

Federal Appeals Court Sides with Texas against EPA

AUSTIN, Texas (AP) — A federal appeals court ruled Monday that the U.S. Environmental Protection Agency violated the Clean Air Act by rejecting a Texas program for approving air permits.

The ruling by a divided three-judge panel of the 5th U.S. Circuit Court of Appeals concerns the EPA's 2010 rejection of the state's flexible permitting program. That decision forced more than 100 industries, including some of the nation's largest refineries, to work directly with the EPA to get operating papers.

By a 2-1 vote, the 5th Circuit struck down the EPA's rejection of the flexible permitting program and told the EPA to reconsider it.

The flexible permit program allows plants to operate under an emissions "umbrella" but did not separately detail pollution from different sources. EPA regulators argued that the rules made it difficult to track polluters.

The case is among the keystones of Gov. Rick Perry's battles with the EPA over the state's plans for enforcing federal clean-air standards. The EPA had decided that the state's plans for issuing air emissions permits were not strict enough to prevent air quality deterioration.

In a 23-page opinion by Circuit Judge E. Grady Jolly, he and Circuit Judge Leslie Southwick concluded that the EPA exceeded its authority in rejecting the Texas program and that its grounds for doing so were insufficient, capricious and arbitrary.

Circuit Judge E. Patrick Higginbotham dissented in a 10-page opinion, disputing that the EPA had acted beyond the law.

In a statement, Perry expressed satisfaction with the ruling. "This decision is a big win for jobs and a big win for Texas," he said.

However, Neal Carmen of the Sierra Club said the ruling "does nothing to change the fact that approximately 100 refineries and chemical plants hold air permits which are not based on an approved state plan."

Carmen said the appeals court has asked the EPA to better explain its objections to flexible permitting. Until it does, the state "must rely on the existing air pollution permitting program" that state regulators had wanted to make more flexible in the first place, he said.

Federal Appeals Court Sides with Texas against EPA

Published on Chem.Info (<http://www.chem.info>)

A message seeking comment from the EPA was not returned Monday.

Source URL (retrieved on 02/28/2015 - 8:26pm):

<http://www.chem.info/news/2012/08/federal-appeals-court-sides-texas-against-epa>