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Lack of transparency among issues Texas environmental officials need to improve upon, commission finds

[Elena Bruess](#) - June 1, 2022



Aldine residents hold up signs in opposition to a proposed concrete batch plant during a public meeting held in April by the Texas Commission on Environmental Quality at the East Aldine Management District building. The Texas Sunset Advisory Commission issued a report saying that the TCEQ must make changes to improve the community's trust.

Godofredo A. Vásquez, Houston Chronicle / Staff photographer

The Texas Commission on Environmental Quality should continue to exist — but it needs to be a tougher, more transparent regulator.

That's the conclusion of the Texas Sunset Advisory Commission, a Legislature-created body responsible for evaluating state agencies and recommending whether they should be eliminated, continued or reformed.

While the Sunset Commission said in a new staff report that the TCEQ "performs admirably," the commission also noted the agency needed to address a lack of transparency, how it conducts water oversight and how it holds rule violators accountable.

On June 22, the 12-member Sunset Commission will hold a public hearing in Austin for people to comment on the recommendations. The commission will then finalize its recommendations and propose them to the Texas Legislature in January.

Prior to the hearing, people can [submit input](#) on the Sunset Commission's website.



Aldine resident David Hernandez voices his opposition to a proposed concrete batch plant during a public meeting held in April by the Texas Commission on Environmental Quality at the East Aldine Management District building. The Texas Sunset Advisory Commission issued a report saying that the TCEQ must make changes to improve the community's trust.

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Among the biggest issues with the TCEQ, according to the Sunset Commission, was a need to provide more opportunities for meaningful public comment — the lack of which the commission said fosters public distrust and confusion.

That confusion also stems from misunderstandings about what the TCEQ has authority over.

For example, the TCEQ regulates emissions and discharges of specific pollutants by industrial facilities, but not emissions from mobile sources, such as vehicles or airplanes. The agency also has regulatory authority over equipment and procedures required at a facility to prevent and track emissions but does not regulate procedures for occupational safety or safety equipment.

To address such issues, the Sunset Commission recommended clarifying the requirements for public meetings on permits before and after the TCEQ publishes a final draft permit. The TCEQ also should develop a document that

explains how it makes decisions regarding so-called affected person cases, such as someone who lives near a concrete batch plant and complains to the TCEQ about its pollution.

Those concerns were raised in late March during a Sunset Commission public forum hosted by the Greater Edwards Aquifer Alliance, an environmental nonprofit. Some participants expressed frustration with the TCEQ for setting up a public comment period after a permit has been drafted.

One speaker, Margo Denke Griffin of the grassroots environmental group Friends of Hondo Canyon, said allowing the public to weigh in after a permit has been drafted is just “lip service.”

The Sunset Commission said the agency “needs to reform its processes to provide more meaningful opportunity for public input in its permitting and rule-making decisions.”

Another problem the Sunset Commission cited was the TCEQ’s ability to monitor and enforce rules for regulated facilities, such as coal plants and rock crushing facilities. The Sunset Commission said TCEQ commissioners have “in some ways become reluctant regulators” — often encouraging industry to self-govern and self-police instead of making “the hard policy choices” that better protect the environment.

The TCEQ also treats certain industry participants unfairly and excludes important information, which prevents the agency from making clear permitting and enforcement decisions, the Sunset Commission reported.

Also, the way TCEQ deals with repeat violators — such as a coal plant that has emitted higher-than-allowed levels of toxins — “incentivizes industry” to conceal monitoring and record-keeping violations, the Sunset Commission concluded. The Sunset Commission recommended that the TCEQ consider all possible violations when determining whether a facility is a repeat violator, and regularly update the compliance ratings for facilities.

The Sunset Commission said it hopes such actions can restore trust and improve transparency.

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