

Press Release

For Immediate Release

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Clean Water and Air Advocates Claim Texas Not Meeting Minimum Protections for Air and Water Quality; Must Take “Corrective Action” or Risk Losing Authority Over Clean Water and Clean Air Programs



Photo: Medina River, TX by Becky Smith

Texas — United States Environmental Protection Agency (EPA) officials are conducting an investigation into whether Texas’s environmental regulators are fully carrying out their delegated duties under the Clean Water Act and Clean Air Acts. In a letter dated January 24,

2023 ([letter linked here](#)), the EPA's Region 6 Acting Regional Deputy Administrator explains that there is an ongoing informal investigation.

In short, the Texas Commission on Environmental Quality (TCEQ) is being investigated by EPA for failure to carry out the protections required by the Clean Water Act and Clean Air Acts. Residents upset or concerned about their local water quality and air quality have joined with other advocates to lodge legal complaints that set these reviews into motion. [Water](#) violations enforcement petitioner information [link here](#); [air](#) violations enforcement petitioner information [link here](#).

Acting Regional Deputy Administrator, Charles Maguire, states, "If proven to be true, the allegations outlined in the Petition are concerning. As noted in our discussions, CWA § 402(c)(3) provides that whenever the EPA 'determines after public hearing that a state is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program.'"

"The Clean Water Act is largely carried out by individual states across the country, allowing great flexibility in the process and manner used to achieve protecting water, humans, and the natural environment. When one or more states is doing a poor job -- either deliberately or by accident -- the federal government has always been understood as a backstop to assure that these critical protections are achieved," said **Becky Smith, Clean Water Action Texas Director**. **Retired CWA Director, David Foster, said:** "Delegating the authority to enforce the federal Clean Water Act to a state only works if that state actually follows the law. The TCEQ's failure to do this has exposed Texas waterways and the people and ecosystems that depend on them to enormous risk. It's time for the EPA to take matters into its own hands."

Elements of concern under investigation include:

The TCEQ places the burden on members of the public to prove that a permit violates legal requirements rather than requiring that parties applying to pollute prove that they will be doing so at legally acceptable levels;

TCEQ creating unlawful barriers to public participation and judicial review of permitting decisions; and

TCEQ's failure to recognize large volume water-polluting projects as "major facilities" and subsequent denial of consideration for wastewater effluent discharge as pollution that can degrade receiving waters.

Taking “corrective action” could be done by the Texas Legislature’s currently open sunset review process and directions to the TCEQ by legislation. In a [report](#) issued by the Sunset Review Staff of the Texas Legislature states “TCEQ’s Policies and Processes Lack Full Transparency and Opportunities for Meaningful Public Input, Generating Distrust and Confusion Among Members of the Public.”

According to **Annalisa Peace, Executive Director of the Greater Edwards Aquifer Alliance**, “The TCEQ is not effectively engaging citizens in protecting our natural resources. As Texas becomes more densely populated, uniform enforcement of EPA regulations are essential if we are to maintain the quality of life that Texans currently enjoy.”

“Environmental justice communities like my neighborhood along Refinery Row in Corpus Christi, Texas, already suffer from disproportionate water and air pollution,” said **Lamont Taylor, officer of the Hillcrest Residents Association**. “We are asking EPA to fix Texas’ water and air permitting programs to protect Hillcrest and all communities across the state and ensure that we have a meaningful voice in the review of these permits.”

Steve Box, Executive Director of Environmental Stewardship, commented, "Despite the Clean Water Act's goal of maintaining water quality, Texas has systematically enabled significant degradation of the Colorado River and many other rivers in the State. Hopefully, this investigation will address those systematic problems."

Short of a solution at the legislature, such as adoption of the recommendations issued by the Sunset Review Staff and budgeting funds adequate for robust enforcement by TCEQ of EPA mandated Clean Water and Clean Air acts, the citizens of Texas would be better served by the EPA assuming management and enforcement of the Acts.

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