

By: Bonnen

H.B. No. 1253

A BILL TO BE ENTITLED

1 AN ACT

2 relating to minimum periods specified for NOx allocation allowance
3 adjustments and incorporation of the federal clean air interstate
4 rule and clean air mercury rule.

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

6 SECTION 1. Section 382.0173(b), Health and Safety Code, is
7 amended to read as follows:

8 (b) The commission may require emissions reductions in
9 conjunction with implementation of the rules adopted under
10 Subsection (a) only for electric generating units. The commission
11 shall make permanent allocations that are reflective of the
12 allocation requirements of 40 C.F.R. Subparts AA through HH and
13 Subparts AAA through HHH of Part 96 and 40 C.F.R. Subpart HHHH of
14 Part 60, as applicable, at no cost to units as defined in 40 C.F.R.
15 Section 51.123 and 60.4102 using the United States Environmental
16 Protection Agency's allocation method as specified by Section
17 60.4142(a)(1)(i), [~~as issued by that agency on May 12, 2005,~~] or 40
18 C.F.R. Section 96.142(a)(1)(i), [~~as issued by that agency on May~~
19 ~~18, 2005,~~] as applicable with the exception of nitrogen oxides
20 which shall be allocated according to the additional requirements
21 of Subsection (c). The commission shall maintain a special reserve
22 of allocations for new units commencing operation on or after
23 January 1, 2001, as defined by 40 C.F.R. Subparts AA through HH and
24 Subparts AAA through HHH of Part 96 and 40 C.F.R. Subpart HHHH of

1 Part 60, as applicable with the exception of nitrogen oxides which
2 shall be allocated according to the additional requirements of
3 Subsection (c).

4 SECTION 2. Section 382.0173(c)(3), Health and Safety Code,
5 is amended to read as follows:

6 (c) Additional requirements regarding NOx allocations:

7 (3) Before the allocation date specified by EPA for
8 the control period beginning January 1, 2018 [~~2016~~], and every five
9 years thereafter, the commission shall adjust the baseline for all
10 affected units using the average of the three highest amounts of the
11 unit's adjusted control period heat input for periods one through
12 five of the preceding nine [~~seven~~] control periods, with the
13 adjusted control period heat input for each year calculated as
14 follows:

15 (A) for units commencing operation before
16 January 1, 2001:

17 (i) if the unit is coal-fired during the
18 year, the unit's control period heat input for such year is
19 multiplied by 90 percent;

20 (ii) if the unit is natural gas-fired
21 during the year, the unit's control period heat input for such year
22 is multiplied by 50 percent; and

23 (iii) if the fossil fuel fired unit is not
24 subject to Subdivision (3)(A)(i) or (3)(A)(ii) of this
25 subparagraph, the unit's control period heat input for such year is
26 multiplied by 30 percent.

27 (B) for units commencing operation on or after

1 January 1, 2001, in accordance with the formulas set forth by USEPA
2 in 40 C.F.R. 96.142 with any corrections to this section that may be
3 issued by USEPA prior to the allocation date.

4 SECTION 3. Section 382.0173(e), Health and Safety Code, is
5 amended to read as follows:

6 (e) In adopting rules under Subsection (a), the commission
7 shall incorporate any modifications to the federal rules cited in
8 this section that result from a request for rehearing regarding
9 those rules that is filed with the United States Environmental
10 Protection Agency or from a petition for review of those rules that
11 is filed with a court~~[-]~~, or from final rule making action of the
12 United States Environmental Protection Agency.

13 SECTION 4. EFFECTIVE DATE. This Act takes effect
14 immediately if it receives a vote of two-thirds of all the members
15 elected to each house, as provided by Section 39, Article III, Texas
16 Constitution. If this Act does not receive the vote necessary for
17 immediate effect, this Act takes effect September 1, 2007.