

By: Gallegos

S.B. No. 173

A BILL TO BE ENTITLED

AN ACT

relating to monitoring air contaminant emissions from certain sources.

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

SECTION 1. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0161 and 382.0162 to read as follows:

Sec. 382.0161. MONITORING REQUIREMENTS FOR MAJOR SOURCES.

(a) In this section, "major source" has the meaning assigned by Section 501 of the federal Clean Air Act (42 U.S.C. Section 7661).

(b) In addition to other monitoring requirements under this chapter, the commission by rule shall require the owner or operator of a major source that is located in an air pollutant watch list area identified under Section 382.0162 to:

(1) provide for daily fence-line monitoring of air contaminant emissions from the major source; and

(2) make and maintain records on the measurement and monitoring of the emissions.

(c) In providing for the daily fence-line monitoring of air contaminant emissions as required by this section, the owner or operator of the major source must:

(1) provide for at least two monitors with each of the monitors placed on opposite sides of the source, one of which is located predominantly upwind and the other located predominantly

1 downwind;

2 (2) provide for a sufficient number of monitors so  
3 that the maximum distance measured along the fence line between  
4 each monitor is one-eighth of a mile; and

5 (3) place the monitors in such a way that the monitors  
6 are evenly spaced and are located where air contaminants have the  
7 highest concentration levels at the fence line of the emission  
8 source.

9 (d) The owner or operator of a major source shall designate  
10 an independent consultant approved by the commission to certify to  
11 the commission that the major source is in compliance with this  
12 section. A member, employee, or agent of the commission may examine  
13 during regular business hours the monitoring equipment or any  
14 records or memoranda relating to the monitoring equipment required  
15 under this section.

16 (e) The commission by rule shall require the owner or  
17 operator of a major source to submit for the executive director's  
18 approval a list of the air contaminant emissions that the owner or  
19 operator will monitor under this section. To be eligible for  
20 approval, the list must include:

21 (1) each hazardous air pollutant listed under Section  
22 112 of the federal Clean Air Act (42 U.S.C. Section 7412) that is  
23 applicable to the major source; and

24 (2) any other air contaminant the emission of which  
25 the executive director or a local municipal or county air pollution  
26 control agency requests that the owner or operator monitor.

27 (f) The commission may adopt rules allowing the owner or

1 operator of a major source to request an exemption from the  
2 fence-line monitoring requirements of this section. To be eligible  
3 for an exemption, the owner or operator must submit to the executive  
4 director for approval an alternative monitoring plan that  
5 demonstrates continuous or semi-continuous monitoring of each  
6 stack, vent, flare, cooling tower, or other device for which  
7 technologically feasible monitoring devices are available. The  
8 owner or operator shall review the plan at least once every five  
9 years to identify additional monitoring opportunities based on new  
10 technology and submit proposed changes to the executive director  
11 for approval.

12 Sec. 382.0162. AIR POLLUTANT WATCH LIST. (a) The  
13 commission shall establish and maintain an air pollutant watch  
14 list. The air pollutant watch list must identify:

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

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

24 (b) The commission shall publish notice of and allow public  
25 comment on:

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

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

3           (c) The commission may hold a public meeting in an area  
4 listed on the air pollutant watch list to provide residents of the  
5 area with information regarding:

6           (1) the reasons for the area's inclusion on the air  
7 pollutant watch list; and

8           (2) commission actions to reduce the emissions of air  
9 contaminants contributing to the area's inclusion on the air  
10 pollutant watch list.

11           (d) The air pollutant watch list and the addition or removal  
12 of a pollutant or area to or from the list are not matters subject to  
13 the procedural requirements of Subchapter B, Chapter 2001,  
14 Government Code.

15           SECTION 2. (a) Not later than September 1, 2010, the owner  
16 or operator of a major source must provide for the fence-line  
17 monitoring of air contaminant emissions as required by Section  
18 382.0161, Health and Safety Code, as added by this Act.

19           (b) Not later than January 1, 2010, the Texas Commission on  
20 Environmental Quality shall adopt rules as necessary to implement  
21 an air pollutant watch list area program under Section 382.0162,  
22 Health and Safety Code, as added by this Act.

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