87R8323 JXC-D

By:  Schwertner S.B. No. 1209

A BILL TO BE ENTITLED

AN ACT

relating to air quality permits for aggregate production operations and concrete batch plants.

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 382.051991 and 382.051992 to read as follows:

Sec. 382.051991.  STANDARD PERMIT FOR AGGREGATE PRODUCTION OPERATIONS AND CONCRETE BATCH PLANTS: PUBLIC HEARING OR MEETING. (a) This section applies only to a meeting or hearing regarding the issuance or renewal of a standard permit under this chapter relating to the following activities at a facility:

(1)  the production of aggregates, as defined by Section 28A.001, Water Code; or

(2)  the operation of a concrete plant that performs wet batching, dry batching, or central mixing.

(b)  The commission shall accept written questions about the facility from the public until the 15th day before the date of the hearing or meeting.

(c)  Not later than the 14th day before the date of the hearing or meeting, the commission shall notify the following entities of the date, time, and place of the hearing or meeting:

(1)  the Texas Department of Transportation;

(2)  each groundwater conservation district with jurisdiction over the area in which the facility is located or proposed to be located;

(3)  if no groundwater conservation district has jurisdiction over the area in which the facility is located or proposed to be located, the Texas Water Development Board;

(4)  any state agency with jurisdiction over a topic raised in a written question submitted to the commission under Subsection (b); and

(5)  each municipality and county in which the facility is located or proposed to be located.

(d)  Each entity other than a municipality or county that receives notice of a hearing or meeting under Subsection (c) shall send a representative of the entity to attend the hearing or meeting.

Sec. 382.051992.  ADDITIONAL STANDARD PERMIT REQUIREMENTS FOR AGGREGATE PRODUCTION OPERATIONS AND CONCRETE BATCH PLANTS. (a) This section applies only to a standard permit under this chapter relating to:

(1)  the production of aggregates, as defined by Section 28A.001, Water Code; or

(2)  the operation of a concrete plant that performs wet batching, dry batching, or central mixing.

(b)  The commission may not issue or renew a permit for a facility unless the applicant indicates on the application that the applicant:

(1)  has complied with the requirements of Subsection (c); and

(2)  will comply with any Texas Department of Transportation requirements for the construction or alteration of driveways as provided by Subsection (j).

(c)  In addition to requirements in any other applicable provision of this chapter, the permit holder or applicant must:

(1)  install equipment to monitor noise levels and emissions of air contaminants from the facility:

(A)  at the point on the perimeter of the property on which the facility is located that is closest to the nearest building in use as a single or multifamily residence, school, place of worship, or commercial enterprise; and

(B)  at two other points on the perimeter of the property on which the facility is located equidistant from the point described by Paragraph (A);

(2)  ensure that outdoor lighting installed at the facility complies with standards adopted by the Illuminating Engineering Society;

(3)  obtain computer-controlled blasting technology to minimize the effect of seismic forces on adjacent property caused by blasting at the facility;

(4)  either:

(A)  use water for the facility only from a metered source or under a permit from a groundwater conservation district; or

(B)  implement commission-approved methods of water recirculation to ensure efficient use of groundwater for the facility;

(5)  provide to the commission a plan to ensure that the area on which the facility operates will be safe and useful after operations cease, including a description of how the permit holder will:

(A)  resolve potential safety and environmental problems;

(B)  minimize fugitive dust from areas the permit holder does not plan to revegetate; and

(C)  control erosion by revegetating barren areas; and

(6)  provide to the commission a performance bond or other form of financial assurance to ensure payment of the costs of executing the plan required by Subdivision (5).

(d)  The commission is not required to inspect a facility solely to verify compliance with Subsection (c). The commission shall inspect a facility for compliance with Subsection (c) during regular inspections under this chapter and Chapter 28A, Water Code.

(e)  The commission shall publish a list of monitoring equipment that an applicant may use to meet the requirements of Subsection (c)(1). The list of emissions monitors may include only gravimetric or light scattering monitors for monitoring particulate matter. The list may not include full spectrum monitors that test for gaseous pollutants.

(f)  The permit holder shall maintain records of monitoring data from the equipment required by Subsection (c)(1) until the fifth anniversary of the date on which the data was collected.

(g)  The permit holder shall ensure that noise created by the permitted facility does not exceed:

(1)  70 decibels at the points at which monitors are installed under Subsection (c); or

(2)  65 decibels at the perimeter of a property that is:

(A)  used as a residence; and

(B)  located within 880 yards of the permitted facility.

(h)  If the commission receives a complaint about emissions or noise created by a permitted facility, the commission shall require the permit holder to submit to the commission all relevant available monitoring data from the monitoring equipment required by Subsection (c)(1) collected for a time period beginning 30 days before the date that is the subject of the complaint and ending 30 days after that date. The commission shall analyze the data before determining whether the complaint is valid.

(i)  The commission is authorized to:

(1)  receive funds as the beneficiary of a financial assurance mechanism required under Subsection (c); and

(2)  expend funds from the financial assurance mechanism to ensure that the area on which the permitted facility operated is safe and useful.

(j)  If the Texas Department of Transportation determines that activities at a facility necessitate the construction or modification of driveway access to or from a state highway, including to meet any applicable requirements under Chapter 133, Natural Resources Code, the permit holder shall enter into a donation agreement with the department for the donation of costs or property needed by the state to facilitate the construction or alteration.

SECTION 2.  (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to a permit for which an application for issuance is submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act. A permit for which an application for issuance was submitted to the Texas Commission on Environmental Quality before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b)  The changes in law made by this Act apply to a permit for which an application for renewal is submitted to the Texas Commission on Environmental Quality on or after January 1, 2023.

SECTION 3.  This Act takes effect January 1, 2022.