

AN ACT

relating to the permitting process for the construction of certain concrete plants.

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

SECTION 1. Section 382.05101, Health and Safety Code, is amended to read as follows:

Sec. 382.05101. DE MINIMIS AIR CONTAMINANTS. The commission may develop by rule the criteria to establish a de minimis level of air contaminants for facilities or groups of facilities below which a permit under Section 382.0518 or 382.0519, a standard permit under Section 382.05195 or 382.05198, or a permit by rule under Section 382.05196 is not required.

SECTION 2. Subsection (c), Section 382.0511, Health and Safety Code, is amended to read as follows:

(c) The commission may authorize changes in a federal source to proceed before the owner or operator obtains a federal operating permit or revisions to a federal operating permit if:

(1) the changes are de minimis under Section 382.05101; or

(2) the owner or operator:

(A) has obtained a preconstruction permit or permit amendment required by Section 382.0518; or

(B) is operating under:

(i) a standard permit under Section

1 382.05195 or 382.05198;

2 (ii) [~~7~~] a permit by rule under Section
3 382.05196;~~i~~[~~7~~] or

4 (iii) an exemption allowed under Section
5 382.057.

6 SECTION 3. Subchapter C, Chapter 382, Health and Safety
7 Code, is amended by adding Sections 382.05198 and 382.05199 to read
8 as follows:

9 Sec. 382.05198. STANDARD PERMIT FOR CERTAIN CONCRETE
10 PLANTS. (a) The commission shall issue a standard permit for a
11 permanent concrete plant that performs wet batching, dry batching,
12 or central mixing and that meets the following requirements:

13 (1) production records must be maintained on site
14 while the plant is in operation until the second anniversary of the
15 end of the period to which they relate;

16 (2) each cement or fly ash storage silo and weigh
17 hopper must be equipped with a fabric or cartridge filter or vented
18 to a fabric or cartridge filter system;

19 (3) each fabric or cartridge filter, fabric or
20 cartridge filter system, and suction shroud must be maintained and
21 operated properly with no tears or leaks;

22 (4) excluding the suction shroud filter system, each
23 filter system must be designed to meet a standard of at least 0.01
24 outlet grain loading as measured in grains per dry standard cubic
25 foot;

26 (5) each filter system and each mixer loading and
27 batch truck loading emissions control device must meet a

1 performance standard of no visible emissions exceeding 30 seconds
2 in a five-minute period as determined using United States
3 Environmental Protection Agency Test Method 22 as that method
4 existed on September 1, 2003;

5 (6) if a cement or fly ash silo is filled during
6 nondaylight hours, the silo filter system exhaust must be
7 sufficiently illuminated to enable a determination of compliance
8 with the performance standard described by Subdivision (5);

9 (7) the conveying system for the transfer of cement or
10 fly ash to and from each storage silo must be totally enclosed,
11 operate properly, and be maintained without any tears or leaks;

12 (8) except during cement or fly ash tanker connection
13 or disconnection, each conveying system for the transfer of cement
14 or fly ash must meet the performance standard described by
15 Subdivision (5);

16 (9) a warning device must be installed on each bulk
17 storage silo to alert the operator in sufficient time for the
18 operator to stop loading operations before the silo is filled to a
19 level that may adversely affect the pollution abatement equipment;

20 (10) if filling a silo results in failure of the
21 pollution abatement system or failure to meet the performance
22 standard described by Subdivision (5), the failure must be
23 documented and reported to the commission;

24 (11) each road, parking lot, or other area at the plant
25 site that is used by vehicles must be paved with a cohesive hard
26 surface that is properly maintained, cleaned, and watered so as to
27 minimize dust emissions;

1 (12) each stockpile must be sprinkled with water or
2 dust-suppressant chemicals or covered so as to minimize dust
3 emissions;

4 (13) material used in the batch that is spilled must be
5 immediately cleaned up and contained or dampened so as to minimize
6 dust emissions;

7 (14) production of concrete at the plant must not
8 exceed 300 cubic yards per hour;

9 (15) a suction shroud or other pickup device must be
10 installed at the batch drop point or, in the case of a central mix
11 plant, at the drum feed and vented to a fabric or cartridge filter
12 system with a minimum capacity of 5,000 cubic feet per minute of
13 air;

14 (16) the bag filter and capture system must be
15 properly designed to accommodate the increased flow from the
16 suction shroud and achieve a control efficiency of at least 99.5
17 percent;

18 (17) the suction shroud baghouse exhaust must be
19 located more than 100 feet from any property line;

20 (18) stationary equipment, stockpiles, and vehicles
21 used at the plant, except for incidental traffic and vehicles as
22 they enter and exit the site, must be located or operated more than
23 100 feet from any property line; and

24 (19) the central baghouse must be located at least 440
25 yards from any building used as a single or multifamily residence,
26 school, or place of worship at the time the application to use the
27 permit is filed with the commission if the plant is located in an

1 area that is not subject to municipal zoning regulation.

2 (b) Notwithstanding Subsection (a)(18), the commission
3 shall issue a standard permit for a permanent concrete plant that
4 performs wet batching, dry batching, or central mixing and does not
5 meet the requirements of that subdivision if the plant meets the
6 other requirements of Subsection (a) and:

7 (1) each road, parking lot, and other traffic area
8 located within the distance of a property line provided by
9 Subsection (a)(18) is bordered by dust-suppressing fencing or
10 another barrier at least 12 feet high; and

11 (2) each stockpile located within the applicable
12 distance of a property line is contained within a three-walled
13 bunker that extends at least two feet above the top of the
14 stockpile.

15 Sec. 382.05199. STANDARD PERMIT FOR CERTAIN CONCRETE BATCH
16 PLANTS: NOTICE AND HEARING. (a) A person may not begin
17 construction of a permanent concrete plant that performs wet
18 batching, dry batching, or central mixing under a standard permit
19 issued under Section 382.05198 unless the commission authorizes the
20 person to use the permit as provided by this section. The notice
21 and hearing requirements of Subsections (b)-(g) apply only to an
22 applicant for authorization to use a standard permit issued under
23 Section 382.05198. An applicant for a permit for a concrete plant
24 that does not meet the requirements of a standard permit issued
25 under Section 382.05198 must comply with:

26 (1) Section 382.058 to obtain authorization to use a
27 standard permit issued under Section 382.05195 or a permit by rule

1 adopted under Section 382.05196; or

2 (2) Section 382.056 to obtain a permit issued under
3 Section 382.0518.

4 (b) An applicant for an authorization to use a standard
5 permit under Section 382.05198 must publish notice under this
6 section not later than the earlier of:

7 (1) the 30th day after the date the applicant receives
8 written notice from the executive director that the application is
9 technically complete; or

10 (2) the 75th day after the date the executive director
11 receives the application.

12 (c) The applicant must publish notice at least once in a
13 newspaper of general circulation in the municipality in which the
14 plant is proposed to be located or in the municipality nearest to
15 the proposed location of the plant. If the elementary or middle
16 school nearest to the proposed plant provides a bilingual education
17 program as required by Subchapter B, Chapter 29, Education Code,
18 the applicant must also publish the notice at least once in an
19 additional publication of general circulation in the municipality
20 or county in which the plant is proposed to be located that is
21 published in the language taught in the bilingual education
22 program. This requirement is waived if such a publication does not
23 exist or if the publisher refuses to publish the notice.

24 (d) The notice must include:

25 (1) a brief description of the proposed location and
26 nature of the proposed plant;

27 (2) a description, including a telephone number, of

1 the manner in which the executive director may be contacted for
2 further information;

3 (3) a description, including a telephone number, of
4 the manner in which the applicant may be contacted for further
5 information;

6 (4) the location and hours of operation of the
7 commission's regional office at which a copy of the application is
8 available for review and copying; and

9 (5) a brief description of the public comment process,
10 including the time and location of the public hearing, and the
11 mailing address and deadline for filing written comments.

12 (e) The public comment period begins on the first date
13 notice is published under Subsection (b) and extends to the close of
14 the public hearing.

15 (f) Section 382.056 of this code and Chapter 2001,
16 Government Code, do not apply to a public hearing held under this
17 section. A public hearing held under this section is not an
18 evidentiary proceeding. Any person may submit an oral or written
19 statement concerning the application at the public hearing. The
20 applicant may set reasonable limits on the time allowed for oral
21 statements at the public hearing.

22 (g) The applicant, in cooperation with the executive
23 director, must hold the public hearing not less than 30 days and not
24 more than 45 days after the first date notice is published under
25 Subsection (b). The public hearing must be held in the county in
26 which the plant is proposed to be located.

27 (h) Not later than the 35th day after the date the public

1 hearing is held, the executive director shall approve or deny the
2 application for authorization to use the standard permit. The
3 executive director shall base the decision on whether the
4 application meets the requirements of Section 382.05198. The
5 executive director shall consider all comments received during the
6 public comment period and at the public hearing in determining
7 whether to approve the application. If the executive director
8 denies the application, the executive director shall state the
9 reasons for the denial and any modifications to the application
10 that are necessary for the proposed plant to qualify for the
11 authorization.

12 (i) The executive director shall issue a written response to
13 any public comments received related to the issuance of an
14 authorization to use the standard permit at the same time as or as
15 soon as practicable after the executive director grants or denies
16 the application. Issuance of the response after the granting or
17 denial of the application does not affect the validity of the
18 executive director's decision to grant or deny the application.

19 The executive director shall:

20 (1) mail the response to each person who filed a
21 comment; and

22 (2) make the response available to the public.

23 SECTION 4. This Act takes effect September 1, 2003.

David Newburn
President of the Senate

Jim Cusick
Speaker of the House

I hereby certify that S.B. No. 1272 passed the Senate on April 25, 2003, by a viva-voce vote; May 31, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 31, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by a viva-voce vote.

Patsy Saw
Secretary of the Senate

I hereby certify that S.B. No. 1272 passed the House, with amendments, on May 25, 2003, by a non-record vote; May 31, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by a non-record vote.

Robert Haney
Chief Clerk of the House

Approved:

18 JUNE '03
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:30 PM O'CLOCK

Ann Shea
Secretary of State