EPA Puts Down Foot With Texan Heavy Industry

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DALLAS (AP) — For 15 years, environmentalists have complained that state regulations have allowed the powerful oil and chemical industries to skirt Clean Air Act standards in Texas, the nation's foremost producer of industrial air pollution.

But the Environmental Protection Agency last month scrapped several aspects of the state's air-pollution permitting program, including "flexible" permits that have allowed about 140 plants and refineries to exceed toxic emissions limits in the short term as long as they complied to overall federal averages in the long term.

Federal regulators say the move, set to take effect next year, is designed to cut toxic emissions and bring Texas in line with the Clean Air Act. And environmental groups say it will help improve the state's ecology and the health of Texans and those living nearby.

Industry groups, however, warn that getting rid of the state program in favor of more rigid standards will hurt industries crucial to the Texas economy, and that the costs of compliance may hit consumers.

"If there is a cost associated with it, it is very likely that it could cost the consumer more," said Debbie Hastings, vice president for environmental affairs for the Texas Oil And Gas Association, whose members provide about 25 percent of the nation's gasoline supply and include industry giants including Exxon Mobil Corp. and ConocoPhillips.

It's too early to know precisely how the rules will change or how much it will cost, but there's worry in the heavy industries that billow tons of toxins but employ thousands of people and pay billions in state and local taxes. Texas has more oil refineries and chemical plants than any other state, and the permit ruling comes as Gov. Rick Perry and industry officials are railing against a climate bill pending in Congress.

Plants could be forced to spend millions of dollars to upgrade pollution control equipment. Industry groups say that in turn could jack up the prices of gas, tires, carpet, upholstery and other products that pass through Texas factories.

"The prices have to keep up with the cost of doing business," said Mike Meroney, a spokesman for Texas Chemical Council, which represents about 80 companies with 200 sites that produce the state's leading export. "Every site's different -- it could be very, very costly."

States are required to enforce the Clean Air Act, but they're given some flexibility in how to do it. The EPA approved Texas' major clean-air permitting plan in 1992, and the state has since submitted more than 30 regulatory changes.

The EPA issued its ruling last month as a result of a lawsuit settlement that forced the agency to approve or disapprove aspects of the Texas permitting process, agency spokesman Dave Bary said. The EPA said no other state offered polluters such flexibility, and cited problems with the permit program's enforcement, monitoring and record keeping, among other reasons.

The EPA held its first meeting last week with the Texas Commission on Environmental Quality, which issues the permits, to work on getting the program into compliance. The commission's executive director, Mark Vickery, said the state permit rules have helped cut down on pollution and said the agency would work with the EPA to resolve the problems. The agencies are working through a 60-day comment period before the rules become final next year.

Fadel Gheit, an analyst with Oppenheimer & Co. in New York, said the permitting problem is just one more bit of bad news for industries that are already struggling. Several major oil companies are coming off second-quarter profit declines of more than 50 percent, although the oil industry posted record gains in 2008.

"It's bad, but how bad is the question?" Gheit said. "The outlook couldn't be more grim, and yet the government finds a way to kick them when they're down."

Bary, the EPA spokesman, said there's no way to know exactly how much cleaner the air would have been under federally approved permits.

But Neil Carman, an air specialist with the Lone Star Chapter of the Sierra Club who spent years as an industrial plant inspector with the Texas Commission on Environmental Quality, said he's certain ending the program will cut emissions. He said it will prove costly to the companies, but not as costly as treating long-term health problems caused by toxic emissions.

Al Armendariz, a chemical engineering professor at Southern Methodist University who is an expert on air pollution and an environmental advocate, said smaller and older facilities could face hefty costs, but major companies won't feel a thing.

"They'll say, 'Look, if we have to spend half a million dollars to re-permit, big deal.' They probably spend more than that on toiletries for those facilities," he said, noting that even multimillion-dollar expenses would be a "one-time capital blip" for major companies. Armendariz also said he doubts industry claims that consumers could feel any pain.

The oil and gas industry provides about 190,000 Texas jobs and paid about $10 billion in state and local taxes and royalties last year, according to the oil and gas association, which represents almost every producer and refiner in the state. The chemical industry employs about 74,000 Texans and last year paid $1 billion in state and local taxes.

The chemical industry is the top air polluter in the state, producing about 16,000 tons of toxic emissions, according to the most recent EPA toxic release inventory in

2007. Oil ranked third, behind power plants, with about 4,500 tons.

Both groups and state regulators say flexible permits have helped, and point to reductions of cancer-causing chemical benzene and ground-level ozone levels in the Houston area that's home to the bulk of the state's oil refineries and chemical plants.

But Carman said it's silly to be content with the progress because Texas is still so polluted.

"That's like somebody going before a judge and saying, 'Your Honor, I know I've had a DWI problem, but I brought it down from 50 DWI's a year ago to 30 now,'" said Carman, who like other environmentalists has long derided the permitting process as a rubber stamp in an industry-friendly state. "That's just not enough, especially when you're talking about things that cause cancer."

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