

SUBJECT: Criteria for granting air emissions permits for shipyards

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 5 ayes — Chisum, Kuempel, Bosse, Geren, Howard
1 nay — Zbranek
3 absent — Bonnen, Uher, Dukes

WITNESSES: For — Jack Holmes, First Wave Marine
Against — George Smith, Sierra Club, Lone Star Chapter

BACKGROUND: The U.S. Environmental Protection Agency (EPA) has established national ambient air quality standards (NAAQS) under the federal Clean Air Act to regulate six pollutants known as criteria pollutants. EPA authorizes the Texas Natural Resource Conservation Commission (TNRCC) to regulate emissions by granting permits for new or modified operations under Health and Safety Code, chapter 382. Before granting a permit, TNRCC tests for noncriteria ambient pollutants in a manner determined by the executive director.

Shipyards often conduct abrasive blasting and painting operations. Most are located either immediately next to or directly over water bodies. As testing is prescribed by TNRCC, a shipyard in compliance with NAAQS requirements for criteria pollutants may not be in compliance with TNRCC's noncriteria pollutant testing standards and thus may be unable to obtain a permit.

Before 1997, TNRCC evaluated air emissions at the nearest point of land, rather than over water, and issued air permits to shipyards to authorize blasting and painting operations. These permits typically required use of low-silica blast grit and installation of shrouds to reduce the volume of grit and paint emissions leaving work areas. In 1997, after a review of air permitting procedures, TNRCC began evaluating shipyard emissions over water. The commission read requirements for measuring air emissions at the

edge of the property to include water, which often is immediately adjacent to the work area.

DIGEST:

CSHB 3040 would prohibit TNRCC, in determining whether to issue a permit or in reviewing a permit for a shipyard, from requiring or considering air-dispersion modeling results predicting ambient concentrations of noncriteria pollutants over coastal waters. TNRCC would have to determine compliance with noncriteria pollution standards and guidelines according to land-based off-property concentrations of air contaminants. The bill would define a shipyard as a shipbuilding or ship repair operation.

The bill would not limit TNRCC's authority to take an enforcement action in response to nuisance condition.

This bill would take effect on September 1, 2001, and would apply to a permit or authorization issued, or an application for such a permit filed, on, before, or after that date.

SUPPORTERS
SAY:

CSHB 3040 would enable shipyards in Texas to install current pollution-reduction equipment, which is not possible under existing law. Many shipyard facilities are "grandfathered" and not required to obtain permits unless they make major modifications to their operations. Since installation of cleaner pollution-control technology would be a major modification, a shipyard installing such technology would have to obtain a permit. Because TNRCC's current policy of evaluating air emissions over water has made it virtually impossible for shipyards to obtain air permits, they cannot change their existing operations.

Many shipyards would like to change from using low-silica blasting grit to using copper slag, cold slag, or specular hematite in blasting operations, all of which would reduce particulate emissions. This bill would allow shipyards to obtain air permits as long as they met all federal requirements and emissions were acceptable at the nearest land off the property.

CSHB 3040 would not affect water quality. TNRCC still could monitor water quality and require shipyard facilities to comply with all applicable water-quality laws. TNRCC still could require shipyard facilities to make changes in their operations to comply with water-quality standards.

OPPONENTS
SAY:

Not allowing TNRCC to take into account air emissions over water when issuing air permits would be a step backward in containing potentially harmful pollution. Air pollution affects water quality. People often eat fish that have been caught in water that could be affected by air emissions from shipyard facilities.

Making it easier to get an air permit would not necessarily encourage grandfathered facilities to implement cleaner pollution-control technology. CSHB 3040 likely would have the same lack of result as the voluntary permitting scheme adopted by the 76th Legislature.

NOTES:

The committee substitute would require TNRCC to determine a shipyard's compliance with noncriteria ambient air pollutant standards according to land-based off-property concentrations of air contaminants. The bill as filed would have required TNRCC to make this determination at the nearest land-based permanent occupied structure.

The substitute removed the phrase "located over or adjacent to waters of this state" from the definition of shipyard. It also would specify that TNRCC could not consider models predicting ambient concentrations of noncriteria pollutants over coastal waters.