

SUBJECT: Prohibiting the regulation of emissions from residential water heaters

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 7 ayes — Bonnen, Howard, Driver, Homer, T. King, Kuempel, W. Smith
0 nays

WITNESSES: None

BACKGROUND: The Texas Commission on Environmental Quality (TCEQ) rules on the emission specifications of gas-fired water heaters sold, distributed or installed in Texas are delineated in Title 30 of the Texas Administrative Code (TAC). These rules are enforceable regulations under Texas' State Implementation Plan (SIP). A rule adopted in 2000 seeks to reduce nitrogen oxide (NO_x) emissions from new, natural gas-fired water heaters and other related appliances sold and installed in Texas. In 2004, the TCEQ voted to delay the implementation of these standards until January 2007.

The U.S. Environmental Protection Agency (EPA) designates ozone nonattainment areas pursuant to the federal Clean Air Act of 1990. The State Implementation Plan (SIP) is Texas' plan for complying with federal air-quality standards in the Dallas/Fort Worth (DFW), Houston/Galveston (HGA), and other nonattainment areas. In the SIP, the state agrees to implement specific measures or strategies to reduce ozone-producing emissions enough to meet EPA standards by certain deadlines. The DFW and HGA areas violate federal standards for emissions of ground-level ozone and have submitted plans to achieve compliance by 2007.

Much of the SIP focuses on reducing emissions of NO_x, a precursor to ozone formation. In the SIP, ozone-producing emissions are measured in tons per day (tpd) of NO_x. For each ozone nonattainment area, the state must reduce NO_x emissions to a specific number of tons per day to comply with EPA standards.

The EPA can impose sanctions on an area if a state fails to submit a SIP that fully adopts specific programs and describes how a region will reach attainment or if an activity of the SIP is not being implemented.

DIGEST:

CSHB 965 would amend the Texas Clean Air Act to prohibit TCEQ from adopting or enforcing a rule, determination, or order relating to emissions from residential water heaters. Any emission-reduction requirement concerning residential gas water heaters that TCEQ did not adopt due to the prohibition in CSHB 965 would have to be replaced by a requirement that would obtain emission reductions from the same category.

CSHB 965 defines a residential water heater as being designed primarily for residential use and as having a maximum rated capacity of 75,000 British thermal units per hour (Btu/hr) or less.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 965 would prevent implementation of air quality regulations concerning residential gas water heaters that are counterproductive and will create more problems that they will solve. Under these regulations, consumers will have to incur substantial plumbing and electrician costs to convert gas heaters into retrofitted electric water heaters. Total monthly energy bills also will increase because heating water with electricity is more expensive than heating with gas. About 400,000 consumers whose water heaters are replaced each year will be affected. Many of these people are elderly and on limited incomes, and the emission regulations will put an undue burden on these people.

Without CSHB 965, consumers will have no choice for a natural gas water heater replacement because no natural gas water heaters now meet the emission standards. Consumers may have to replace their noncompliant gas water heater with compliant electric water heaters. When the number of electric water heaters increases, the increased electricity use will mean the NO_x air emissions from electric power plants also will increase. The goal of regulating gas water heater is to reduce NO_x emissions, so more NO_x emissions from electric power plants will be counterproductive to the Texas Clean Air Act goals.

While TCEQ is charged with reducing hundreds of tons of NOx per day in cities such as Houston and Dallas, the TCEQ rule regulating water heaters will reduce emissions by only half a ton per day. The relatively small benefit of this rule will not outweigh the cost to consumers.

CSHB 965 would direct TCEQ to replace the emission reduction requirements not adopted because of this bill by reducing emissions from the same category. It clearly would require TCEQ to replace the regulation of home water heaters with other requirements for non-point emissions reductions to achieve the same level of emissions reduction elsewhere.

OPPONENTS
SAY:

By preventing the implementation of emission reduction measures affecting residential water heaters, CSHB 965 would have a negative effect on air quality. The NOx emitted from gas water heaters is linked to the creation of damaging pollutants such as ozone. Any delay in implementing NOx reductions might put our state's SIP in jeopardy.

If this bill were to pass, TCEQ still would need to revise the SIP related to water heaters and submit it for EPA approval. Until the EPA approves a SIP revision, the current water heater rules are federally enforceable. Approval authority of a proposed revision falls to the EPA.

OTHER
OPPONENTS
SAY:

If emission reduction rules for water heaters cannot be achieved, a small fee should be assessed when water heaters that are not low-emission are purchased. This nominal fee should be transferred to TCEQ to help reduce emissions in other sectors, such as diesel.

The sale of all gas pilot lights, such as those used in gas water heaters, should be banned. This action would reduce significantly harmful emissions in the state. Pilot lights could be replaced with hot surface ignition systems that would eliminate the natural gas used by the pilot light. The ban could be achieved with just a small added cost to consumers and almost no cost for state implementation. Over 10 years, as much as 6,700 tons of harmful NOx could be eliminated.

The wording of CSHB 965 is awkward. CSHB 965 directs TCEQ to replace the emission reduction requirements that are not enforced affecting residential gas water heaters. Subsection (c) specifies that these emission reductions should be obtained from the "same category." It is not clear if that category pertains to water heaters specifically (presumably non-

residential water heaters), small combustion sources in general, or some other product.

NOTES:

The committee substitute differs from the bill as introduced by directing TCEQ to replace any emission reduction requirements that are not achieved through the regulation of residential water heaters with a requirement to obtain emission reductions from the same category.

The companion bill, SB 473 by Jackson, was reported favorably as substituted by the Senate Natural Resources Committee on Marcy 21 and was set on the Senate Local and Uncontested Calendar for March 31.