

1-1 By: Armbrister S.B. No. 1272
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 22, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 1; April 22, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1272 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the permitting process for the construction of certain
1-11 concrete plants.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 382.05101, Health and Safety Code, is
1-14 amended to read as follows:

1-15 Sec. 382.05101. DE MINIMIS AIR CONTAMINANTS. The
1-16 commission may develop by rule the criteria to establish a de
1-17 minimis level of air contaminants for facilities or groups of
1-18 facilities below which a permit under Section 382.0518 or 382.0519,
1-19 a standard permit under Section 382.05195 or 382.05198, or a permit
1-20 by rule under Section 382.05196 is not required.

1-21 SECTION 2. Subsection (c), Section 382.0511, Health and
1-22 Safety Code, is amended to read as follows:

1-23 (c) The commission may authorize changes in a federal source
1-24 to proceed before the owner or operator obtains a federal operating
1-25 permit or revisions to a federal operating permit if:

1-26 (1) the changes are de minimis under Section
1-27 382.05101; or

1-28 (2) the owner or operator:

1-29 (A) has obtained a preconstruction permit or
1-30 permit amendment required by Section 382.0518; or

1-31 (B) is operating under:

1-32 (i) a standard permit under Section
1-33 382.05195 or 382.05198;

1-34 (ii) [] a permit by rule under Section
1-35 382.05196; [] or

1-36 (iii) an exemption allowed under Section
1-37 382.057.

1-38 SECTION 3. Subchapter C, Chapter 382, Health and Safety
1-39 Code, is amended by adding Sections 382.05198 and 382.05199 to read
1-40 as follows:

1-41 Sec. 382.05198. STANDARD PERMIT FOR CERTAIN CONCRETE
1-42 PLANTS. (a) The commission shall issue a standard permit for a
1-43 permanent concrete plant that performs wet batching, dry batching,
1-44 or central mixing and that meets the following requirements:

1-45 (1) production records must be maintained on site
1-46 while the plant is in operation until the second anniversary of the
1-47 end of the period to which they relate;

1-48 (2) each cement or fly ash storage silo and weigh
1-49 hopper must be equipped with a fabric or cartridge filter or vented
1-50 to a fabric or cartridge filter system;

1-51 (3) each fabric or cartridge filter, fabric or
1-52 cartridge filter system, and suction shroud must be maintained and
1-53 operated properly with no tears or leaks;

1-54 (4) excluding the suction shroud filter system, each
1-55 filter system must be designed to meet a standard of at least 0.01
1-56 outlet grain loading as measured in grains per dry standard cubic
1-57 foot;

1-58 (5) each filter system and each mixer loading and
1-59 batch truck loading emissions control device must meet a
1-60 performance standard of no visible emissions exceeding 30 seconds
1-61 in a five-minute period as determined using United States
1-62 Environmental Protection Agency Test Method 22 as that method
1-63 existed on September 1, 2003;

2-1 (6) if a cement or fly ash silo is filled during
2-2 nondaylight hours, the silo filter system exhaust must be
2-3 sufficiently illuminated to enable a determination of compliance
2-4 with the performance standard described by Subdivision (5);
2-5 (7) the conveying system for the transfer of cement or
2-6 fly ash to and from each storage silo must be totally enclosed,
2-7 operate properly, and be maintained without any tears or leaks;
2-8 (8) except during cement or fly ash tanker connection
2-9 or disconnection, each conveying system for the transfer of cement
2-10 or fly ash must meet the performance standard described by
2-11 Subdivision (5);
2-12 (9) a warning device must be installed on each bulk
2-13 storage silo to alert the operator in sufficient time for the
2-14 operator to stop loading operations before the silo is filled to a
2-15 level that may adversely affect the pollution abatement equipment;
2-16 (10) if filling a silo results in failure of the
2-17 pollution abatement system or failure to meet the performance
2-18 standard described by Subdivision (5), the failure must be
2-19 documented and reported to the commission;
2-20 (11) each road, parking lot, or other area at the plant
2-21 site that is used by vehicles must be paved with a cohesive hard
2-22 surface that is properly maintained, cleaned, and watered so as to
2-23 minimize dust emissions;
2-24 (12) each stockpile must be sprinkled with water or
2-25 dust-suppressant chemicals or covered so as to minimize dust
2-26 emissions;
2-27 (13) material used in the batch that is spilled must be
2-28 immediately cleaned up and contained or dampened so as to minimize
2-29 dust emissions;
2-30 (14) production of concrete at the plant must not
2-31 exceed 300 cubic yards per hour;
2-32 (15) a suction shroud or other pickup device must be
2-33 installed at the batch drop point or, in the case of a central mix
2-34 plant, at the drum feed and vented to a fabric or cartridge filter
2-35 system with a minimum capacity of 5,000 cubic feet per minute of
2-36 air;
2-37 (16) the bag filter and capture system must be
2-38 properly designed to accommodate the increased flow from the
2-39 suction shroud and achieve a control efficiency of at least 99.5
2-40 percent;
2-41 (17) the suction shroud baghouse exhaust must be
2-42 located more than 100 feet from any property line; and
2-43 (18) stationary equipment, stockpiles, and vehicles
2-44 used at the plant, except for incidental traffic and vehicles as
2-45 they enter and exit the site, must be located or operated more than
2-46 100 feet from any property line.
2-47 (b) Notwithstanding Subsection (a)(18), the commission
2-48 shall issue a standard permit for a permanent concrete plant that
2-49 performs wet batching, dry batching, or central mixing and does not
2-50 meet the requirements of that subdivision if the plant meets the
2-51 other requirements of Subsection (a) and:
2-52 (1) each road, parking lot, and other traffic area
2-53 located within the distance of a property line provided by
2-54 Subsection (a)(18) is bordered by dust-suppressing fencing or
2-55 another barrier at least 12 feet high; and
2-56 (2) each stockpile located within the applicable
2-57 distance of a property line is contained within a three-walled
2-58 bunker that extends at least two feet above the top of the
2-59 stockpile.
2-60 Sec. 382.05199. STANDARD PERMIT FOR CERTAIN CONCRETE BATCH
2-61 PLANTS: NOTICE AND HEARING. (a) A person may not begin
2-62 construction of a permanent concrete plant that performs wet
2-63 batching, dry batching, or central mixing under a standard permit
2-64 issued under Section 382.05198 unless the commission authorizes the
2-65 person to use the permit as provided by this section. The notice
2-66 and hearing requirements of Subsections (b)-(g) apply only to an
2-67 applicant for authorization to use a standard permit issued under
2-68 Section 382.05198. An applicant for a permit for a concrete plant
2-69 that does not meet the requirements of a standard permit issued

3-1 under Section 382.05198 must comply with:
3-2 (1) Section 382.058 to obtain authorization to use a
3-3 standard permit issued under Section 382.05195 or a permit by rule
3-4 adopted under Section 382.05196; or
3-5 (2) Section 382.056 to obtain a permit issued under
3-6 Section 382.0518.
3-7 (b) An applicant for an authorization to use a standard
3-8 permit under Section 382.05198 must publish notice under this
3-9 section not later than the earlier of:
3-10 (1) the 30th day after the date the applicant receives
3-11 written notice from the executive director that the application is
3-12 technically complete; or
3-13 (2) the 75th day after the date the executive director
3-14 receives the application.
3-15 (c) The applicant must publish notice at least once in a
3-16 newspaper of general circulation in the municipality in which the
3-17 plant is proposed to be located or in the municipality nearest to
3-18 the proposed location of the plant. If the elementary or middle
3-19 school nearest to the proposed plant provides a bilingual education
3-20 program as required by Subchapter B, Chapter 29, Education Code,
3-21 the applicant must also publish the notice at least once in an
3-22 additional publication of general circulation in the municipality
3-23 or county in which the plant is proposed to be located that is
3-24 published in the language taught in the bilingual education
3-25 program. This requirement is waived if such a publication does not
3-26 exist or if the publisher refuses to publish the notice.
3-27 (d) The notice must include:
3-28 (1) a brief description of the proposed location and
3-29 nature of the proposed plant;
3-30 (2) a description, including a telephone number, of
3-31 the manner in which the executive director may be contacted for
3-32 further information;
3-33 (3) a description, including a telephone number, of
3-34 the manner in which the applicant may be contacted for further
3-35 information;
3-36 (4) the location and hours of operation of the
3-37 commission's regional office at which a copy of the application is
3-38 available for review and copying; and
3-39 (5) a brief description of the public comment process,
3-40 including the time and location of the public hearing, and the
3-41 mailing address and deadline for filing written comments.
3-42 (e) The public comment period begins on the first date
3-43 notice is published under Subsection (b) and extends to the close of
3-44 the public hearing.
3-45 (f) Section 382.056 of this code and Chapter 2001,
3-46 Government Code, do not apply to a public hearing held under this
3-47 section. A public hearing held under this section is not an
3-48 evidentiary proceeding. Any person may submit an oral or written
3-49 statement concerning the application at the public hearing. The
3-50 applicant may set reasonable limits on the time allowed for oral
3-51 statements at the public hearing.
3-52 (g) The applicant, in cooperation with the executive
3-53 director, must hold the public hearing not less than 30 days and not
3-54 more than 45 days after the first date notice is published under
3-55 Subsection (b). The public hearing must be held in the county in
3-56 which the plant is proposed to be located.
3-57 (h) Not later than the 35th day after the date the public
3-58 hearing is held, the executive director shall approve or deny the
3-59 application for authorization to use the standard permit. The
3-60 executive director shall base the decision on whether the
3-61 application meets the requirements of Section 382.05198. The
3-62 executive director shall consider all comments received during the
3-63 public comment period and at the public hearing in determining
3-64 whether to approve the application. If the executive director
3-65 denies the application, the executive director shall state the
3-66 reasons for the denial and any modifications to the application
3-67 that are necessary for the proposed plant to qualify for the
3-68 authorization.
3-69 (i) The executive director shall issue a written response to

4-1 any public comments received related to the issuance of an
4-2 authorization to use the standard permit at the same time as or as
4-3 soon as practicable after the executive director grants or denies
4-4 the application. Issuance of the response after the granting or
4-5 denial of the application does not affect the validity of the
4-6 executive director's decision to grant or deny the application.
4-7 The executive director shall:
4-8 (1) mail the response to each person who filed a
4-9 comment; and
4-10 (2) make the response available to the public.

4-11 SECTION 4. This Act takes effect September 1, 2003.

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