

State's cuts cripple TCEQ oversight

Study shows Texas among 30 states to trim pollution control, even as chemical cases rise

By Perla Trevizo
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Elizabeth Conley / Staff photographer

A chemical blaze at Intercontinental Terminals Co. in Deer Park in March is just one of recent environmental hazards to hit Southeast Texas this year.

Texas slashed funding to its environmental enforcement agency by more than a third over the last decade, a new study has found, raising concerns about how closely the oil and gas industry is being policed at a time when the sector is booming and petrochemical plant fires in the Houston region are drawing national attention.

The Lone Star State cut funding for pollution-control programs at the Texas Commission on Environmental Quality by 35 percent between fiscal years 2008 and 2018, even as the overall state budget grew by 41 percent, according to the Environmental Integrity Project.

The analysis of states' budget cuts comes as the Trump administration has eased environmental rules and sought to reduce funding to the Environmental Protection Agency.

"The Trump administration has been trying to roll back EPA's authority and funding by arguing that the states will pick up the slack and keep our air and waters clean," said Eric Schaeffer, executive director of the Environmental Integrity Project. But it's just a shell game, he said, "because state agencies are often badly understaffed and the EPA workforce is already at its lowest level in more than thirty years."

Nationwide, the Austin- and Washington, D.C.-based group found that 30 states had cut funding from their respective environmental agencies and 40 had reduced staffing over the decade reviewed. Texas and Louisiana tied for second place, with only Wisconsin reducing a larger share.

“The bottom line is that states cannot pick up more slack from a diminished EPA if the state agencies are also crippled by cuts to their funding and staff,” wrote the report’s authors.

The cuts, they say, come during a period of rapid expansion of the oil and gas industry, increased damage from climate change and coastal flooding, and hot spots of worsening air pollution in states such as Texas.

Some political leaders said the study shows the state is failing to adequately protect the environment.

“This is not the time to reduce the budget for TCEQ,” said state Sen. Carol Alvarado, a Democrat. “In fact, I think we need to increase it in light of all the incidents that have occurred just this year.”

Others defended the Republican-led state’s record on environmental matters.

“TCEQ is the largest state environmental agency in the U.S.,” said state Rep. Briscoe Cain, a Republican. “It has the most robust air monitoring network in the world, one of the most stringent air permitting processes that includes an extensive public participation process, and the only contested case process of any state in the country... Thanks to these and other efforts, air quality in Texas has continually improved over the last decade.”

Southeast Texas has been the scene of four chemical fires in recent months, one of which left a worker dead. The most recent, at the TPC Group plant in Port Neches, blasted nearby windows and doors, injured several workers and a few residents, and displaced thousands of people on the day before Thanksgiving. The fire was extinguished Tuesday night, but the town was ordered to shelter in place a day later after officials detected elevated levels of 1,3 Butadiene, a carcinogen, and school was canceled for the remainder of the week to test the air on campuses.

Funding for the TCEQ’s pollution-control operations decreased from \$578 million in fiscal 2008 to \$374 million in fiscal 2018, when adjusted for inflation, the group found. Meanwhile staffing at the environmental agency declined 9 percent, from 2,884 to 2,616 full-time-equivalent positions over the same period.

TCEQ officials on Wednesday said they couldn’t comment on the figures because they couldn’t replicate the analysis done by the Environmental Integrity Project. The organization said it had shared its data with the states, but only 16 responded; Texas was not among them.

As for staffing, the agency noted that the number of full-time-equivalent positions for 2020-21 is 2,820. “While the number of FTEs was reduced in the 82nd legislative session, TCEQ has sought and received additional FTEs,” an agency spokesman wrote in an email. “Further, the agency reallocates positions as needed to meet resource needs.”

For its estimates, the Environmental Integrity Project used each agency’s annual operating expenditures, and excluded capital spending. Operating budgets include payroll for an agency’s workforce of scientists, engineers, inspectors, and other professional and administrative staff. Overhead costs can include things such as building maintenance and outside tech support.

“I’ve spent a number of years at the EPA and know budget and staffing levels matter,” said Schaeffer, former director of civil enforcement at EPA. “They have a lot to do with determining the amount of work you can get done and the quality. It’s especially hard when the workload is increasing, which I think is true in Texas.”

Texas is the leading U.S. producer of both crude oil and natural gas, accounting for 37 percent of the nation's crude-oil production and 24 percent of its natural gas production in 2017.

Texas has approved more than 700 air-pollution control permits for industry construction or expansion projects since 2012, including 95 major oil and gas facilities, with 14 more seeking approval, according to the report.

Some permit applications are 1,500 pages long, Schaeffer said. "I don't think a lot of this stuff gets a close review a lot of times. How could you?" he asked.

In a state like Texas, he said, workers are often under pressure to approve permits as fast as possible. "Part of it is political and part of it is the sheer workload against the number of people to handle what's in the inbox," he said.

Budget cuts here have hit several pollution-control programs hard over the last decade, the report found. The TCEQ pollution-prevention program had its budget cut 70 percent from \$6 million in fiscal 2008 to \$1.8 million in fiscal 2018. The agency's waste-assessment and planning program had its budget reduced from \$16.4 million to \$6.4 million, a 61 percent decline, according to the group.

"With one-third of our waterways unsafe for fishing and swimming and two defang-thirds of Texans living in areas with unsafe air quality, Texas has major environmental problems," said Luke Metzger, executive director of Environment Texas. "But instead of meeting this challenge, our legislature is deprioritizing the environment and public health."

In West Texas, an Environmental Integrity Project analysis recently found that excessive flaring from the oil and gas industry is causing dangerous levels of sulfur dioxide to be released into the air in the rapidly growing community around Midland and Odessa.

"Despite the huge Permian Basin boom, Texas has a miniscule amount of air monitoring equipment in West Texas to measure ozone, sulfur dioxide, hydrogen sulfide and particulate matter, despite repeated complaints by residents," Cyrus Reed, interim director and conservation director of the Lone Star Chapter of the Sierra Club, wrote in the report.

Inadequate pollution-control measures can also lead to toxic spills during catastrophic storms like Hurricane Harvey, they said. When Harvey struck in 2017, the report found, "the lack of state-enforced industrial shutdown protocols allowed companies to release thousands of pounds of hazardous air pollution... just as the storm overtook many vulnerable neighborhoods."

After the days-long Intercontinental Terminals Co. plant fire in March, TCEQ said it was investing more than \$1.5 million to improve real-time air monitoring. About two-thirds of the money was included in the most recent state budget, with the remainder coming from savings in the environmental agency's 2019 budget.

Over the years, state lawmakers have attempted — and at times succeeded — in diverting funding from TCEQ to other programs. In the 2011 session, lawmakers cut funding to TCEQ by 30 percent and reduced its workforce by 8 percent, according to 2014 news reports.

In 2017, House lawmakers approved moving \$20 million from TCEQ's budget to the Alternatives to Abortion program.

This past session, a handful of Republican lawmakers were pushing to move money out of Texas' air quality programs.

The Texas Constitution requires that the Legislature pass a balanced budget, Cain said, and in 2011 that couldn't be done without across-the-board budget cuts.

This session, he added, lawmakers allocated \$397 million for TCEQ's 2020 budget and passed a bill that boosts funding for a state emissions reduction program by \$175 million per year beginning in 2021.

Among the nonpartisan group's recommendations is that states increase permitting fees for industry to allow state environmental agencies to hire more inspectors, permit writers, scientists and engineers and other professionals to implement federal laws that protect public health, clean air, and clean water.

Alvarado would like to see conversations about environmental funding be more bipartisan, she said. "Maybe after this last incident in Port Neches there will be more serious conversations about what we need to do to beef up enforcement within TCEQ, if there needs to be more inspectors, more funding for mobile monitors," she said. "But it can no longer remain an isolated conversation."

The Environmental Integrity Project's Schaeffer agreed. "If you are in a state that has a big, heavy industry base and especially a big petrochemical sector, you are going to have accident risks, fires, lots of upset emissions," he said. "You need to have infrastructure not just to respond to those accidents, but to try to get out there and prevent them." perla.trevizo@chron.com

Top 10 states with largest cuts to environmental agency funding (FY2008 - 2018)

36%

1. Wisconsin

35%

2. Texas

35%

3. Louisiana

34%

4. North Carolina

33%

5. Delaware

31%

6. New York

29%

7. Arizona

28%

8. Massachusetts

27%

9. Rhode Island

27%

10. New Mexico

Source: Environmental Integrity Project