permit as provided by this section. The notice
16 and hearing requirements of Subsections (b)-(g) apply only to an
17 applicant for authorization to use a standard permit issued under
18 Section 382.05198. An applicant for a permit for a concrete plant
19 that does not meet the requirements of a standard permit issued
20 under Section 382.05198 must comply with:

21 (1) Section 382.058 to obtain authorization to use a
22 standard permit issued under Section 382.05195 or a permit by rule
23 adopted under Section 382.05196; or

24 (2) Section 382.056 to obtain a permit issued under
25 Section 382.0518.

26 (b) An applicant for an authorization to use a standard
27 permit under Section 382.05198 must publish notice under this

1 section not later than the earlier of:

2 (1) the 30th day after the date the applicant receives
3 written notice from the executive director that the application is
4 technically complete; or

5 (2) the 75th day after the date the executive director
6 receives the application.

7 (c) The applicant must publish notice at least once in a
8 newspaper of general circulation in the municipality in which the
9 plant is proposed to be located or in the municipality nearest to
10 the proposed location of the plant. If the elementary or middle
11 school nearest to the proposed plant provides a bilingual education
12 program as required by Subchapter B, Chapter 29, Education Code,
13 the applicant must also publish the notice at least once in an
14 additional publication of general circulation in the municipality
15 or county in which the plant is proposed to be located that is
16 published in the language taught in the bilingual education
17 program. This requirement is waived if such a publication does not
18 exist or if the publisher refuses to publish the notice.

19 (d) The notice must include:

20 (1) a brief description of the proposed location and
21 nature of the proposed plant;

22 (2) a description, including a telephone number, of
23 the manner in which the executive director may be contacted for
24 further information;

25 (3) a description, including a telephone number, of
26 the manner in which the applicant may be contacted for further
27 information;

1 (4) the location and hours of operation of the
2 commission's regional office at which a copy of the application is
3 available for review and copying; and

4 (5) a brief description of the public comment process,
5 including the time and location of the public hearing, and the
6 mailing address and deadline for filing written comments.

7 (e) The public comment period begins on the first date
8 notice is published under Subsection (b) and extends to the close of
9 the public hearing.

10 (f) Section 382.056 of this code and Chapter 2001,
11 Government Code, do not apply to a public hearing held under this
12 section. A public hearing held under this section is not an
13 evidentiary proceeding. Any person may submit an oral or written
14 statement concerning the application at the public hearing. The
15 applicant may set reasonable limits on the time allowed for oral
16 statements at the public hearing.

17 (g) The applicant, in cooperation with the executive
18 director, must hold the public hearing not less than 30 days and not
19 more than 45 days after the first date notice is published under
20 Subsection (b). The public hearing must be held in the county in
21 which the plant is proposed to be located.

22 (h) Not later than the 35th day after the date the public
23 hearing is held, the executive director shall approve or deny the
24 application for authorization to use the standard permit. The
25 executive director shall base the decision on whether the
26 application meets the requirements of Section 382.05198. The
27 executive director shall consider all comments received during the

1 public comment period and at the public hearing in determining
2 whether to approve the application. If the executive director
3 denies the application, the executive director shall state the
4 reasons for the denial and any modifications to the application
5 that are necessary for the proposed plant to qualify for the
6 authorization.

7 (i) The executive director shall issue a written response to
8 any public comments received related to the issuance of an
9 authorization to use the standard permit at the same time as or as
10 soon as practicable after the executive director grants or denies
11 the application. Issuance of the response after the granting or
12 denial of the application does not affect the validity of the
13 executive director's decision to grant or deny the application.

14 The executive director shall:

15 (1) mail the response to each person who filed a
16 comment; and

17 (2) make the response available to the public.

18 SECTION 4. This Act takes effect September 1, 2003.