

Oppose Mercury Regulations Preemptive of Upcoming EPA Regulations

HB 4082 by Rep. Farrar

AECT Position: Oppose

Proposal

- HB 4082 would require that the Texas Commission on Environmental Quality (TCEQ) develop rules that would require that each electric generating facility (EGF) achieve a 90 percent reduction of annual mercury emissions.
- HB 4082 would also mandate that TCEQ enforce against any EGU that does not achieve a 90 percent reduction in any year.

AECT Position

- The mercury emissions reduction rules that HB 4082 would require TCEQ to develop would be unnecessary and problematic.
- The U.S. Environmental Protection Agency (EPA) is currently developing rules to replace the Clean Air Mercury Rule that was vacated by a federal court. Such rules will require that EGFs achieve reductions of mercury emissions that EPA determines are necessary based on an in-depth technical evaluation.
- The mercury emissions reduction rules that TCEQ would have to establish under HB 4082 would, at best, be duplicative of such EPA rules; therefore, HB 4082 is, at best, unnecessary.
- However, it is possible, if not likely, that such rules would be inconsistent with, and more stringent than, such EPA rules.
 - It would be difficult, if not impossible, for EGFs to comply with inconsistent state and federal mercury emissions reduction rules.
 - Requiring EGFs in Texas to comply with state mercury emissions reduction rules that are inconsistent with and/or more stringent than EPA's rules would put Texas EGFs at a competitive disadvantage.
- The current TCEQ air permitting program adequately regulates mercury emissions from EGFs.
 - EGFs are required to use best available control technology to control their mercury emissions.
 - The mercury emissions from the EGFs are required to be evaluated relative to the mercury effects screening levels that TCEQ has established at levels that are protective of human health with an adequate margin of safety.
- Thus, the TCEQ should not be required to use its limited and strained financial resources to develop and implement the mercury emissions reductions rules that HB 4082 would require.