

Oppose New Effects Screening Level Requirements

HB 4083 by Rep. Farrar

AECT Position: Oppose

Proposal

- HB 4083 would mandate that the Texas Commission on Environmental Quality (TCEQ) re-define “condition of air pollution” as being an “unacceptable risk of health effects”.
- The bill would specify situations that would be deemed to constitute “unacceptable risks of health effects”.

AECT Position

- HB 4083 would impose requirements that, without justification, would be more stringent than federal law requires, and would not be necessary to adequately protect human health.
- Such requirements would cause significant negative impacts on the ability of companies in Texas to compete in the national and international economies because such requirements would be more stringent than the requirements that their competitors in other states have to meet.
- Among other things, the bill would provide that an exceedance of a TCEQ effects screening level (ESL) for an air contaminant would constitute an “unacceptable risk of health effects” due to the emissions of that air contaminant from the facility in question and other facilities.
- That would make ESLs significantly more stringent than they currently are or need to be to protect human health.
 - The TCEQ has established ESLs for air contaminants to provide a margin of safety so that the presence of air contaminants in the atmosphere at levels that equal their ESLs is not the trigger for them to cause “unacceptable risks of health effects”.
 - As a result, air contaminants can be present in the atmosphere at levels that are much higher than their ESLs - in some instances, multiple times their ESLs - without causing “unacceptable risks of health effects”.
 - Since HB 4083 would re-define the current ESLs as constituting “unacceptable risks of health effects”, it would make ESLs significantly more stringent.
 - In addition, while TCEQ established ESLs to be used in the evaluation of the emissions of an air contaminant from a single facility, HB 4083 would require that ESLs instead be used in the evaluation of the emissions of an air contaminant from the facility in question plus all other facilities that emit that air contaminant.
 - Since the current ESLs adequately protect human health against “unacceptable risk of health effects”, there is no justification to make ESLs more stringent.
- As a result, HB 4083 would impose several requirements that are more stringent than federal law. There is, however, no justification for imposing such requirements on facilities in Texas.