

Alicia Thomas

Jun 16, 2026

Office of Legal Services
Texas Commission on Environmental Quality (TCEQ)
P.O. Box 13087, Austin, Texas 78711-3087

RE: Public Comment: TCEQ Rule Project No. 2026-006-309-OW

Healthy Gulf submits these comments on Rule Project Number 2026-006-309-OW regarding the proposed rulemaking on the land application of treated produced water. Healthy Gulf's purpose is to collaborate with and serve communities that live near and depend upon a healthy and thriving Gulf ecosystem by providing research, technical assistance, communications, and coalition-building. Healthy Gulf has members throughout the Gulf South, including those in Texas with proximity to the proposed action.

Introduction

TCEQ proposes to amend 30 TAC Chapters 309 and 210 to implement Senate Bill 1145 (89th Regular Legislative Session), which transferred permitting authority for the land application of produced water treated for beneficial use from the Railroad Commission of Texas to TCEQ for permit applications filed on or after September 1, 2025. Specifically, the rule will clarify that Chapter 309 applies to industrial wastewater, including produced water; establish minimum requirements for land application of produced water; and add produced water regulated under 40 CFR Parts 435 and 437 to the list of process wastewaters eligible for reuse authorization under Chapter 210, Subchapter E.

The proposed amendments to 30 TAC Chapters 210 and 309 would establish the framework under which billions of gallons of oilfield wastewater may be applied to Texas land, adjacent to waterways, farmland, and drinking water supplies. The agency states in its own filing that this rulemaking is not a major environmental rule and is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. However, this rulemaking implicates the economy, agricultural productivity, public health, and the environment in ways that plainly meet the threshold for major environmental rule status. We have serious concerns about the potential impacts of the proposed action on the communities, economies, and natural resources of Texas.

Public Benefits and Costs

The agency determined that the public benefit of the proposed rule amendments will be language consistent with state law, clarity and transparency regarding the permitting and regulation of produced water land application and beneficial reuse, environmental and water quality protection through minimum requirements for water resources, site selection, effluent quality, monitoring, technical reporting, buffer zones, and site restrictions that reduce exposure to contamination, and increased water availability.

Produced water is a novel, uniquely complex, and potentially highly hazardous waste stream. It contains varying levels of salinity, total dissolved solids, dissolved organic matter, metals and

metalloids such as arsenic, volatile and semi-volatile organic compounds including BTEX and PAHs, naturally occurring radioactive materials, ammonia, chemical additives such as surfactants and biocides, and per- and polyfluoroalkyl substances. Given this complex and variable contaminant profile, regulating produced water under a framework designed for ordinary municipal and industrial wastewater does not account for the actual risk profile of the substance being regulated. The Texas Produced Water Consortium's most recent report concluded that there is not yet enough evidence to confirm that produced water reuse outside the oil field is safe. The scientific literature documents endocrine disruption, carcinogenicity, aquatic ecosystem harm, and potential groundwater contamination associated with produced water constituents.

The proposed rules require only the same testing used for municipal sewage and do not require testing for contaminants uniquely and commonly found in produced water, including proprietary chemicals with limited data available to the public.

TCEQ should revise its public benefit and cost finding to acknowledge the potential costs of contaminated groundwater, soil degradation, and public health harm associated with land application of produced water. The agency should not finalize these rules until sufficient scientific evidence demonstrates safety for land application across the full range of conditions that permits may authorize.

Local Employment Impact

The agency determined that a Local Employment Impact Statement is not required because the rule does not adversely affect a local economy in a material way.

Research on the long-term effects of produced water land application on soil health, crop productivity, and groundwater quality is still actively underway, with pilot study results months and potentially years away. If treated produced water contaminates soil or groundwater in these areas, the downstream economic harm to local agricultural employment could be significant and irreversible. Studies have shown that the high salinity typically associated with produced water can decrease water infiltration rates, impact crop production and yield, and reduce soil health. These outcomes directly threaten local agricultural employment, businesses, and the broader rural economy.

TCEQ should conduct and publicly share a full Local Employment Impact Statement focused specifically on agricultural communities in areas where land application permits are most likely to be sought, with sufficient time for public review before the rule is finalized.

Rural Communities Impact

The agency determined that the rule does not adversely affect rural communities in a material way and has the same effect in rural communities as in urban communities.

Land application of produced water for agricultural use is most likely to occur in rural communities, meaning rural communities bear substantially greater and more direct exposure risk than urban populations. Research has found that populations living near produced water disposal infrastructure tend to have lower median household incomes. Rural communities may lack the resources to respond to contamination events or other incidents. When contamination occurs, it may be impossible to remediate and difficult to attribute, particularly given trade secret protections that shield some chemical constituents from public disclosure. Rural residents are also more likely to rely on private water wells. Studies have documented the persistence of produced water contaminants in sediment and groundwater for years after spill events, underscoring that the risks to rural drinking water supplies are not theoretical.

TCEQ should prepare and publicly share a full Rural Communities Impact Assessment, establish specific science-based setback distances and contaminant standards that account for the disproportionate rural exposure, and ensure that rural communities have meaningful access to

permit information and the ability to participate in permitting decisions before this rule is finalized.

Requests for Stronger Protections

To protect Texas communities, agricultural industries, and the environment, the final TCEQ rule should include the following:

Permitting Transparency: A formal permitting process with ample public notice, accessible permit application materials, and a robust protest process for affected communities, particularly rural communities near proposed sites.

Basic Design Safeguards: Stricter and scientifically justified setback distances, mandatory public testing disclosure, and a rigorous documentation trail ensuring tracking and accountability throughout the permitting and operational process.

Uniform Minimum Standards: Clear, mandatory health-protective contaminant limits based on type of land application and geography, rather than case-by-case regulatory discretion that leaves communities unprotected until harm occurs.

Strict Contaminant Limits: Explicit limits on known toxins including heavy metals, PFAS, and radionuclides, ensuring produced water is treated to demonstrably safe standards before land application is authorized.

Continuous Monitoring: Mandatory ongoing monitoring to ensure compliance at all times, not only during scheduled inspections, with timely public access to results.

Independent Audits: Mandatory third-party testing to verify industry self-reporting, with results submitted directly to TCEQ and made publicly available.

Open Data Access: Full public access to all testing data, with no proprietary information exemptions used to conceal chemical constituents present in land-applied produced water.

Bioaccumulation Tracking: Required baseline soil and crop testing before, during, and after land application operations to track toxic buildup in the food chain and soil system.

Requests for Extended Public Participation

The draft rules as currently written do not provide a sufficient regulatory framework to protect Texas communities and businesses. Thirty days is insufficient time for the public to prepare comprehensive comments identifying all deficiencies in a rule of this complexity and consequence, let alone to review the technical basis the agency relied upon in drafting it.

I respectfully request that TCEQ:

Extend the public comment period by 30 days to allow meaningful and comprehensive public participation from all affected communities.

Schedule additional public hearings in impacted communities across the Permian Basin, the Eagle Ford Shale, and the East Texas Basin. A single hearing in Austin, even with a virtual option, is insufficient to hear from the rural communities that will bear the greatest burden of this rule.

Update the public docket to reflect this request for an extended comment period, additional hearings, and stronger rule enforcement standards.

The TCEQ must ensure that these rules are based on rigorous, independent science rather than limited industry test data. As such, this rulemaking is premature because the science does not exist; therefore, the barriers to obtaining a permit should be high, and the required testing for any permits granted should ensure they help fill all scientific gaps.

Thank you,

Alicia Thomas,
Staff Scientist

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**Gwen Ricco, MC 205, Office of Legal Services
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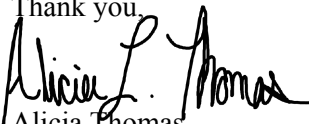
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