

By: Noriega

H.B. No. 3156

A BILL TO BE ENTITLED

AN ACT

relating to an air pollutant watch list to aid in controlling the emissions of air contaminants under the Texas Clean Air Act.

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

SECTION 1. Section 382.0205, Health and Safety Code, is amended to read as follows:

Sec. 382.0205. SPECIAL PROBLEMS RELATED TO AIR CONTAMINANT EMISSIONS. Consistent with applicable federal law, the commission by rule may control air contaminants as necessary to protect against adverse effects related to:

(1) acid deposition;

(2) stratospheric changes, including depletion of ozone; ~~and~~

(3) climatic changes, including global warming; and

(4) air pollution.

SECTION 2. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0206 to read as follows:

Sec. 382.0206. AIR POLLUTANT WATCH LIST. (a) The commission shall establish and maintain an air pollutant watch list. The air pollutant watch list must identify:

(1) each air contaminant that the commission determines, on the basis of federal or state ambient air quality standards or effects screening levels for the contaminant, should be included on the air pollutant watch list; and

1 (2) each geographic area of the state for which
2 ambient air quality monitoring data indicates that the individual
3 or cumulative emissions of one or more air contaminants identified
4 by the commission under Subdivision (1) may cause short-term or
5 long-term adverse human health effects or odors in that area.

6 (b) The commission shall publish notice of and allow public
7 comment on:

8 (1) an addition of an air contaminant to or removal of
9 an air contaminant from the air pollutant watch list; or

10 (2) an addition of an area to or removal of an area
11 from the air pollutant watch list.

12 SECTION 3. Section 382.051(b), Health and Safety Code, is
13 amended to read as follows:

14 (b) To assist in fulfilling its authorization provided by
15 Subsection (a), the commission may issue:

16 (1) special permits for certain facilities;

17 (2) a general permit for numerous similar sources
18 subject to Section 382.054;

19 (3) a standard permit for similar facilities;

20 (4) a permit by rule for types of facilities that:

21 (A) will not significantly contribute air
22 contaminants to the atmosphere; and

23 (B) are not located in a geographic area included
24 on the air pollutant watch list under Section 382.0206;

25 (5) a single federal operating permit or
26 preconstruction permit for multiple federal sources or facilities
27 located at the same site;

1 (6) a multiple plant permit for existing facilities at
2 multiple locations subject to Section 382.0518 or 382.0519;

3 (7) an existing facility permit or existing facility
4 flexible permit under Section 382.05183;

5 (8) a small business stationary source permit under
6 Section 382.05184;

7 (9) an electric generating facility permit under
8 Section 382.05185 of this code and Section 39.264, Utilities Code;

9 (10) a pipeline facilities permit under Section
10 382.05186; or

11 (11) other permits as necessary.

12 SECTION 4. Section 382.0511, Health and Safety Code, is
13 amended by adding Subsection (f) to read as follows:

14 (f) This subsection applies only to the permit for a
15 facility or federal source that is located in a geographic area
16 included on the commission's air pollutant watch list under Section
17 382.0206 and that emits an air contaminant that contributes to the
18 area's inclusion on the list. When a permit to which this
19 subsection applies is reopened for consideration of an amendment
20 under this section, the permit is considered reopened with respect
21 to any provision of the permit affecting the emission of an air
22 contaminant that contributes to the area's inclusion on the air
23 pollutant watch list from any facility or federal source authorized
24 by the permit.

25 SECTION 5. Section 382.055, Health and Safety Code, is
26 amended by amending Subsections (d) and (e) and adding Subsections
27 (e-1) and (e-2) to read as follows:

1 (d) In determining whether and under which conditions a
2 preconstruction permit should be renewed, the commission shall
3 consider, at a minimum:

4 (1) the performance of the owner or operator of the
5 facility according to the method developed by the commission under
6 Section 5.754, Water Code; ~~and~~

7 (2) the condition and effectiveness of existing
8 emission control equipment and practices; and

9 (3) whether the facility is located in a geographic
10 area included on the commission's air pollutant watch list under
11 Section 382.0206, if the facility emits an air contaminant that
12 contributes to the area's inclusion on the list.

13 (e) The commission shall impose as a condition for renewal
14 of a preconstruction permit only those requirements the commission
15 determines to be economically reasonable and technically
16 practicable considering the age of the facility and the effect of
17 its emissions on the surrounding area.

18 (e-1) The commission may ~~not~~ impose requirements more
19 stringent than those of the existing permit if ~~unless~~ the
20 commission determines that the requirements are necessary to:

21 (1) avoid a condition of air pollution;

22 (2) ~~or to~~ ensure compliance with otherwise
23 applicable federal or state air quality control requirements; or

24 (3) address the emission of air contaminants in a
25 geographic area listed on the air pollutant watch list under
26 Section 382.0206, if the facility is located in that geographic
27 area and emits air contaminants that contribute to the area's

1 inclusion on the list.

2 (e-2) The commission may not impose requirements less
3 stringent than those of the existing permit unless the commission
4 determines that a proposed change will meet the requirements of
5 Sections 382.0518 and 382.0541.

6 SECTION 6. The change in law made by this Act applies only
7 to an application for a permit, permit amendment, or permit renewal
8 that is submitted to the Texas Commission on Environmental Quality
9 on or after the effective date of this Act. An application for a
10 permit, permit amendment, or permit renewal that is submitted to
11 the Texas Commission on Environmental Quality before the effective
12 date of this Act is governed by the law in effect at the time the
13 application was filed, and the former law is continued in effect for
14 that purpose.

15 SECTION 7. This Act takes effect September 1, 2007.