

By: Olivo

H.B. No. 2122

A BILL TO BE ENTITLED

AN ACT

relating to the review of solid waste facility permits.

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

SECTION 1. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.0881 to read as follows:

Sec. 361.0881. PERMIT REVIEW. (a) Subject to Subsection (b), the commission shall review a permit issued under this chapter for a municipal solid waste facility if:

(1) the review is requested by:

(A) a state legislator representing the area in which the facility is located or an area located one mile or less from the facility; or

(B) a resolution of the commissioners court of the county in which the facility is located or of a county with territory located one mile or less from the facility; or

(2) the executive director finds that the permit holder's compliance history for the preceding five years contains violations that constitute a recurring pattern of conduct demonstrating a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations.

(b) The commission is not required to conduct a review under Subsection (a) more than once during a five-year period or within five years of the initial issuance of a permit.

1 (c) The commission by rule shall establish a review
2 procedure that includes:

3 (1) notice of the review and notice of the opportunity
4 for public comment:

5 (A) posted on the commission's Internet website;
6 and

7 (B) mailed to each person entitled to receive
8 notice of a permit application;

9 (2) a review of complaint records regarding the
10 facility received in the preceding five years to determine if there
11 is a pattern to the complaints, including a determination of:

12 (A) the number of complaints;

13 (B) the number of people lodging complaints; and

14 (C) the commission's evaluation of those
15 complaints;

16 (3) consultation with the commission enforcement
17 staff in the regional office responsible for overseeing the
18 facility;

19 (4) a review of all enforcement actions and notices of
20 violation by local and state agencies; and

21 (5) commission staff response to comments and a
22 commission decision regarding whether:

23 (A) the permit under review should be changed, as
24 required for permit applications and modifications; or

25 (B) the commission should take enforcement
26 action.

27 (d) This section does not apply to a permit:

- 1 (1) for an industrial solid waste facility; or
- 2 (2) for a land application unit under Section 361.121.

3 SECTION 2. Section 361.088(g), Health and Safety Code, is
4 repealed.

5 SECTION 3. This Act takes effect September 1, 2009.