

By: Deshotel

H.B. No. 170

A BILL TO BE ENTITLED

1 AN ACT

2 relating to supplemental environmental projects in local
3 communities and site-specific air quality monitoring for certain
4 facilities.

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

6 SECTION 1. Section 7.067, Water Code, is amended by
7 amending Subsection (b) and adding Subsections (c)-(j) to read as
8 follows:

9 (b) In this section, "supplemental environmental project"
10 means a project that prevents pollution, reduces the amount of
11 pollutants reaching the environment, provides for site-specific
12 air quality monitoring, enhances the quality of the environment,
13 improves the health of individuals in the affected community, or
14 contributes to public awareness of environmental matters.

15 (c) For each supplemental environmental project the
16 commission shall appoint a committee to assist in:

- 17 (1) defining the project's goals, scope, and duration;
18 (2) planning a budget for the project; and
19 (3) developing and implementing the project.

20 (d) The commission shall appoint members of the committee as
21 follows:

- 22 (1) a representative of the commission to serve as the
23 presiding officer of the committee;
24 (2) a representative of the respondent;

1 (3) a public health official from the affected
2 community or, if a public health official is not available, a person
3 trained in a health profession; and

4 (4) four members of the affected community who express
5 interest in working on the committee.

6 (e) A committee may not recommend a supplemental
7 environmental project to the commission unless a majority of the
8 committee votes in favor of the project. The commission may not
9 approve a supplemental environmental project until the committee
10 provides to the commission an initial budget for the project and the
11 definition of goals, scope, and duration.

12 (f) The committee shall establish an implementation plan
13 and a timetable for the project and shall report on the progress of
14 the project to the executive director every six months after the
15 project is defined until the project is completed or terminated.

16 (g) The respondent shall pay all expenses incurred in the
17 definition, planning, development, and implementation of a
18 supplemental environmental project unless the commission and the
19 committee approve another method of paying the expenses.

20 (h) A member of the committee may not receive compensation
21 for service on the committee but is entitled to reimbursement for
22 reasonable expenses incurred by the member while conducting the
23 business of the committee as provided in the General Appropriations
24 Act.

25 (i) The commission shall impose an administrative penalty
26 for excessive emissions events under Section 382.0216, Health and
27 Safety Code, and half of the penalty shall be applied to a

1 supplemental environmental project in the community affected by the
2 excessive emissions. The commission shall require that the
3 respondent participate in a supplemental environmental project
4 under this section for a violation of Section 382.0216, Health and
5 Safety Code.

6 (j) The commission shall report to the governor, the
7 lieutenant governor, the speaker of the house, and the chair of each
8 committee of the legislature with primary responsibility over the
9 commission on the status and progress of all supplemental
10 environmental projects not later than December 31 of each
11 even-numbered year.

12 SECTION 2. Sections 382.0216(b), (c), and (d), Health and
13 Safety Code, are amended to read as follows:

14 (b) The commission, in conjunction with its regional
15 offices and the appropriate regional office of the United States
16 Environmental Protection Agency, shall establish quantified
17 industry- and region-specific criteria for determining when
18 emissions events are excessive. The criteria must include
19 consideration of:

- 20 (1) the frequency of the facility's emissions events;
21 (2) the cause of the emissions event;
22 (3) the quantity and impact on human health or the
23 environment of the emissions event;
24 (4) the duration of the emissions event;
25 (5) the percentage of a facility's total annual
26 operating hours during which emissions events occur; and
27 (6) the need for startup, shutdown, and maintenance

1 activities.

2 (c) The commission shall require a facility to take action
3 to reduce emissions from excessive emissions events. Consistent
4 with commission rules, a facility required to take action under
5 this subsection must participate in a supplemental environmental
6 project under Section 7.067, Water Code, and either file a
7 corrective action plan or file a letter of intent to obtain
8 authorization for emissions from the excessive emissions events,
9 provided that the emissions are sufficiently frequent,
10 quantifiable, and predictable. If the intended authorization is a
11 permit, a permit application shall be filed within 120 days of the
12 filing of the letter of intent. If the intended authorization is a
13 permit by rule or standard exemption, the authorization must be
14 obtained within 120 days of the filing of the letter of intent. If
15 the commission denies the requested authorization, within 45 days
16 of receiving notice of the commission's denial, the facility shall
17 file a corrective action plan to reduce emissions from the
18 excessive emissions events.

19 (d) A corrective action plan filed under Subsection (c) must
20 identify the cause or causes of each emissions event, specify the
21 control devices or other measures that are reasonably designed to
22 prevent or minimize similar emissions events in the future, and
23 specify a time within which the corrective action plan will be
24 implemented. A corrective action plan must include the
25 installation of site-specific air monitoring devices at the
26 facility. A corrective action plan must be approved by the
27 commission. A corrective action plan shall be deemed approved 45

1 days after filing, if the commission has not disapproved the plan;
2 however, an owner or operator may request affirmative commission
3 approval, in which case the commission must take final written
4 action to approve or disapprove the plan within 120 days. An
5 approved corrective action plan shall be made available to the
6 public by the commission, except to the extent information in the
7 plan is confidential information protected under Chapter 552,
8 Government Code. The commission shall establish reasonable
9 schedules for the implementation of corrective action plans and
10 procedures for revision of a corrective action plan if the
11 commission finds the plan, after implementation begins, to be
12 inadequate to meet the goal of preventing or minimizing emissions
13 and emissions events. The implementation schedule shall be
14 enforceable by the commission.

15 SECTION 3. Not later than December 1, 2003, the Texas
16 Commission on Environmental Quality shall adopt rules, including
17 the quantified criteria for determining excessive emissions events
18 under Section 382.0216(b), Health and Safety Code, as amended by
19 this Act, necessary to implement this Act.

20 SECTION 4. This Act takes effect September 1, 2003, and
21 applies only to:

22 (1) an excessive emissions event under Section
23 382.0216, Health and Safety Code, as amended by this Act, that
24 occurs on or after that date; or

25 (2) an administrative penalty imposed on a person for
26 any other violation of Chapter 382, Health and Safety Code, that
27 occurs on or after that date.