

By: Howard of Travis

H.B. No. 3229

A BILL TO BE ENTITLED

AN ACT

relating to permitting procedures of the Texas Commission on Environmental Quality for control of air pollution.

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

SECTION 1. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (3-a), (4-a), (8-a), and (11-a) to read as follows:

(3-a) "Best available control technology" means an emissions limitation as defined by 40 C.F.R. Section 52.21(b)(12), as of September 1, 2007.

(4-a) "Criteria air pollutant" means one of the following air contaminants for which the United States Environmental Protection Agency sets national ambient air quality standards: ozone, carbon monoxide, particulate matter, sulfur dioxide, lead, and nitrogen dioxide.

(8-a) "Lowest achievable emission rate" means an emissions limitation as defined by 40 C.F.R. Section 51.165(a)(1)(xiii), as of September 1, 2007.

(11-a) "Significant source" means a source, including an electric power plant, with the potential to emit a pollutant at a rate that equals or exceeds the rate provided by 40 C.F.R. Section 51.166(b)(23) for the pollutant.

SECTION 2. Section 382.051, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

1 (e) The commission shall track and publicly post on its
2 Internet site a list of the emissions limitations for criteria air
3 pollutants, mercury, and sulfuric acid mists that have been
4 represented as being the best available control technology or
5 lowest achievable emission rate in the 10 permit applications most
6 recently determined by the commission to be administratively
7 complete or among permits issued nationwide. The list must be
8 organized by industry category and by type of fuel. The list shall
9 include for each entry a description of the processes and
10 technologies used to attain best available control technology or
11 lowest achievable emission rate limitations. The commission shall
12 update the list at least semiannually.

13 SECTION 3. Subchapter C, Chapter 382, Health and Safety
14 Code, is amended by adding Sections 382.05102 and 382.05141 to read
15 as follows:

16 Sec. 382.05102. CONSIDERATION OF MOST RECENTLY PROVEN
17 TECHNOLOGIES. In a commission proceeding to issue or amend a permit
18 under this chapter, the commission shall consider the emissions
19 limitations listed in accordance with Section 382.051(e) in
20 determining whether the permit complies with the federal best
21 available control technology or lowest achievable emission rate
22 requirements. The commission may require as a condition of the
23 permit a specific process to achieve best available control
24 technology or lowest achievable emission rate requirements.

25 Sec. 382.05141. OZONE ANALYSIS. (a) Before granting a
26 permit or permit amendment under this subchapter for a significant
27 source, the commission shall conduct or obtain and consider an

1 impacts analysis, using photochemical grid modeling consistent
2 with the United States Environmental Protection Agency's modeling
3 protocol, of the facility's or proposed facility's effects on
4 concentrations of ground-level ozone in areas downwind from the
5 location of the facility or proposed facility under typical high
6 ground-level ozone conditions for the downwind area.

7 (b) The photochemical grid modeling impacts analysis must
8 include an area at least 250 kilometers from the significant source
9 being considered for the permit or permit amendment.

10 (c) The commission shall:

11 (1) make the results of the impacts analysis available
12 for public comment; and

13 (2) consider and reply to the public comments received
14 before the commission grants a permit or permit amendment.

15 SECTION 4. Section 382.0518, Health and Safety Code, is
16 amended by adding Subsection (b-1) to read as follows:

17 (b-1) In making its finding under Subsection (b)(2) as to
18 whether emissions from a facility or proposed facility that is a
19 significant source will contravene the intent of this chapter, the
20 commission shall analyze and consider the effects on the health and
21 physical property of this state's residents from the facility's
22 expected air contaminant emissions and the cumulative effects of
23 the facility's expected emissions considered together with those of
24 other facilities in this state that have been issued a permit by the
25 Commission but which are not yet operational. The cumulative
26 effects analysis must include, at a minimum, the impacts analysis
27 conducted or obtained under Section 382.05141.

1 SECTION 5. Subchapter C, Chapter 382, Health and Safety
2 Code, is amended by adding Section 382.051801 to read as follows:

3 Sec. 382.051801. ADDITIONAL PERMIT REQUIREMENT FOR CERTAIN
4 NEW SIGNIFICANT SOURCES. (a) In this section, "attainment area"
5 and "nonattainment area" respectively, mean areas so designated
6 under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
7 7407).

8 (b) To obtain a permit under this subchapter, a new or
9 modified significant source located in an attainment area must meet
10 the emissions limitations and other requirements of a nonattainment
11 area, if the source will cause or contribute to air pollution levels
12 in excess of any national ambient air quality standard in any air
13 quality control region in this state as identified by the United
14 States Environmental Protection Agency.

15 SECTION 6. Section 382.055(d), Health and Safety Code, is
16 amended to read as follows:

17 (d) In determining whether and under which conditions a
18 preconstruction permit should be renewed, the commission shall
19 analyze and consider, at a minimum:

20 (1) the performance of the owner or operator of the
21 facility according to the method developed by the commission under
22 Section 5.754, Water Code; [~~and~~]

23 (2) the condition and effectiveness of existing
24 emission control equipment and practices; and

25 (3) if the facility is a significant source, the
26 effects on the health and physical property of this state's
27 residents from the facility's expected air contaminant emissions

1 and the cumulative effects of the facility's expected emissions
2 considered together with those of other facilities in this state
3 that have been issued a permit by the commission but which are not
4 yet operational.

5 SECTION 7. The changes in law made by this Act to Chapter
6 382, Health and Safety Code, apply only to an application for the
7 issuance, amendment, or renewal of a permit under that chapter that
8 is pending before, or filed with, the Texas Commission on
9 Environmental Quality on or after January 1, 2007.

10 SECTION 8. This Act takes effect September 1, 2007.