Clash over Refineries' Greenhouse Gases

CRAIG WELCH,The Seattle Times

SEATTLE (AP) — In 2009, Gov. Chris Gregoire declared that Washington would treat climate-changing gases as harmful pollutants that must be curbed.

So environmental groups were surprised two years later when the Department of Ecology refused to use existing state rules to curb greenhouse gases from Puget Sound's five oil refineries. Refineries, after all, are Washington's second-largest non-vehicle source of emissions.

Environmentalists sued the state and won. A federal judge this spring told Ecology it must hunt for ways to reduce refinery emissions.

But Ecology, joined by the petroleum industry, has appealed the decision — and is rewriting the very rules the judge relied upon to reach her conclusion.

"They're doing everything they can to avoid having to do this," said Becky Kelley, with the Washington Environmental Council, one of the groups that filed suit.

"Until we sued them they weren't doing anything, and they've pretty much told us they're not intending to do anything. They don't want to do this job, and I don't get it. I think people should be angry. It's not right."

The state maintains the judge made a mistake, and Washington never intended to regulate greenhouse gases at refineries. Instead it wants the federal government to lead.

The federal Environmental Protection Agency is already working on national emissions rules for refineries, but those rules would only be triggered when facilities seek to upgrade. Emissions rules for refinery facilities that want to continue as-is remain several years away — provided there aren't extended delays.

The dispute over which emissions to reduce, and how, highlights the complex factors that help set or dash priorities when attempting to respond to climate change.

The state's top clean-air expert said Ecology shares environmentalists' overall emissions-reductions goals. But because the state's refineries get their power from relatively clean sources, he said, there are few easy improvements to be made. He also said the state had been working on the rule change long before environmentalists sued.

"The major concern for me is the huge administrative and analytical costs involved," said Stu Clark, head of Ecology's clean-air program. "If we're going to spend our energy doing something about climate change, let's focus on something that does

make a difference — where we know we've got significant gains that can be leveraged.

"If the political winds said I could do anything I wanted to address climate change, refineries wouldn't be anywhere near the top priority."

The reason: The five Puget Sound refineries combined account for nearly 6 million metric tons of greenhouse gases a year, second among stationary sources only to TransAlta's coal-fired power plant in Centralia, which accounts for nearly 10 million metric tons.

But that pales in comparison to emissions from motorcycles, cars, trucks, buses, trains, planes and boats, which combined account for more than 45 million metric tons. That's nearly half of the state's total emissions, which are about 101 million metric tons.

"I get that the environmental community is very frustrated by the lack of action nationally and … really wants something to happen," Clark said. "But to me, this is just a complete alteration of the structure of the federal Clean Air Act."

Activists from the Washington Environmental Council and the Sierra Club remain furious with the state over its approach, especially given the enthusiasm with which Gregoire went about, in 2009, negotiating with TransAlta's owners and helping find a way to get the power plant to stop burning coal by 2025.

More importantly, said Janette Brimmer, an attorney with Earthjustice, much of the federal EPA's approach to greenhouse gases and other pollutants has come in response to pressure from states that first threaten to tackle issues on their own. Ecology's position removes that leverage.

"How many times over how many decades and for how many pollutants have we heard the argument that 'the Feds are on it?' " said Brimmer, who won the environmentalists' lawsuit in federal court. "That's a lame excuse, and it makes no sense at all. These rules have been in play forever, and there have been countless delays. We are years from seeing results on the ground."

Brimmer and Kelly met privately last week with EPA officials in Seattle and asked them to deny the state Department of Ecology's request to change its rules.

But the EPA, while not yet committing either way, is inclined to side with Ecology, arguing that following the judge's decision could lead to a kind of chaos.

"To just address it locally (the refinery issue) would be meaningless, and no matter what you did, you would set up all this structure that's not suited for this type of problem," said Rick Albright, head of EPA's air, waste and radiation program for the Northwest region.

The EPA requires states to have plans to deal with six of the most dangerous air contaminants — such as lead or sulfur dioxide. If a state or region doesn't keep

those pollutants in line in accordance with strict federal limits, the federal government will force states to take drastic steps to clean the air.

While the EPA, too, has officially declared greenhouse gases to be dangerous, it hasn't included them on this list of pollutants covered under EPA's national ambient air quality standards.

But U.S. District Court Judge Marsha Pechman ruled in December that the way Washington's administrative code is written, greenhouse gases do fall on the state list of contaminants that have to be kept in line. That means the state is obligated to demand major sources, such as refineries, apply "reasonably available control technology" to improve emissions.

She gave Washington 26 months to comply. The state and regional clean-air authorities say they are taking steps toward that effort even as they appeal.

Nationwide, the country's 150 refineries are among the largest sources of greenhouse gases. The bulk of that carbon-dioxide pollution is from the combustion of petroleum, which is part of the fuel-making process. But refineries also require gobs of energy, much of it (outside Washington) from dirty fuel sources, such as coal-fired power plants.

Cleaning up refineries requires a complicated mix of using cleaner-burning fuels, making systemwide internal efficiencies and switching to cleaner electricity sources.

Clark, at Ecology, said that since Washington's plants get power from relatively clean electrical sources, such as hydropower and natural gas — and absent new technologies to sequester carbon from combustion — the only clear way to improve emissions is through efficiencies.

And engineers with clean-air agencies "who know more about the internal workings of refineries feel that our refineries are already some of the more efficient in the country," Clark said.

Environmentalists disagree.

"Nobody knows how clean and efficient our refineries are because they (the state) haven't really gone through the process to look," Brimmer said. "They're just saying, 'Trust us, we kind of know,' but that could be true for everything. That's why we have to have clean-air laws."

While California is already moving to set emissions ceilings on refineries as part of a statewide cap-and-trade effort to curb greenhouse gases across all industries, Clark said the best approach is to let EPA take the lead nationally.

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