88R12495 JXC-D

By:  Goodwin H.B. No. 2905

A BILL TO BE ENTITLED

AN ACT

relating to air quality permits issued by the Texas Commission on Environmental Quality.

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

SECTION 1.  Section 382.016, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c)  A member, employee, or agent of the commission may use emissions data obtained under Subsection (b) for modeling local and regional cumulative emissions.

SECTION 2.  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.  USE OF STANDARD PERMIT FOR AGGREGATE PRODUCTION OPERATIONS AND CONCRETE BATCH PLANTS: PUBLIC HEARING OR MEETING. (a) This section applies only to a hearing or meeting regarding an authorization to use a standard permit under this chapter for:

(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 that receives notice of a hearing or meeting under Subsection (c) shall send a representative of the entity to attend the hearing or meeting. This subsection does not apply to a municipality or county.

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

(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 authorize the use of a standard permit for or renew a standard permit authorization 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, a person authorized to use a standard permit must:

(1)  install equipment to monitor noise levels and emissions of air contaminants, including particulate matter with a diameter equal to or less than 2.5 microns and equal to or less than 10 microns, from the facility at three points on the perimeter of the property on which the facility is located that are as equidistant as possible, provided that:

(A)  one point must be at the point on the perimeter that is closest to the nearest building in use as a single-family or multifamily residence, school, place of worship, licensed day-care facility, or commercial enterprise;

(B)  one point must be at a point on the perimeter of the property on which the facility is located that is upwind, based on the predominant wind direction, from the facility; and

(C)  the commission may authorize one monitoring location to be used to satisfy the requirements of Paragraphs (A) and (B);

(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 person will:

(A)  decommission the facility and ensure that equipment is removed;

(B)  minimize fugitive dust from areas the person 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, and inspections made to respond to complaints.

(e)  The commission shall publish a list of monitoring equipment that a person may use to meet the requirements of Subsection (c)(1).

(f)  The person 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. The person may use physical instrument data storage and cloud-based storage.

(g)  A person authorized to use a standard permit 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)  a single-family or multifamily residence, school, place of worship, licensed day-care facility, or commercial enterprise; 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 person authorized to use the permit to retain and make available to the commission on request 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.

(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 alteration of driveway access to or from a state highway, including to meet any applicable requirements under Chapter 133, Natural Resources Code, the person authorized to use a standard permit for the facility 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 3.  Section 382.058(c), Health and Safety Code, is amended to read as follows:

(c)  For purposes of this section, only a representative of a place of worship, licensed day-care center, licensed nursing facility, licensed assisted living facility, licensed intermediate care facility, hospital, or medical facility or a person [~~those persons actually~~] residing [~~in a permanent residence~~] within 440 yards of the proposed plant may request a hearing under Section 382.056 as a person who may be affected. The commission shall adopt rules establishing who qualifies as a representative of a place of worship, licensed day-care center, licensed nursing facility, licensed assisted living facility, licensed intermediate care facility, hospital, or medical facility under this section.

SECTION 4.  Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.0581 to read as follows:

Sec. 382.0581.  AIR DISPERSION MODELING FOR CERTAIN APPLICATIONS. (a) This section applies only to an application for:

(1)  a permit under Section 382.0518 for:

(A)  a concrete plant that performs wet batching, dry batching, or central mixing;

(B)  a rock crusher;

(C)  a hot mix asphalt plant; or

(D)  a bulk mineral handling facility;

(2)  an authorization to use a standard permit under Section 382.05195 for:

(A)  a concrete plant that performs wet batching, dry batching, or central mixing;

(B)  a rock crusher; or

(C)  a hot mix asphalt plant; or

(3)  an authorization to use a standard permit under Section 382.05198 for a concrete plant that performs wet batching, dry batching, or central mixing.

(b)  The commission shall require the use of air dispersion modeling to determine the overall cumulative effect on air quality of a facility that is the subject of an application described by Subsection (a) in conjunction with other proposed or existing facilities that:

(1)  are located less than five miles from the facility; and

(2)  emit more than a de minimis level of air contaminants.

SECTION 5.  (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to a permit or an authorization to use a permit for which an application is submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act. A permit or an authorization to use a permit for which an application 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 or an authorization to use a permit for which an application for renewal is submitted to the Texas Commission on Environmental Quality on or after January 1, 2025.

SECTION 6.  This Act takes effect January 1, 2024.