

By: Gallegos

S.B. No. 456

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of toxic hotspots under the Texas Clean Air Act.

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

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

SUBCHAPTER J. TOXIC HOTSPOT PILOT PROGRAM

Sec. 382.451. DEFINITIONS. In this subchapter:

(1) "Ambient air toxic standard" means the maximum allowable average ambient concentration of a priority toxic air contaminant as established under Section 382.454 or 382.459.

(2) "Priority toxic air contaminant" means an air contaminant listed under Section 382.453 or 382.459.

(3) "Toxic hotspot" means a geographic area in which modeled or monitored ambient air concentrations of one or more priority toxic air contaminants exceed ambient air toxic standards.

Sec. 382.452. DESIGNATION OF TOXIC HOTSPOTS. (a) The commission shall designate certain geographic areas in this state as toxic hotspots.

(b) The commission shall designate an area as a toxic hotspot if monitoring or modeling data indicate the area likely exceeds an ambient air toxic standard.

(c) In establishing the geographic boundaries of a toxic hotspot, the commission shall consider:

1 (1) the locations where people are exposed to ambient
2 concentrations likely exceeding ambient air toxic standards;

3 (2) the locations of dense populations and of
4 vulnerable populations, such as children and the elderly;

5 (3) the locations of emission sources of the relevant
6 priority toxic air contaminant; and

7 (4) the meteorology, geography, and topography of the
8 area.

9 Sec. 382.453. PRIORITY TOXIC AIR CONTAMINANTS. Not later
10 than December 31, 2009, the commission shall designate toxic
11 hotspots for the following priority toxic air contaminants:

12 (1) benzene;

13 (2) 1,3-butadiene;

14 (3) hydrogen sulfide; and

15 (4) nickel.

16 Sec. 382.454. AMBIENT AIR TOXIC STANDARDS. (a) The
17 commission shall establish ambient air toxic standards for each
18 priority toxic air contaminant at a level to ensure that:

19 (1) for carcinogens, the allowed average
20 concentration of the contaminant results in an increase in the
21 lifetime risk of cancer that is no greater than one in 100,000 for a
22 person most exposed to the contaminant; and

23 (2) there are no appreciable risks of non-cancer,
24 deleterious health effects.

25 (b) In toxic hotspots where the public is exposed to
26 multiple priority toxic air contaminants, the commission shall
27 consider cumulative impacts and shall lower the ambient air toxic

1 standards applicable in such hotspots as necessary to protect
2 public health.

3 Sec. 382.455. ACHIEVEMENT OF AMBIENT AIR TOXIC STANDARDS.

4 The commission shall take actions necessary to ensure that the
5 ambient air concentrations of priority toxic air contaminants in
6 toxic hotspots are below the ambient air toxic standards. Such
7 actions may include requiring the owner or operator of a facility:

8 (1) to reduce emissions of a priority toxic air
9 contaminant at an existing source, including requiring an
10 appropriate amendment to the owner's or operator's permit to reduce
11 the authorized emissions of the contaminant on permit renewal or at
12 any other time;

13 (2) if applying for commission approval to increase
14 emissions of a priority toxic air contaminant or to emit a new
15 priority toxic air contaminant, to offset the increased or new
16 emissions by reducing emissions from an existing source at the
17 facility in an amount that is greater than the proposed increase in
18 emissions;

19 (3) to establish specific controls and best management
20 practices to reduce the emission of a priority air contaminant; and

21 (4) to conduct enhanced monitoring for priority air
22 contaminants.

23 Sec. 382.456. SCHEDULE FOR ACHIEVING AMBIENT AIR TOXIC
24 STANDARDS. The commission shall ensure that the ambient air toxic
25 standards for priority toxic air contaminants are achieved in each
26 toxic hotspot before December 31, 2012.

27 Sec. 382.457. PUBLIC ACCESS AND COMMENT. (a) The commission

1 shall maintain on the commission's Internet website:

2 (1) a list of priority toxic air contaminants and
3 their associated ambient air toxic standards; and

4 (2) a list of all toxic hotspots in this state.

5 (b) The commission shall establish procedures for members
6 of the public to receive notice of and an opportunity to comment on
7 an action taken by the commission concerning:

8 (1) the designation of toxic hotspots for each
9 priority toxic air contaminant;

10 (2) the removal of an area's designation as a toxic
11 hotspot; and

12 (3) the establishment or amendment of ambient air
13 toxic standards for priority toxic air contaminants.

14 (c) The commission must provide a public comment period of
15 at least 30 days before the commission establishes or amends an
16 ambient air toxic standard. When the commission publishes notice of
17 a proposed amendment to a standard, justification for the amendment
18 must be included.

19 (d) The commission's Internet website must describe the
20 procedures that a member of the public may follow to receive notice,
21 provide comments, petition for designation of an area as a toxic
22 hotspot, or otherwise participate in the toxic hotspot pilot
23 program under this subchapter.

24 Sec. 382.458. REPORTS TO THE LEGISLATURE. The commission
25 shall include in its annual enforcement reports each year through
26 2012 information regarding its progress under the toxic hotspot
27 pilot program. The report shall include:

1 (1) a list of the hotspots designated for each
2 priority toxic air contaminant;

3 (2) the steps taken to attain the ambient air toxic
4 standards in each hotspot; and

5 (3) the progress made in attaining the standards.

6 Sec. 382.459. EXPANDED TOXIC HOTSPOT PROGRAM. (a) Not
7 later than December 31, 2012, the commission shall adopt rules
8 expanding the toxic hotspot pilot program.

9 (b) Rules under this section must include:

10 (1) procedures and a public process for listing
11 priority toxic air contaminants in addition to those listed in
12 Section 382.453, including:

13 (A) chromium VI;

14 (B) ethylene dibromide;

15 (C) acrylonitrile;

16 (D) acrolein;

17 (E) chlorine; and

18 (F) hexamethylene diisocyanate; and

19 (2) procedures and a public process for setting
20 ambient air toxic standards for priority toxic air contaminants at
21 levels that do not result in appreciable risks of deleterious
22 health effects.

23 (c) For each priority toxic air contaminant that is a
24 carcinogen, the commission shall establish an ambient air toxic
25 standard that ensures the allowed average concentration of the
26 contaminant results in an increase in the lifetime cancer risk that
27 is no greater than one in 100,000 for a person most exposed to the

1 contaminant.

2 (d) In toxic hotspots where the public is exposed to
3 multiple priority toxic air contaminants, the commission shall
4 consider cumulative impacts and shall lower the ambient air toxic
5 standards applicable in such hotspots as necessary to protect
6 public health.

7 (e) The rules under this section must also include:

8 (1) procedures and a public participation process for
9 designating as toxic hotspots areas that exceed one or more of the
10 ambient air toxic standards; and

11 (2) procedures and a public process for developing
12 plans, source-specific requirements, and deadlines for bringing
13 all toxic hotspots into compliance with applicable ambient air
14 toxic standards, including plans, requirements, and deadlines
15 involving:

16 (A) tightening emissions limits in existing
17 permits for priority toxic air contaminants;

18 (B) requiring offsets for new emissions of
19 priority toxic air contaminants at amounts greater than the amount
20 of new emissions to be emitted;

21 (C) requiring specific controls or best
22 management practices to reduce emissions of priority toxic air
23 contaminants; and

24 (D) requiring additional monitoring of priority
25 toxic air contaminants.

26 (f) The deadlines developed under Subsection (e)(2) shall
27 ensure that ambient air toxic standards are met in each hotspot as

1 soon as possible, and in all cases within three years of designation
2 as a hotspot.

3 SECTION 2. This Act takes effect September 1, 2009.