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TLG CLIENT BULLETIN

SPECIAL EDITION

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"Grandfathered" Air Pollution Sources may require a permit

Texas House Bill under consideration

By **THE LION GROUP** *Regulatory Consultants* and
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Background — The term "grandfathered" is a common term used in environmental regulations and standards. The term normally defines a situation that existed before the implementation of a new standard or requirement.

An example would be an older manufacturing process that has air emissions. A new regulation comes into effect that applies to the process air emission. Because the process was in place before to the new regulation, it would be considered grandfathered.

Grandfathered facilities are sources of air pollution that were operating before the Texas New Source Review permitting program. These facilities were traditionally exempted from the applicable permitting program(s).

According to a survey conducted in 1998, grandfathered facilities accounted for approximately thirty-six percent of the air pollution from industrial plants in Texas.

Some proposed changes are being considered by the current Texas legislature. If the changes are enacted, there will be a number of businesses, and their respective suppliers, which will be significantly impacted.

Texas House Bill

All grandfathered air pollution sources may have to apply for an operational permit from the Texas

Natural Resource Conservation Commission (TNRCC) by September 1, 2001, or shut down if the House Bill (HB356) becomes law. The HB356 is under consideration by the 77th session of the Texas legislature. The bill removes an exemption in the Texas Clean Air Act (TCAA) that allows existing air pollution sources to operate without a permit if their construction or most recent modification was undertaken before September 1, 1971.

On January 30, 2001, this bill was referred to the House Committee on Environmental Regulation. Businesses who are dependent on grandfathered operations should become aware of this potential legislation, and proactively explore the possibility of a Voluntary Emissions Reduction Permit (VERP).

Remember that the September 1, 2001 is the deadline for a VERP, regardless of this new potential legislative action. The advantage of this type of VERP is that the requirements are less stringent than other types of air permits in the State of Texas.

TLG Opinion / Comment

Businesses should review and inventory all air emission sources at their Texas operations, and ensure there are no unknown challenges. Additionally, critical material suppliers / vendors, who are located in Texas, should be reviewed to ensure there are no material / supply interruptions. There are a number of critical factors to be

considered in every emissions inventory, and businesses should inquire as to these variations.

Supply Chain Managers should be informed of this potential Texas legislation that can potentially interrupt material availability and flow. There are a number of methods available for documenting supplier status relative to environmental regulations.

THE LION GROUP *Regulatory Consultants* and THE PILOT GROUP INCORPORATED have extensive experience in addressing air-permitting challenges in Texas, as well as globally.

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