

Oppose Air Permitting Requirements in Excess of Federal Rules

HB 721 by Rep. Donna Howard

AECT Position: Oppose

Proposal

- HB 721 would alter the permitting process to require that for a new or modified facility that is expected to have emissions above specified levels, the Texas Commission on Environmental Quality (TCEQ) must conduct, or obtain and consider, ozone and other types of cumulative effects analyses that address the emissions from such facility and from other facilities that are either permitted or for which there are administratively complete applications.
- Those cumulative effects analyses would also be required when the permit is renewed for each existing facility that has emissions above the specified levels, even if the facility has not been, and will not be, changed physically or operationally, and its emissions have not increased, and will not increase.
- HB 721 would also alter the permitting process to require that such a new or modified facility that is located in an ozone attainment area would be subject to all of the onerous emissions limits and other requirements that apply in an ozone non-attainment area, if the TCEQ determines that the facility's emissions will cause or contribute to any ozone non-attainment area being non-attainment.

AECT Position

- HB 721 would intensify and delay the permitting of new, modified, and existing facilities in Texas, but would not provide any additional health or environmental benefit.
- Such requirements would, without any justification, be more stringent than federal law requires.
- As a result, the bill would unnecessarily cause significant negative impacts on the overall economy in Texas, and also on the ability of companies to continue to operate their facilities status quo, or to add new facilities or make necessary changes to existing facilities as necessary to compete in the national and international market.
- More specifically, the bill would require a cumulative effects analysis, including for ozone, which would be problematic for at least the following reasons:
 - The cumulative effects analysis would not be necessary or appropriate.
 - It would apply not only to new facilities, but also to existing facilities for which there has been, and will be, no physical or operational change and no increase in actual emissions.
 - It would create tremendous operational uncertainty for existing facilities by creating a moving target for what constitutes adequate control technology, and would, for some facilities, require control technology retrofits that would require significant cost and time to permit and implement, and would result in much needed electric generation being taken offline for long periods for such retrofits.
 - It would include the proposed emissions from facilities for which permit applications have merely been determined to be administratively complete, even though many applications that reach that stage never result in issued permits, or constructed and operating facilities.
- Under the bill, the very stringent emissions requirements that apply in the worst non-attainment in the state could be applied to a new or modified facility that is located in an attainment area. In other words, the facility would be treated as if it was being moved from the attainment area to a non-attainment area, possibly located many miles away.