

By: Craddick

H.B. No. 3110

Substitute the following for H.B. No. 3110:

By: Crownover

C.S.H.B. No. 3110

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of permits for certain facilities regulated by the Texas Commission on Environmental Quality.

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

SECTION 1. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.051961, 382.051962, and 382.051963 to read as follows:

Sec. 382.051961. PERMIT FOR CERTAIN OIL AND GAS FACILITIES. (a) This section applies 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).

(b) The commission may not adopt a new permit by rule or a new standard permit or amend an existing permit by rule or an existing standard permit relating to a facility to which this section applies unless the commission:

(1) conducts a regulatory analysis as provided by Section 2001.0225, Government Code;

(2) 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

1 ensure that the intent of this chapter is not contravened,
2 including the protection of public health and physical property;

3 (3) establishes any required emissions limits or other
4 requirements based on:

5 (A) the evaluation of credible air quality
6 monitoring data; and

7 (B) credible air quality modeling that is not
8 based on the worst-case scenario of emissions or other worst-case
9 modeling scenarios unless the actual air quality monitoring data
10 and evaluation of that data indicate that the worst-case scenario
11 of emissions or other worst-case modeling scenarios yield modeling
12 results that reflect the actual air quality monitoring data and
13 evaluation; and

14 (4) considers whether the requirements of the permit
15 should be imposed only on facilities that are located in a
16 particular geographic region of the state.

17 Sec. 382.051962. AUTHORIZATION FOR PLANNED MAINTENANCE,
18 START-UP, OR SHUTDOWN ACTIVITIES RELATING TO CERTAIN OIL AND GAS
19 FACILITIES. (a) In this section, "planned maintenance, start-up,
20 or shutdown activity" means an activity with emissions or opacity
21 that:

22 (1) is not expressly authorized by commission permit,
23 rule, or order and involves the maintenance, start-up, or shutdown
24 of a facility;

25 (2) is part of normal or routine facility operations;

26 (3) is predictable as to timing; and

27 (4) involves the type of emissions normally authorized

1 by permit.

2 (b) The commission may adopt one or more permits by rule or
3 one or more standard permits and may amend one or more existing
4 permits by rule or standard permits to authorize planned
5 maintenance, start-up, or shutdown activities for facilities
6 described by Section 382.051961(a). The adoption or amendment of a
7 permit under this subsection must comply with Section
8 382.051961(b).

9 (c) An unauthorized emission or opacity event from a planned
10 maintenance, start-up, or shutdown activity is subject to an
11 affirmative defense as established by commission rules as those
12 rules exist on the effective date of this section if:

13 (1) the emission or opacity event occurs at a facility
14 described by Section 382.051961(a); and

15 (2) the affirmative defense criteria in the rules are
16 met.

17 (d) The affirmative defense described by Subsection (c) is
18 not available for a facility on or after:

19 (1) the date that an application or registration to
20 authorize the planned maintenance, start-up, or shutdown
21 activities of the facility is approved, denied, or voided; or

22 (2) January 5, 2014, unless an application or
23 registration to authorize the planned maintenance, start-up, or
24 shutdown activities of the facility is pending before the
25 commission on that date.

26 Sec. 382.051963. AMENDMENT OF CERTAIN PERMITS. (a) A
27 permit by rule or standard permit that has been adopted by the

1 commission under this subchapter and is in effect on the effective
2 date of this section may be amended to require:

3 (1) the permit holder to provide to the commission
4 information about a facility authorized by the permit, including
5 the location of the facility; and

6 (2) any facility handling sour gas to be a minimum
7 distance from a recreational area, a residence, or another
8 structure not occupied or used solely by the operator of the
9 facility or by the owner of the property upon which the facility is
10 located.

11 (b) The amendment of a permit under this section is not
12 subject to Section 382.051961(b).

13 SECTION 2. (a) Sections 382.051961, 382.051962, and
14 382.051963, Health and Safety Code, as added by this Act, apply only
15 to a new permit by rule or a new standard permit or any amendment to
16 an existing permit by rule or amendment to an existing standard
17 permit adopted by the Texas Commission on Environmental Quality on
18 or after the effective date of this Act.

19 (b) A permit by rule or standard permit adopted by the Texas
20 Commission on Environmental Quality and in effect before the
21 effective date of this Act is not subject to Sections 382.051961 and
22 382.051962, Health and Safety Code, as added by this Act.

23 SECTION 3. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2011.