

BILL ANALYSIS

Senate Research Center

S.B. 1134
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Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Commission on Environmental Quality (TCEQ), other state and local governmental entities, and private interests have been conducting, and plan to conduct additional, extensive air quality monitoring efforts to determine the real-world impacts of air emissions from increased oil and gas production in Texas. Because monitoring data is usually not available to TCEQ to use when it is developing permits by rule or standard permits for types of facilities in other industries, it is not clear whether TCEQ's current process would have allowed TCEQ to use the real-world, air quality monitoring data when it was developing the new permit by rule and standard permit for facilities at oil and gas production sites in the Barnett Shale area.

S.B. 1134 amends current law to provide that in promulgating any permit by rule or standard permit for oil and gas production facilities, TCEQ must conduct a regulatory analysis regarding costs and alternatives, give special consideration to the extensive air quality monitoring data that is available, utilize modeling that is consistent with the air quality monitoring data, and expressly allow TCEQ to consider whether requirements for permits by rule and standard permits should be developed that are tailored to different parts of the state. The requirements that would apply to promulgation of permits by rule and standard permits for oil and gas production facilities would also apply to permits by rule and standard permits for those types of facilities that are only related to planned maintenance, startup, and shutdown activities.

As proposed, S.B. 1134 amends current law relating to air permitting requirements for certain oil and gas facilities.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 382, Health and Safety Code, by adding Section 382.051961, as follows:

Sec. 382.051961. AUTHORIZATIONS RELATING TO CERTAIN OIL AND GAS FACILITIES. (a) Provides that this section applies to new facilities or modifications of existing facilities that belong to Standard Industrial Classification Codes 1311 (Crude Petroleum and Natural Gas), 1321 (Natural Gas Liquids), 4612 (Crude Petroleum Pipelines), 4613 (Refined Petroleum Pipelines), 4922 (Natural Gas Transmission), and 4923 (Natural Gas Transmission and Distribution).

(b) Prohibits the Texas Natural Resource Conservation Commission (TNRCC), notwithstanding other requirements of this chapter, from adopting a new permit by rule or a new standard permit, or amend an existing permit by rule or an

existing standard permit, that relates to facilities described in Subsection (a), unless TNRCC:

(1) conducts a regulatory analysis of a major environmental rule, as described in Section 2001.0225 (Regulatory Analysis of Major Environmental Rules), Government Code;

(2) finds that credible air quality monitoring data and the evaluations of such data indicate that the emissions limits or other requirements of the new permit by rule or standard permit or the amendments to an existing permit by rule or standard permit are necessary to protect public health and physical property;

(3) establishes emissions limits or other requirements based on the air quality monitoring data and evaluations identified in Subdivision (b)(2), and credible air quality monitoring that is not based on worst-case emissions or other worst-case modeling inputs unless the actual air quality monitoring data and evaluation identified in Subdivision (b)(2) indicate that the worst-case emissions or worst-case modeling inputs yield modeling results that are reflective of the actual air quality monitoring data and evaluation; and

(4) considers whether the applicability of the new permit by rule or standard permit, or amendments to the existing permit by rule or standard permit, should be limited to facilities that are located in one or more certain geographic regions of the state.

SECTION 2. Amends Chapter 382, Health and Safety Code, by adding Section 382.051962, as follows:

Sec. 382.051962. AUTHORIZATION FOR PLANNED MAINTENANCE, STARTUP, OR SHUTDOWN ACTIVITIES RELATING TO CERTAIN OIL AND GAS FACILITIES. (a) Defines, in this subsection, "planned maintenance, startup, or shutdown activity."

(b) Authorizes TNRCC, for facilities that belong to a Standard Industrial Classification Code that is identified in Section 382.051961(a), to adopt one or more permits by rule and one or more standard permits, or amend one or more existing permits by rule or standard permits, to authorize planned maintenance, startup or shutdown activities from such facilities. Requires TNRCC, if TNRCC adopts or amends a permit by rule or standard permit under this Section, to meet the requirements of Section 382.051961(b).

SECTION 3. (a) Provides that Sections 382.051961 and 382.051962, Health and Safety Code, as added by this Act, apply only to a new permit by rule or a new standard permit, or any amendment to an existing permit by rule or amendment to an existing standard permit, that is adopted by TNRCC after the effective date of this Act.

(b) Provides that a permit by rule or standard permit that has been adopted by TNRCC and is in effect on the effective date of this Act is not subject to Sections 382.051691 and 382.051962, Health and Safety Code, as added by this Act.

SECTION 4: Effective date: upon passage or September 1, 2011.