

By: Armbrister

S.B. No. 948

A BILL TO BE ENTITLED

AN ACT

relating to the assessment and regulation of emissions events.

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

SECTION 1. Section 382.0215, Health and Safety Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (a-1) and (h) to read as follows:

(a) In this section:

(1) "Emissions [~~,"emissions~~] event" means an upset event, or unscheduled maintenance, startup, or shutdown activity, from a common cause that results in the unauthorized emissions of air contaminants from one or more [an] emissions points at a regulated entity [point].

(2) "Regulated entity" means all regulated units, facilities, equipment, structures, or sources at one street address or location that are owned or operated by the same person. The term includes any property under common ownership or control identified in a permit or used in conjunction with the regulated activity at the same street address or location.

(a-1) Maintenance, startup, and shutdown activities shall not be considered unscheduled only if the activity will not and does not result in the emission of at least a reportable quantity of unauthorized emissions of air contaminants and the activity is recorded as may be required by commission rule, or if the activity will result in the emission of at least a reportable quantity of

1 unauthorized emissions and:

2 (1) the owner or operator of the regulated entity  
3 [~~facility~~] provides any prior notice or final report that the  
4 commission, by rule, may establish;

5 (2) the notice or final report includes the  
6 information required in Subsection (b)(3); and

7 (3) the actual emissions do not exceed the estimates  
8 submitted in the notice by more than a reportable quantity.

9 (b) The commission shall require the owner or operator of a  
10 regulated entity [~~facility~~] that experiences emissions events:

11 (1) to maintain a record of all emissions events at the  
12 regulated entity [~~facility~~] in the manner and for the periods  
13 prescribed by commission rule;

14 (2) to notify the commission in a single report for  
15 each emissions event, as soon as practicable but not later than 24  
16 hours after discovery of the emissions event, of an emissions event  
17 resulting in the emission of a reportable quantity of air  
18 contaminants as determined by commission rule; and

19 (3) to report to the commission in a single report for  
20 each emissions event, not later than two weeks after the occurrence  
21 of an emissions event that results in the emission of a reportable  
22 quantity of air contaminants as determined by commission rule, all  
23 information necessary to evaluate the emissions event, including:

24 (A) the name of the owner or operator of the  
25 reporting regulated entity [~~facility~~];

26 (B) the location of the reporting regulated  
27 entity [~~facility~~];

- 1 (C) the date and time the emissions began;  
2 (D) the duration of the emissions;  
3 (E) the nature and measured or estimated quantity  
4 of air contaminants emitted, including the method of calculation  
5 of, or other basis for determining, the quantity of air  
6 contaminants emitted;  
7 (F) the processes and equipment involved in the  
8 emissions event;  
9 (G) the cause of the emissions; and  
10 (H) any additional information necessary to  
11 evaluate the emissions event.

12 (f) An owner or operator of a regulated entity [~~facility~~]  
13 required by Section 382.014 to submit an annual emissions inventory  
14 report and which has experienced no emissions events during the  
15 relevant year must include as part of the inventory a statement that  
16 the regulated entity [~~facility~~] experienced no emissions events  
17 during the prior year. An owner or operator of a regulated entity  
18 [~~facility~~] required by Section 382.014 to submit an annual  
19 emissions inventory report must include the total annual emissions  
20 from all emissions events in categories as established by  
21 commission rule.

22 (h) The commission may allow operators of pipelines,  
23 gathering lines, and flowlines to treat all such facilities under  
24 common ownership or control in a particular county as a single  
25 regulated entity for the purpose of assessment and regulation of  
26 emissions events.

27 SECTION 2. Sections 382.0216(a), (b), (c), (f), and (i),

1 Health and Safety Code, are amended to read as follows:

2 (a) In this section, "emissions event" and "regulated  
3 entity" have [~~has~~] the meanings [~~meaning~~] assigned by Section  
4 382.0215.

5 (b) The commission shall establish criteria for determining  
6 when emissions events are excessive. The criteria must include  
7 consideration of:

8 (1) the frequency of the regulated entity's  
9 [~~facility's~~] emissions events from the same cause, taking into  
10 consideration the regulated entity's size and complexity;

11 (2) the cause of the emissions event;

12 (3) the quantity and impact on human health or the  
13 environment of the emissions event;

14 (4) the duration of the emissions event; and

15 (5) [~~the percentage of a facility's total annual~~  
16 ~~operating hours during which emissions events occur, and~~

17 [~~(6)~~] the need for startup, shutdown, and maintenance  
18 activities.

19 (c) The commission shall require the owner or operator of a  
20 regulated entity [~~a facility~~] to take action to reduce emissions  
21 from excessive emissions events. Consistent with commission rules,  
22 the owner or operator of a regulated entity [~~a facility~~] required to  
23 take action under this subsection must either file a corrective  
24 action plan or file a letter of intent to obtain authorization for  
25 emissions from the excessive emissions events, provided that the  
26 emissions are sufficiently frequent, quantifiable, and  
27 predictable. If the intended authorization is a permit, a permit

1 application shall be filed within 120 days of the filing of the  
2 letter of intent. If the intended authorization is a permit by rule  
3 or standard exemption, the authorization must be obtained within  
4 120 days of the filing of the letter of intent. If the commission  
5 denies the requested authorization, within 45 days of receiving  
6 notice of the commission's denial, the owner or operator of a  
7 regulated entity [~~facility~~] shall file a corrective action plan to  
8 reduce emissions from the excessive emissions events.

9 (f) The commission by rule may establish an affirmative  
10 defense to a commission enforcement action if the emissions event  
11 meets criteria defined by commission rule. In establishing rules  
12 under this subsection, the commission at a minimum must require  
13 consideration of the factors listed in Subsections (b)(1)-(5)  
14 [~~(b)(1)-(6)~~].

15 (i) In the event the owner or operator of a regulated entity  
16 [~~facility~~] fails to report an emissions event as required by  
17 Section 382.0215(b), the commission shall initiate enforcement for  
18 such failure to report and for the underlying emissions event  
19 itself. This subsection does not apply where an owner or operator  
20 reports an emissions event and the report was incomplete,  
21 inaccurate, or untimely unless the owner or operator knowingly or  
22 intentionally falsified the information in the report.

23 SECTION 3. Sections 382.0215 and 382.0216, Health and  
24 Safety Code, as amended by this Act, apply only to an emissions  
25 event that occurs on or after the effective date of this Act. An  
26 emissions event that occurs before the effective date of this Act is  
27 governed by the law in effect when the emissions event occurred, and

1 that law is continued in effect for that purpose.

2 SECTION 4. This Act takes effect September 1, 2005.