

1-1 By: Armbrister S.B. No. 948
1-2 (In the Senate - Filed March 3, 2005; March 14, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 26, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 26, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 948 By: Jackson

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

1-10 relating to the assessment and regulation of emissions events.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 382.0215, Health and Safety Code, is
1-13 amended by amending Subsections (a), (b), and (f) and adding
1-14 Subsections (a-1) and (h) to read as follows:

1-15 (a) In this section:

1-16 (1) "Emissions~~[, "emissions]~~ event" means an upset
1-17 event, or unscheduled maintenance, startup, or shutdown activity,
1-18 from a common cause that results in the unauthorized emissions of
1-19 air contaminants from one or more ~~[an]~~ emissions points at a
1-20 regulated entity [point].

1-21 (2) "Regulated entity" means all regulated units,
1-22 facilities, equipment, structures, or sources at one street address
1-23 or location that are owned or operated by the same person. The term
1-24 includes any property under common ownership or control identified
1-25 in a permit or used in conjunction with the regulated activity at
1-26 the same street address or location.

1-27 (a-1) Maintenance, startup, and shutdown activities shall
1-28 not be considered unscheduled only if the activity will not and does
1-29 not result in the emission of at least a reportable quantity of
1-30 unauthorized emissions of air contaminants and the activity is
1-31 recorded as may be required by commission rule, or if the activity
1-32 will result in the emission of at least a reportable quantity of
1-33 unauthorized emissions and:

1-34 (1) the owner or operator of the regulated entity
1-35 ~~[facility]~~ provides any prior notice or final report that the
1-36 commission, by rule, may establish;

1-37 (2) the notice or final report includes the
1-38 information required in Subsection (b)(3); and

1-39 (3) the actual emissions do not exceed the estimates
1-40 submitted in the notice by more than a reportable quantity.

1-41 (b) The commission shall require the owner or operator of a
1-42 regulated entity [facility] that experiences emissions events:

1-43 (1) to maintain a record of all emissions events at the
1-44 regulated entity [facility] in the manner and for the periods
1-45 prescribed by commission rule;

1-46 (2) to notify the commission in a single report for
1-47 each emissions event, as soon as practicable but not later than 24
1-48 hours after discovery of the emissions event, of an emissions event
1-49 resulting in the emission of a reportable quantity of air
1-50 contaminants as determined by commission rule; and

1-51 (3) to report to the commission in a single report for
1-52 each emissions event, not later than two weeks after the occurrence
1-53 of an emissions event that results in the emission of a reportable
1-54 quantity of air contaminants as determined by commission rule, all
1-55 information necessary to evaluate the emissions event, including:

1-56 (A) the name of the owner or operator of the
1-57 reporting regulated entity [facility];

1-58 (B) the location of the reporting regulated
1-59 entity [facility];

1-60 (C) the date and time the emissions began;

1-61 (D) the duration of the emissions;

1-62 (E) the nature and measured or estimated quantity
1-63 of air contaminants emitted, including the method of calculation

2-1 of, or other basis for determining, the quantity of air
2-2 contaminants emitted;

2-3 (F) the processes and equipment involved in the
2-4 emissions event;

2-5 (G) the cause of the emissions; and

2-6 (H) any additional information necessary to
2-7 evaluate the emissions event.

2-8 (f) An owner or operator of a regulated entity [~~facility~~]
2-9 required by Section 382.014 to submit an annual emissions inventory
2-10 report and which has experienced no emissions events during the
2-11 relevant year must include as part of the inventory a statement that
2-12 the regulated entity [~~facility~~] experienced no emissions events
2-13 during the prior year. An owner or operator of a regulated entity
2-14 [~~facility~~] required by Section 382.014 to submit an annual
2-15 emissions inventory report must include the total annual emissions
2-16 from all emissions events in categories as established by
2-17 commission rule.

2-18 (h) The commission may allow operators of pipelines,
2-19 gathering lines, and flowlines to treat all such facilities under
2-20 common ownership or control in a particular county as a single
2-21 regulated entity for the purpose of assessment and regulation of
2-22 emissions events.

2-23 SECTION 2. Subsections (a), (b), (c), and (i), Section
2-24 382.0216, Health and Safety Code, are amended to read as follows:

2-25 (a) In this section, "emissions event" and "regulated
2-26 entity" have [~~has~~] the meanings [~~meaning~~] assigned by Section
2-27 382.0215.

2-28 (b) The commission shall establish criteria for determining
2-29 when emissions events are excessive. The criteria must include
2-30 consideration of:

2-31 (1) the frequency of the regulated entity's
2-32 [~~facility's~~] emissions events, taking into consideration the
2-33 regulated entity's size and complexity;

2-34 (2) the cause of the emissions event;

2-35 (3) the quantity and impact on human health or the
2-36 environment of the emissions event;

2-37 (4) the duration of the emissions event;

2-38 (5) the percentage of a facility's total annual
2-39 operating hours during which emissions events occur; and

2-40 (6) the need for startup, shutdown, and maintenance
2-41 activities.

2-42 (c) The commission shall require the owner or operator of a
2-43 regulated entity [~~a facility~~] to take action to reduce emissions
2-44 from excessive emissions events. Consistent with commission rules,
2-45 the owner or operator of a regulated entity [~~a facility~~] required to
2-46 take action under this subsection must either file a corrective
2-47 action plan or file a letter of intent to obtain authorization for
2-48 emissions from the excessive emissions events, provided that the
2-49 emissions are sufficiently frequent, quantifiable, and
2-50 predictable. If the intended authorization is a permit, a permit
2-51 application shall be filed within 120 days of the filing of the
2-52 letter of intent. If the intended authorization is a permit by rule
2-53 or standard exemption, the authorization must be obtained within
2-54 120 days of the filing of the letter of intent. If the commission
2-55 denies the requested authorization, within 45 days of receiving
2-56 notice of the commission's denial, the owner or operator of a
2-57 regulated entity [~~facility~~] shall file a corrective action plan to
2-58 reduce emissions from the excessive emissions events.

2-59 (i) In the event the owner or operator of a regulated entity
2-60 [~~facility~~] fails to report an emissions event as required by
2-61 Section 382.0215(b), the commission shall initiate enforcement for
2-62 such failure to report and for the underlying emissions event
2-63 itself. This subsection does not apply where an owner or operator
2-64 reports an emissions event and the report was incomplete,
2-65 inaccurate, or untimely unless the owner or operator knowingly or
2-66 intentionally falsified the information in the report.

2-67 SECTION 3. Sections 382.0215 and 382.0216, Health and
2-68 Safety Code, as amended by this Act, apply only to an emissions
2-69 event that occurs on or after the effective date of this Act. An

3-1 emissions event that occurs before the effective date of this Act is
3-2 governed by the law in effect when the emissions event occurred, and
3-3 that law is continued in effect for that purpose.

3-4 SECTION 4. This Act takes effect September 1, 2005.

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