

By: Estes

S.B. No. 1404

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Commission on Environmental Quality,
emissions, state sovereignty and certain actions taken by the
United States Environmental Protection Agency.

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

SECTION 1. Subchapter D, Chapter 5, Water Code, is amended
by adding Section 5.136 to read as follows:

Sec. 5.136. NOTIFICATION BY COMMISSION. The commission
shall notify the governor, the lieutenant governor, and the speaker
of the house of representatives not later than the 10th day after
the date that the commission:

(1) learns that the United States Environmental
Protection Agency has initiated an enforcement action under the
federal Clean Air Act (42 U.S.C. Section 7401 et seq.) against the
state or has reason to believe that the agency will initiate an
enforcement action against the state under that Act;

(2) learns that a permit application under the federal
Clean Air Act (42 U.S.C. Section 7401 et seq.) for a facility
located in this state has been pending with the United States
Environmental Protection Agency for more than one year and the
commission has determined the facility, equipment and tangible
property has no emissions;

(3) learns that the United States Environmental
Protection Agency has proposed or adopted a rule or regulation

1 under the federal Clean Air Act (42 U.S.C. Section 7401 et seq.)
2 that adversely affects the state's sovereignty or economic
3 development or state determination of emissions levels or job
4 creation in this state;

5 (4) learns that the United States Environmental
6 Protection Agency is considering prohibiting a category of
7 emissions or imposing more stringent standards for a category of
8 emissions under the federal Clean Air Act (42 U.S.C. Section 7401 et
9 seq.);

10 (5) has a dispute with the United States Environmental
11 Protection Agency relating to the issuance of permits or proposed
12 or adopted rules or regulations relating to emissions; or

13 (6) learns that the United States Environmental
14 Protection Agency has objection to programs in Chapter 386, Texas
15 Emissions Reduction Plan.

16 Sec. 5.137. COMMISSION EMISSIONS DETERMINATION. The
17 commission determination that a facility, equipment or tangible
18 property has no emissions or that a no emissions event has occurred,
19 shall be considered conclusional. The commission decision shall be
20 defended by the state including any federal action.

21 SECTION 2. Subchapter B, Chapter 386, Health and Safety
22 Code, is amended by adding Section 386.059 to read as follows:

23 Sec. 386.059. DEFENSE OF TEXAS EMISSIONS REDUCTION PLAN.

24 (a) It is the intent of the Legislature that any Commission
25 decision under Chapter 386, Texas Emissions Reduction Plan, shall
26 be defended by the State, including against any federal actions.

27 SECTION 3. Subchapter D, Chapter 5, Water Code, is amended

1 by adding Section 5.1032 to read as follows:

2 Sec. 5.1032. ADOPTION OF ENVIRONMENTAL RULES. (a) In this
3 section:

4 (1) "Benefit" has the meaning assigned by Section
5 2001.0225, Government Code.

6 (2) "Cost" means a reasonably identifiable and
7 significant direct or indirect economic effect.

8 (3) "Environmental effect" means a reasonably
9 identifiable and quantifiable direct or indirect effect or outcome
10 affecting the environment, including air, soil, or water quality.

11 (4) "Environmental rule" means a rule the specific
12 intent of which is to protect the environment or reduce risks to
13 human health from environmental exposure by the control of
14 emissions or contaminants in the air, water, or soil. The term does
15 not include an emergency rule or a rule that provides only
16 procedural requirements.

17 (b) Before adopting an environmental rule, the commission
18 shall conduct a regulatory analysis that considers the cost and
19 environmental effects and benefits expected to result from
20 implementation of and compliance with the rule.

21 (c) The commission shall expedite any rule, in which the
22 commission staff has determined that a facility, equipment or
23 tangible property produces no emissions.

24 SECTION 4. This Act takes effect September 1, 2015.