

AN ACT

relating to permits issued by the Texas Commission on Environmental Quality for certain construction activities.

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

SECTION 1. Subchapter A, Chapter 382, Health and Safety Code, is amended by adding Section 382.004 to read as follows:

Sec. 382.004. CONSTRUCTION WHILE PERMIT APPLICATION PENDING. (a) To the extent permissible under federal law and notwithstanding Section 382.0518, a person who submits an application for a permit for a modification of or a lesser change to an existing facility under this subtitle may, at the person's own risk, begin construction related to the application after the application is submitted and before the commission has issued the permit.

(b) The commission may not consider construction begun under this section in determining whether to grant the permit sought in the application.

SECTION 2. Section 382.05195, Health and Safety Code, is amended by adding Subsection (j) to read as follows:

(j) If a standard permit for a facility requires a distance, setback, or buffer from other property or structures as a condition of the permit, the determination of whether the distance, setback, or buffer is satisfied shall be made on the basis of conditions existing at the earlier of:

1 (1) the date new construction, expansion, or
2 modification of a facility begins; or

3 (2) the date any application or notice of intent is
4 first filed with the commission to obtain approval for the
5 construction or operation of the facility.

6 SECTION 3. Section 382.004, Health and Safety Code, as
7 added by this Act, applies only to an application for a permit
8 issued by the Texas Commission on Environmental Quality that is
9 submitted to the commission on or after the effective date of this
10 Act. An application submitted before the effective date of this Act
11 is governed by the law in effect on the date the application was
12 submitted and that law is continued in effect for that purpose.

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

S.B. No. 1740

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1740 passed the Senate on April 26, 2005, by the following vote: Yeas 27, Nays 0; and that the Senate concurred in House amendments on May 27, 2005, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1740 passed the House, with amendments, on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor