EPA: Most Texas Refineries Break Clean Air Act

HOUSTON (AP) — The Environmental Protection Agency moved Tuesday to end a long-running dispute with Texas over how the state regulates emissions, including cancer-causing toxins such as benzene and butadiene, from dozens of refineries that produce a third of the nation's gasoline and billions of dollars of petrochemicals.

In a step it called unprecedented, the agency barred Texas from issuing an operating permit to a refinery in Corpus Christi — a power it has traditionally delegated to state regulators. The EPA said it would do the same in dozens of other cases in which it believes the state's permits violate the Clean Air Act, and could potentially do so statewide by June 30.

"For me, July 1 is a very important day," Al Armendariz, an EPA regional director, told The Associated Press. "The state of Texas has to let me know if they can issue permits that are consistent with federal requirements, and if they can't, then we will."

The decision comes after months of unsuccessful talks between the EPA and the state over how Texas issues permits that stipulate how companies should measure pollution from refineries and other petrochemical plants. It is also the latest dispute between the EPA and a state that leads the nation in the emissions of greenhouse gases and industrial pollutants.

"It is deeply troubling that unelected federal bureaucrats are willing to kill Texas jobs and derail one of the strongest economies in the country because they are more focused on process than achieving clean air," said a statement issued by the office of Texas Gov. Rick Perry.

At issue are the emissions from the refining of crude oil into gasoline, kerosene, polymers and other plastic-related chemicals. The Clean Air Act requires limits on pollution from each of the dozens of individual production units inside a plant or refinery. But since 1994, Texas has instead issued plants a "flexible permit" that provide a general ceiling on emissions from an entire facility.

Whether the use of flexible permits leads to more pollution is unknown, and environmentalists and the EPA say that's the problem.

Kelly Haragan, director of the environmental clinic at the University of Texas School of Law in Austin, said the flexible permits mean a production unit near a plant's perimeter could be emitting far more toxins than allowed by law, but the violation would be hidden by the plant-wide cap. In some refinery towns, homes, schools and playgrounds sit just yards away from such fence lines.

"There's no way for you to contest that they're not reporting their emissions correctly," Haragan said. "If it didn't have a flexible permit, there would be real emission limits and we would be able to bring enforcement action if they weren't complying with the permits."

Among the plants operating with a flexible permit is the nation's largest oil refinery, a massive Exxon Mobil plant in Baytown outside Houston, and facilities run by oil companies Chevron Corp. in Port Arthur, Citgo Petroleum Corp. in Corpus Christi and BP PLC in Pasadena.

The agency has for years failed to stop Texas from issuing flexible permits, even though it warned the state such permits might violate the law. Perry on Tuesday called the EPA's decision to pick a fight with the state after 16 years of inaction "baffling."

"The Clean Air Act authorizes the delegation of permitting authority to the states," Perry's statement said. "Texas has had our flexible permitting program in place ... for nearly two decades. However, under the Obama Administration there has been a concerted effort to transfer power away from the states to the federal government."

Brian Shaw, chairman of the Texas Commission on Environmental Quality, defended the panel's record.

"Our flexible permits ... are protective because they are based on modeling analysis that reflect worst-case scenarios. The EPA cannot deny that Texas programs work. Instead, the federal government is more interested in a blatant power grab," Shaw said in a statement late Tuesday.

Armendariz, the EPA regional director, said Tuesday the EPA will issue its own permit for the independently owned Flint Hills Corpus Christi East Refinery, and in the coming days begin to do the same for 39 other plants, including facilities owned by Exxon Mobil, Chevron, ConocoPhillips and Dow Chemical Co.

"The time for delay and for partnership and for compromise is very quickly coming to an end and we have to get the Clean Air Act implemented in the state of Texas," Armendariz said.

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