

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

1 jurisdiction over the area in which the facility is located or  
2 proposed to be located;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           (4) either:

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

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

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

5                   (A) resolve potential safety and environmental  
6 problems;

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

9                   (C) control erosion by revegetating barren  
10 areas; and

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

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

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

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

27           (g) The permit holder shall ensure that noise created by the

1 permitted facility does not exceed:

2 (1) 70 decibels at the points at which monitors are  
3 installed under Subsection (c); or

4 (2) 65 decibels at the perimeter of a property that is:  
5 (A) used as a residence; and  
6 (B) located within 880 yards of the permitted  
7 facility.

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

16 (i) The commission is authorized to:

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

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

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

1 property needed by the state to facilitate the construction or  
2 alteration.

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

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

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