

By: Hegar

S.B. No. 1134

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) Notwithstanding any other provision of this chapter, 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

1 emissions-related requirements of the permit are necessary to
2 protect public health and physical property;

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

5 (A) the evaluation of air quality monitoring
6 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 (c) The air quality monitoring data and the evaluation of
18 that data under Subsection (b):

19 (1) must be relevant and technically and
20 scientifically credible, as determined by the commission; and

21 (2) may be generated by an ambient air monitoring
22 program conducted by or on behalf of the commission in any part of
23 the state or by another governmental entity of this state, a local
24 or federal governmental entity, or a private organization.

25 Sec. 382.051962. AUTHORIZATION FOR PLANNED MAINTENANCE,
26 START-UP, OR SHUTDOWN ACTIVITIES RELATING TO CERTAIN OIL AND GAS
27 FACILITIES. (a) In this section, "planned maintenance, start-up,

1 or shutdown activity" means an activity with emissions or opacity
2 that:

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

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

7 (3) is predictable as to timing; and

8 (4) involves the type of emissions normally authorized
9 by permit.

10 (b) The commission may adopt one or more permits by rule or
11 one or more standard permits and may amend one or more existing
12 permits by rule or standard permits to authorize planned
13 maintenance, start-up, or shutdown activities for facilities
14 described by Section 382.051961(a). The adoption or amendment of a
15 permit under this subsection must comply with Section
16 382.051961(b).

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

21 (1) the emission or opacity event occurs at a facility
22 described by Section 382.051961(a);

23 (2) an application for a permit or permit amendment
24 under Subsection (b) is submitted to the commission on or before the
25 earlier of:

26 (A) January 5, 2014; or

27 (B) the 30th day after the effective date of a new

1 or amended permit adopted by the commission under Subsection (b);
2 and

3 (3) the affirmative defense criteria in the rules are
4 met.

5 (d) The affirmative defense described by Subsection (c) is
6 not available for a facility on or after the date that an
7 application to authorize the planned maintenance, start-up, or
8 shutdown activities of the facility is approved, denied, or voided.

9 Sec. 382.051963. AMENDMENT OF CERTAIN PERMITS. (a) A
10 permit by rule or standard permit that has been adopted by the
11 commission under this subchapter and is in effect on the effective
12 date of this section may be amended to require:

13 (1) the permit holder to provide to the commission
14 information about a facility authorized by the permit, including
15 the location of the facility; and

16 (2) a facility handling sour gas to be a minimum
17 distance from a recreational area, a residence, or another
18 structure unless the structure is not occupied or is used solely by
19 the operator of the facility or by the owner of the property upon
20 which the facility is located.

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

23 SECTION 2. (a) Sections 382.051961, 382.051962, and
24 382.051963, Health and Safety Code, as added by this Act, apply only
25 to a new permit by rule or a new standard permit or any amendment to
26 an existing permit by rule or amendment to an existing standard
27 permit adopted by the Texas Commission on Environmental Quality on

1 or after the effective date of this Act.

2 (b) A permit by rule or standard permit adopted by the Texas
3 Commission on Environmental Quality and in effect before the
4 effective date of this Act is not subject to Sections 382.051961 and
5 382.051962, Health and Safety Code, as added by this Act.

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