

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.

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

4           (1) the Texas Department of Transportation;

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

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

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

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

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

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

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

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

1       (b) The commission may not authorize the use of a standard  
2 permit for or renew a standard permit authorization for a facility  
3 unless the applicant indicates on the application that the  
4 applicant:

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

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

10       (c) In addition to requirements in any other applicable  
11 provision of this chapter, a person authorized to use a standard  
12 permit must:

13           (1) install equipment to monitor noise levels and  
14 emissions of air contaminants, including particulate matter with a  
15 diameter equal to or less than 2.5 microns and equal to or less than  
16 10 microns, from the facility at three points on the perimeter of  
17 the property on which the facility is located that are as  
18 equidistant as possible, provided that:

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

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

26                   (C) the commission may authorize one monitoring  
27 location to be used to satisfy the requirements of Paragraphs (A)

1 and (B);

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

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

8 (4) either:

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

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

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

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

20 (B) minimize fugitive dust from areas the person  
21 does not plan to revegetate; and

22 (C) control erosion by revegetating barren  
23 areas; and

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

27 (d) The commission is not required to inspect a facility

1 solely to verify compliance with Subsection (c). The commission  
2 shall inspect a facility for compliance with Subsection (c) during  
3 regular inspections under this chapter and Chapter 28A, Water Code,  
4 and inspections made to respond to complaints.

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

8 (f) The person shall maintain records of monitoring data  
9 from the equipment required by Subsection (c)(1) until the fifth  
10 anniversary of the date on which the data was collected. The person  
11 may use physical instrument data storage and cloud-based storage.

12 (g) A person authorized to use a standard permit shall  
13 ensure that noise created by the permitted facility does not  
14 exceed:

15 (1) 70 decibels at the points at which monitors are  
16 installed under Subsection (c); or

17 (2) 65 decibels at the perimeter of a property that is:

18 (A) a single-family or multifamily residence,  
19 school, place of worship, licensed day-care facility, or commercial  
20 enterprise; and

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

23 (h) If the commission receives a complaint about emissions  
24 or noise created by a permitted facility, the commission shall  
25 require the person authorized to use the permit to retain and make  
26 available to the commission on request all relevant available  
27 monitoring data from the monitoring equipment required by

1 Subsection (c)(1) collected for a time period beginning 30 days  
2 before the date that is the subject of the complaint and ending 30  
3 days after that date.

4 (i) The commission is authorized to:

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

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

10 (j) If the Texas Department of Transportation determines  
11 that activities at a facility necessitate the construction or  
12 alteration of driveway access to or from a state highway, including  
13 to meet any applicable requirements under Chapter 133, Natural  
14 Resources Code, the person authorized to use a standard permit for  
15 the facility shall enter into a donation agreement with the  
16 department for the donation of costs or property needed by the state  
17 to facilitate the construction or alteration.

18 SECTION 3. Section 382.058(c), Health and Safety Code, is  
19 amended to read as follows:

20 (c) For purposes of this section, only a representative of a  
21 place of worship, licensed day-care center, licensed nursing  
22 facility, licensed assisted living facility, licensed intermediate  
23 care facility, hospital, or medical facility or a person ~~those~~  
24 ~~persons actually~~ residing ~~[in a permanent residence]~~ within 440  
25 yards of the proposed plant may request a hearing under Section  
26 382.056 as a person who may be affected. The commission shall adopt  
27 rules establishing who qualifies as a representative of a place of

1 worship, licensed day-care center, licensed nursing facility,  
2 licensed assisted living facility, licensed intermediate care  
3 facility, hospital, or medical facility under this section.

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

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

8 (1) a permit under Section 382.0518 for:

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

11 (B) a rock crusher;

12 (C) a hot mix asphalt plant; or

13 (D) a bulk mineral handling facility;

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

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

18 (B) a rock crusher; or

19 (C) a hot mix asphalt plant; or

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

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

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

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

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

15           (b) The changes in law made by this Act apply to a permit or  
16 an authorization to use a permit for which an application for  
17 renewal is submitted to the Texas Commission on Environmental  
18 Quality on or after January 1, 2025.

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