Appeals Court Rules on Ethanol Refinery Pollutants

INDIANAPOLIS (AP) — State environmental regulators improperly changed state rules to allow Indiana ethanol refineries to release an extra 150 tons of air pollutants per year, the Indiana Court of Appeals ruled Tuesday.

The appeals court overturned a lower court ruling that allowed the Indiana Department of Environmental Management to reclassify ethanol refineries so they could emit 250 tons of pollutants per year rather than the 100-ton limit that applies to "chemical process plants."

The Natural Resources Defense Council had challenged the reclassifications of Poet Biorefining plants in North Manchester and Cloverdale, and IDEM's Office of Environmental Adjudication sided with the environmental group. However, the plants appealed that decision, and a Marion County court agreed with the plants. Tuesday's ruling reversed the Marion County court.

IDEM's reclassifications appeared to be consistent with an U.S. Environmental Protection Agency rule, but Judge Melissa May wrote in the unanimous ruling that IDEM failed to get EPA approval on how it implements the federal rule.

An IDEM spokeswoman, Amy Hartsock, said, "We are conferring with legal staff on whether to file an appeal."

John Walke, clean-air director for the Natural Resources Defense Council, told The Indianapolis Star that "IDEM was breaking federal law."

"It is quite unfortunate that IDEM chose to fight for over five years rather than simply requiring more protective air-pollution limits on these ethanol refineries," Walke said.

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