

By: Vo

H.B. No. 1071

A BILL TO BE ENTITLED

1 AN ACT
2 relating to controlling the emissions of certain hazardous air
3 contaminants in identified areas of this state under the Texas
4 Clean Air Act.

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

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

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

- 12 (1) acid deposition;
- 13 (2) stratospheric changes, including depletion of
14 ozone; ~~and~~
- 15 (3) climatic changes, including global warming; and
- 16 (4) the emission of a hazardous air pollutant listed
17 under Section 112 of the federal Clean Air Act (42 U.S.C. Section
18 7412).

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

21 Sec. 382.0206. AIR POLLUTANT WATCH LIST. (a) The
22 commission shall establish and maintain an air pollutant watch
23 list. The air pollutant watch list must identify the geographic
24 areas of the state in which the ambient air concentration levels of

1 one or more air contaminants may cause short-term or long-term
2 adverse human health effects or odors, as determined by the
3 commission based on modeling or monitoring.

4 (b) The commission shall publish notice of and allow public
5 comment on:

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

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

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

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

14 (1) special permits for certain facilities;

15 (2) a general permit for numerous similar sources
16 subject to Section 382.054;

17 (3) a standard permit for similar facilities;

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

19 (A) will not significantly contribute air
20 contaminants to the atmosphere; and

21 (B) are not located in a geographic area included
22 on the air pollutant watch list under Section 382.0206 and will not
23 emit an air contaminant the emission of which would contribute to
24 the area's inclusion on the list;

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;

9 (3) whether the emissions from the facility will
10 contravene the intent of this chapter, including the intent of this
11 chapter to protect public health and physical property; and

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

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

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

24 (1) avoid a condition of air pollution;

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

27 (3) protect public health in a geographic area

1 included on the commission's air pollutant watch list under Section
2 382.0206.

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

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

16 SECTION 7. This Act takes effect September 1, 2009.