



September 24, 2026

To: Legislative Budget Board
Robert E. Johnson Building
Fifth Floor
1501 North Congress
Austin, Texas 78701

From: Kathryn Guerra, kguerra@citizen.org

Re: Texas Commission on Environmental Quality (TCEQ) Legislative Appropriations Request for Fiscal Years 2028 and 2029

Public Citizen is a nonprofit consumer advocacy organization that champions public interest in the halls of power. On behalf of its members and supporters in Texas, Public Citizen appreciates the opportunity to testify on the Texas Commission on Environmental Quality's 2028-2029 Legislative Appropriations Request (LAR).

In 2025, Public Citizen launched the TCEQ Watchdog Campaign to hold the TCEQ accountable to Texans and build the capacity of communities to engage effectively with the agency.

This testimony summarizes many, but not all, of the concerns and issues our campaign has identified that cause the TCEQ to fail its mission to protect public health and the environment. In some instances, TCEQ has expressed a need for a legislative remedy, including increased funding and staffing.

Public Citizen has presented this information to the TCEQ in a good-faith attempt to collaboratively address the concerns we are hearing from communities across Texas. However, agency leadership has taken very few demonstrative actions to address these issues.

The data in this testimony was published by the TCEQ in fiscal year 2025 or prior. We anticipate agency reports for fiscal year 2026 and the 2025-2026 biennium will become available in the coming weeks, and we will make our assessment of that data available to legislators prior to the start of the 90th regular legislative session.

TCEQ Annual Performance Metrics

The TCEQ sets incredibly modest goals to reduce pollution or improve air and water quality, which it often fails to meet. Conversely, the TCEQ met or exceeded most of its goals for issuing permits. TCEQ issued 8,917 new authorizations in fiscal year 2025.¹

Air Quality

In 2025, the TCEQ reportedly met 112% of its annual performance goal to issue state and federal New Source Review air quality permits (1.2.1 EX 1),² issuing 7,855 authorizations.³ In addition, the agency issued nearly 600 federal operating permits (1.2.1 EX 2).⁴ But the TCEQ's performance of its core functions – to investigate and to enforce permits and environmental rules – was mediocre.

The TCEQ's failures translate to poor outcomes for clean air and clean water in Texas. The TCEQ has a key performance measure: the "Percent of Texans living where the air meets federal air quality standards" (1.1 OC 3). The TCEQ's target was just 43%. It achieved 42% of that goal.⁵ This agency must take responsibility for upholding the air quality standards for the other 58% of Texans who also deserve to breathe clean air.

In 2021, the agency's target for clean air across Texas was 100%.⁶ Over the past decade, the agency has not achieved greater than 45% of this goal for clean air.⁷ So instead of continuing to work toward actions that would help the agency meet that goal for Texans, TCEQ simply lowered the bar for itself.

Similarly, in 2025, TCEQ failed to meet another key performance measure regarding the "Percent of stationary and mobile source pollution reductions in ozone non-attainment areas" (1.1 OC 1). TCEQ had a meager 3% reduction goal. Instead, TCEQ achieved -147% of its goal, meaning air pollution increased.⁸

The TCEQ failed its goal to conduct more than 1,000 on-road mobile source air quality assessments (1.1.1 OP 3), conducting just 360 (36%).⁹ Between 15 and 18 million people – representing well over half of the total population of Texas – live in designated federal ozone non-attainment areas, where the air quality fails to meet National Ambient Air Quality

¹ See <https://www.tceq.texas.gov/downloads/agency/administrative/legislatively-mandated-reports/sfr-55-25-annual-report-on-performance-measures-fy25.pdf>

² These are the goal numbers in the FY25 Annual Report on Performance Measures (fn.1 above).

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ See <https://wayback.archive-it.org/414/20250908000018/https://www.tceq.texas.gov/downloads/agency/administrative/legislatively-mandated-reports/sfr-55-21-annual-report-on-performance-measures-fy21.pdf>

⁷ See <https://www.tceq.texas.gov/agency/administrative/quarterly-reports-on-key-performance-measures>

⁸ See <https://www.tceq.texas.gov/downloads/agency/administrative/legislatively-mandated-reports/sfr-55-25-annual-report-on-performance-measures-fy25.pdf>

⁹ *Ibid.*

Standards.¹⁰ On-road mobile source air quality assessments are one of the main tools to combat ozone precursor pollution in Texas.

Water Quality

The TCEQ issued approximately 760 water quality permits last year.¹¹ That was approximately 90% of its target for that goal. TCEQ has a key performance measure to determine the “Percent of Texas classified surface waters meeting or exceeding water quality standards” (1.1 OC 5). TCEQ almost met its unimpressive target of 54%.¹² The other 46% of Texas surface waters that fail to meet clean water standards do not seem to concern the agency.

TCEQ also failed to meet its modest goal to reduce pollution from permitted wastewater facilities discharging to waters of the state by 0.10% (1.1 OC 4). Instead, wastewater pollution increased.¹³

Enforcement

The TCEQ reported in 2025 that it met just 58% of its key measure for “Percent of identified noncompliant sites and facilities for which timely and appropriate enforcement action is taken” (3.1 OC 4).¹⁴ Delays in enforcement have a tremendous impact on communities, which we discuss below in greater detail.

Potential Legislative Remedies

- The TCEQ’s performance goals must be robust and reflect measures that actually protect the health of all Texans through clean air and water.
- The TCEQ must decenter permitting as its primary objective and instead balance it with other core functions, such as enforcement and compliance investigations.
- The TCEQ must seek and be granted funding for staffing resources to meet the agency’s dire enforcement needs.

¹⁰ See <https://www.sierraclub.org/texas/blog/2023/11/more-half-texans-live-areas-unsafe-ozone-levels-which-rise-temperatures>

¹¹ See <https://www.tceq.texas.gov/downloads/agency/administrative/legislatively-mandated-reports/sfr-55-25-annual-report-on-performance-measures-fy25.pdf>

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

Investigations and Enforcement

The agency must be granted the funding in Exceptional Item Request 2 for Frontline Support to carry out its primary investigative and enforcement functions. But even this funding is likely insufficient to provide the agency with the resources to effectively resolve its extensive enforcement backlog, investigate new and existing facilities and enforce environmental laws in Texas.

Agency data shows that between 2015 and 2025, the number of regulated entities has increased an average of 3.9% each year.¹⁵ If the number of regulated entities continues to increase by the annual average through 2029, the agency will be responsible for regulating nearly 971,000 entities – an increase of more than 137,000 from FY2025.

The agency proposes to reduce the number of FTEs over the 2028-2029 biennium to oversee these thousands of new regulated entities. The agency was granted 3,207.5 FTEs in 2026 and 2027.¹⁶ Now, the agency has submitted a base funding request for 3,053.8 FTEs, a reduction of 154.5 positions.¹⁷ The exceptional item requests would add 126 FTEs, if each were approved, bringing the total number of 2028-2029 FTEs to 3,179.8 – still below the agency’s present staffing for FY27.¹⁸

The TCEQ has proposed modest funding increases for investigations (3.5%) and enforcement (1.7%) in the agency’s FY 28-29 LAR base request.¹⁹ This funding alone will not improve TCEQ’s poor performance or its failures to remedy environmental harms experienced in communities across Texas, as discussed in detail below.

The TCEQ’s proposed Exceptional Item Request 2 for Frontline Support would provide just a 7% total funding increase from FY26-27 for enforcement and a 12.7% total increase for investigations.²⁰ This is less than the 19% increase the agency received for enforcement in 2026-2027 and the 18% increase for investigations.²¹ The agency cannot effectively regulate the existing permitted facilities. Adding more than 100,000 new entities without sufficient funding or staff to investigate or enforce them will create lasting environmental and public health harms across the state.

¹⁵ See <https://www.tceq.texas.gov/compliance/enforcement/enforcement-reports/historical>

¹⁶ See <https://www.tceq.texas.gov/downloads/agency/decisions/work-sessions/backup/2026/2026-0529-mis.pdf>

¹⁷ See <https://drive.google.com/file/d/19ZbjWedE6YRkffNTTen791QhggIA4LzW/view?usp=sharing>

¹⁸ *Ibid.*

¹⁹ *Ibid.*

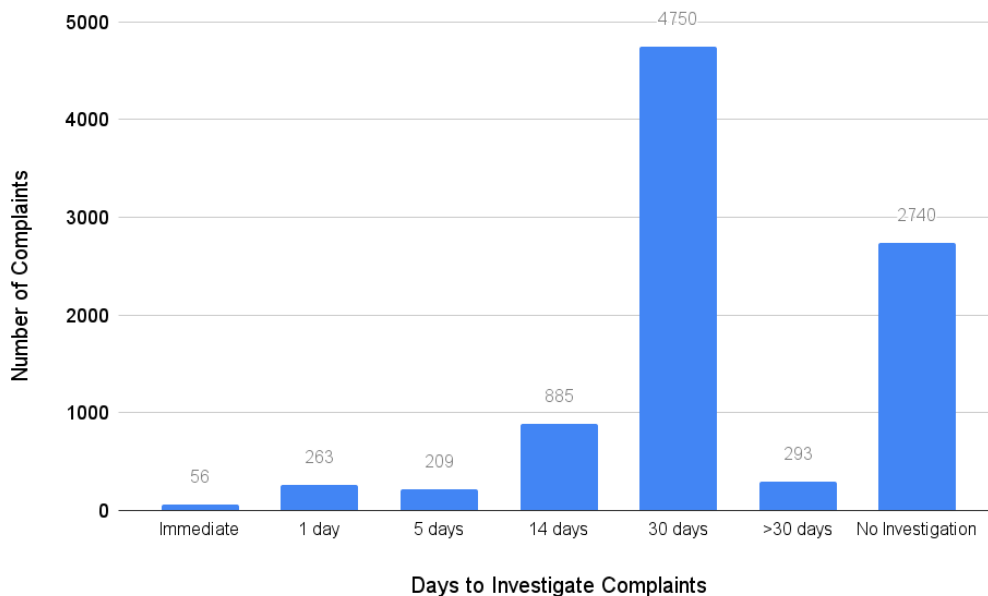
²⁰ *Ibid.*

²¹ *Ibid.*

TCEQ Response to Reported Environmental Concerns

A report published by Public Citizen’s TCEQ Watchdog Campaign using the TCEQ’s own publicly available data shows that in fiscal year 2025, the TCEQ’s response to reported environmental complaints was significantly delayed.²²

Table 2: 2025 TCEQ Complaint Response Times



In FY 2025, TCEQ received 9,200 complaints. Of those:

- Investigators responded to just 300 complaints (3%) within one day.
- The agency took up to two weeks to investigate nearly 900 complaints (10%).
- The remaining 5,000 complaints (54%) took at least 14 days, but some took more than 30 days to initiate an investigation.
- The agency closed more than 2,700 complaints (30%) without ever investigating them.²³

The agency reported that the most common environmental complaint was odor or dust, an air quality concern.²⁴ The likelihood that a reported air quality matter results in a confirmed violation (and mandate to remedy it) depends on the investigator’s observation of the violation, which can only happen if the investigator responds. By waiting 14-30+ days to investigate, the agency almost guarantees it cannot confirm a violation or take enforcement action. Weather and conditions at the facility are likely to change over such a long period, resulting in closure of the complaint until the neighbor experiences the issue again and files another complaint. Neighbors in communities across the state have told us they’ve stopped reporting complaints to the TCEQ because it either does not respond or does not take action to resolve the issue.

²² See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2025/2025-enforcement-report.pdf>

²³ *Ibid.*

²⁴ *Ibid.*

In one of the most egregious public nuisance cases in Texas in recent years, it took the TCEQ years to address pervasive odors that neighbors described as “festering dog vomit on fire,” emanating from the Darling Ingredients animal rendering facility in Bastrop County.²⁵ According to local elected officials, the smell was regularly observed in communities as far as 15 miles from the plant.²⁶

It took 1,440 complaints before the TCEQ took additional steps to enforce the facility’s permits and refer the case to the Attorney General.²⁷ One neighbor testified in the state’s civil suit that, “If my neighbor was outside burning tires, I would actually go over there and thank them because I didn’t have to smell Darling Ingredients anymore, it’s that bad.”²⁸ And it was not just a bad odor. The TCEQ investigator found that on multiple occasions, Darling Ingredients emitted extremely toxic hydrogen sulfide gas at “levels that far exceeded the emissions allowed by state regulations,” and reported smells of decaying animals, burned cooking grease and sewage onsite.²⁹

The TCEQ told Public Citizen that once a facility goes to enforcement for a violation, its policy is not to initiate additional enforcement of the same violation while the existing case was pending. But it takes the TCEQ a year and a half on average to process a single enforcement case – in many cases, much longer.³⁰ This meant that Darling Ingredients was granted a pass for ongoing, pervasive emissions violations. At the same time, TCEQ processed its enforcement case, leaving residents to endure emissions that prevented them from enjoying their own yards and community spaces – for years.

On-Site Investigations

In FY 2025, agency data shows that while the TCEQ conducted 101,000 investigations, only 63,000 were conducted on-site.³¹ This is the fewest on-site investigations the agency has reported in eight years, including years when the COVID-19 pandemic made in-person investigations challenging. The number of 2025 investigations was 3,600 fewer than in 2024 and 5,200 fewer than in 2023.^{32,33,34} The TCEQ also conducts record review investigations, where an investigator

²⁵ See <https://www.texasattorneygeneral.gov/sites/default/files/files/press/Darling-Petition.pdf>

²⁶ See <https://www.facebook.com/share/p/195zDavy6J/>

²⁷ See <https://www.texasattorneygeneral.gov/sites/default/files/files/press/Darling-Petition.pdf>

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ See <https://www.tceq.texas.gov/downloads/publications/sfr/srf-057-24/biennial-report-23-24.pdf>

³¹ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2025/fy2025-onsite-investigations>

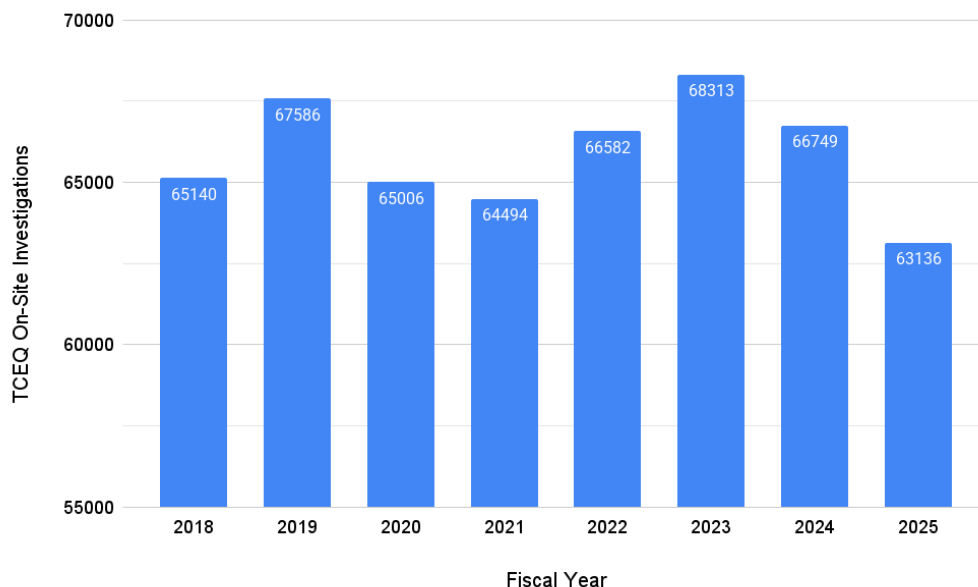
³² *Ibid.*

³³ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2024/app-b-onsite-investigations.pdf>

³⁴ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2023/app-b-onsite-investigations-fy2023.pdf>

requests copies of records via email without visiting the facility. TCEQ conducted 38,000 such investigations.³⁵

Table 1: TCEQ On-Site Investigations by Fiscal Year



Of the 63,000 investigations, just 6,400 (10%) were for air quality, 5,400 (8.6%) were for petroleum storage tanks, 3,900 (6%) were for public water supply, 3,000 (4.7%) were for water quality, 1,400 (2%) were for on-site sewage and 1,000 (1.6%) were for municipal solid waste.³⁶ The majority of on-site investigations were for water rights – 38,470 (61%).³⁷

The TCEQ has not investigated a facility with an “unclassified” Compliance History ranking in the preceding 5-year period. According to the TCEQ’s 2025 Compliance History report, 273,700 (53%) of 521,000 regulated facilities that are subject to the Compliance History program in Texas had not been investigated in the preceding 5-year period.³⁸ This figure does not include the 313,000 facilities not subject to the program, but highlights just how large the problem is.

In August 2025, TCEQ staff told Public Citizen that the agency had no intention of reducing the number of uninspected or unclassified entities because the Sunset Commission did not recommend, and the legislature did not mandate, that it do so.

The lack of a *mandate* to adopt procedures that meet the goals of TCEQ and of the Sunset Commission does not prohibit doing so. The TCEQ (and the Compliance History program)

³⁵ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2025/fy2025-onsite-investigations>

³⁶ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2025/fy2025-onsite-investigations>

³⁷ *Ibid.*

³⁸ See https://data.texas.gov/dataset/Texas-Commission-on-Environmental-Quality-Compliance/mich-cjem/about_data

cannot function as intended unless the agency addresses the volume of facilities it has failed to inspect in the preceding 5-year period.

Potential Legislative Remedies

- No regulated entity should be left to self-monitor for more than 5 years. The TCEQ should be mandated to implement a performance metric and goal to reduce uninspected and unclassified entities.

Enforcement

TCEQ issued just 1,170 enforcement actions in FY 2025.³⁹ The agency's Annual Enforcement Report states that it aims to issue just 1,000 administrative orders each year and reports that it "consistently meets" that goal.⁴⁰ But there are 834,000 regulated entities in Texas, according to TCEQ's most recent Legislative Appropriation Request.⁴¹ This means that only 0.14% of all polluters in Texas received any formal enforcement action in 2025.

Despite the agency's failures to promptly respond to reported environmental complaints and to conduct thousands of on-site investigations, in April, the agency posted a message to its social media channels thanking industry and making a false correlation between high compliance rates and the agency's inability to sufficiently investigate and enforce environmental laws.⁴²

Enforcement Backlog

Meanwhile, the TCEQ struggled to process its extensive backlog of enforcement cases. The TCEQ started the 2025 fiscal year with a backlog of 1,490 cases and ended the fiscal year with 1,480 cases.^{43,44} At that rate, the backlog will take 148 years to resolve, not including any new enforcement cases. The backlog is almost entirely of the agency's own making – a failed enforcement policy among many that continue to erode public confidence in the agency.⁴⁵

Agency enforcement staff disclosed during a public meeting in September 2025 that it had recently ended its long-standing practice of arbitrarily delaying enforcement cases for years to process them in batches, creating the complex backlog the agency is now struggling to work through.⁴⁶

³⁹ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2025/2025-enforcement-report.pdf>

⁴⁰ *Ibid.*

⁴¹ See <https://www.tceq.texas.gov/downloads/agency/decisions/work-sessions/backup/2026/2026-0529-mis.pdf>

⁴² See <https://www.facebook.com/100064383503519/posts/1366441798845257/?rdid=J4rVSbT3yuDN47xl>

⁴³ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/2024/sep-2024.pdf>

⁴⁴ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/2025/aug-2025.pdf>

⁴⁵ See <https://www.citizen.org/news/after-almost-10-years-the-tceq-imposes-financial-penalty-on-polluter-in-what-the-agency-calls-an-expedited-settlement/>

⁴⁶ See <https://www.youtube.com/watch?v=8tlubnR18hA&t=3945s>

Enforcement delays often result in ongoing, unremediated pollution and harmful public health outcomes. We've asked TCEQ leadership to make a serious, expeditious effort to address the backlog in our [TCEQ Year in Review report](#), in [press](#), on [social media](#) and in recent [public comments](#) directly to agency leadership.

The enforcement backlog began steadily growing in 2021 and reached a peak of 1,700 cases in early 2024.⁴⁷ The oldest case in the backlog is a ten-year-old case against Cal-Maine Foods for discharging approximately 8 million gallons of wastewater from a concentrated animal feeding operation into the waters of the state over 10 days, resulting in multiple documented fish kills.⁴⁸

It doesn't outwardly appear that the agency has taken a single step toward aggressive enforcement in this case, which has surpassed every compliance deadline outlined in the agency's enforcement process. In fact, the TCEQ has renewed the facility's wastewater permit twice since the incident – once in 2019 and again in 2024, despite TCEQ records showing it hasn't conducted an on-site inspection of this facility since 2018.^{49,50}

According to agency data, it takes the TCEQ an average of 528 days to process a single enforcement case.⁵¹ TCEQ says it prefers to “promote and foster voluntary compliance with environmental laws and provide flexibility in achieving environmental goals.”⁵²

The TCEQ doesn't consider a case behind schedule until it's been on the books for six months from the date it was referred for enforcement action.⁵³ If the TCEQ hasn't mailed the polluter a proposed agreed order – a template letter that details the alleged violation(s) and penalty – within that time, the agency counts the case as backlogged. But then TCEQ mails the agreed order, and the case is removed from the backlog list.⁵⁴

According to staff, if, after 550 days (1.5 years) from the original enforcement referral date, the polluter still has not signed the agreed order and voluntarily agreed to come into compliance, the TCEQ returns the case to the backlog list.⁵⁵

In some cases, years-long delays were caused solely by TCEQ's inability to draft and mail the proposed agreed order to the polluter.⁵⁶ To remove them from backlog status, all TCEQ did was

⁴⁷ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/2024/feb-2024.pdf>

⁴⁸ See <https://www2.tceq.texas.gov/oce/irod/index.cfm?fuseaction=home.viewinvrpt&invstnid=868514712016209>

⁴⁹ See https://www2.tceq.texas.gov/wq_dpa/index.cfm?fuseaction=home.permit_list_by_permit&permit_number=TXG921060

⁵⁰ See <https://www2.tceq.texas.gov/oce/irod/index.cfm?fuseaction=home.viewinvrpt&invstnid=102381852018208>

⁵¹ See <https://www.tceq.texas.gov/downloads/publications/sfr/srf-057-24/biennial-report-23-24.pdf>

⁵² *Ibid.*

⁵³ See https://drive.google.com/file/d/1uXKh9Oaa_uJaHxlvHaJViSO_STKSKqv4/view?usp=sharing

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

stick a postage stamp on an envelope and mail a template letter. If a community is suffering from pollution, resolution doesn't come in a template letter. It comes when pollution stops and fines are paid.

In other cases where TCEQ has issued a default order, it took the agency multiple years to mail an enforcement letter to the respondent.⁵⁷ After many years, businesses have closed or changed ownership, contact information has changed, and respondents have become much more difficult to reach.

In response to our requests to address the backlog, in April 2026, TCEQ leadership told us that the TCEQ lacked the funding needed to address the enforcement backlog and that the public needed to advocate for more agency funding during the upcoming legislative session if they wanted to see it resolved.⁵⁸

But just a few weeks later, TCEQ leadership reported it had a newly dedicated "strike-force" of five full-time attorneys in its Office of Legal Services specifically to address the enforcement backlog and that it had created a new team in the Office of Compliance and Enforcement who are focused on backlogged cases, "with the ultimate goal of appropriately managing all of these cases by the end of the fiscal year."⁵⁹ The TCEQ did not meet its goal, and as of August 2026, more than 900 backlogged cases remain.⁶⁰

Closed or Non-Suited Enforcement Cases

Between January and July 2026, data obtained by public information request shows that the TCEQ closed or withdrew more than 100 backlogged enforcement cases, counting them as "resolved" in its monthly progress reporting, despite no agreed order, no compliance demonstration and no payment of any penalty.

The TCEQ told Public Citizen it doesn't have to tell the public how the cases were closed, if the violation(s) were resolved, or if the pollution was remediated.

We reviewed each closed case, which have been removed from the agency's most recent report of active enforcement actions and indicate a closed status in the TCEQ's Commissioners Integrated Database.

Some closed enforcement cases involved serious environmental disasters.

In Fort Worth, the TCEQ alleged that in December 2019, the U.S. Navy spilled approximately 2,600 gallons of PFAS-containing 3% Aqueous Film-Forming Foam (AFFF) solution (a synthetic fire-fighting concentrate used to extinguish fuel fires) from an above-ground tank

⁵⁷ See <https://www.tceq.texas.gov/downloads/agency/decisions/agendas/backup/2025/2025-0949-msw-e.pdf>

⁵⁸ See <https://www.youtube.com/watch?v=puYZ-EnE5rg&t=4650s> (1:18:35 minute mark)

⁵⁹ See https://www.youtube.com/watch?v=g_xCjsZm43A&t=4411s (1:11:45 minute mark)

⁶⁰ See <https://www.tceq.texas.gov/downloads/agency/decisions/agendas/backup/2026/2026-0012-mis.pdf>

directly into the storm drain at the Naval Air Station Joint Reserve Base (NASJRB). The spill contaminated a local creek, but the Navy failed to contain it or respond. The TCEQ requested sampling of the impacted creek, but the Navy did not respond. The City of Fort Worth is suing the U.S. Department of Justice for contaminating the city's drinking water with PFAS, which they allege also came from the use of AFFF for fire suppression at the Joint Reserve Base and a nearby Lockheed Martin site.⁶¹ TCEQ closed this enforcement case in February, after six years – seemingly without requiring sampling, remediation or payment of a penalty.⁶²

The TCEQ closed cases against known repeat violators, including two air quality enforcement cases against the Chevron Phillips Cedar Bayou plant in Baytown and a wastewater enforcement case against the Formosa Plastics Corporation facility in Calhoun County.^{63,64}

While actively managing cases in progress, removing records and claiming victory on paper is not. Only the closure of resolved cases indicates that the TCEQ's enforcement process is functioning as it should.

The TCEQ's extensive enforcement backlog highlights the problems created by the agency's lax enforcement approach. Voluntary compliance can still occur with strong agency-enforced deadlines and accountability to communities, but the TCEQ shouldn't wait ten years for voluntary compliance. The agency should issue default orders – that come with fines and corrective action to stop environmental harm – and refer these significantly delayed cases to the Attorney General for civil enforcement in a court of law.

Potential Remedies

- ▶ The TCEQ should be mandated to implement a performance metric and goal to reduce the enforcement backlog by issuing agreed orders with penalties and compliance deadlines.
- ▶ The LBB should review if the funding proposed by TCEQ is sufficient to keep up with growth in Texas and effectively manage enforcement of environmental laws and permits to protect public health and the environment.

⁶¹ See

<https://www2.tceq.texas.gov/oce/irod/index.cfm?fuseaction=home.viewinvrpt&invstnid=907501952020255>

⁶² Closed enforcement case against NASJRB - 2021-0288-MSW-E

⁶³ Closed enforcement cases against Chevron - 2022-0624-AIR-E; 2025-0452-AIR-E

⁶⁴ Closed enforcement case against Formosa - 2024-0742-IWD-E

Public Participation

In 2023, the TCEQ was labeled a “Reluctant Regulator” by the Texas Sunset Advisory Commission, which found that “TCEQ’s policies and processes lack full transparency and opportunities for meaningful public input, generating distrust and confusion among members of the public,” among numerous other issues.⁶⁵ The Texas legislature mandated the TCEQ to improve its public participation processes.⁶⁶

In January 2026, as mandated by the TCEQ Sunset Bill (SB 1397) signed into law in 2023, the TCEQ adopted a rulemaking ostensibly aimed at improving public participation. Despite the bill’s clear intent, the TCEQ’s final rule fell short of the reforms lawmakers and the state’s Sunset Advisory Commission envisioned. The TCEQ received more than 50 comments from community and environmental advocates asking the agency to align the rule with the Sunset Advisory Commission’s recommendations, increase transparency and make participation less confusing. The agency rejected each of those 50 comments.⁶⁷ Instead, the TCEQ modified this rule proposal after it was presented to the public, based on more than 30 comments from corporate interest groups.⁶⁸

Data Centers

Texas is experiencing an influx of data centers, which the Texas Legislature must address in the 90th regular legislative session to better protect neighbors from the harmful pollution of co-located gas plants, backup diesel generators and wastewater discharges. The agency should anticipate this need and bolster funding for meaningful public participation and more extensive permit reviews. It should also consider funding needs to implement any rule projects, including public notice and participation in any such rules, as mandated by new legislation.

⁶⁵ See https://www.sunset.texas.gov/public/uploads/2023-08/Texas%20Commission%20on%20Environmental%20Quality%20Staff%20Report%20with%20Final%20Results_6-26-23.pdf

⁶⁶ See <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/SB01397F.pdf#navpanes=0>

⁶⁷ See <https://www.tceq.texas.gov/downloads/agency/decisions/agendas/backup/2023/2023-1506-rula.pdf>

⁶⁸ See <https://www.citizen.org/news/tceq-adopts-public-participation-rulemaking-while-rejecting-all-of-the-publics-participation/>

Conclusion

The TCEQ's leadership has expressed little interest in our concerns that the agency's enforcement resources are insufficient, approving a new Legislative Appropriations Request for FY 2028-2029 that failed to adequately increase agency funding for investigations and enforcement, despite the significant increase in the number of regulated entities across the state and the agency's poor performance across its enforcement activities.^{69,70,71}

Communities across Texas depend on the TCEQ to protect public health, our state's natural resources and the environment. In many ways, the TCEQ seems determined to live up to its "Reluctant Regulator" title. Residents have expressed frustration with the agency's inability to prioritize people over corporate profits and the agency's unwillingness to improve, despite past legislative efforts.

We are hopeful that the Legislative Budget Board can begin to address these issues. We are available to discuss any of these issues further.

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⁶⁹ See <https://www.tceq.texas.gov/downloads/agency/decisions/work-sessions/backup/2026/2026-0529-mis.pdf>

⁷⁰ See <https://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2025/2025-enforcement-report.pdf>

⁷¹ See <https://www.tceq.texas.gov/downloads/agency/administrative/legislatively-mandated-reports/sfr-55-25-annual-report-on-performance-measures-fy25.pdf>