

Key changes must be made at the state's top environmental regulator, now

TCEQ leadership needs to step up and make sure the agency records a company's pollution fairly and accurately



TCEQ is in charge of regulating company air emissions (Ric Francis - AP)

By [Dallas Morning News Editorial](#)

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When state evaluators assessed the Texas Commission on Environmental Quality's performance, they found 50 references to entities extinct for decades in TCEQ rules; compliance history so inconsistently used that the agency's employees questioned its usefulness; and a website so fragmented and difficult to navigate that auditors had to ask staff to help them find information — and sometimes that's a challenge even for longtime employees.

We are concerned. We concede that the TCEQ has a difficult job. However, that is no excuse for several deficiencies state investigators found in its [Sunset Staff Report](#). Happily, the fixes are evident and many could not require additional money. They can fix this now.

The public relies on the TCEQ to shield them from harmful air and water pollution, primarily through issuing permits with pollution limits that the entity enforces. The way the commission decides enforcement and permits is partially determined by something called a compliance rating. But the way they arrive at those ratings is unfair and incomplete.

First, the TCEQ allows larger entities to have more violations before lowering their rating. That's to account for more volume and complexity faced by larger companies, but it fails to consider negative risks associated with larger plants, which state law requires. History shows the agency almost always guarantees bigger companies receive at least a satisfactory rating. Only three larger companies are included among the 935 unsatisfactory-rated facilities statewide in 2021.

And when determining if a company is a repeat offender, the TCEQ only counts major violations. This becomes only more concerning when you consider that the agency never classifies failure to maintain equipment or data for pollution tracking as a major violation. So, to avoid a severe penalty for dangerous emissions, companies can simply choose not to measure pollution with data or monitoring.

Even if they are caught multiple times, large companies may still keep a favorable compliance rating without becoming a repeat offender. Larger entities can accrue dozens of lower-level violations before the TCEQ deems them unsatisfactory.

Compliance history also does not account for unauthorized emissions if the event was "unplanned, unavoidable and properly reported." The TCEQ claims it only waives consequences for these pollutant bursts in specific cases. In the last five years, staff approved 85% of these requests, representing more than 300 million pounds of unplanned chemical emissions.

The fixes are evident: Decrease the number of violations a larger entity can accrue before getting docked. Consider all violations when determining who is a repeat offender. Raise the consequences for companies not maintaining pollution tracking equipment and data. Develop a clear guide for when staff can forgive excessive pollution events.

State auditors concluded that the agency could make these changes with existing resources.

But what may be even more pressing than protocol changes is the need for active leadership committed to environmental progress. TCEQ commissioners delegate important functions to a staff already spread thin — things such as setting environmental standards, determining many acceptable levels of risk, and deciding whether the agency will object to federal guidance.

Our eyes are on the TCEQ's leaders to remedy these deficiencies at a time when environmental regulation is of utmost importance.