

By: Wilson

H.B. No. 4959

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. USE OF STANDARD PERMIT FOR AGGREGATE PRODUCTION OPERATIONS AND CONCRETE BATCH PLANTS: PUBLIC HEARING OR MEETING. (a) This section applies only to a public 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

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 the use of a standard permit under this  
18 chapter for:

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 authorize the use of a standard  
24 permit for or renew a standard permit authorization for a facility  
25 unless the applicant indicates on the application that the  
26 applicant:

27 (1) has complied with the requirements of Subsection

1 (c); and

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

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

8 (1) install equipment to monitor noise levels from the  
9 facility:

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

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

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

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

23 (4) either:

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

27 (B) implement commission-approved methods of

1 water recirculation to ensure efficient use of groundwater for the  
2 facility;

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

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

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

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

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

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

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

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

25 (g) The person authorized to use a standard permit shall  
26 ensure that noise created by the permitted facility does not  
27 exceed:

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

3           (2) 65 decibels at the perimeter of a property that is:  
4                 (A) used as a residence; and  
5                 (B) located within 880 yards of the permitted  
6 facility.

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

15           (i) The commission is authorized to:

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

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

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

1 state to facilitate the construction or alteration.

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

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

16           SECTION 3. This Act takes effect January 1, 2024.