

BILL ANALYSIS

C.S.H.B. 3110
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Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The typical air emissions sources at an oil and gas production site include a wellhead with various pipes and valves; one or more separators using differences in pressure and heat to separate gas, oil, and water; storage tanks; dehydrators to remove residual water in the gas; a compressor to compress the gas; pipeline; and other equipment, depending on the site. The Texas Commission on Environmental Quality (TCEQ), other state and local governmental entities, and private interests have been conducting extensive air quality monitoring efforts to determine the real-world impacts of air emissions from increased oil and gas production in Texas. However, because monitoring data is not always available to TCEQ when it is developing permits for facilities in other industries, it is not clear whether TCEQ's current process would allow the agency to use the real-world, air quality monitoring data to develop a new permit for facilities at oil and gas production sites in certain areas.

C.S.H.B. 3110 seeks to clarify that TCEQ should base its development of any new or amended permit by rule and standard permit for facilities at oil and gas production sites on all available relevant air quality monitoring.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3110 amends the Health and Safety Code to make its provisions relating to air permitting requirements for certain oil and gas facilities applicable only to new facilities or modifications of existing facilities that belong to Standard Industrial Classification Codes 1311 (Crude Petroleum and Natural Gas), 1321 (Natural Gas Liquids), 4612 (Crude Petroleum Pipelines), 4613 (Refined Petroleum Pipelines), 4922 (Natural Gas Transmission), and 4923 (Natural Gas Transmission and Distribution). The bill prohibits the Texas Commission on Environmental Quality (TCEQ) from adopting a new permit by rule or a new standard permit or amending an existing permit by rule or an existing standard permit relating to a facility to which the bill's provisions apply unless TCEQ performs the following actions:

- conducts a regulatory analysis of a major environmental rule under the Government Code;
- determines, based on the evaluation of credible air quality monitoring data, that the emissions limits or other emissions-related requirements of the permit are necessary to ensure that the intent of the Clean Air Act is not contravened, including the protection of public health and physical property;
- establishes any required emissions limits or other requirements based on the evaluation of credible air quality monitoring data and credible air quality modeling that is not based on the worst-case scenario of emissions or other worst-case modeling scenarios unless the actual air quality monitoring data and evaluation of that data indicate that the worst-case

scenario of emissions or other worst-case modeling scenarios yield modeling results that reflect the actual air quality monitoring data and evaluation; and

- considers whether the requirements of the permit should be imposed only on facilities that are located in a particular geographic region of the state.

C.S.H.B. 3110 authorizes TCEQ to adopt one or more permits by rule or one or more standard permits and amend one or more existing permits by rule or standard permits to authorize planned maintenance, start-up, or shutdown activities for facilities that belong to a Standard Industrial Classification Code identified by the bill's provisions. The bill requires the adoption or amendment of a permit to comply with the bill's requirements for adopting or amending permits for certain oil and gas facilities. The bill establishes that an unauthorized emission or opacity event from a planned maintenance, start-up, or shutdown activity is subject to an affirmative defense as established by TCEQ rules as those rules exist on the bill's effective date if the emission or opacity event occurs at a facility that belongs to certain Standard Industrial Classification Codes and the affirmative defense criteria in the rules are met. The bill establishes that such an affirmative defense is not available for a facility on or after the date that an application or registration to authorize the planned maintenance, start-up, or shutdown activities of the facility is approved, denied, or voided or on or after January 5, 2014, unless an application or registration to authorize the planned maintenance, start-up, or shutdown activities of the facility is pending before TCEQ on that date.

C.S.H.B. 3110 authorizes a permit by rule or standard permit that has been adopted by TCEQ and is in effect on the bill's effective date to be amended to require the permit holder to provide to TCEQ information about a facility authorized by the permit, including the location of the facility, and any facility handling sour gas to be a minimum distance from a recreational area, a residence, or another structure not occupied or used solely by the operator of the facility or by the owner of the property upon which the facility is located. The bill specifies the amendment of a permit under these provisions is not subject to the bill's requirements for adopting or amending permits for certain oil and gas facilities. The bill defines "planned maintenance, start-up, or shutdown activity" for purposes of activities relating to certain oil and gas facilities.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3110 differs from the original by specifying that its provisions relating to air permitting requirements for certain oil and gas facilities apply only to certain new facilities or modifications of existing facilities, whereas the original makes substantially the same provisions applicable to new facilities or modifications of existing facilities.

C.S.H.B. 3110 differs from the original by specifying that the commissioner's determination relating to emissions limits or other emissions-related requirements of a permit required to be made before the commissioner may take certain action with regard to adopting or amending a permit applies to a determination that those limits or requirements are necessary to ensure that the intent of the Clean Air Act is not contravened, whereas the original includes no such specification.

C.S.H.B. 3110 contains provisions not included in the original setting out conditions under which an unauthorized emission or opacity event from a planned maintenance, start-up, or shutdown activity is subject to an affirmative defense as established by TCEQ rules.

C.S.H.B. 3110 contains provisions not included in the original authorizing a permit by rule or standard permit that has been adopted by TCEQ that is in effect on the bill's effective date to be amended to include certain requirements and establishing that such amendments are not subject

to the bill's requirements for adopting or amending permits for certain oil and gas facilities.

C.S.H.B. 3110 differs from the original in nonsubstantive ways reflective of certain bill drafting conventions.