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State Lawmakers Seek to Limit Citizen Lawsuits Over Air Pollution

WILMINGTON - Backers of what might one day be among the largest industrial cement manufacturing plants and limestone quarries in the nation may be the only people breathing easier over a proposed new law introduced this week in the N.C. Senate. The Titan Cement industrial complex proposed along the Northeast Cape Fear River just upwind of Wilmington would benefit from a stealthy provision inserted into a long list of proposed changes to state law.

Senate Bill 734 would allow polluters to do an end run around existing regulatory safeguards. Titan opponents are now holding their breath as they call on local lawmakers to kill a provision that is clearly designed to protect heavy polluters, like Titan America, while compromising clean air for local residents and visitors.

The bill, called the Regulatory Reform Act of 2014, was introduced Tuesday with a provision that limits the public's right to bring lawsuits against companies that are issued air permits by the N.C. Division of Air Quality. People would first have to show that a polluter will violate national air quality standards before they can challenge the permits. The proposed requirement is inconsistent with the federal Clean Air Act. That law gives people the right to challenge permits issued by federal or state agencies without first having to prove that the emissions would violate air-quality standards.

A coalition of environmental and citizen groups, including the N.C. Coastal Federation, Cape Fear River Watch, Penderwatch & Conservancy and the N.C. Sierra Club, is currently challenging the state air permit issued to Titan America, a Greek-owned company, and

that case is working its way through the court system. The groups, represented by the Southern Environmental Law Center, contend in their lawsuit that the state has not required Titan to reduce the amount of air pollution from the plant, as required by law.

Mike Giles, the federation's Coastal Advocate in their Wrightsville Beach office said: "This bill flies in the face of what is reasonable. It makes it virtually impossible to defend the quality of the air we breathe when the state fails to do so on our behalf."

Geoff Gisler, a staff attorney with the Southern Environmental Law Center, said: "The Clean Air Act includes a combination of protections that are each essential to preventing people from getting sick from air pollution. This new standard would violate that federal law by eliminating those protections. The bill would strip the neighbors of heavy-polluting industries of their rights to ensure the state follows the laws designed to protect communities like Castle Hayne and Wilmington. "

At Cape Fear River Watch, Kemp Burdette, the Cape Fear Riverkeeper was astounded at the proposal. "When it comes to public health the burden of proof should be on polluters to show they will not hurt people -- not the other way around. This awful bill suggests citizens should bear the burden of proof and pay thousands of dollars to have their concerns about air pollution heard. Of course that is exactly what Titan Cement would like to see happen."

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