

TEXAS HOUSE OF REPRESENTATIVES



Erin Zwiener

District 45 · Hays & Blanco Counties

June 4, 2020

Chairman Jon Niermann
MC 100
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Chairman Niermann:

This letter is written in response to the TCEQ Executive Director's decision to exercise enforcement discretion on a case-by-case basis for rule or permit violations as a result of the COVID-19 pandemic. As members of the House Democratic Caucus Special Committee on Clean Air, Clean Water, & Climate Change, we strongly urge you to ensure that monitoring and reporting requirements are not relaxed while you exercise that discretion. Monitoring and reporting requirements are the lifeblood of environmental compliance. Without it, neither TCEQ nor members of the public have the ability to determine if their air or water is safe, or whether a facility is meeting its anti-pollution obligations.

The 2019 State of Global Air report states that air pollution can weaken lung function and decrease immune system functioning. Experts are increasingly warning that exposure to air pollution increases an individual's risk of contracting COVID-19 and suffering severe symptoms. In previous epidemics, such as SARS-COV-1 and MERS, greater impacts to those who contracted those viruses were also linked to air pollution exposure. Overall, potential exemptions from enforcement of air pollution and environmental protections during this pandemic can be expected to put many Texans at a higher risk of exacerbating existing health issues, as well as experiencing more severe symptoms of COVID-19.

At this time, we request that TCEQ disclose the entities that have received enforcement discretion as part of the commission's response to COVID-19. The TCEQ website indicates

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nearly 150 requests have been submitted for enforcement discretion so far and that approximately 78% of those requests have been granted. However, TCEQ is not publishing the names and exact locations of the facilities, even though the names of those facilities requesting exceptions are precisely what the public needs to know. We, also, request the disclosure of the rules or permits that these entities are asking to relax, if these requests pertain to public health, and the length of time for which the waiver has been granted. We ask that TCEQ make this information available to the public for all entities that have requested your enforcement discretion and that the commission release updates to this list on a weekly basis.

We, also, understand the EPA is still requiring immediate reporting of critical failures, and we assume this practice is being followed in the state of Texas. Please let us know if TCEQ will be mirroring the EPA's decision to continue to require immediate reporting of critical failures, or if the TCEQ will exercise enforcement discretion for these major polluting events as well.

Finally, as Texas reopens, we request a timeline for returning to standard enforcement. Businesses are slowly getting back to work and so too should enforcement activity.

Thank you for your consideration of these requests.

Sincerely,

A handwritten signature in black ink that reads "Erin Zwiener".

Representative Erin Zwiener
House District 45

Cc: Commissioner Lindley
Commissioner Janecka
Toby Baker, Executive Director
Ferrell Fields, Director, Governmental Relations

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Handwritten signature of Alma Allen in black ink.

Representative Alma Allen
House District 131

Handwritten signature of Rafael Anchia in black ink.

Representative Rafael Anchia
House District 103

Handwritten signature of Terry Canales in black ink.

Representative Terry Canales
House District 40

Handwritten signature of Joe Deshotel in black ink.

Representative Joe Deshotel
House District 22

Handwritten signature of Barbara Gervin-Hawkins in blue ink.

Representative Barbara Gervin-Hawkins
House District 120

Handwritten signature of Gina Hinojosa in black ink.

Representative Gina Hinojosa
House District 49

Handwritten signature of Jon Rosenthal in black ink.

Representative Jon Rosenthal
House District 135

Handwritten signature of Gene Wu in black ink.

Representative Gene Wu
House District 137