

<https://www.austinchronicle.com/news/2023-03-31/texas-environmental-penalties-are-increasing/>

Texas Environmental Penalties Are Increasing

Time for tougher regulation

BY LINA FISHER, MARCH 31, 2023, NEWS

Just two days after a public hearing in Bastrop considering a permit application from **Elon Musk's** Boring Co. to dump 142,500 gallons of wastewater per day into the Colorado River, the "reluctant regulator" that will grant or deny that permit was under scrutiny at the Legislature. The **Texas Commission on Environmental Quality** will grow some new teeth thanks to **Sunset Advisory Committee** recommendations adopted in **House Bill 1505**, the agency's sunset bill (which decides every 12 years if it's an agency worth continuing), but advocates are pushing to sharpen them further. In a public hearing last Thursday, the House Committee on Environmental Regulation received hours of public testimony on the bill, ranging from industry-friendly organizations to directly affected community members, 35 of whom bused in for the occasion.

Environmental advocates support the **SAC recommendations**, which would increase the fine cap for violators from \$25,000 to \$40,000 per day, post public hearing notices online, and extend time for public comment. Some feel the penalty could be stronger – the **Environmental Protection Agency** can fine up to \$100,000 per day – and that contested case hearing deadlines should be extended after public meetings along with public comment. Transparency has long been an issue in permitting, and advocates flag the importance of keeping an in-person meeting along with the online option: "There's a lot of value for a permit applicant to meet face-to-face the people they are going to be working next to in the future," said **Adrian Shelley** with nonprofit **Public Citizen**, adding that it could lower TCEQ's administrative burden.

A theme throughout testimony was TCEQ's inability (or unwillingness) to use discretion in permitting. Particularly for communities that have experienced the cumulative impacts of multiple polluting facilities in one neighborhood, Shelley advocated for an office of environmental justice, which could give TCEQ the authority to deny a permit in an already overburdened community. Currently, "the agency looks at a permit application in isolation," said Shelley. "They can't consider the fact that they approved five other concrete plants over the last 10 years in a community."

Craig Ross, who testified on behalf of himself, spoke about his childhood playing in the black tar sand of Houston's Buffalo Bayou: "We thought it was real nice. But it was a bunch of chemicals ... I didn't know nothing about it either. I believe that's why I got prostate cancer now. They don't have it in River Oaks, but come to the Third and Fifth Ward ... I'm about 5-10 minutes away from the Port of Houston and I can smell that stuff coming." Other bills that would get at similar reforms are HB 642, which would establish an **Environmental Justice Advisory Council**, and Senate Bill 179, which would look at cumulative air pollutant effects. "We hear the line,

"We don't do siting" as a reason to greenlight problematic permits, said Shelley. "It's not an acceptable answer. One of the best indicators of lifespan is ZIP code."

Copyright © 2024 Austin Chronicle Corporation. All rights reserved.