

BILL ANALYSIS

Senate Research Center
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S.B. 1541
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Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Commission on Environmental Quality (TCEQ) establishes and maintains an air pollutant watch list (list) to identify areas in Texas where specific pollutants are measured at levels of concern. TCEQ also has a process in place for the development of effects screening levels, which are used to evaluate the potential for health effects to occur as a result of exposure to concentrations of constituents in the air. However, there is no statutory mandate that TCEQ fulfill these roles and obligations. Additionally, TCEQ maintains an emissions events database and is one of many agencies that receive notification of emergency releases under the federal Emergency Planning Community Right-to-Know Act.

As proposed, S.B. 1541 requires the TCEQ to establish and maintain an air pollutant watch list and to adopt guidelines for effects screening levels. S.B.1541 requires TCEQ to develop a more easily searchable and accessible online emissions events database. This bill also requires that notice be sent to the state senator or representative who represents the area in which the facility is located of a release if that release will substantially endanger human health or the environment.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 382, Health and Safety Code, by adding Sections 382.0162 and 382.042, as follows:

Sec. 382.0162. AIR POLLUTANT WATCH LIST. (a) Requires the Texas Natural Resource Conservation Commission (TNRCC) to establish and maintain an air pollutant watch list (list). Requires that the list identify:

(1) each air contaminant that TNRCC determines, on the basis of federal or state ambient air quality standards or effects screening levels for the contaminant, should be included on the list; and

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

(b) Requires TNRCC to publish notice of and allow public comment on an addition of an air contaminant to or removal of an air contaminant from the list or an addition of an area to or removal of an area from the list.

(c) Requires TNRCC, when considering the addition or removal of an area to the list, to provide the monitoring data related to the area to the state senator and representative who represent the area.

(d) Authorizes TNRCC to hold a public meeting in an area listed on the list to provide residents of the area with information regarding the reasons for the area's inclusion on the list and TNRCC actions to reduce the emissions of air contaminants contributing to the area's inclusion on the list.

(e) Provides that the list and the addition or removal of area to or from the list are not matters subject to the requirements of Subchapter B (Rulemaking), Chapter 2001 (Administrative Procedure), Government Code.

Sec. 386.042. EFFECTS SCREENING LEVELS. (a) Requires TNRCC to adopt guidelines for effects screening levels for air contaminants as determined by TNRCC. Requires that each effects screening level be set in a manner that takes into consideration acute and chronic health effects on a person resulting from exposure to an air contaminant; be based in part on the health effects of both the short-term and long-term exposure of a person to the air contaminant from an emission source; and be set at a level that does not increase the risk of cancer in a person exposed to the air contaminant by greater than one chance in 100,000 or another level set by TNRCC to protect human health and welfare when compared to a person not exposed to the contaminant.

(b) Requires TNRCC to use the adopted effects screening levels in permit reviews under this chapter of all new and modified facilities to establish enforceable limits in the permits.

(c) Provides that revisions of the effects screening levels are not subject to Subchapter B, Chapter 2001, Government Code.

SECTION 2. Amends Sections 382.0215(e) and (g), Health and Safety Code, as follows:

(e) Requires TNRCC to develop the capacity for electronic reporting and to incorporate reported emissions events into a permanent online centralized database for emissions events and the requires the database to be easily searchable and accessible to the public.

(g) Requires TNRCC to annually, or on request by a member of the legislature, assess the information received under this section, including actions taken by TNRCC in response to the emissions events, and to include the assessment in the report required by Section 5.126 (Report on Enforcement Actions), Water Code.

SECTION 3. Amends Chapter 505, Health and Safety Code, by adding Section 505.017, as follows:

Sec. 505.017. NOTICE ISSUED UNDER EMERGENCIES. (a) Requires the state agency responsible for the information submitted to the state emergency response commission, when immediate notification of a release by a facility to the state emergency response commission is required in accordance with the federal Emergency Planning and Community Right-to-Know Act, on receipt of the required notification to make a determination as to whether the release reported would substantially endanger human health or the environment.

(b) Requires the responsible state agency, if it makes the determination that the release will substantially endanger human health or the environment, on request, to notify the state senator or representative who represents the area in which the facility is located of the release within four hours of receipt of the original notification.

SECTION 4. Effective date: September 1, 2009.