Office of Compliance and Enforcement

This office enforces compliance with state and federal environmental regulations, responds to emergencies and natural disasters threatening human health and the environment, oversees dam safety, and monitors air and water quality in Texas. The office seeks to promote voluntary compliance through a comprehensive program of regional investigations, technical assistance and outreach, environmental monitoring, and appropriate enforcement. The office is comprised of employees in 16 regional offices, one satellite office, and the Austin headquarters.

Critical Infrastructure Division

The Critical Infrastructure Division, in keeping with the State of Texas Homeland Security Strategic Plan, strives to achieve a safer, more secure, and more resilient state. To accomplish this, the division seeks to assure compliance with environmental regulations to protect public health and the environment, and to provide support during disaster conditions for regulated critical assets essential for the state and its citizens. The division oversees the following programs: Dam Safety, Emergency Management Support, Homeland Security, Radioactive Materials Compliance, BioWatch, and Tier II Chemical Reporting.

Enforcement Division

The Enforcement Division protects human health and the environment through enforcement of TCEQ rules, regulations, authorizations, and permits. The division develops formal enforcement cases in accordance with state statutes and agency rules, consistent with TCEQ's objective that enforcement, when necessary, must be swift, sure, and just. The division also drafts proposed enforcement orders that include appropriate penalties and ordering provisions for TCEQ's consideration and approval. In addition, the Enforcement Division is responsible for administering the Wastewater Compliance Monitoring Program.

Monitoring Division

The Monitoring Division provides TCEQ the foundation for making sound, scientifically based decisions for the protection of public health and the environment by ensuring the collection, analysis, and display of quality environmental data. The division oversees TCEQ’s Stationary Air Monitoring Network, the Mobile Monitoring Program, the Laboratory Accreditation Program, and the Quality Assurance Program.

Program Support and Environmental Assistance Division

The Program Support and Environmental Assistance Division consists of the Program Support Section (PSS), which supports field operations, the Small Business and Local Government Assistance (SBLGA) Program which provides external compliance support, and a Division Support Team. The division also oversees the Landscape Irrigation, On-Site Sewage Facility, and Clean Water Certification programs.

The PSS aids regional management in ensuring statewide consistency in implementing regulatory requirements, developing internal programs and procedures, and training investigative staff. The PSS is responsible for central office administration and the development, coordination, and implementation of statewide regional office activities, such as annual investigation workplans; training events; special initiatives; and data maintenance and evaluation.

In addition, PSS manages: Landscape Irrigation, On-Site Sewage Facility, and Clean Water Certification programs. PSS also oversees field citations and helps manage an internal certification and recertification training program for the optical gas imaging cameras (OGIC). The agency uses OGICs across the state to address environmental issues that could affect air quality including those around oil and natural gas related sites and other facilities such as chemical plants, landfills, and truck loading and unloading activities.

The SBLGA program provides confidential compliance assistance on air, water, and waste regulations to small businesses and local governments. Their services are free and include a compliance assistance hotline (800-447-2827), online tools, on-site technical assistance, and other resources for regulatory compliance.

The Division Support Team coordinates purchasing and maintenance of regional monitoring equipment, management of OCE data including data transfer to U.S. Environmental Protection Agency (EPA); and web-page maintenance, as well as coordinating public information requests and record management for OCE.

In addition, the division coordinates activities with EPA Region 6; prepares reports for the Legislative Budget Board (LBB), EPA, and the legislature; provides program guidance and technical assistance to agency staff and the public; analyzes draft legislation; develops and implements rules; and coordinates contract activities supporting regional staff functions.

TCEQ Regional Areas

TCEQ's Field Operations Program consists of 16 regional offices and one satellite office located throughout the state. The regional offices managed by regional directors are divided into four geographical areas which are managed by four area directors who ensure the regions are functioning pursuant to established policies and procedures (see Attachments for Area and Regional map). The area directors, in cooperation with the regional directors, are responsible for the administration and operation of each region, including: legislative and EPA investigative commitments, emergency response, consistency of program implementation, development of program policy and guidance, coordination and implementation of special initiatives, coordination and interaction with EPA, and data management. Major responsibilities include:

- Conducting investigations for compliance at permitted and registered air, water, and waste facilities located across the state as well as investigating complaints at facilities and operations, whether permitted or not, based on requests for assistance from citizens, entities, or other concerned parties;
- Developing enforcement-action referrals for violations identified during investigations;
- Evaluating reported emissions events to determine compliance;
- Responding to environmental emergencies (including natural disasters) with personnel, equipment, and expertise;
- Implementing the Edwards Aquifer Protection Program;
- Providing environmental education and technical assistance to customers as needed;
- Monitoring the quality of ambient air, surface water (rivers, lakes, and bays), and public drinking water; and
- Overseeing and ensuring compliance with water rights outside of Watermaster areas.

Dam Safety Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Dam Safety Program

Location/Division: Austin Headquarters / Critical Infrastructure Division

Contact Name: Kelly Cook, Deputy Director, Critical Infrastructure Division

Statutory Citation for Program: Texas Water Code (TWC) Sections 11.126, 11.144, 12.015, and 12.052.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Dam Safety Program monitors and regulates both private and public dams in Texas. The program periodically inspects dams posing a high or significant hazard and provides recommendations and reports to responsible parties (owners) to help them maintain safe facilities. The program ensures these facilities are constructed, maintained, repaired, and removed safely. High or significant hazard dams are those could result in loss of life if the dam should fail.

The major activities performed by the program are:

- Review of construction plans and specifications for new dams requiring a water right permit and review of dam modifications;
- Review of water right permit applications for projects with a dam and lake to address dam safety issues;
- Review of owners' and contractors' engineering inspection reports;
- Inspections of high and significant hazard existing dams, new dams under construction, modifications to existing dams, and complaints on dams;
- Hydrologic and hydraulic reviews of dams;
- Review of emergency action plans;
- Breach analyses of dams to determine impact to downstream properties;
- Review of water district creations for dam safety issues; and
- Attend emergency action plan tabletop exercises.

The inventory of dams in Texas at end of FY 2020 included 7,314 dams, not including 116 federal dams. The number of these dams falling under TCEQ's dam safety jurisdiction is 4,049 dams. The remaining 3,265 dams are exempt from TCEQ regulations by definition under statute and are not subject to routine dam safety inspections but must comply with operation and maintenance requirements. The inventory is further broken down by exemption status and hazard classification:

Total Dams in Texas Inventory	7,314
• State-Regulated Dams	4,049
• Exempt Dams	3,265

Total State-Regulated Dams	4,049
• High Hazard Dams	1,502
• Significant Hazard Dams	304
• Low Hazard Dams	2,243
Total Exempt Dams	3,265
• Significant Hazard Dams	242
• Low Hazard Dams	3,023

The primary focus for the program is dam safety inspections on the 1,806 state-regulated high and significant hazard dams (1,502 high and 304 significant) (state-regulated) dams every five years as required in Title 30 Texas Administrative Code (30 TAC) Section 299.42(a)(2). According to the rule, high and significant hazard dams and the three large low hazard dams in the inventory are scheduled to be inspected every five years, while small and intermediate size, low hazard dams are only to be inspected at the request of an owner; as a result of a complaint; at the request of someone other than the owner; after an emergency such as a flooding event; or to determine the hazard classification.

The program also inspects poor condition high and significant hazard dams on a two-year frequency. Of the 1,806 high and significant hazard (state-regulated) dams, 244 (204 high and 40 significant) are in poor condition. Poor condition dams are dams with major maintenance, structural or hydraulic deficiencies, which could threaten integrity of the dam if the owner does not take immediate action. This shorter inspection cycle is needed to determine if previously identified problems have been corrected or if the situation is progressing to the point of being an imminent and substantial endangerment to public safety. The inventory further broken down by exemption status and condition is as follows:

Poor Condition State-Regulated Dams	300
• High Hazard Dams	204
• Significant Hazard Dams	40
• Low Hazard Dams	56
Poor Condition Exempt Dams	92
• Significant Hazard Dams	63
• Low Hazard Dams	29

The program is also required to complete 800 assessments each year, which includes completed dam safety inspection reports and assessment reports.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The numbers for the Performance Measures are taken from reports developed from the Dam Safety Program Module, which was created after the 2008 State Audit.

The following performance measures are reported in Section II, Exhibit 2.

- Number of dams in the Texas Dam Inventory;
- Percent of high and significant hazard dams inspected within the last five years;
- Number of dam safety assessments; and
- Average cost per dam safety assessment.

The effectiveness and efficiency of the Dam Safety Program is also shown by:

- The number of emergency action plan reviews increased from 72 in FY 2017 to 220 in FY 2020.
- All dam owners receive a copy of the inspection report following an inspection, attached to a letter requiring the owner to respond by a specific date with a plan of action and timeline for correcting any deficiencies documented during the inspection.
- The program has increased its presence across the state by performing more inspections, from 227 in FY 2006 to 451 in FY 2019; conducting dam-owner workshops; and making new publications available. These activities have been effective in increasing requests for inspections, electronic communications, telephone calls, written correspondence, and requests for presentations regarding the program.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions having directly affected the Dam Safety Program.

1914

- The Texas Dam Safety Program began with members of the Board of Water Engineers making construction inspections.

1968

- The modern version of the program began with the first inspections of existing dams in September 1969.

1977

- Phase I of the National Dam Inspection Act of 1972 (Public Law 92-367) was implemented, which led to significant changes in standards used in the evaluations of dams.

1981

- Federal funding for the Dam Safety Program ended.

1986

- Texas' first comprehensive set of dam-safety rules was adopted.

1998

- The Texas Natural Resource Conservation Commission's (TNRCC) Executive Director Task Force on Dam Safety published its final report, which was confirmed by the House Natural Resources Subcommittee on Dam Safety. Numerous recommendations were made, including updating the applicable rules.

2003

- At TCEQ's request, the Association of State Dam Safety Officials performed a peer review of the Dam Safety Program. The report recommended new rules be developed and the program be revitalized.

2008

- TCEQ approved new dam safety rules that became effective on January 1, 2009.

2011

- The legislature temporarily exempted certain dams from agency rules and regulations.

2013

- The legislature made the temporary exemptions permanent.

2016

- A new study of the Probable Maximum Precipitation was completed by TCEQ for the State of Texas.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The program affects all owners of dams and engineering firms working on dam-related projects. In FY 2020, there were 4,049 dams in the program database not exempted by the legislature. Of the regulated dams, 1,502 are high-hazard dams and 304 are significant-hazard dams.

The following table lists the types of non-exempt dam owners. Each dam could have more than one owner and/or owner type.

Dam Owner Types and Amounts

Type of Dam Owner	Number of Dam Owners
Individual	450
Private	835
Soil and Water Conservation Districts	1,444
Local Governments (Cities and Counties)	875
Districts and Water Authorities	676
Federal Agencies	26
River Authorities	76
Public Utilities	10
State Agencies	58

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Organizationally, the program is part of the Office of Compliance and Enforcement. Program inspectors are located at TCEQ's central office as well as in regional offices in Houston and Dallas-Fort Worth and cover the whole state.

The program inspects high and significant hazard dams and prepares reports which may include deficiencies needing to be addressed and recommendations for each deficiency noted. If an inspection reveals the need for a hydrologic and hydraulic adequacy analysis or structural analysis, a recommendation is made for the analysis. The dam owners receive a letter and a copy of the report from TCEQ. If necessary, the owners may be requested to provide a plan of action and timelines for addressing all noted deficiencies.

An agreement may be developed between TCEQ and the owners to set a timeline to meet the requirements of the rules. This written agreement will state the projects to be addressed and the timelines for performance.

The program staff also meet with owners and/or the owners' engineer, if requested, to discuss possible options, or alternatives, for upgrading the dams.

In addition to the activities described above in Question B, Dam Safety personnel manage contracts, communicate with dam owners and engineers before inspections, conduct exit interviews to discuss preliminary findings, conduct dam owners' workshops, make presentations to owner associations and engineering societies, and develop education materials, such as:

- *Dam Removal Guidelines;*
- *Guidelines for Operation and Maintenance of Dams in Texas;*
- *Hydrologic and Hydraulic Guidelines for Dams in Texas;*
- *Guidelines for Developing Emergency Action Plans for Dams in Texas;*
- *Design and Construction Guidelines for Dams in Texas;*
- *Probable Maximum Precipitation (PMP) User Guide and Final Report; and*
- *Forms for dam inspections and for reporting suspicious incidents.*

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Dam Safety Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0153	Water Resource Management Account - Dedicated	N/A	N/A	$1,796,091
0555	Federal Funds	97.041	National Dam Safety Program	$311,514
TOTAL				**$2,107,605**

The program is funded in the Water Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

No other state programs in Texas, internal or external, perform dam-safety services or functions.

The Natural Resources Conservation Service (NRCS), a federal agency, offers dam-safety services—primarily technical assistance—to local sponsoring organizations on dams funded and built by NRCS or the predecessor agency (the U.S. Soil Conservation Service). These dams are owned by the local sponsoring organizations and are under Dam Safety Program jurisdiction. The NRCS does not have the same functions as the Dam Safety Program.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

To avoid duplication or conflict with the NRCS-assisted projects, TCEQ has an interagency contract 582-19-92239 (intergovernmental), with the NRCS providing for the NRCS to inspect a specified number of the high- and significant-hazard NRCS-assisted project dams. The NRCS submits the reports to the Dam Safety Program, which develops letters to send with reports to the dam owners.

To avoid duplication of effort on inspections by dam owners, the rules now allow the dam owner's engineering inspection reports to meet the inspection requirements in 30 TAC Section 299.42; therefore, the program does not reinspect. The owner's inspection reports are reviewed by the Dam Safety Program and appropriate recommendations are made to the dam owner(s).

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The units of government interrelating with the Dam Safety Program include:

- Local Governments (Cities and Counties) Own dams
- River Authorities Own dams
- Districts and Water Authorities Own dams
- Soil and Water Conservation Districts Own dams

• State Agencies	Own dams
• U. S. Fish and Wildlife (Federal agency)	Own dams
• U. S. Forest Service (Federal agency)	Own dams
• Natural Resources Conservation Service	Interagency contract for dam inspections w/Dam Safety Program
• U. S. Army Corps of Engineers (COE)	Dams funded and built by the COE are exempt from state jurisdiction
• U. S. Bureau of Reclamation (BOR)	Dams funded and built by the BOR are exempt from state jurisdiction
• International Boundary and Water Commission (IBWC)	Dams funded and built by the IBWC are exempt from state jurisdiction

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**

The Dam Safety Program oversees contracts to help reduce the potential consequences of dam failures by reducing risks to life and property associated with dams and advancing the state in the practice of dam risk management.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $274,455.

- **the number of contracts accounting for those expenditures;**

Four contracts.

- **the method used to procure contracts;**

Contracts were either competitively bid or directly awarded to cooperating agencies.

- **top five contracts by dollar amount, including contractor and purpose;**

Dam Safety Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-19-92239	USDA Natural Resources Conservation Service	LiDAR Elevation Data Collection	$200,000
582-20-12754	The Sanborn Map Company Inc	80 Dam Inspections of NRCS-assisted “Flood Control” Dams	$49,983
582-20-12755	AECOM Technical Services	Quality Assurance/Quality Control (QA/QC) of LiDAR Data	$24,435
582-19-97284	Michael J. Wood	Employee reimbursement for fingerprinting for a required background check by the Texas Board of Professional Engineers for Professional Engineer (P.E.) licensure	$37

- **the methods used to ensure accountability for funding and performance; and**

Monitoring and evaluating contracts to ensure accountability for results is an integral part of every program receiving state and federal funds. Monitoring and evaluation are conducted by the assigned contract manager. No contract is signed unless it includes baseline data from which progress can be measured. In addition, every contract specifies regular benchmarks for evaluating progress and suggested corrective actions to be implemented when necessary. Fiscal monitoring includes careful review of expenses and supporting documents to ensure all expenses are substantiated, reported properly, and are in compliance with established agency guidelines.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

TCEQ's Dam Safety Program is awarded the Federal Emergency Management Agency's Rehabilitation of High Hazard Potential Dams (HHPD) Grant Program. This grant provides technical, planning, design, and construction funding for rehabilitation of eligible high hazard potential dams. Grant funding is based on 65% federal funds with a 35% local match. In FY 2020, the Dam Safety Program provided three pass-thru grants for the HHPD Program.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Resources for Dam Safety. The number of dams the Dam Safety Program is required to inspect each year is continually increasing. This yearly increase is largely from reclassifying dams due to increased development downstream of dams, and to a lesser extent from new dam construction, and existing but previously unknown dams being identified and added to the inventory. The Program was able to complete 91% of the inspections for the five-year cycle at the end of FY 2019 and 89% of the inspections at the end of FY 2020. However, without any increase in staffing resources, this percentage will continue to decrease each year additional inspections are added to the inspection cycle. **Refer to Section IX, Major Issues, Resource needs for the Dam Safety Program.**

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Since December 2003 several significant activities have been initiated to improve the program and to reassert it as a positive presence in Texas:

- Developing a training plan and program for new staff, including topics such as safety evaluations of existing dams, hydrologic and hydraulic courses, GIS-GPS courses, Risk Assessment training, and various webinars on dam safety;
- Determining which Texas dams are critical infrastructures;
- Reestablishing a presence for the program by increasing the numbers of inspections, contacting owners about inspections, sending reports to owners with a request for response, reviewing owner and consultant inspection reports, and responding to owner questions;
- Developing a new database for entering data securely;
- Utilizing GIS to evaluate dams;

- Conducting workshops for owners and engineers; and
- Publishing and republishing guidelines for owners and engineers.

In 2020, the Texas State Auditor's Office published an audit report on the Dam Safety Program recommending several minor changes. The program is on task to timely implement all of the recommendations, including revising the rules to add the exemptions of dams, and to incorporate new legislation.

O. Regulatory programs related to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Texas Commission on Environmental Quality
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	7,289	7,314
Total number of entities inspected	621	629
Total number of complaints received from the public	16	10
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	2	5
Number of jurisdictional complaints	14	5
Number of jurisdictional complaints found to be without merit	0	0
Number of complaints resolved	14	5
Average number of days for complaint resolution	118	171

	FY 2019	FY 2020
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
Other • District Court: Petition for injunctive relief (filed by the Office of the Attorney General)	1	0

Emergency Management Support Team Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Emergency Management Support Team

Location/Division: Austin Headquarters / Critical Infrastructure Division

Contact Name: Kelly Cook, Deputy Director, Critical Infrastructure Division

Statutory Citation for Program: Texas Water Code (TWC) Sections 26.039, 26.127, 26.261-26.268; Texas Health and Safety Code (THSC) Section 361.024 and Chapter 382.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Emergency Management Support Team (EMST) provides critical support for the state's capability to prepare for, respond to, and recover from natural and manmade disasters.

The EMST supports TCEQ regional offices by providing enhanced disaster preparedness training and state-level coordination for responding to large-scale or statewide disasters. The EMST maintains advanced equipment, such as Command Post trailers, Satellite Communications including Voice Over Internet Protocol phones and a long-haul wireless Internet system, and a field-deployable Radio Interoperability System, all which are available for deployment and operation across the state in support of TCEQ's mission.

One of the main tasks of the EMST is to train and support TCEQ Disaster Response Strike Teams (DRSTs) in each region. DRST staff are provided training, knowledge, and skills to address needs during a major incident or disaster, with the understanding each incident is different. This training provides TCEQ the depth and expanse of expertise to provide specialized, long-term response capabilities to any region in the state. The trained cadre of staff participating in DRSTs enables TCEQ to rotate personnel responding to disasters, to ensure they are not exhausted and remain safe. Another objective of the EMST is to help ensure continuity of operations should one of TCEQ's offices be impacted by a disaster.

TCEQ is the primary state agency for Oil and Hazardous Materials Response, as stated in the ESF-10 Annex of the State of Texas Emergency Management Plan. TCEQ also serves as a support agency for a number of other annexes, including ESF-1 Transportation, ESF-2 Communications, ESF-3 Public Works, ESF-4 Firefighting, ESF-5 Emergency Management, ESF-8 Public Health and Medical Services, and ESF-15 Public Information. To maintain preparedness to fulfill TCEQ responsibilities, the EMST sponsors training for members of DRSTs on various disaster response-oriented topics including air monitoring and sampling; hazardous materials response and remediation; Chemical, Biological, Radiological, and Nuclear (CBRN) emergency response protocols; the National Incident Management System (NIMS); the Incident Command System (ICS); and TCEQ senior DRST professional development plan. The training is designed to prepare TCEQ DRSTs across the state in such diverse capabilities as response and mitigation of spills of hazardous materials, air monitoring, environmental sampling, knowledge of public drinking water and wastewater systems, and surface water quality monitoring. The EMST and DRSTs enable TCEQ to provide an effective disaster response team, in accordance with state and national protocols and plans.

EMST also manages TCEQ Emergency Response Contracts. TCEQ Emergency Response Contractors are utilized during disasters and emergency response incidents to conduct operations for TCEQ. The contractors remove, contain, and remediate releases of hazardous materials when the responsible party is unknown, unwilling, or unable to conduct adequate response; conduct supplemental air monitoring; and provide logistical support during responses.

The EMST also manages the After-Hours Spill Reporting call center contract, which is a joint contract with the Texas General Land Office (GLO). This call center receives spill notifications for the State of Texas after normal business hours. The call center disseminates these notifications of spills to the appropriate TCEQ and GLO offices so adequate and timely responses may be conducted by staff.

EMST staff also conduct Tier II program investigations at every agricultural ammonium nitrate facility in Texas. Each facility is inspected at least every two years.

The EMST is currently developing an Unmanned Aerial Systems (UAS) or "Drone" Program. The purpose of the UAS Program is to provide aerial support and assistance to TCEQ personnel during field activities, disasters, and emergency response events. The UAS Program will augment TCEQ's use of contracted manned aircraft during investigations, emergency response events, and natural disaster responses. This program will include central office staff as well as regional staff.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Many of these response actions have been multi-day responses in extreme conditions. EMST and DRSTs are prepared to be self-supporting for at least three days.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

TCEQ established the EMST in 2012 to provide critical support for the agency's capability to prepare for, respond to, and recover from natural and manmade disasters. EMST took over some of the duties of the former TCEQ Strike Team.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

N/A

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Most of TCEQ's Emergency Management efforts are not within its day-to-day regulatory responsibilities, rather, the program addresses state goals, strategies, and objectives to prepare for, prevent, minimize the effects of, respond to, and recover from disasters and emergencies, whether natural or human-

caused. TCEQ Emergency Management efforts focus on coordinating related efforts across agency programs.

The EMST supports the regional offices by providing and/or coordinating enhanced disaster preparedness training and exercises and coordinating state-level response to large-scale or statewide disasters.

In addition to coordinating the agency's emergency management preparedness activities, the program coordinators also deploy to the field during large disasters to help manage the response.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Emergency Management Support Team Program Funding Sources

Account	Account Title	FY 2020 Expended
0001	General Revenue	$280,358
0151	Clean Air Account - Dedicated	$311,017
0153	Water Resource Management Account - Dedicated	$81,145
0549	Waste Management Account - Dedicated	$32,923
0550	Hazardous and Solid Waste Account - Dedicated	$700,857
0655	Petroleum Storage Tank Remediation Account - Dedicated	$32,749
5020	Workplace Chemicals List Account - Dedicated	$53,184
5094	Operating Permit Fees Account- Dedicated	$250,000
TOTAL		**$1,742,233**

The program is funded in the Enforcement and Compliance Support Strategy and the Field Inspections and Complaints Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

TCEQ is the state's lead agency in responding to spills of all hazardous substances (except oil spills in coastal waters). This includes releases of refined petroleum products from pipelines; releases of crude oil being transported over the roadway; and discharges of any other substances that may cause pollution or harm air quality pursuant to the Texas Hazardous Substances Spill Prevention and Control Act (TWC Sections 26.261 et seq.) and the Texas Clean Air Act (THSC Section 382.001 et seq.). TWC Section 26.127 establishes TCEQ as the principal authority in the state on matters relating to the quality of water in the state. In addition, the Texas Hazardous Substances Spill Prevention and Control Act (TWC Sections 26.261 et seq.) establishes the policy to prevent the spill or discharge of hazardous substances into the waters in the state and to cause the removal of any spills and discharges without undue delay (TWC Section 26.262).

Under the State of Texas Emergency Management Plan, TCEQ's primary responsibility is as the state's lead agency for Emergency Support Function (ESF) No. 10, which addresses Hazardous Materials and Oil Spill Response. As the lead agency for ESF No. 10, TCEQ coordinates the spill response by determining which state agency has jurisdiction for the spill and ensuring appropriate spill response measures are being

taken. The other state agencies with primary spill response jurisdiction in Texas include the Texas General Land Office (GLO) and the Railroad Commission of Texas (RRC).

The GLO is responsible for responding to crude oil spills that enter, or threaten to enter, coastal waters pursuant to the Oil Spill Prevention and Response Act of 1991 (Texas Natural Resources Code (TNRC) Section 40.001).

The RRC is responsible for responding to spills or discharges from all activities associated with the exploration, development, or production of oil, gas, and geothermal resources, pursuant to TNRC Sections 85.042, 91.101, and 91.601, including storage or pipeline transportation and excluding highway transport and refined product spills.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The program coordinates activities through memoranda of understanding (MOU) and through the rulemaking process with GLO and RRC to delineate jurisdiction and coordination for spill response for oil and hazardous materials. TCEQ jurisdiction is under TWC Section 26.261 and GLO jurisdiction is under Chapter 40 of the Oil Spill Prevention and Response Act of 1991. Additionally, an MOU between TCEQ and RRC (Title 30 Texas Administrative Code (30 TAC) Section 7.117) further outline division of responsibility between the two agencies.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

TCEQ EMST coordinates with state, local, regional, and federal units of government for emergency and disaster preparedness, response, and recovery.

These agencies include but are not limited to: Texas General Land Office, Texas Division of Emergency Management, Texas Department of Public Safety, Texas Forest Service, EPA, and U.S. Coast Guard. TCEQ EMST also works with numerous local governmental entities during incidents and responses. Both technical and operational assistance are provided upon request of the jurisdiction.

K. If contracted expenditures are made through this program please provide.

- **a short summary of the general purpose of those contracts overall;**

The emergency management contracts ensure quick response to incidents involving oil and hazardous substances, hazardous waste, environmentally regulated substances, unknown materials, groundwater sampling, and to notify water well owners and operators(s) of possible groundwater contamination. The program also utilizes the Mickey Leland Environmental Internship Program (MLEIP) to support program needs.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $1,104,570.

- **the number of contracts accounting for those expenditures;**

Five contracts.

- **the method used to procure contracts;**

The emergency management contracts were solicited using a competitive bid process. An intern was hired using a managed term contract. The medical monitoring contract was directly awarded to a cooperating agency.

- **top five contracts by dollar amount, including contractor and purpose;**

Emergency Management Support Team Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-19-90562	Progressive Environmental Services Inc	Emergency Response Contracts	$895,549
582-19-90564	Allied International Emergency LLC	Emergency Response Contracts	$186,253
582-19-90561	Protect Environmental Services Inc	Emergency Response Contracts	$11,644
582-20-13998	WorkQuest	Temporary Personnel Services – MLEIP Intern	$10,164
582-17-70412	University of Texas Health Services	Annual Occupational Medical Monitoring Program	$960

- **the methods used to ensure accountability for funding and performance; and**

The emergency management contracts include on site supervision from regional staff when applicable; discussions with the contractor before, during, and after the response to ensure appropriate actions were taken; and a detailed review of invoices to ensure all costs are reported properly and in compliance with the contract. For the other two program contracts, the program reviews each invoice to ensure accurate billing for intern time and medical monitoring costs.

- **a short description of any current contracting problems.**

There are currently no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Emergency Response. TCEQ spends significant resources to address on-demand emergency response needs. Expectations have increased with respect to response timeframes and the types of actions and amount of resources needed/necessary to address events. The agency recommends strengthening the required training for local emergency management officials and their chain of command to increase

knowledge and understanding of state and local roles and responsibilities and help ensure local requests for state assistance follow protocols established within the Texas Emergency Management Plan. **Refer to Section IX, Major Issues, Strengthen the Required Training for Local Emergency Management and Their Chain of Command.**

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

TCEQ EMST is a multidisciplinary force designed to provide critical support to the regional offices in the event regional staff and resources are exhausted.

TCEQ EMST also maintains and deploys equipment to TCEQ regions during disasters, for use by the EMST, DRSTs and regional staff. This equipment includes:

- a Mobile Command Post (MCP) trailer equipped with satellite communications and radio interoperability system;
- a Light Command Post (LCP) trailer equipped with satellite communications and radio interoperability system;
- two Regional Response trailers, with climate-controlled work stations;
- an equipment support trailer;
- two mobile 25 KW generators, one mobile 45KW generator, and one mobile 30KW generator;
- a communications/radio repeater trailer;
- satellite radio/telephones; UHF/VHF radio cache;
- iPads;
- Volvo semi (Mobile Command Post tow vehicle), Freightliner (Light Command Post tow vehicle) and five one-ton towing vehicles for auxiliary trailers and generators; and
- numerous pieces of direct read air monitoring equipment.

Through the program's efforts, TCEQ EMST strives to attain and improve its readiness for all emergencies. Notable demonstrations/responses include:

- *Ammonium Nitrate Explosion, West, Texas, April 17, 2013*. EMST deployed in support of TCEQ Waco Region staff responding to the disaster. EMST assisted with setting up Unified Command and immediately started addressing the numerous issues involved. This included utilizing air monitoring assets from the Texas 6th Civil Support Team (CST) TXMF (Texas National Guard) and TCEQ contractors to gather air quality data. EMST also provided HAZMAT contractor support to mitigate a leaking anhydrous ammonia tank and assist with the downstream assessment to determine the effects of the fire runoff. EMST and the regional offices had assets on the ground for over two months.
- *Ammonium Nitrate Fire, Athens, Texas, May 30, 2014*. EMST supported TCEQ Tyler Region staff in response to a major ammonium nitrate fire in Athens, Texas. EMST utilized the Texas 6th CST TXMF and TCEQ contractors to provide air monitoring for the affected population and first responders. EMST also provided technical assistance regarding ammonium nitrate helping bring the incident to a safe conclusion.
- *Syrian Chemical Shipment Response (Chemstroy), July 9, 2014*. EMST deployed in support of TCEQ Beaumont Region staff to provide air monitoring for the offloading of chemical warfare agent precursors from Syria. The chemical agents were offloaded and transported to a nearby facility for disposal with a safe conclusion.

- *Pecos River Floods, September 2014*. EMST deployed contractors to assist TCEQ Midland Region staff with removal of flood debris impinging the Pecos River bridge at Interstate Highway 20. EMST also assisted with the response strategies allowing for the safe removal of the debris.
- *Ebola Response, Dallas, September 2014*. EMST provided contractor support to assist TCEQ Dallas/Fort Worth Region staff and local jurisdictions on the remediation of the infected nurse's residences, pet rescue and veterinarian waste management, and coordinated the transportation and destruction of the Ebola waste from these operations.
- *East Texas Flood Response, March 2016*. EMST deployed in support of TCEQ Beaumont Region staff to assist with flood damage assessments and to provide liaisons to local jurisdictions. EMST also provided TCEQ contractor support to safely remove orphaned containers from the flooded areas. EMST assisted with these efforts for over two weeks.
- *A1 Chemical Fire, Houston, Texas, March 2016*. EMST deployed in support of TCEQ Houston Region staff to protect public health and welfare during the A1 chemical fire in a residential area. EMST activated TCEQ contractors to perform offsite cleanup of fire water runoff and removal of contaminated soil adjacent to the property. EMST also conducted the Tier II program compliance investigation which sent the responsible party to enforcement.
- *Corpus Christi Drinking Water Response December 2016*. EMST deployed to the TCEQ Corpus Christi Region to support response efforts. This includes performing water system sampling and providing technical assistance.
- *Mulch Fire, Selma, Texas December 19, 2016*. EMST deployed to the San Antonio Region to provide personnel and TCEQ contractor equipment to respond to a large mulch fire. EMST also assisted with the fire response strategies allowing for a safe conclusion of the incident.
- *Pesticide Response, Amarillo, Texas, January 2017*. EMST provided TCEQ contractor support to assist the TCEQ Amarillo Region with a high-profile fatality pesticide cleanup. EMST coordinated with Texas Office of Homeland Security and the Texas Division of Emergency Management (TDEM), EPA, and Texas Department of State Health Services (DSHS) to develop the clearance standards for the cleanup.
- *Hurricane Harvey Response, August 2017*. EMST deployed to the Houston and Corpus Christi Regions to assist unified command with the massive environmental response and recovery efforts involving public drinking water and wastewater sampling, debris management, air monitoring and coordinating with EPA, Federal Emergency Management Agency (FEMA), various other federal, state, and local agencies on all environmental aspects of response and recovery. EMST was deployed for over two months.
- *Intercontinental Terminals Company (ITC) Fire Response, Fire Deer Park, Texas, March 2019*. EMST responded to the ITC chemical fire to support TCEQ Houston Region staff with interface at the unified command and the local EOCs. EMST also deployed TCEQ contractors to assist with air monitoring in affected neighborhoods. EMST provided technical assistance with pollution runoff monitoring and cleanup. EMST was deployed for over three weeks in numerous capacities.
- *Skull Creek Response, April 2019*. EMST was requested to assist TCEQ Houston Region staff with a high-profile investigation of a release of an unknown chemical into Skull Creek. This included assisting with the investigation and interfacing with local elected officials. EMST also deployed a TCEQ contractor Unmanned Aerial Systems to fly over the affected areas to determine the extent of contamination.
- *TPC Port Neches Plant Fire, Port Neches, Texas, December 2019*. EMST deployed TCEQ contractor air monitoring assets to assist TCEQ Beaumont Region staff with the protection of the public. EMST also provided technical assistance and logistical support.

- *Hurricane Laura Response, August 2020.* EMST deployed to the TCEQ Beaumont Region to provide personnel and technical assistance with the Hurricane Laura response. EMST provided air monitoring support and coordinated the response of the Texas 6th CST TXMF, EPA, and TCEQ contractors to help protect the public. EMST also provided logistical support to ensure TCEQ's Beaumont office had electricity. EMST was deployed for 10 days assisting with this event.
- *Winter Storm Uri Response, February 2021*. EMST provided logistical support during the Winter Storm Uri response. This include TCEQ contractors supplying 40 pallets of bottled water to the City of San Antonio, coordinating the deployment of three EPA mobile drinking water labs at three of TCEQ's regional offices, and ensuring these labs had the supplies on hand to complete necessary sample analyses. EMST also ensured the labs had adequate electricity and infrastructure to function properly.
- *Aransas Pass Drinking Water Response, June 2021*. EMST deployed TCEQ contractors to provide 35 pallets of bottled water to the City of Aransas Pass.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Homeland Security Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Homeland Security Program

Location/Division: Austin Headquarters / Critical Infrastructure Division

Contact Name: Kelly Cook, Deputy Director, Critical Infrastructure Division

Statutory Citation for Program: Texas Government Code (TGC) Chapter 418 (Emergency Management) and Chapter 421 (Homeland Security).

B. What is the objective of this program or function? Describe the major activities performed under this program.

TCEQ's Homeland Security Program assists in the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy, and to detect, deter, respond to, and recover from disasters, both natural and human-caused. These initiatives include notifying and coordinating with many of those responsible for the state's critical infrastructure entities, including producers and purchasers of public drinking water, high-risk dams, refineries, petrochemical facilities, and wastewater treatment facilities.

As a member of the Texas Homeland Security Council, TCEQ assists in planning, coordination, and communication for homeland security preparedness. TCEQ's homeland security coordinator is on call 24 hours a day to facilitate requests for assistance from the Texas Office of Homeland Security and the Texas Department of Emergency Management (TDEM).

The Homeland Security Program coordinates with all TCEQ program areas, the Texas Office of Homeland Security, and TDEM, on issues and activities related to all hazards, including homeland security and emergency management. The program's focus is not the daily operation of the programs and the entities TCEQ regulates, but rather on detecting and preventing threats, responding to disasters or incidents affecting the public and regulated community, and recovering from their effects.

TCEQ's homeland security responsibilities are described in the Texas Homeland Security Strategic Plan (2021-2025), and its emergency management responsibilities are described in more detail in the State of Texas Emergency Management Plan and the Emergency Support Function Annexes. These plans were developed to fulfill requirements in Texas Government Code Chapters 418 and 421.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

N/A

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

TCEQ's Homeland Security Program was established as part of a statewide, response to the attacks of September 11, 2001. Since then, significant expansion of emergency and disaster-management preparation, response, and recovery has occurred at the state and national levels, which included TCEQ increasing its staffing for homeland security activities. Currently, TCEQ's Homeland Security Program has a coordinator, assistant coordinator, and one additional staff member.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The program affects many internal programs; these programs have roles and responsibilities in preparing for and responding to widespread disasters. Also, a representative from each TCEQ office and other critical TCEQ personnel are required to undergo National Incident Management System training to ensure TCEQ employees expected to respond to a disaster understand the specific processes to follow.

The Homeland Security Program assists in reestablishing continuity of operations after a disaster with the public and regulatory community, thus, ensuring restoration of services at critical infrastructure facilities the agency regulates.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

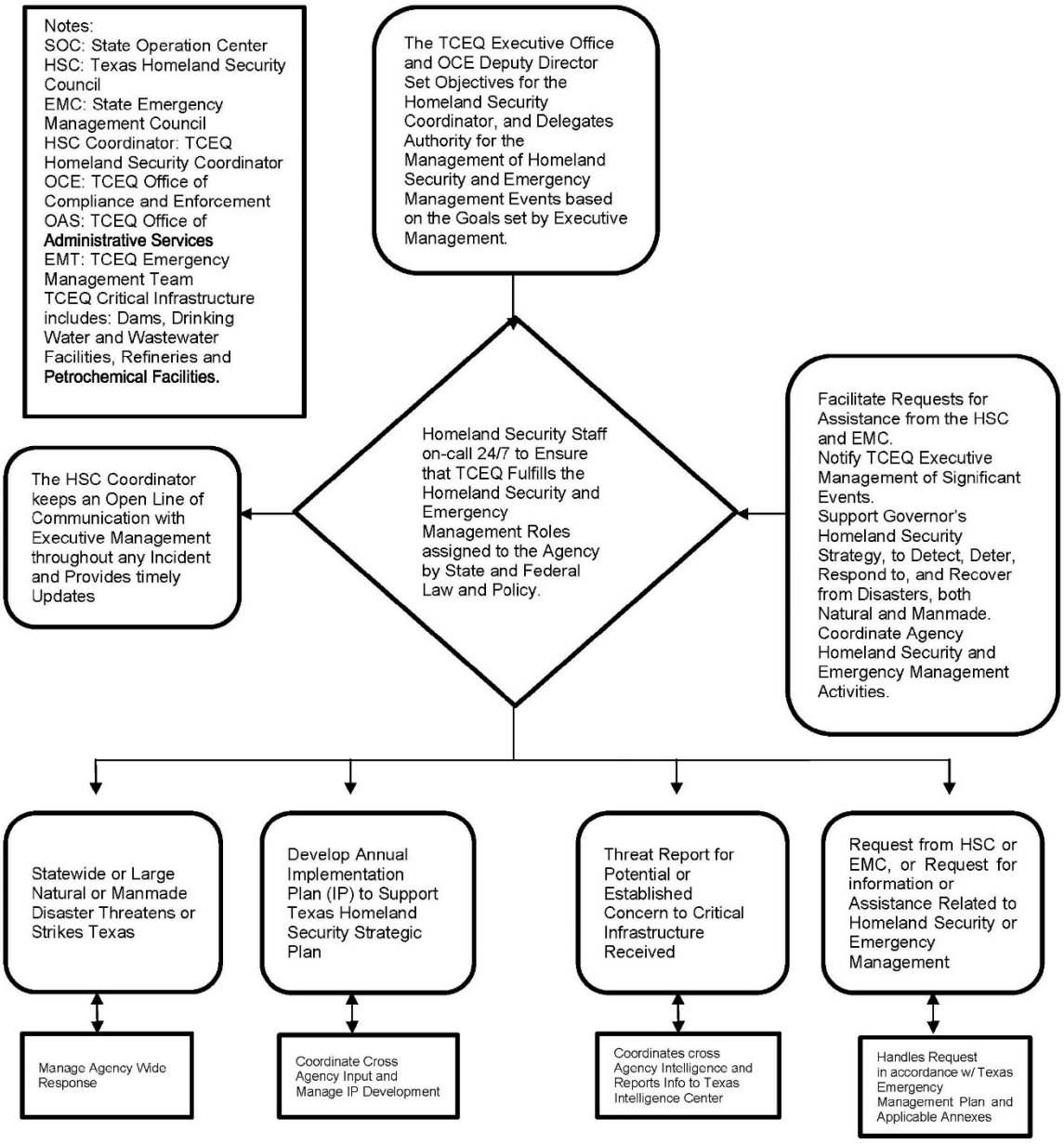
Most of TCEQ's homeland security efforts are not within its daily regulatory responsibilities; rather, they address state goals, strategies, and objectives to prepare, prevent, minimize the effects of, and respond to and recover from disasters and emergencies, whether natural or human-caused. TCEQ homeland security efforts focus on coordinating related efforts across agency programs.

Program duties include coordinating homeland security issues across the agency, as well as coordinating with state-level homeland security officials. The homeland security coordinator is the primary contact for issues communicated to TCEQ by the Texas Office of Homeland Security, TDEM, and other state members of the Emergency Management Council.

The homeland security program regularly coordinates with TCEQ management and personnel from each of the Agency's TCEQ Offices, in addition to other employees with knowledge of issues relating to critical infrastructure during disasters.

The following flowchart illustrates the homeland security coordination process.

TCEQ Homeland Security Process Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Homeland Security Program Funding Sources

Account	Account Title	FY 2020 Expended
0001	General Revenue	$47,898
0151	Clean Air Account - Dedicated	$16,249
0153	Water Resource Management Account - Dedicated	$109,238
0549	Waste Management Account - Dedicated	$60,690
0550	Hazardous and Solid Waste Account - Dedicated	$111,081
5020	Workplace Chemicals List Account - Dedicated	$12,698
TOTAL		**$357,854**

The program is funded in the following strategies:

- Air Quality Assessment and Planning;
- Enforcement and Compliance Support;
- Field Inspections and Complaints;
- Waste Assessment and Planning; and
- Water Assessment and Planning.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The Department of Homeland Security (DHS), and the Cybersecurity and Infrastructure Security Agency (CISA) provide similar functions on the federal level. DHS and CISA provide guidance to states on homeland security issues concerning infrastructure. The Texas Department of Public Safety's Texas Office of Homeland Security also provide similar functions on a state level involving infrastructure. TDEM also is involved in homeland security response. TCEQ has aspects of regulatory jurisdiction on specific infrastructure within the state, including but not limited to drinking water systems, wastewater treatment facilities, dams, waste disposal facilities, and chemical facilities. TCEQ has regulatory specific information on infrastructure and will ensure information sharing is provided to our state and federal partners if a facility has been impacted during an event and may need to coordinate with our state and federal partners to respond accordingly.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Intergovernmental committees on which TCEQ Homeland Security participates include the State of Texas Emergency Management Council and the State of Texas Homeland Security Council.

Texas' emergency-management plan defines the primary and support functions of all state agencies that are members of the Emergency Management Council.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The program coordinates with state, local, regional, and federal units of government for emergency and disaster preparedness, response, and recovery. Coordination with law enforcement organizations is primarily for information and intelligence gathering and sharing.

State

- Texas Office of Homeland Security;
- Texas Division of Emergency Management; and
- State of Texas Emergency Management Council and its members.

Local, Regional

- Law-enforcement organizations/local homeland security programs; and
- Local emergency management.

Federal

- Federal Bureau of Investigation (FBI);
- EPA;
- Department of Defense (DOD);
- Federal Emergency Management Agency (FEMA);
- Department of Homeland Security (DHS);
- DHS Cyber Security and Infrastructure Security Agency (CISA);
- U.S. Army Corps of Engineers (USACE); and
- International Boundary and Water Commission (IBWC).

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**

The program uses a MLEIP intern to support the program. The program also had contract expenditures for employee medical monitoring, which surveys the health status of selected employees by means of annual medical examinations. The medical monitoring program is designed to encompass TCEQ employees whose work regularly poses the threat of them being exposed to hazardous substances per 29 CFR 1910.120(f).

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $9,626.

- **the number of contracts accounting for those expenditures;**

Two contracts.

- **the method used to procure contracts;**

The intern was hired using a managed term contract. The medical monitoring contract was directly awarded to a cooperating agency.

- **top five contracts by dollar amount, including contractor and purpose;**

Homeland Security Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-20-13880	WorkQuest	Temporary Personnel Services – MLEIP Intern	$8,868
582-17-70412	University of Texas Health Services	Annual Occupational Medical Monitoring Program	$758

- **the methods used to ensure accountability for funding and performance; and**

TCEQ reviews each invoice to ensure accurate billing for intern time and medical monitoring costs.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Significant activities led or supported by TCEQ's Homeland Security Program are below:

- The Homeland Security Section (section) responded within hours of the deadly explosion at the West, Texas Fertilizer Plant on April 17, 2013. Staff coordinated the immediate response with the TCEQ Waco Region staff, agency contractors, Waco Fire Department, and the Texas National Guard 6th Civil Support Team (CST), to establish an air monitoring network around the area and to secure leaking chemicals for the protection of the citizens and first responders. Staff assisted with the response and recovery efforts involving chemical removal and safety; debris management; public drinking water and wastewater systems sampling; air monitoring and coordinating with EPA; Bureau of Alcohol, Tobacco, Firearms and Explosives; and various state and local agencies on all environmental aspects of the site cleanup over a 40-day period.
- During the 2014 Dallas Ebola Outbreak, staff coordinated with all TCEQ Offices, DSHS, TDEM, Centers for Disease Control and Prevention (CDC), and local and county jurisdictions to facilitate the rapid response to contain the outbreak. Staff assisted local jurisdictions on the remediation of the patient's residences, pet rescue, veterinarian waste management, and coordination of the

transportation and destruction of the Ebola waste from these operations. Working in conjunction with the TCEQ Office of Waste, Presbyterian Hospital, and their contractors, and the University of Texas Medical Branch (Galveston) staff coordinated the transportation and destruction of contaminated medical waste. Staff assisted in the state development of waste disposal and residential decontamination procedures and the Texas Biological Hazards Annex.

- The section coordinated the state response during Operation Chemstroy, which was the destruction of the Syrian chemical weapon program precursor chemicals at the Veolia incinerator in Port Arthur, Texas. At the request of the Organization for the Prohibition of Chemical Weapons (OPCW), the U.S. government allowed the shipment of precursor chemicals associated with the Syrian Chemical Weapons Elimination Program to be brought into the country for destruction. The section assisted with the coordination of this operation which consisted of federal, state, and local agencies including the U.S. Coast Guard, Port Arthur Port Authority, Customs and Border Protection, National Guard CST, TDEM, City of Port Arthur, Jefferson County, Veolia Environmental, TCEQ, and EPA. The section planned and coordinated the air monitoring and hazardous material response during the operation in June and July 2014.
- Hurricane Harvey (Harvey) made landfall on August 25, 2017, as a Category 4 storm near Rockport, Texas and stalled over southeastern Texas. The impacted areas received more than 50 inches of precipitation producing catastrophic flooding. The section was responsible for staffing the State Operations Center (SOC) 24 hours a day. Staff then transitioned from supporting the SOC over to the FEMA Joint Field Office to assist with recovery efforts. The section assisted as part of the unified command with the massive response and recovery efforts involving public drinking water, wastewater, debris management, air monitoring and coordinating with EPA, FEMA, and various other federal, state and local agencies on all environmental aspects of response and recovery.
- During the October 2018 flooding event, the City of Austin issued a city-wide Boil Water Notice (BWN). The section staffed the SOC during the activation and along with TCEQ Office of Water and the TCEQ Austin Regional Office staff, provided technical assistance to the City of Austin and state and local officials to ensure citizens were provided correct information and potable water, and drinking water quality met standard before the BWN was lifted.
- Local governments throughout Texas experienced a ransomware attack on August 15, 2019. TCEQ Homeland Security personnel staffed the SOC during the activation and, along with the TCEQ Office of Water, worked to contact and provide technical assistance as needed to ensure potentially impacted public drinking water systems were contacted and provided technical assistance as needed.
- The program was responsible for staffing the SOC as requested in response to hurricanes. Assisting as part of the unified command with the response and recovery efforts involving public drinking water; wastewater; debris management; air monitoring and coordinating with EPA, FEMA, and various other federal, state, and local agencies on all environmental aspects of response and recovery. Hurricane Hanna made landfall on July 25, 2020, as a Category 1 storm near Corpus Christi, Texas. Hurricane Laura made landfall on August 27, 2020 as a Category 4 hurricane near Cameron, Louisiana. Hurricane Delta made landfall on October 5, 2020, as a Category 2 hurricane near Creole, Louisiana.
- The program was responsible for staffing the SOC as requested in response to the February 2021 winter weather event. The program assisted as part of the unified command with the response and recovery efforts involving public drinking water; wastewater; debris management; air monitoring; and coordinating with EPA, FEMA, and various other federal, state, and local agencies on all environmental aspects of response and recovery.

O. Regulatory programs related to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Radioactive Materials Compliance Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Radioactive Materials Compliance Program

Location/Division: Austin Headquarters / Critical Infrastructure Division

Contact Name: Kelly Cook, Deputy Director, Critical Infrastructure Division

Statutory Citation for Program: Texas Health and Safety Code (THSC) Chapter 401; Texas Water Code (TWC) Chapters 27 and 30; Atomic Energy Act; Safe Drinking Water Act.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the Radioactive Materials Compliance Program (program) is to protect human health and the environment related to radioactive waste materials. To accomplish this, the program works to ensure licensed facilities are in compliance with state and federal regulations, and to ensure the protection of the public and workers from radiation overexposure and the environment from contamination resulting from the possession, processing, storage, and disposal of radioactive materials.

The major activities performed by the program are conducting radioactive materials compliance inspections statewide at regulated entities, which include uranium mining and recovery, waste storage and processing, by-product material handling and disposal, and low-level radioactive waste disposal facilities.

Additionally, the objective of the program is to protect underground sources of drinking water. To accomplish this, the program conducts Underground Injection Control (UIC) permit inspections at the regulated entities with UIC Class III injection wells. These inspections cover the construction, operation, maintenance, monitoring, and closure of these wells.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Through the Radioactive Material License inspections (listed below) accomplished in FY 2019 and FY 2020, the program effectiveness is shown by no evidence of radiation exposure to the members of the public, of radiation overexposure to the workers, or of contamination to the environment resulting from the possession, processing, storage, and disposal of radioactive materials.

- Radioactive Materials License Inspections: 18; and
- Low Level Radioactive Waste Shipment Inspection/Disposals: 1,316.

Through the UIC permit inspections (listed below) accomplished in FY 2019 and FY 2020, the program effectiveness is shown by no evidence of contamination in underground sources of drinking water.

- Underground Injection Control Permit Inspections: 9.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

N/A

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The licensees, permittees, and applicants are qualified through TCEQ's licensing and permitting programs. Specific education, knowledge, and experience are required for designation of a radiation safety officer, who is the responsible person under a radioactive-materials license.

The licensing and permitting aspects related to this program's function are handled by TCEQ's Radioactive Materials Division in the Office of Waste.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The program functions are accomplished through compliance investigations of regulated entities. A table summarizing the number of investigations can be found in Question P.

Disposal Inspections for Low-Level Radioactive Waste (LLRW) at the Waste Controls Specialists (WCS) facility near Andrews, Texas:

- Acceptance and disposal of commercial LLRW is conducted in accordance with THSC Chapter 401. TCEQ resident inspectors coordinate with the Licensee to ensure there are no issues or discrepancies with the waste shipment. In case of issues or discrepancies, the inspectors ensure the issues or discrepancies are addressed by the licensee in accordance with the license requirements and TCEQ approved Waste Acceptance Criteria and procedures. Depending on the severity of issues or discrepancies, further processing of the waste shipment may be put on hold until they are addressed by the licensee. Visual inspection and radiation surveys of the vehicle transporting the waste shipment are performed, including the shipping containers to ensure compliance with the U.S. Department of Transportation requirements. The inspectors conduct interviews with the drivers of the vehicle regarding their required training, the route the drivers followed to arrive at the facility, and any issues the drivers may have encountered while on the road. Inspectors conduct visual inspections and perform radiation surveys on each waste package or container (when applicable) and witness waste verification conducted by the licensee. This ensures the waste is properly characterized and packaged in accordance with the license requirements and TCEQ approved Waste Acceptance Criteria prior to approval of the waste shipment and subsequent disposal.

Underground Injection Control (UIC) permit inspections:

- The program conducts UIC permit inspections at the regulated entities with UIC Class III injection wells. These inspections review the construction, operation, maintenance, monitoring, and closure of wells and the records required to be kept by the regulated entities.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Radioactive Materials Compliance Program Funding Sources

Account	Account Title	FY 2020 Expended
0088	Low Level Radioactive Waste Account - Dedicated	$224,893
0549	Waste Management Account -Dedicated	$180,875
0550	Hazardous and Solid Waste Account - Dedicated	$24,153
TOTAL		**$429,921**

The program is funded in the Field Inspections and Complaints and the Low-Level Radioactive Waste Assessment strategies.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

- Texas Department of State Health Services (DSHS): regulation of possession, use (including industrial, medical, and academic), and transportation of radioactive material;
- Railroad Commission of Texas (RRC): regulating the disposal of oil and gas naturally occurring radioactive material;
- Nuclear Regulatory Commission (NRC): inspection and enforcement of radioactive material licensees; and
- TCEQ Office of Compliance and Enforcement: regulatory inspection and ensuring compliance of regulated facilities in Texas for programs other than radioactive materials.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The program coordinates activities:

- Through memoranda of understanding and the rulemaking process with the DSHS and RRC, delineate jurisdiction and coordination in the regulation and licensing of radioactive materials. The memoranda of understanding with DSHS and RRC are located in Title 30 Texas Administrative Code (Title 30) (TAC) Chapter 7.
- Through an agreement between the Texas governor and NRC to regulate the possession, storage, and disposal of radioactive materials and source-material recovery in Texas. This agreement is located in Section 274b of the Atomic Energy Act.
- Through delineation of responsibility, regional offices and divisions have programmatic control of specific work functions preventing duplication of compliance and enforcement for radioactive materials.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Federal: The program is an Agreement State with NRC federal oversight through concurrence on licensing and rulemaking, compatibility reviews, and an NRC Integrated Materials Performance Evaluation every four years. The Atomic Energy Act allows the NRC to relinquish portions of its regulatory authority to states to license and regulate byproduct materials, source materials and certain quantities of special nuclear materials. The mechanism for the transfer of NRC's authority to the State of Texas is an agreement signed by the governor and the chairman of the NRC.

State: Coordination with DSHS and other state occurs as needed.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**

This contract surveys the health status of selected employees by means of annual medical examinations.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $1,742.

- **the number of contracts accounting for those expenditures;**

One contract.

- **the method used to procure contracts;**

This contract is directly awarded to a cooperating agency.

- **top five contracts by dollar amount, including contractor and purpose;**

Radioactive Materials Compliance Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-17-70412	University of Texas Health Services	Annual Occupational Medical Monitoring Program	$1,742

- **the methods used to ensure accountability for funding and performance; and**

The program reviews each invoice to ensure the information is accurate.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Radioactive Materials/Uranium
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	16	16
Total number of entities inspected	8	2
Total number of complaints received from the public	0	1
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	1
Number of jurisdictional complaints	0	0
Number of jurisdictional complaints found to be without merit	0	0
Number of complaints resolved	0	0
Average number of days for complaint resolution	0	0
Complaints resulting in disciplinary action:	N/A	N/A
Administrative penalty	N/A	N/A
Reprimand	N/A	N/A
Probation	N/A	N/A
Suspension	N/A	N/A
Revocation	N/A	N/A
Other • NOV	1	0

Biowatch Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: BioWatch Program

Location/Division: Austin Headquarters / Critical Infrastructure Division

Contact Name: Kelly Cook, Deputy Director, Critical Infrastructure Division

Statutory Citation for Program: Texas Health and Safety Code (THSC) Chapter 382; Texas Clean Air Act Section 382.011; Federal Homeland Security Act of 2002, Public Law 107-296, 6 U.S.C 188.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The BioWatch Program is a federal initiative facilitating early detection of selected bioterrorism agents to enable the earliest possible response to an attack. TCEQ is a partner and federal-grant recipient in this project, responsible for oversight of the air monitoring networks in Texas.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The BioWatch air sampling network is focused solely on the detection of biological threat agents. TCEQ has achieved an excellent rate of data return with the operation of its air monitoring network. Air samples are collected on a regular basis, with minimal interruptions, reaching a completion rate greater than 98% statewide in FY 2020.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The BioWatch program was established as part of a nationwide initiative that began prior to the Gulf War in 2002. TCEQ's BioWatch program was created in 2003.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

BioWatch monitoring is designed to protect approximately 70% of the state's urban residents by identifying possible biological attacks.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The BioWatch program activities, goals, and strategies are directed by the U.S. Department of Homeland Security (DHS).

The BioWatch program provides oversight on contracted Texas jurisdictions conducting field operations. The BioWatch program ensures contracted jurisdictions are conducting activities in accordance with DHS standard operating procedures, directives, and policy. In addition, the BioWatch Program reviews and approves all invoicing by the contracted jurisdiction to the DHS grant and ensures they are in compliance with federal policy.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The funding for the BioWatch Program is received from the DHS as a 100% federally funded grant.

BioWatch Program Funding Sources

Account	Account Title	CFDA	CFDA Title	Total
0555	Federal Funds	97.091	Homeland Security BioWatch Program	$2,166,235

The program is funded in the Air Quality Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

N/A

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The BioWatch Action Committees (BAC) are the decision-making authority, which represent all invested agencies in the BioWatch program which includes local, regional, state, and federal resources. The BAC is chaired by a local health official.

If a bioterrorism agent is detected, then the local health department and local law enforcement agency co-lead the response at the local level. The Texas Department of State Health Services is the state-level lead agency, along with the Texas Department of Emergency Management (TDEM). The federal-level lead agency is the Federal Bureau of Investigations.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**

The contracts operate air monitoring networks which provide communities with the capability to provide early warning of bioterrorism.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $2,078,573.

- **the number of contracts accounting for those expenditures;**

Multiple contracts.

- **the method used to procure contracts;**

Contracts were directly awarded to jurisdictions approved to participate in the DHS BioWatch Program.

- **top five contracts by dollar amount, including contractor and purpose;**

The jurisdiction names and individual contract amounts cannot be disclosed in a non-FOUO (For Official Use Only) document.

- **the methods used to ensure accountability for funding and performance; and**

Monitoring and evaluating contracts to ensure accountability for results is conducted by the program contract manager. No contract is signed unless it includes baseline data from which progress can be measured. In addition, every contract specifies regular benchmarks for evaluating progress and suggests corrective actions to be implemented when necessary. Fiscal monitoring includes careful review of expenses and supporting documents to ensure all expenses are substantiated, reported properly, and in compliance with established TCEQ guidelines.

- **a short description of any current contracting problems.**

There are currently no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Tier II Chemical Reporting Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Tier II Chemical Reporting Program

Location/Division: Austin Headquarters / Critical Infrastructure Division

Contact Name: Kelly Cook, Deputy Director, Critical Infrastructure Division

Statutory Citation for Program: Texas Health and Safety Code (THSC) Chapters 505, 506, and 507.

B. What is the objective of this program or function? Describe the major activities performed under this program.

Private and public facilities within the state storing hazardous substances must submit a Tier II chemical inventory report to TCEQ, Local Emergency Planning Committees (LEPC), and local fire departments. Hazardous substances are defined by 29 Code of Federal Regulations (CFR) Section 1910.1200(c) and are reportable when a facility stores more than 10,000 pounds on any one day. Extremely Hazardous Substances (EHS) are defined by 40 CFR Part 355 and are reportable when a facility stores more than 500 pounds, or the Threshold Planning Quantity (TPQ) listed, whichever is less, on any one day. The report must contain information on facility location, chemical hazards and locations, and emergency contacts.

The objectives of the Tier II Program are:

- To serve as part of the State Emergency Response Commission (SERC). The SERC is a multi-agency work group charged with performing certain state emergency planning, community right-to-know, and response functions relating to hazardous materials. As a member of the SERC, the program does the following:
  - ensures a functional database of all Tier II reports received over the last 30 years as required by state statute;
  - serves as the state repository for Tier II Chemical inventory reports;
  - provides outreach for compliance and supports LEPCs; and
  - administers an investigation and enforcement program to ensure Tier II regulatory compliance.
- To assist the regulated community in filing Tier II chemical inventory reports in accordance with state requirements, including:
  - annual reports filed between January 1 and March 1;
  - initial reports filed within 90 days for any new chemical or facility (72 hours for ammonium nitrate facilities); and
  - update reports filed within 90 days for changes to previously reported information (72 hours for ammonium nitrate facilities).
- To provide public outreach, support, and training on Tier II reporting requirements and processes;
- To review Tier II reports for compliance and verify information needed for emergency planning and response;
- To work with emergency planning and response agencies to ensure the most current and accurate information about hazardous substances in their jurisdiction is received;
- To retrieve Tier II information as requested;
- To provide grant monies to the LEPCs across Texas to support their functions; and

- To coordinate with the Texas Department of Emergency Management (TDEM) and the Office of the State Chemist (OTSC) to ensure all facilities meeting the requirements as ammonium nitrate storage facilities are correctly identified, and information is shared with local jurisdictions.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
Total number of organizations that filed a Tier II report with one or more facilities	N/A	6,362	N/A
Tier II Annual Facility Reports received	N/A	78,264	N/A
Tier II Initial Facility Reports received	N/A	1,479	N/A
Tier II Update Facility Reports received	N/A	1,904	N/A
Tier II Facility Reports reviewed	N/A	47,296	N/A
Facility Reports with deficiencies	N/A	5,511	N/A
Regulated community help requests received	N/A	6,294	N/A
Training classes provided across Texas	N/A	33	N/A
Number of attendees to training classes	N/A	1,448	N/A

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The federal requirement for Tier II reporting was driven by multiple chemical incidents that killed thousands of people, caused destruction, and released hazardous chemicals into the environment. The Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, 42 U.S. Code Section 11001 et seq., was created to help communities plan for chemical emergencies. It also requires industry to report on the storage, use and releases of hazardous substances to federal, state, and local government agencies. EPCRA requires state and local governments, and Indian tribes to use this information to prepare for and protect their communities from potential risks.

In 2013 there was an ammonium nitrate explosion at a fertilizer company facility in West, Texas, that drove additional regulatory requirements for fertilizer grade ammonium nitrate. Facilities storing ammonium nitrate have less time to file initial and update reports (72 hours versus 90 days). This information is shared with the TDEM and OTSC.

TCEQ has developed online reporting for the Tier II Program through the State of Texas Environmental Electronic Reporting System that is required to be used by the regulated community. TCEQ maintains the Tier II report information over time in an online database. The system is accessible to state and local governments to use this information to prepare for and protect their communities from potential risks.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

N/A

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The program is administered by serving as part of the SERC and assisting the regulated community in correctly filing Tier II chemical inventory reports.

The program serves as the state repository for Tier II chemical inventory reports and ensures a functional database of all Tier II chemical inventory reports received over the last 30 years as required by state statutes. As the state repository for Tier II chemical inventory reports, the program fulfills data requests for the most current Tier II chemical inventory reports from local, state, and federal emergency planning and response agencies. The program maintains a database of all paper and electronic Tier II chemical inventory reports submitted over the last 30 years as required by state statutes. The database is also used to provide responses to public information requests and other needs. The program released an online application in 2019 to be used by the regulated community to file Tier II chemical inventory reports. The system allows for more accurate data and an understanding of reportable amounts of hazardous chemicals in Texas. The system has been designed to be compatible with other EPA software such as Tier2 Submit and CAMEO dm.

The program provides outreach for compliance and supports LEPCs. The program works with LEPCs to understand their compliance and support needs, providing LEPCs with the most current data, and other information, as needed. All LEPCs in Texas are contacted annually to ensure contact and other information posted on TCEQ's website is accurate. The program gives presentations for LEPCs at their meetings and works directly with them to provide any Tier II assistance. The program is currently developing training specifically for LEPCs to assist them in their duties. The program administers an investigation and enforcement program to ensure Tier II regulatory compliance.

The program answers phone calls, emails, and online customer help forms from the regulated community and the public. Annual reports are required to be filed between January 1 and March 1. Texas has the largest Tier II reporting program in the nation with over 70,000 facilities submitting reports during this two-month timeframe.

- To provide public outreach, support, and training on Tier II chemical inventory reporting requirements and process.
    - The program provides annual training free of charge prior to and during the annual reporting season (January 1 – March 1). Training is provided in either online or in-person classes. For in-person classes to remain free of charge, the program must find locations across Texas willing to host training events locally. Each year training materials are developed and updated to

ensure the most current information is provided. After each training, a survey is submitted to get feedback from all attendees. Survey information is reviewed, and changes are made based on feedback.
    - The program also created comprehensive online guidance documents, videos, and webpages. These are updated throughout the year as information changes.
- To review Tier II chemical inventory reports for compliance and verify information needed for emergency planning and response.
    - The program reviews Tier II chemical inventory reports for compliance. When report deficiencies are found, a draft report is created. The program contacts the regulated community to assist in making the report compliant.
- To work with emergency planning and response agencies to ensure they have the most current and accurate information within their jurisdictions.
    - The program fulfills data requests and provides support on Tier II related items. The online reporting database was designed to allow access to emergency planning and response agencies so the most current data for facilities storing hazardous chemicals in their jurisdiction is available. The program has created guidance documents to assist in gaining access to the system and extracting any data needed.
- To provide Tier II chemical inventory information as requested.
    - The program provides Tier II chemical inventory information as requested by emergency planning and response agencies, internal TCEQ staff, and to the extent allowable for public information requests.
- To provide grant monies to LEPCs.
    - State statutes allow the program to use up to 20% of revenue fees to be awarded as grants to LEPCs to establish, maintain, and improve implementation of the federal EPCRA.
- To coordinate with TDEM and OTSC to ensure all facilities meet the requirements for ammonium nitrate facilities are correctly identified and information is shared.
    - The program reviews and identifies ammonium nitrate storage facilities within 72 hours. The online system has been designed to automatically send reports to TDEM and OTSC, as required by state statutes. The Emergency Management Support Team conducts inspections for 50% of all ammonium nitrate storage facilities each year. The program coordinates with the OTSC to verify data between the two agencies.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Tier II Chemical Reporting Program Funding Sources

Account	Account Title	FY 2020 Expended
5020	Workplace Chemicals List Account - Dedicated	$568,326

The program is funded in the Enforcement and Compliance Support Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

N/A

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The program works with local, regional, and federal units of government to assist in filing their Tier II reports when storing reportable amounts of hazardous chemicals. The program also works to provide these agencies with Tier II chemical inventory reports for their jurisdictions and assist in gaining access to the online system.

As a part of the SERC, the program serves as the state repository for Tier II Chemical inventory reports. The program provides a functional database of all Tier II chemical inventory reports received over last 30 years as required by state statutes. The program released an online reporting system in 2019 to be used by the regulated community to file Tier II chemical inventory reports. The system also allows emergency planning and response agencies to retrieve Tier II chemical inventory reports for their jurisdictions to assist in emergency planning and response activities. The system has been designed to be compatible with other EPA software (i.e., Tier2 Submit and CAMEO dm).

The program works with LEPCs to understand their compliance and support needs. The program provides LEPCs the most current data and other information as needed. All LEPCs in Texas are contacted annually to ensure updated contact and other information posted on TCEQ's website is accurate. The program provides presentations for LEPCs at their meetings and works directly with them to provide any Tier II assistance. The program is currently developing training specifically for LEPCs to assist them in their duties.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The program contracts with an information technology service contractor to update and maintain the Tier II Database. The program utilizes interns for administrative support during the reporting period. Additionally, the program contracted with a web subscription service company for domain names associated with the Tier II Chemical Reporting Program.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $91,857.

- **the number of contracts accounting for those expenditures;**

Five contracts.

- **the method used to procure contracts;**

The information technology contract was solicited using a competitive bid process. The temporary service contract was a managed term contract.

- **top five contracts by dollar amount, including contractor and purpose;**

Tier II Chemical Reporting Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-20-10009	Jet Software Solutions Inc	IT Service Contract to Update and Maintain the Tier II Database	$77,616
582-20-12474	WorkQuest	Temporary Personnel Services - Administrative Support for Tier II	$6,283
582-20-13886	WorkQuest	Temporary Personnel Services -MLEIP Intern	$6,060
582-20-11611	WorkQuest	Temporary Personnel Services - Administrative Support for Tier II	$1,779
PC20-2209191	GoDaddy Com Inc	Domain name annual subscription services for three Tier II web addresses	$119

- **the methods used to ensure accountability for funding and performance; and**

Fiscal monitoring includes careful review of expenses and supporting documents to ensure all expenses are substantiated, reported properly, and in compliance with established agency guidelines. For the temporary personnel services and domain name subscription, the program reviews each invoice to ensure accurately billed for temporary personnel and intern time.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The Tier II Chemical Reporting Program awards grants for the Texas LEPC Grant Program through interlocal contracts. Funds are awarded to the LEPCs based on availability. The initial grant round awarded the same grant amounts to each eligible LEPC that applied. The second grant round awarded even amounts to returning grantees and double those amounts to first time applicants. The grant manager monitors each contract through financial reporting requirements and ensures funds are spent in accordance with grant and contract terms. Any unspent funds or funds spent on unapproved items must be returned to TCEQ after the end of the contract term.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Exhibit 13: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	83,678	89,628
Total number of entities inspected	286	506
Total number of complaints received from the public	3	3
Total number of complaints initiated by agency	3	3
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints	3	3
Number of jurisdictional complaints found to be without merit	3	0
Number of complaints resolved	2	2
Average number of days for complaint resolution	63	82
Complaints resulting in disciplinary action:	N/A	1
administrative penalty	N/A	$1,000
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	39	53

Enforcement Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Enforcement

Location/Division: Austin Headquarters / Enforcement Division

Contact Name: Susan Jablonski, P.E., Interim Deputy Director, Enforcement Division

Statutory Citation for Program: Texas Water Code (TWC) Chapters 5, 7, 11, 12, 13, 16, 26, 28a; Texas Health and Safety Code (THSC) Chapters 341, 382, 371, and 1101; and Texas Transportation Code Chapter 548

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Enforcement Program protects human health and the environment through enforcement of TCEQ rules, regulations and permits. The program develops enforcement cases in accordance with state statutes, TCEQ rules found at Title 30 Texas Administrative Code (30 TAC) Chapter 70, and policies consistent with TCEQ philosophy that enforcement, when necessary, must be swift, sure, and just. For each enforcement case, the program drafts proposed administrative enforcement orders that include appropriate administrative penalties and ordering provisions for the commission's consideration and approval.

In addition, the program is also responsible for the following activities:

- monitoring compliance with issued commission orders;
- incorporating third-party Supplemental Environmental Projects (SEPs) into administrative orders;
- monitoring compliance with the Texas Pollutant Discharge Elimination System (TPDES) 75/90 rule 30 TAC Section 305.126(a), which imposes requirements whenever flow measurements at a sewage treatment plant reach 75% and 90% of permitted capacity;
- reviewing and responding to notices of audit and disclosures of violation submitted pursuant to the Texas Environmental, Health, and Safety Audit Privilege Act (Audit Act);
- generating compliance history ratings and calculations annually, providing the regulated community the opportunity to review their information prior to it being made public through the Advanced Review of Compliance History (ARCH) program, processing compliance history appeals, and completing data correction requests if errors are identified; and
- sending periodic update letters to complainants until such time a complaint-initiated enforcement case is resolved.

TCEQ's enforcement process begins when a violation is discovered during an investigation conducted either at the regulated entity's location or through a review of records at TCEQ offices. Most violations are quickly corrected in response to notices of violation (NOVs). An NOV documents the violations discovered during the investigation, specifies a time frame to respond, and requires documentation of compliance.

If serious or continuing violations are identified during an investigation, as defined by the Enforcement Initiation Criteria (EIC), TCEQ initiates enforcement and the regulated entity receives a Notice of

Enforcement (NOE). The EIC is an internal guidance document establishing criteria for levels of enforcement response to various air, water, and waste violations.

The NOE documents the violations and puts the recipient, or "respondent," on notice the case has been referred for enforcement. This notice also lets respondents know they can appeal the NOE by requesting an enforcement review meeting if they believe the violations were cited in error and they have new information that was not evaluated by the investigator.

When violations are serious enough to warrant an enforcement action, TCEQ is authorized to enforce correction of the violations and to seek penalties to deter future noncompliance. When environmental laws are violated, TCEQ has the authority to levy penalties up to the statutory maximum per day, per violation. The statutory maximums range up to $25,000 per day, depending on the violation. TCEQ utilizes a standardized penalty calculation worksheet to assess and document penalty calculations for each order. Administrative penalties are calculated in accordance with a commission established Penalty Policy based on factors set forth in TWC Section 7.053 and other statutes with similar provisions applicable to administrative penalties.

TCEQ is allowed to pursue penalties in two different types of enforcement actions:

- administrative orders are issued by the commission; or
- referral of the case to the Office of the Attorney General (OAG) for enforcement through the courts, including potential civil penalties.

Most enforcement cases are handled through the administrative order process. Agreed orders are a type of administrative order used when the respondent agrees to the terms and conditions of the order, including the penalty. There are three types of TCEQ administrative orders as summarized below:

- 1660 agreed orders are named for Senate Bill (SB) 1660 (74R, codified in TWC Section 7.070) and include:
  - A statement the occurrence of any violation is in dispute and the entry of the agreed order shall not constitute an admission by the respondent of any violation alleged in the agreed order.
  - A statement the agreed administrative order, issued by the commission, shall not be admissible against the respondent in a civil proceeding, unless the proceeding is brought by the OAG to: enforce the terms of the order or pursue violations of the TWC or THSC.
- Findings Orders are used if the Findings Criteria in 30 TAC Section 70.11 is met or if matters are litigated through the State Office of Administrative Hearings (SOAH). A findings agreed order is an enforcement order drafted with findings of fact and conclusions of law. Proposed orders after an evidentiary hearing at SOAH also contain findings of fact and conclusions of law.
- Default orders are issued when the respondent fails to answer the Executive Director's Preliminary Report and Petition (EDPRP) within the time frame allowed by the Administrative Procedures Act.

The first step in the administrative process is to "screen," or verify, the information documented in the investigation report. An enforcement coordinator then contacts the respondent by phone, explains the enforcement process and what the respondent can expect and offers the respondent the opportunity to submit additional information or set up a meeting.

If the case is expected to settle (pay the penalty and agree to the terms of the order) quickly, the enforcement coordinator then drafts an agreed order, which describes the alleged violations and any actions needed to be taken to correct them. The agreed order will also normally include a calculated penalty using the standardized penalty calculation worksheet.

Where possible, TCEQ encourages expeditious settlement of enforcement actions by extending a settlement offer in the agreed order. During the time allowed for settlement (generally within 60 days – this is known as "expedited" settlement), the respondent has the opportunity to discuss the violations with the enforcement coordinator and provide additional documentation that may influence the investigation findings, calculated penalty, or both.

If the respondent agrees with the terms of the agreed order and the penalty amount, the case is set for approval at a commission or executive director agenda meeting.

If settlement does not occur within an established deadline and the respondent does not agree to the order or the penalty, the program will refer the case to TCEQ's Litigation Division. This referral step initiate's the process that can lead to an administrative hearing. A TCEQ attorney is assigned to each referred case and drafts an EDPRP. This document notifies the respondent of the violations, the proposed penalty assessed, and any corrective actions needed to bring the respondent back into compliance with the regulations. The respondent may request an administrative hearing, which is held in front of an administrative law judge with the SOAH.

After the hearing, the judge makes a recommendation to the commission about an enforcement order. The commission considers this recommendation and then makes the final decision whether to issue, deny, or modify the judge's decision.

Once the respondent fully complies with the administrative order, including payment of any penalty, the typical enforcement process ends.

There are additional enforcement-related actions that can be taken outside of the processes described above. TCEQ may refer cases to the OAG who will, in turn, file civil proceedings against a respondent on behalf of the State of Texas by filing a petition in District Court. It is possible for the OAG to reach an agreement with the respondent without taking the case to trial, however, this settlement must be approved by the District Court Judge. The settlement is formalized in a document called an Agreed Final Judgment and subject to public notice and comment in accordance with TWC Section 7.110. Other actions the OAG may seek through the court include the following: an injunction; a restraining order; civil penalties; attorney's fees; court costs; and investigation costs.

The criteria under which TCEQ may refer a case to the OAG are found in TWC Section 7.105 and 30 TAC Section 70.6 and include but are not limited to the following:

- need for immediate action (temporary restraining order or injunction, receivership, or Superfund) to protect public health, safety, or the environment;
- need for judgment to enforce compliance with an existing administrative enforcement order where there is a significant impact to the environment or to TCEQ policy, or the penalty is greater than $10,000 and there is a sufficient basis for determining the penalty is collectible so as to warrant the use of resources necessary to pursue the matter;
- egregious violations where the availability of the OAG's higher statutory civil penalties is necessary to adequately address the violations;

- TCEQ has been named as a necessary and indispensable party (NIP) in an action brought by a local government under TWC Sections 7.351 and 7.353; and
- when required by law under TWC Section 7.105, unless under TWC Section 7.106, the OAG and the ED agree to resolve the violation(s) through an administrative order.

The decision on whether to refer a case to the OAG is evaluated by TCEQ management on a case-by-case basis. Other administrative actions may be used, such as seeking the issuance of another administrative order or revocation of a specific commission authorization.

An enforcement case may also be referred to the EPA for federal enforcement in the following situations:

- EPA already has a case in progress against the respondent;
- TCEQ does not have jurisdiction over the matter;
- The case is considered part of a multi-state or federal enforcement initiative or program;
- The case involves violations of EPA orders or consent decrees; and
- Cases of national significance.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The following performance measures are reported in Section II, Exhibit 2.

- Percent of Administrative Penalties Collected;
- Average Number of Days to File an Initial Settlement Offer;
- Number of Administrative Orders Issued;
- Percent of Investigated Air Sites in Compliance;
- Percent of Investigated Water Sites and Facilities in Compliance;
- Percent of Investigated Waste Sites in Compliance;
- Percent of Identified Noncompliant Sites and Facilities for which Timely and Appropriate Enforcement Action is Taken;
- Percent of Investigated Occupational Licensees in Compliance;
- Percent of Administrative Orders Settled;
- Amount of Administrative Penalties Paid in Final Orders; and
- Amount Required to be Paid for Supplemental Environmental Projects Issued in Final Administrative Orders.

Executive Director Agenda

- Beginning in January 2012 TCEQ implemented an expedited enforcement approval process in which eligible enforcement cases are submitted to the executive director, or designee, for approval and are not presented at the commission agenda meeting. Where possible, TCEQ encourages expeditious settlement of enforcement actions by extending a settlement offer in an agreed order. During the 60 days allowed for settlement, the respondent has the opportunity to discuss the violations with the enforcement coordinator and provide additional documentation that may influence the investigation findings, calculated penalty, or both. Enforcement cases

involving a total penalty of $7,500 or less and meeting the following criteria are eligible for the expedited approved process: the agreed administrative enforcement order is not a findings agreed order, and a findings agreed order is an enforcement order that is drafted with findings of fact and conclusions of law and is based on the criteria located in 30 TAC Section 70.11.

- The agreed administrative enforcement order meets all statutory requirements.
- No new issues affecting commission policy or involving unprecedented interpretations of existing policy are presented in the agreed administrative enforcement order.
- No objection is raised by TCEQ's Office of Public Interest Counsel (OPIC).
- No adverse public comment was received after the order or citation was published in the *Texas Register*.

Order Compliance Tracking

Approximately 62% of the orders issued by the enforcement program are assigned to the program's Order Compliance Tracking (OCT) team for compliance monitoring and tracking. For the remaining enforcement orders for which there are no technical requirements, no tracking is required to document full compliance. For FY 2019 and FY 2020, the program received approximately 870 orders for compliance monitoring and tracking. At any given time, the OCT is actively tracking approximately 2,100 cases for compliance. Approximately 5% of those cases are long-term compliance agreements, the majority of which assist municipalities and other publicly owned utilities in complying with wastewater regulations through TCEQ's Sanitary Sewer Overflow (SSO) Initiative. The SSO Initiative is a voluntary program initiated in 2004 to address an increase in SSOs due to aging collection systems throughout the state and encourage corrective action before there is harm to human health and safety or the environment. Such SSO compliance agreements may extend for up to 10 years as many of the systems are experiencing aging infrastructure with funding constraints.

The program is required by statute to produce a report monthly and present it to the commission at a public meeting. In addition to the monthly report, the program is required by statute to produce an annual report, known as the TCEQ Annual Enforcement Report, to the governor, lieutenant governor and speaker of the Texas House of Representatives.

Audit Act

TCEQ's traditional enforcement efforts have been enhanced by voluntary environmental self-audits conducted at facilities under the Audit Act (THSC Chapter 1101). This law encourages businesses and governments subject to environmental regulation to perform comprehensive assessments of compliance with environmental laws, regulations, and permits for their own facilities. Organizations who participate in the Audit Act are required to notify TCEQ of their intent to self-audit and then fully disclose and resolve violations resulting from the audit. TCEQ ensures all violations disclosed under this program are corrected and provides certain conditions of the Audit Act are complied with. The participants in this program may not be subjected to civil and administrative penalties.

Since not all regulated entities receive an TCEQ inspection by field staff every year, this avenue to identify and resolve noncompliance supplements our agency's investigative efforts. Texas is one of 42 states that currently has an Audit Program. EPA also has an audit policy. In FY 2020, regulated entities throughout the State of Texas submitted 2,439 notices of intent to conduct an audit and 1,875 disclosures pertaining to air, water, and waste violations. Over the past few years, there has been a significant increase in audits being conducted by the oil and gas industry.

The Audit Act provides two incentives for conducting systematic voluntary evaluations of compliance with environmental laws and regulations: a limited evidentiary privilege and immunity from penalties. An audit report is privileged and not admissible as evidence or subject to discovery in civil or administrative actions. Immunity from penalties is granted under the Audit Act when proper notice of the intent to conduct an audit is provided to TCEQ, violations discovered during an audit are properly disclosed, and corrective action to achieve compliance is completed within a reasonable time. In FY 2020, TCEQ staff evaluated self-reported compliance actions taken by regulated entities to voluntarily come into compliance for 1,709 approved audit investigations.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affecting the Enforcement Division.

1993

- Environmental enforcement was separated into seven enforcement programs: air, water quality, petroleum storage tanks, municipal solid waste, industrial solid waste, occupational license, and public water supply. Each program area had a penalty policy and general enforcement process. The air program had two additional policies: small business minor source policy and a no-penalty policy.

1995

- The Texas Natural Resource Conservation Commission (TNRCC), predecessor agency to TCEQ, consolidated all enforcement functions into a single division. At the same time, the TNRCC Office of Legal Services formed the Litigation Division to work with the Enforcement Program on cases where a settlement has not been reached and the respondent does not agree with the terms of the proposed agreed order or the proposed penalty amount.
- The Audit Act, Tex. Rev. Civ. Stat. Ann. art. 4447cc (Vernon Supp. 2002), was enacted encouraging businesses and governments subject to TCEQ's environmental regulation to perform comprehensive assessments, or self-initiated audits, for compliance with environmental laws, regulations, and permits for their own facilities.

1997

- SB 1876 (75R) consolidated myriad environmental enforcement authorities of the agency (administrative, civil, and criminal enforcement) into TWC Chapter 7. This addressed inconsistency and potential inequity in agency enforcement actions.
- The TNRCC adopted its first Penalty Policy. As part of this adoption, the small business minor source policy and the no-penalty policy were rescinded.
- The Enforcement Initiation Criteria (EIC) guidance document was developed to promote consistency in how violations were addressed through either formal enforcement (i.e., an order and penalty, or an NOV. At that time, the EIC was primarily utilized and maintained by the Field Operations Division with extensive review by the Enforcement and Litigation Division during revision periods.

1999

- EPA Region 6 and TCEQ jointly signed a Multi-Media/Multi-Year Enforcement memorandum of understanding (MOU). The MOU sets forth the roles and responsibilities for TCEQ's enforcement of major air sources, wastewater facilities, public water supplies, facilities with Underground Injection Control, and Resource Conservation and Recovery Act (RCRA) facilities.
- The commission considered and adopted the statutorily required quadrennial rule review of the agency's rule on the Enforcement process found at 30 TAC Chapter 70, Enforcement.
- The commission considered a revised penalty policy with additional discussion on the calculation of penalties for noncompliance for regulated entities.

2000

- The commission considered a revised penalty policy and criteria for use of findings orders. The Commission instructed the staff to publish the policies for public comment. No changes were made to the penalty policy at the time public comments were being sought and reviewed by the agency.
- EPA Region 6 and TCEQ signed a Joint Enforcement Cooperation Protocol. The protocol addresses the coordination of joint enforcement activities.

2001

- The commission considered and adopted additions to 30 TAC Chapter 70 regarding Public Citizen Collected Evidence.

2002

- The commission considered and adopted a revised penalty policy in which the basis of the revisions originated from comments made by the Commission during meetings on March 10, 2000 and September 12, 2000, HB 2912 (77R), 2001, and adoption of 30 TAC Chapter 60, Compliance History.

2003

- SAO published an audit report titled The Texas Commission on Environmental Quality's Enforcement and Permitting Functions for Selected Programs. The audit included observations the air, water quality, and public water supply enforcement programs did not consistently issue enforcement orders or settle enforcement cases within its required timeframes. The commission generally agreed with the enforcement recommendations. As a result of the audit, TCEQ's executive director announced the agency would undertake a comprehensive review of its enforcement functions called the Enforcement Process Review.
- The commission considered and adopted the quadrennial rule review of 30 TAC Chapter 70, Enforcement.

2004

- The commission considered and adopted additions to 30 TAC Chapter 70 regarding Criminal Enforcement Review.

2005

- TCEQ issued the Enforcement Process Review final report including specific recommendations for action for consideration by the executive director and commissioners. The commissioners accepted the recommendation to make the EIC document an agency-wide document. This requires other divisions initiating enforcement actions to apply the EIC and ensures all programs' violations are addressed within it. As a result of these changes, all enforcement initiation criteria are located in one document, making enforcement initiation practices across TCEQ more consistent and easier for the public and regulated community to access.

2009

- The commission considered and adopted amendments to 30 TAC Chapter 70 regarding Penalty Payments and Enforcement Authority.

2011

- HB 2694 (82R) amended TWC Chapter 5 Subchapter Q (Performance-Based Regulation), requiring changes to the compliance history rule. Rulemaking was initiated to implement the changes to develop new standards to replace the existing uniform standard for evaluating and using compliance history. In addition, the rulemaking modified the components and formula of compliance history in order to provide a more accurate measure of regulated entities' performance and make compliance history a more effective regulatory tool.
- The commission considered and adopted a revised penalty policy to implement revisions as required by HB 2694 and to include previous commission changes to the policy. This included:
    - penalty enhancement and reductions related to good faith efforts to comply are calculated on a per violation basis;
    - administrative penalties to recover avoided costs of compliance (i.e., “economic benefit”), from all respondents with the exception of political subdivisions and non-profit organizations;
    - the cap for the enhancement attributable to compliance history at 100% of the base penalty for any individual violation;
    - the increased statutory penalties and revised matrix percentages in the Environmental/Property and Human Health Matrix and the Programmatic Penalty Matrix.; and
    - authorized penalties for computer recycling, dry cleaners and vehicle emissions inspections and a revision to the penalty exception for rock crushers and concrete batch plants.

2012

- The commission considered and adopted the General Enforcement Rule, 30 TAC Chapter 70, which allowed for the delegation and resolution by the TCEQ executive director of lesser administrative enforcement orders.
- The commission implemented the executive director agenda to allow the commission to focus on higher penalty cases. The commission delegated, by resolution, the authority to issue certain administrative enforcement orders and field citations to the executive director (TWC Section 7.002, and 30 TAC Chapter 70 Subchapter A).

2013

- The Audit Act was amended by SB 1300 (83R) to allow new owners of facilities the opportunity to avail themselves of the Act for violations identified during their due diligence review prior to acquisition of the facility.

2014

- The commission considered and adopted a revised penalty policy The changes brought the document in line with practices already effective, including statutory changes made during the 82nd and 83rd legislatures, adding deferral criteria, reorganizing the document to better align the policy with the penalty calculation worksheet documenting calculated penalties, updating the implementation language, and making other edits to improve clarification.

2015

- The commission considered and adopted amendments to 30 TAC Chapter 70 regarding Contested Case Hearings and Post Hearings.

2017

- The Audit Act was codified into THSC Chapter 1101.

2019

- The commission considered and adopted the quadrennial rule reviews of 30 TAC Chapter 70, Enforcement, and 30 TAC Chapter 60, Compliance History.
- HB 2771 (86R) transferred state permitting authority for discharges of produced water, hydrostatic test water, and gas plant effluent from certain oil and gas activities from the RRC to TCEQ and required TCEQ seek delegation of the NPDES program from EPA for these sources.

2020

- EPA Region 6 and TCEQ jointly signed the revised 2020 memorandum of agreement (MOA) concerning the National Pollutant Discharge Elimination System. This revised agreement updated TCEQ language to reflect current policies at both agencies and included strategies for issuance, compliance monitoring and enforcement of wastewater permits.

2021

- The commission considered and adopted a revised penalty policy to include statutory requirements and significant changes intended to promote a deterrence to future noncompliance by using additional tools within the TCEQ Penalty Policy to impact the assessment of administrative penalties. The revised policy includes:
    - updated the applicability language and the Statutory Authorizations sections;
    - updated and re-organized the Statutorily Authorized Penalties table;
    - revised the Petroleum Storage Tank major and minor source threshold from 50,000 gallons per month throughput to 100,000 gallons per month;

- increased the percentages in the Environmental, Property, and Human-Health Matrix for violations with an actual environmental impact;
- increased the percentages in the Programmatic Penalty Matrix for major violations;
- added more flexibility to increase the number of violation events;
- removed the 20% expedited settlement deferral for matters meeting the mandatory civil referral criteria as set out in TWC Sections 7.105(b)(2), (b)(4), or (b)(6); and
- updated minor changes to help improve consistency and clarity in the use of the Policy.

- EPA approved TCEQ's application for the TPDES program authorization for discharges of produced water, hydrostatic test water, and gas plant effluent into water in the state resulting from certain oil and gas activities.

- An addendum to the 2020 Memorandum of Agreement between TCEQ and EPA, Region 6, concerning the National Pollutant Discharge Elimination System (NPDES) was jointly signed to delegate federal authorization to TCEQ for discharges of produced water, hydrostatic test water, and gas plant effluent from certain oil and gas activities in Texas. Additionally, as part of implementation of HB 2771 (85R), state-only permits for discharges of produced water, hydrostatic test water, and gas plant effluent were transferred from the RRC to TCEQ. With EPA's delegation to TCEQ, the state and federal authorizations are now both issued by TCEQ and can be consolidated into a single for these oil and gas activities moving forward.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The Enforcement Program develops administrative orders and recommends penalties for violations requiring formal enforcement action. These actions are pursuant to enforcement rules found at 30 TAC Chapter 70, the Enforcement Initiation Criteria, the Penalty Policy, and TCEQ policies for issuance of orders as described in Question B above. The following table lists FY 2020 assessed penalties for effective agreed orders and default orders.

Enforcement Program Orders and Assessed Penalties

Program	Number FY 2020 Orders*	Assessed Penalties
Agriculture	6	$23,603
Air	320	$8,234,578
Dry Cleaners	1	$2,228
Industrial and Hazardous Waste	10	$376,487
Municipal Solid Waste	45	$473,965
Occupational Certification	13	$10,911
Petroleum Storage Tanks	345	$2,979,766
Public Water Supply	444	$548,105
Water Rights	18	$59,450
Water Quality	263	$3,609,359
Multi-Media	63	$800,444
TOTAL	**1,528**	**$17,118,896**

* Note: Does not include referrals made to the OAG

The program's OCT ensures each commission-issued order requiring corrective action is tracked until compliance is achieved or the matter is closed. The following table describes the percentage of regulated entities with an order being tracked for corrective action completion.

Enforcement Program Order Tracking

Program	Number FY 2020 Orders	Percentage in Tracking
Public Water Supply	610	33.5%
Water Quality	381	20.9%
Petroleum Storage Tanks	260	14.3%
Air Quality	178	9.8%
Multi-Media	162	8.9%
Municipal Solid Waste	149	8.2%
Industrial and Hazardous Waste	51	2.8%
Occupational Licensing	13	0.7%
Dry Cleaners	7	0.4%
Water Rights	7	0.4%
Agriculture	3	0.2%

Audit Act

TCEQ's traditional enforcement efforts have been enhanced by voluntary environmental self-audits conducted at facilities under the Audit Act. This law encourages businesses and governments subject to environmental regulation to perform comprehensive assessments of compliance with environmental laws, regulations, and permits for their own facilities. Organizations who participate in the Audit Act are

required to notify TCEQ of their intent to conduct an environmental audit and to provide a voluntary disclosure. A disclosure is voluntary if: (1) the disclosure was made promptly after discovery of the violation; (2) the disclosure was made in writing by certified mail to TCEQ; (3) an investigation of the violation was not initiated or the violation was not independently detected by an agency with enforcement jurisdiction before the disclosure was made using certified mail; (4) the disclosure arises out of a voluntary environmental audit; (5) the person making the disclosure initiates an appropriate effort to achieve compliance, pursues the effort with due diligence, and corrects the noncompliance within a reasonable time; (6) the person making the disclosure cooperates with the appropriate agency in connection with an investigation of the issues identified in the disclosure; (7) the violation did not result in an injury or imminent and substantial risk of serious injury to one or more persons at the site or off-site substantial actual harm or imminent and substantial risk of harm to persons, property, or the environment. TCEQ ensures all violations disclosed under this program are corrected, and, provided that certain conditions of the Audit Act are complied with, the participants in this program may not be subject to civil and administrative penalties.

Compliance History

Every September 1, TCEQ calculates Compliance History ratings and determines compliance history classifications for all entities regulated under 30 TAC Chapter 60. This includes every owner or operator of a facility regulated under any of these state environmental laws:

- The water quality laws of TWC Chapter 26;
- Laws for the installation and operation of injection wells (TWC Chapter 27);
- Subsurface Area Drip Dispersal Systems (TWC Chapter 32);
- The Texas Solid Waste Disposal Act (THSC Chapter 361);
- The Texas Clean Air Act (THSC Chapter 382);
- Removal of Convenience Switches (THSC Chapter 375); and
- The Texas Radiation Control Act (THSC Chapter 401).

The following laws are not included under the compliance history rule:

- Water rights (TWC Chapter 11);
- Water rates and services (TWC Chapter 13);
- Occupational licensing and registration—for example, the licensing of operators of water-treatment plants (TWC Chapter 37);
- Minimum standards of sanitation and health protection measures (THSC Chapter 341).
- Waste minimization, recovery, and recycling (THSC Chapter 363);
- On-site sewage disposal systems (THSC Chapter 366);
- Toxic chemical release reporting (THSC Chapter 370); and
- The collection, management, and recycling of used oil (THSC Chapter 371).

The Compliance History ratings are based on an evaluation of an entity's compliance with environmental rules and regulations over a period ending August 31st of the current year and going back to September 1st five years prior. This evaluation includes a review of any violations, investigations, or audits occurring within the previous five years.

The components of a regulated entity's compliance history are categorized as positive or negative. The compliance history of an entity results in a numerical rating converted to a general classification. An entity

may be classified as high, satisfactory, unsatisfactory, or unclassified. A high performer has a rating of less than 0.10 points, a satisfactory performer has a rating of 0.10 points to 55 points, an unsatisfactory performer has a rating of 55.01 or more points. Unclassified is a classification for entities which TCEQ has no adequate compliance history information available.

In response to incidents having caused significant impacts to the public and the environment demanding accountability and deterrence within the bounds of TCEQ authority, TCEQ revised the Enforcement Programs' Penalty Policy and is pursuing changes to the Compliance History Rule. TCEQ is proposing rulemaking to add new Section 60.4 in 30 TAC Chapter 60 (Compliance History), which would allow for the executive director to reclassify a site's compliance history classification for a site involved in an environmental emergency event causing or resulting in exigent circumstances.

The commission considers an entity's compliance history in all permitting and enforcement matters. Unsatisfactory performers are allowed to continue operating under their current permit, license, certificate, registration, approval, permit by rule, standard permit, and other forms of authorization. However:

- They might not be able to renew existing permits at the affected sites;
- They might not be able to obtain new permits;
- They may be subject to stricter permit conditions in the future;
- The affected sites will be subject to higher enforcement penalties (in accordance with the Commission's Penalty Policy); and
- Neither the customer nor the affected site will be eligible to participate in innovative TCEQ programs, such as the Regulatory Flexibility Program.

Supplemental Environmental Projects

When TCEQ finds a violation of environmental laws, the agency and the regulated entity often enter into an agreed administrative order, which usually includes the assessment of a monetary penalty. The penalties collected do not stay at TCEQ, but instead go to state general revenue. An alternative to the state collecting these penalties is the opportunity for regulated entities to offset paid penalties by providing funding for local projects beneficial to the environment and local citizens in their own communities.

Under TWC Section 7.067, regulated entities have an opportunity to direct a portion of the penalty dollars to local environmental improvement projects, known as Supplemental Environmental Projects (SEPs). By allowing penalty amounts to go toward a SEP, the violator can do something beneficial for the community in which the environmental offense occurred. Such a project must reduce or prevent pollution, enhance the environment, or raise public awareness of environmental concerns. TCEQ offers three types of SEPs: contribution, custom, and compliance SEPs.

TCEQ has a list of pre-approved SEPs, which have already received general approval from the commission. The projects—which are sponsored by both nonprofit organizations and governmental agencies—represent a wide array of activities, such as cleaning up illegal dump sites, providing first-time adequate water or sewer service for low-income families, retrofitting or replacing school buses with cleaner emission technologies, removing hazards from bays and beaches, and improving nesting conditions for colonial water birds. Contribution SEPs are SEPs whereby regulated entities may contribute a portion of the assessed administrative penalty to a pre-approved SEP performed by a Third-Party.

A regulated entity meeting program requirements may propose its own custom SEP as long as the proposed project is environmentally beneficial and the party performing the SEP was not already obligated or planning to perform the SEP activity before the violation occurred. Additionally, the activity covered by a SEP must go beyond what is already required by state and federal environmental laws.

The TWC requires TCEQ to approve SEPs for local governments to come into compliance with environmental laws or remediate environmental harm caused by a local government under certain conditions. This is called a compliance SEP, which may be offered to governmental entities such as school districts, counties, municipalities, junior-college districts, river authorities, water districts, other special districts, or other political subdivisions created under the Texas constitution or statute.

Except for a compliance SEP, a SEP cannot be used to remediate a violation, or any environmental harm caused by a violation, or to correct any illegal activity that led to an enforcement action. Regulated entities can utilize SEPs so the paid penalties that would typically go the General Revenue Fund can be applied to environmental projects in their local communities TCEQ's Litigation Division tracks and coordinates those SEP activities.

The following table provides details on administrative orders issued in FY 2019 and FY 2020.

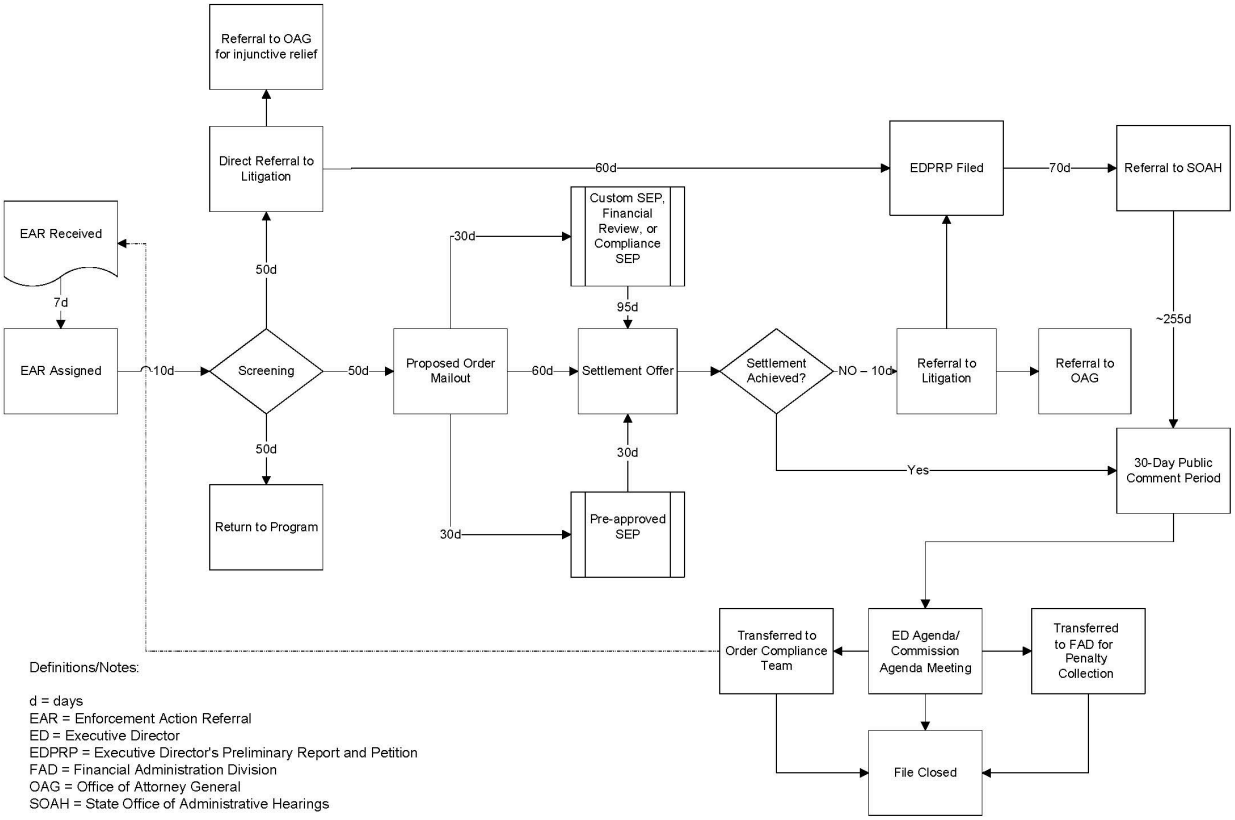
Enforcement Program Supplemental Environmental Projects

Fiscal Year	Number of Administrative Orders	Assessed Penalties	Orders with SEPs (All Types)	SEP Funds	Orders with Third-Party SEPs	Third-Party SEP Funds
2019	**1,307**	**$12,123,643**	**153**	**$2,783,120**	**116**	**$2,746,617**
2020	**1,528**	**$17,166,396**	**196**	**$4,217,573**	**124**	**$1,934,531**

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The Enforcement Program has staff located in several of TCEQ's regional offices across the state. These staff are matrix managed by the central office's Enforcement Division management. Matrix managed staffing allows for agency enforcement coordinators to work directly with regional staff who are documenting violations in the field and referring violations for enforcement action. This allows for efficiencies and greater collaboration of TCEQ staff working to a common mission. The following flowchart illustrates an overview of the enforcement process.

Enforcement Program Process Overview Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Enforcement Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0151	Clean Air Account - Dedicated	N/A	N/A	$389,328
0153	Water Resource Management Account - Dedicated	N/A	N/A	$1,432,979
0549	Waste Management Account Dedicated	N/A	N/A	$483,169
0555	Federal Funds	66.605	Performance Partnership Grants	$595,596
0555	Federal Funds	66.805	Leaking Underground Storage Tank Trust Fund Program	$48,336
0655	Petroleum Storage Tank Remediation Account - Dedicated	N/A	N/A	$1,019,671
0777	Interagency Contracts	N/A	N/A	$107,971
5094	Operating Permit Fees Account- Dedicated	N/A	N/A	$615,396
TOTAL				**$4,692,446**

The program is funded in the Enforcement and Compliance Support Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

TCEQ's Litigation Division has a similar enforcement function. The attorneys in the Litigation Division work in partnership with the enforcement program when the program is unable to reach settlement with a responsible party, or in instances where a direct referral to the Litigation Division is deemed appropriate. Please see Question B for discussion on referred cases.

TCEQ's administrative enforcement program differs from entities pursuing enforcement through civil processes:

- Texas cities and counties can enforce environmental violations through the civil and criminal process as provided by THSC Section 382.111 for air; THSC Sections 361.154, 366.001, and 368.001 for waste; and TWC Chapter 13 for water.
- The OAG works in partnership with TCEQ's Enforcement Program to handle referrals from TCEQ and pursues civil suits when the administrative process has been unsuccessful or is inappropriate for the nature of the violation under the criteria in which TCEQ may refer a case to the OAG found in 30 TAC Section 70.6.
- EPA Region 6 has a similar enforcement function as TCEQ and cases may be referred to EPA as described in Question B above.
- EPA has an Audit Policy which is formally titled *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*. This safeguards human health and the environment by providing several major incentives for regulated entities to voluntarily discover and fix violations of federal environmental laws and regulations. To take advantage of these incentives, regulated

entities must voluntarily discover, promptly disclose to EPA, expeditiously correct, and prevent recurrence of environmental violations.

Under the EPA Audit Policy, an entity may receive:

- Reduction of 100% of gravity-based penalties if all nine of the EPA Audit Policy's conditions are met. EPA retains its discretion to collect any economic benefit that may have been realized as a result of noncompliance.
- Reduction of 75% of the gravity-based penalties where the disclosing entity meets all of the EPA Audit Policy's conditions except for the detection of the violation through a systematic discovery process. In addition, if all of the applicable conditions under the EPA Audit Policy are met, EPA will not recommend criminal prosecution for entities that disclose criminal violations. Additionally, EPA Region 6 coordinates with TCEQ on any entity under their Audit Policy to ensure TCEQ cases are not negatively impacted in the process.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ's Enforcement Division and Litigation Division are the only areas that develop orders and assess penalties for commission approval. Duplication and conflict are prevented by ensuring Enforcement Program management reviews and coordinates any referral to the Litigation Division. Additionally, each referral is documented and tracked in TCEQ's Consolidated Compliance and Enforcement Data System (CCEDS) database. Once the Litigation Division receives a referral from the enforcement program, communication and negotiations are closely coordinated between the assigned Enforcement Coordinator and Litigation Division Staff Attorney.

In cases where the respondent holds an occupational license issued by TCEQ, it may be appropriate to pursue suspension or revocation of the license. These cases are most commonly referred for enforcement from central office program areas. However, the referral may also result from an investigation by regional staff. The Litigation Division is the lead on these types of cases. The Enforcement Division staff work with the Litigation Division attorney to develop the appropriate administrative order. Approval for suspensions and revocations is required through the executive director or the commission.

When a respondent fails to comply with a statute within TCEQ's jurisdiction or a rule, permit, or order issued under such statute, the enforcement program may coordinate with the Litigation Division and refer the case to the OAG for civil enforcement in accordance with TWC Section 7.105. The OAG may seek an injunction requiring compliance, civil penalties, and its reasonable attorney's fees and court costs. Failure to comply with a court-ordered injunction may result in a contempt of court charge punishable with incarceration. Judgments won by the OAG in district court are abstracted and filed in the county property records where the respondent owns real property. The abstracted judgments act as a lien on real property until the monetary portion of the judgment is paid. Homestead property is generally exempted from such lien.

If the respondent does not comply with the commission's enforcement order and human health is endangered, the executive director may seek an emergency order under THSC Section 341.0356 and/or refer the case to the OAG for receivership proceedings.

Continued noncompliance also presents the possibility of an action brought by EPA, which is authorized to seek an administrative penalty or a civil penalty.

In 2021, EPA and TCEQ jointly signed an addendum to the MOA between TCEQ and EPA Region 6 concerning the National Pollutant Discharge Elimination System and includes strategies for transfer to state lead for issuance, compliance monitoring and enforcement of permits for discharges of produced water, hydrostatic test water, and gas plant effluent in Texas from oil and gas activities.

Additionally, EPA Region 6 and TCEQ have a collaborative relationship which includes monthly and quarterly meetings on enforcement matters to coordinate efforts and ensure no duplication of effort. State and Federal coordination is extended to instances where regulated entities may be under self-audit pursuant to TCEQ or EPA rules. EPA Region 6 and TCEQ regularly share information on cases where regulated entities are engaged in self-audit. Prior to proceeding with an enforcement case, both agencies will ensure the proposed action does not hamper the sister agency's ability to follow its audit policies and procedures.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

TCEQ's Enforcement Program works in partnership with the OAG. When TCEQ refers violations to the OAG, a lawsuit is filed against a responsible party on behalf of the State of Texas. TCEQ completes OAG referrals for: violations needing immediate corrective action; egregious violations; cases where TCEQ is a party; and when conditions specified in TWC Sections 7.105(a) and (b), 7.106 and applicable provisions of 30 TAC Chapter 70 exist. Please see Question B for the conditions under which OAG referrals are made by TCEQ.

When local governments file a civil suit under TWC Section 7.351, then TCEQ becomes a necessary and indispensable party (NIP) in the suit pursuant to TWC Section 7.353. This means TCEQ is deemed essential to be included in the suit because of its close association with the subject matter in the suit. NIPs are classified as a Court Order resolution. These court resolutions are tracked and counted in TCEQ Monthly and Annual Enforcement Reports.

Likewise, when a local jurisdiction files a criminal case it must coordinate with TCEQ pursuant to TWC Section 7.203. These criminal cases are coordinated through a special unit within TCEQ's Litigation Division.

TCEQ may also outsource compliance monitoring of certain programs to third-party contractors. These third-party contractors are held to the same investigation and documentation standards as TCEQ personnel (including data entry into CCEDS) and their performance is overseen by TCEQ personnel in the program area in which the contract is managed. The types of programs outsourced to third-party contractors are dependent upon the needs of the agency and can vary from year to year. To this end, the enforcement program currently utilizes TCEQ's Field Operations Program contract with the University of Texas at Arlington for additional staffing (see Question K).

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

Temporary personnel assist with monitoring the status of approved enforcement orders. The minor construction service was used to convert office space into a multi-media training and conference room to support professional and technical development of program staff.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $26,988.

- **the number of contracts accounting for those expenditures;**

Five contracts.

- **the method used to procure contracts;**

The temporary service contract was a managed term contract. The program issued a work order with the Texas Facilities Commission for non-routine minor construction service.

- **top five contracts by dollar amount, including contractor and purpose;**

Enforcement Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-20-14048	WorkQuest-Temps	Temporary Personnel Services - MLEIP Intern	$10,435
582-20-13867	WorkQuest-Temps	Temporary Personnel Services - MLEIP Intern	$10,118
582-20-11923	WorkQuest-Temps	Temporary Personnel Services - Administrative Support for Enforcement/Compliance Monitoring Section	$2,888
582-20-10280	Texas Facilities Commission	Non-routine minor construction services for Park 35.	$2,594
582-20-11604	WorkQuest-Services	Web Data Entry	$953

- **the methods used to ensure accountability for funding and performance; and**

TCEQ reviews each invoice for accuracy of services rendered and billing for each intern and temporary personnel time. The Program conducted audit checks on data entry by the contracted staff and manually validated the number of DMRs transcribed monthly. Enforcement Program area and Facility staff physically verify the completion of work order and reviews invoice for accuracy to ensure funds are properly utilized.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Under TWC Subchapter H, a local government may institute a civil suit for injunctive relief and a civil penalty against a facility within the boundaries of the local government for violation of a statute, rule, order, or permit within the jurisdiction of the TCEQ. The TCEQ is a necessary and indispensable party in any suit brought by a local government (TWC § 7.353). Pursuant to TWC § 7.3511, the local government must provide notice to the TCEQ prior to filing a suit seeking civil penalties. When filing a suit seeking only injunctive relief, the local government does not have to notify the TCEQ. These dynamics can result in agency resources being diverted.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Wastewater Compliance Monitoring Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Wastewater Compliance Monitoring

Location/Division: Austin Headquarters / Enforcement Division

Contact Name: Susan Jablonski, P.E., Acting Deputy Director, Enforcement Division

Statutory Citation for Program: Texas Water Code (TWC) Chapter 26, Sections 26.027, 26.121, and 26.131.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Wastewater Compliance Monitoring Program reviews and responds to self-reported data recorded on the Texas Pollutant Discharge Elimination System (TPDES) discharge monitoring reports (DMR) and monthly effluent reports (MER). These reports, which are required to be submitted under Title 30 Texas Administrative Code (30 TAC) Section 305.125(17), summarize wastewater analytical results from samples collected at those facilities. All TPDES-permitted wastewater treatment facilities discharging to surface waters are required to submit DMRs electronically through the EPA Network Discharge Monitoring Report (NetDMR) system. TCEQ-permitted wastewater treatment facilities do not have point source discharges and are required to submit MERs for certain permit limits in paper copy. Effluent data for land application permits and 210 reclaimed water authorizations is self-reported on MERs. The data is entered into TCEQ's Permit and Registration System – Water Quality (PARIS-WQ) by an independent contractor.

The TPDES program focuses primarily on domestic and industrial wastewater but also includes pretreatment, sewage sludge, biomonitoring (whole effluent toxicity testing), stormwater, and concentrated animal feeding operations. All TPDES facilities are designated as *major* or *minor* sources, depending on design flow or based on EPA criteria. Specifically, major municipal dischargers include all facilities with design flows of greater than one million gallons per day and/or facilities with state approved industrial pretreatment programs. Major industrial dischargers are determined based on specific rating criteria developed by EPA and the state. By default, any discharger not classified as a major facility is considered a minor facility.

For oversight and review purposes of the TPDES program, major and minor facilities are required to be monitored as specified in 40 Code of Federal Regulations (CFR) Section 123.45. In accordance with this regulation, EPA publishes an NPDES noncompliance report (NNCR) each quarter (formerly known as a quarterly noncompliance report (QNCR)). The NNCR identifies facilities in violation of permitted effluent limits and other compliance reporting requirements. The program performs monthly reviews of the NNCRs to determine compliance with the applicable permit reporting requirements and limits and to initiate the appropriate level of enforcement action when necessary. The level of enforcement is based on EPA's Significant Non-Compliance (SNC) criteria and TCEQ's Enforcement Initiation Criteria (EIC). EPA SNC violations, which are defined in EPA's September 1995 memorandum entitled *Revision of NPDES Significant Noncompliance (SNC) Criteria to Address Violations of Non-Monthly Average Limits,* range from significant exceedances of effluent limits to failure to submit reports. The EIC is the guidance document used by all TCEQ investigators to determine the appropriate level of enforcement for air, water, and waste violations.

Primary activities performed by the program include the following:

- Monitoring data entities self-reported (DMR or MER data);
- Reviewing records to determine receipt status and effluent compliance status;
- Contacting permittees for missing DMRs/MERs or reports;
- Issuing notices of violation (NOVs) for missing DMRs/MERs or reports;
- Issuing notices of enforcement (NOEs) and initiating enforcement referrals for TPDES permit noncompliance triggering formal enforcement;
- Supplying standard DMR or MER forms to permit holders;
- Transcribing DMR data into the federal database tracking system (Integrated Compliance Information System-National Pollutant Discharge Elimination System or ICIS-NPDES); and
- Supporting permittees with the electronic DMR reporting System (NetDMR).

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Actual Performance
Informal Enforcement Actions	1,253*
Notices of Violation	64
Enforcement Action Referrals	130
Customer Services Calls and Emails	2,472

*Includes the following actions as specified in ICIS-NPDES and described in more detail in Section F: No Further Actions, Notices of Noncompliance, Phone Calls and Emails, Under Reviews, and Resolved Pending Actions.

Program staff (compliance monitoring coordinator or CMC) is required to conduct reviews of the NNCRs, supporting documents and database information to identify violations and determine the appropriate enforcement action. In FY 2020, the program was responsible for the review of 3,744 regulated facilities (712 major facilities and 3,032 minor facilities). Although the NNCR is published on a quarterly basis, the frequency of compliance reviews of self-reported data is established by program management. To identify and address noncompliance in a timely manner, assignments to identify and document effluent exceedance violations and missing DMRs and other reports are established each month. In FY 2020, the program completed 1,447 compliance monitoring actions based on those assignments, including 130 referrals to initiate formal enforcement actions.

Additionally, since 2018, staff have concentrated their efforts to reduce the number of facilities with SNC violations. These efforts involved identifying and correcting database errors, increasing contact with permittees to request missing DMRs and compliance schedule reports, and streamlining processes to increase formal actions taken for violations. As a result, the SNC rate for Texas facilities has steadily declined from 19% in the first quarter of FY 2019 to 12% in the fourth quarter of FY 2020. Staff have also been working on modernizing tools in the MER program to improve the retrieval of self-reported data.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions have directly affected the Wastewater Compliance Monitoring Program.

1998

- The State of Texas assumed authority to administer the National Pollutant Discharge Elimination System (NPDES) program (referred to by the state as the TPDES program) on September 14, 1998. The purpose of the TPDES program is to control discharges of pollutants to water in the state. Under the TPDES program, TCEQ regulated discharges from domestic and industrial facilities, with the exception of discharges associated with oil, gas, and geothermal exploration and development activities, which were regulated by the Railroad Commission of Texas (RRC).

2006

- The State of Texas Environmental Electronic Reporting System (STEERS) e-DMR system became available for TPDES facilities to electronically report DMR data.

2009

- The program began giving technical and administrative support to the modernized e-DMR reporting system called NetDMR, which was released for public use on June 23, 2009. The Texas NetDMR application was developed under an EPA grant by a consortium of 12 states coordinated by the Environmental Council of States and led by Texas.
- The program assumed responsibility for monitoring the TCEQ NetDMR help line, helping potential NetDMR users subscribe to the system, and approving NetDMR subscriber participation agreements.

2015

- EPA's NPDES Electronical Reporting Rule (40 CFR Part 127) became effective on December 21, 2015. The rule required all DMRs to be submitted electronically by December 21, 2016 (Phase I), and all other NPDES compliance reports to be submitted electronically by December 21, 2020 (Phase II) (40 CFR Section 127.16[a]).

2018

- In March 2018 Texas moved from the Texas NetDMR system to the EPA NetDMR system.
- In July 2018 EPA implemented a National Compliance Initiative (NCI) to reduce the SNC rate nationwide in the NPDES program. The objective of this initiative is to improve surface water quality and reduce potential impacts on drinking water supplies by assuring all NPDES permittees are complying with their permits. Through this initiative, EPA and state regulators focus compliance and enforcement efforts on all NPDES-regulated facilities in SNC, regardless of facility size. Texas actively participates in numerous national workgroups with the goal of reducing by half the FY 2018 national quarterly SNC baseline rate of 20.3% by the end of FY 2022.

2020

- In September 2020, EPA amended the compliance deadline for Phase II of the NPDES Electronic Reporting Rule from December 21, 2020, to December 21, 2025.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

N/A

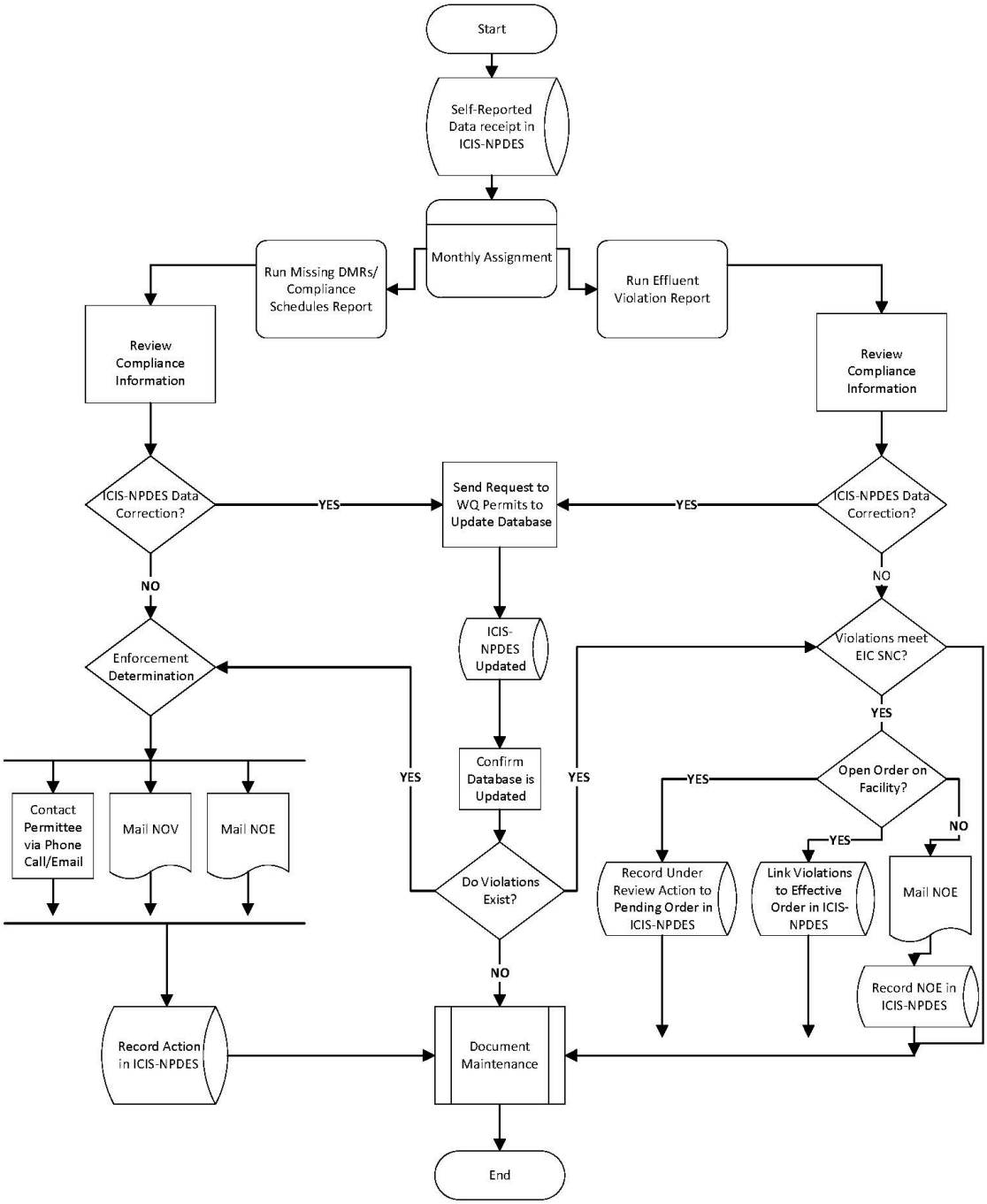
F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Reports for TPDES facilities (NNCRs) are produced monthly on compliance data contained in EPA's ICIS-NPDES system. Information from MERs is contained in PARIS-WQ and reports on compliance data are generated as needed. The program has identified improvements to the PARIS-WQ system to enhance the MER compliance monitoring process. An information technology project is currently underway to allow data to be retrieved more efficiently.

For missing DMRs and scheduled reports, the CMC first determines whether there are any permit requirement coding errors in ICIS-NPDES. If errors are discovered, the CMC sends a data correction request to the TCEQ Water Quality Division's Application Review and Processing (ARP) Team. Once the error is corrected, the CMC will confirm the database is updated and re-evaluate the data for an enforcement action. If the violations no longer exist, the CMC will record the action taken in TCEQ's file and the process ends until the next review cycle. If data correction was not required or if violations remain after data are corrected, the CMC will take one of three actions: 1) call or email the permittee to request the missing DMRs or reports; 2) mail a notice of violation (NOV); or 3) mail a notice of enforcement (NOE). The action depends on whether it is the first occurrence or if there have been multiple attempts to contact the regulated entity, or if an NOV has already been sent. The CMC enters the compliance monitoring review action in ICIS-NPDES and records applicable documents in TCEQ's files, along with appropriate data entry in TCEQ's Consolidated Compliance and Enforcement Data System (CCEDS).

For permit limit exceedances, the CMC reviews self-reported data and first determines whether there are any permit requirement coding errors. If errors are discovered, the CMC coordinates with the ARP Team to correct the data. Once the data are corrected, the CMC will conduct an evaluation to determine whether any remaining violations meet the requirements in TCEQ's EIC for formal enforcement. If the violations do not meet the EIC, the CMC will document the review in TCEQ's file and the process ends until the next review cycle. If the violations meet TCEQ's EIC for formal enforcement, the CMC will check CCEDS to see if an open enforcement action exists for the facility. Depending on the outcome, the CMC will take one of three actions in ICIS-NPDES: 1) link the violations to an open, effective order (Resolved Pending); 2) link the violations to a pending order (Under Review); or 3) link the violations to an Enforcement Action Referral (EAR). If formal enforcement is initiated, the CMC will also prepare an EAR in CCEDS and mail an NOE letter to the permittee. The approved EAR is received by the Water Enforcement Section in the Enforcement Division. The CMC will record the action in TCEQ's file along with appropriate data entry in CCEDS and the process ends until the next review cycle. The following flowchart illustrates an overview of the compliance monitoring process.

Wastewater Compliance Monitoring Process Overview Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Wastewater Compliance Monitoring Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0153	Water Resource Management Account - Dedicated	N/A	N/A	$755,438
0555	Federal Funds	66.605	Performance Partnership Grants	$271,418
TOTAL				**$1,026,856**

The program is funded in the Enforcement and Compliance Support Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

In addition to the program, TCEQ's Field Operations Program reviews self-reported DMR/MER data as part of an on-site investigation. The program reviews DMR data monthly for both major and minor facilities and MER data quarterly for minor facilities whereas the Field Operations Program conducts self-reported data reviews to supplement comprehensive compliance investigations.

TCEQ's Water Quality Division (WQD) administers compliance monitoring for the pretreatment and biomonitoring (whole effluent toxicity [WET] testing) programs. These programs are similar but separate from the functions performed by the Wastewater Compliance Monitoring Program. Specifically, permittees with approved pretreatment programs and biomonitoring WET testing requirements in their permits are required to submit certain reports, such as pretreatment annual reports and toxicity reduction evaluation reports. The receiving programs in WQD review these reports for completeness and may address compliance issues using TCEQ's EIC when necessary. Coordination between the program and appropriate WQD staff typically occurs when mis-routed reports are re-directed to the applicable program staff, and when there are questions about pretreatment and biomonitoring information in ICIS-NPDES.

Previously, RRC and EPA retained jurisdiction and authority over NPDES facilities for oil and gas activities. TCEQ was delegated authority over these sites from EPA on January 15, 2021. This change was prompted by HB 2771 (84R) which transferred jurisdiction and authority of these facilities to TCEQ.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The program's CMCs screen self-reported DMR and MER data for compliance and enforcement determinations. TCEQ field investigators may also evaluate this data during investigations. As part of the investigation process, field investigators follow guidance documents which require them to review databases and contact CMCs prior to citing violations to prevent duplication of effort.

In May 1998 a memorandum of agreement established policies, responsibilities, and procedures for program commitments between TCEQ and EPA Region 6 for assumption of the NPDES program by TCEQ.

The MOA was updated in January 2021 when TCEQ received approval from EPA to administer the NPDES program for oil and gas facilities.

Also, in May 1998 a memorandum of understanding clarified jurisdictional boundaries of TCEQ and the RRC. This MOU was updated in June 2020 for the oil and gas program 30 TAC Section 7.117.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The program routinely communicates with local, state, and federal governmental authorities operating wastewater treatment facilities subject to TPDES requirements. The CMCs interact with these entities via phone calls, email, and postal mail as part of the compliance monitoring review process. These entities also contact the program when they need assistance with the NetDMR system or have questions regarding their permitted reporting requirements.

The program also communicates and coordinates with EPA Region 6 and EPA Headquarters. Program staff participates in monthly and quarterly conference calls to discuss a variety of TPDES-related topics, and national workgroup calls to discuss the NPDES SNC NCI. Other forms of communication include email and occasional in-person meetings.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Please refer to the Office of Compliance and Enforcement, Field Operations Program, Question P for complaint related data for this program.

Stationary Air Monitoring Network Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Stationary Air Monitoring Network

Location/Division: Austin Headquarters / Monitoring Division

Contact Name: Cory Chism, Deputy Director, Monitoring Division

Statutory Citation for Program: 42 United States Code (USC) Section 7410 (a)(2)(B); Title 40 Code of Federal Regulations (CFR) Parts 50 and 58.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Stationary Air Monitoring Network measures the concentration of pollutants in ambient air and provides data to assess regional air quality representative of areas frequented by the public.

As of June 1, 2021, the program consists of 255 state- and partner-owned air monitoring stations serving over 25 million Texans statewide in areas where the presence of industry intersects with large segments of the state's population. The Stationary Air Monitoring Network involves the operation of both continuous and non-continuous air monitors; laboratory analysis of air quality samples, collection, management; validation of vast amounts of data; and reporting of air quality data to the public and the EPA. Air monitoring data from the program assists TCEQ in determining compliance with federal air quality standards, providing information in response to localized air quality concerns, evaluating air pollution trends, and studying air pollution formation and behavior. Specifically, TCEQ relies on data from the Stationary Air Monitoring Network to support the State Implementation Plan (SIP) development, verify air quality planning and permitting models, assess emissions control strategy effectiveness, and evaluate the need for, improvement, and progress of the Air Pollutant Watch List (APWL) areas.

Major program activities include the deployment and operation of air monitors, collection and analysis of air samples, management of air monitoring data, validation and quality assurance of data, and public display of air data.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

TCEQ's Stationary Air Monitoring Network includes more than double the number of monitors required under 40 CFR Part 58 Appendix D, in addition to numerous state-initiative monitors. The data from this network is effective in assisting TCEQ with determining compliance with federal air quality standards, providing information in response to localized air quality concerns, evaluating air pollution trends, and studying air pollution formation and behavior.

The following performance measures are reported in Section II, Exhibit 2.

- Number of air monitors operated; and
- Percent of valid data collected by TCEQ continuous and non-continuous air-monitoring networks.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

Since 1973, the Stationary Air Monitoring Network has increased the number of monitoring sites, the number and complexity of sampling instruments, and the number of data points collected—now exceeding 1.5 trillion total data records. This growth is the result of new federal monitoring requirements, an expanding state population and industry base, technological advancements in monitoring capabilities, and an emphasis on measuring air quality.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The Stationary Air Monitoring Network is not a regulatory program. Air quality monitoring data are available to and used by the public, EPA, local governments, universities, non-profit organizations, and other TCEQ programs.

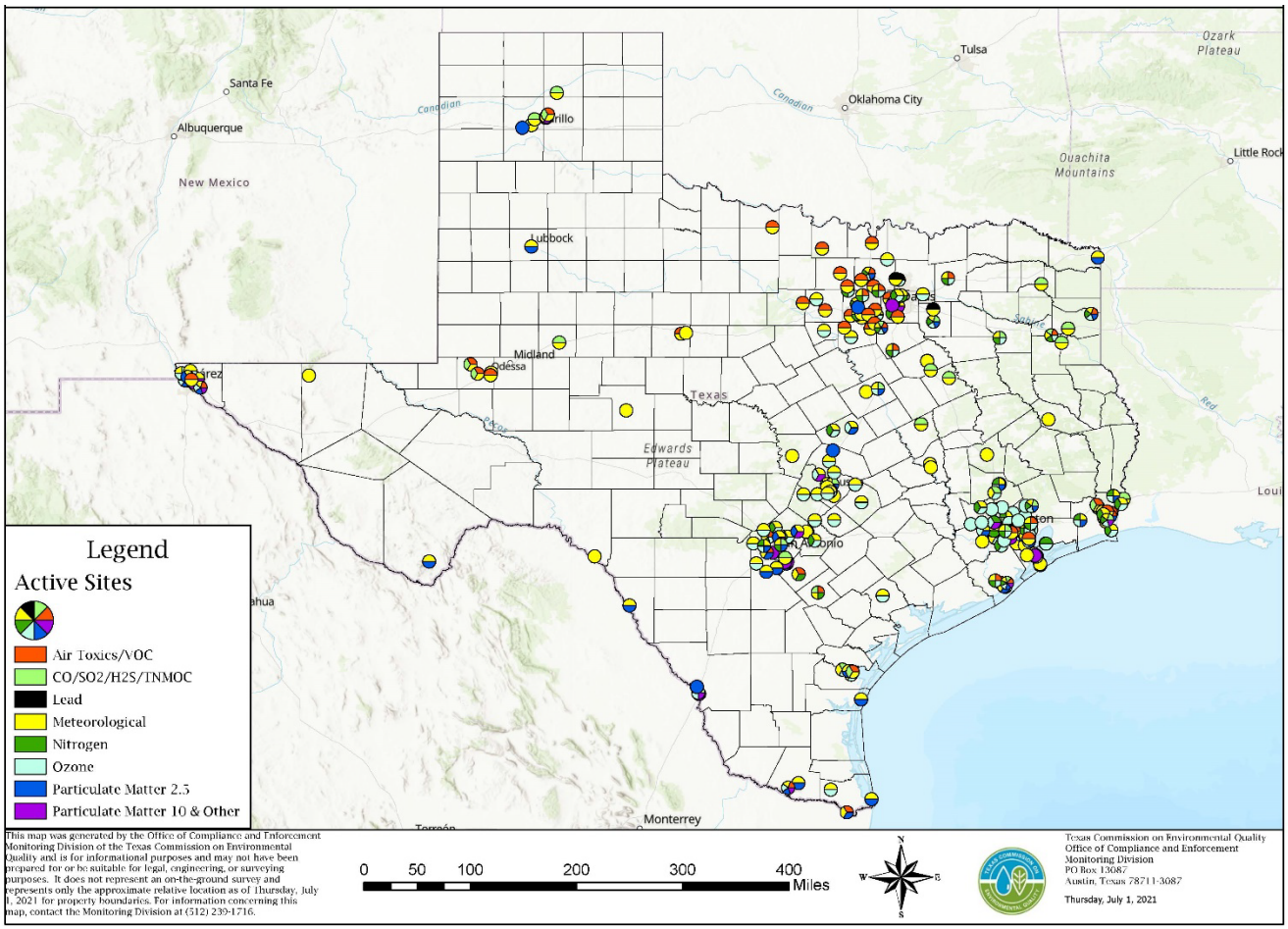
F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The Stationary Air Monitoring Network is administered to comply with federal air monitoring requirements while also meeting the needs of data customers. Generally, decisions regarding the number, type, and placement of air monitors are determined in accordance with federal air monitoring rules using population trends, reported emissions inventory data, local meteorological data, and, if available, existing air monitoring data for a given area. In addition, TCEQ may prioritize monitor placement in areas with potential air quality issues, or to address local air quality concerns. As agency data users, the Air Quality Division, Toxicology Division, and regional offices provide input on the need for and placement of monitors to ensure alignment of monitoring objectives with data needs.

Operation and maintenance of TCEQ air monitoring stations is performed by Monitoring Division staff located in the regional offices. These field staff perform routine quality assurance, preventive maintenance, and sample collection. Continuous monitors transmit measurements electronically to a centralized data management system that publicly displays preliminary data in near, real-time on a TCEQ webpage. Non-continuous monitors collect discrete samples are also retrieved by field staff and shipped to Austin for analysis in TCEQ's air laboratory. All stationary monitoring data are quality assured and validated before final reporting to EPA.

The following map identifies ambient air monitor locations across the state.

Ambient Air Monitors in Texas



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Stationary Air Monitoring Network Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$10,937
0151	Clean Air Account - Dedicated	N/A	N/A	$4,989,872
0555	Federal Funds	66.034	Surveys, Studies Relating to Clean Air Act	$1,430,388
0555	Federal Funds	66.605	Performance Partnership Grants	$2,454,490
0777	Interagency Contracts	N/A	N/A	$1,106
5094	Operating Permit Fees Account-Dedicated	N/A	N/A	$2,264,973
TOTAL				**$11,151,766**

The program is funded in the Air Quality Assessment and Planning Strategy and Field Inspections and Complaints Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

TCEQ's Stationary Air Monitoring Network is the only program to operate and manage data from air quality monitors statewide. Other monitoring organizations, such as local governments, non-profits, universities, and industry groups, conduct ambient air monitoring for localized purposes, often in partnership with TCEQ. Generally, TCEQ partners with other organizations monitoring air quality so the data can be displayed via TCEQ's webpage. Most other organizations in Texas collecting air quality data share those data with TCEQ.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ routinely collaborates with network partners (described in Question J) using a combination of grants, contracts, and voluntary participation commitments. Generally, grant requirements ask grantees to document coordination of roles and responsibilities with EPA, actual contract language describes TCEQ's expectations from local governments, and voluntary agreements are used to coordinate requirements with universities, private institutions, and other organizations.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Federal:

- EPA – partial funding of TCEQ air monitoring network;
- National Park Service – shares data from monitoring sites it operates;

- National Oceanic and Atmospheric Administration – supplies data to support the network, especially data essential to forecasting air quality events;
- National Weather Service – supply data to support the network, especially data essential to forecasting air quality events; and
- National Aeronautics and Space Administration – supplies data to support the network, especially data essential to forecasting air quality events.

State Government:

- Texas Department of Transportation – provide property access to locate stationary monitors.

Local Government:

- City of Houston – operates monitors in the TCEQ network;
- Harris County Public Health– operates monitors in the TCEQ network;
- Galveston County Health District – operates monitors in the TCEQ network;
- City of Dallas – operates monitors in the TCEQ network;
- City of Fort Worth – operates monitors in the TCEQ network;
- City of El Paso – operates monitors in the TCEQ network;
- City of San Antonio – operates monitors in the TCEQ network;
- Capitol Area Council of Government (CAPCOG) – operates monitors in the TCEQ network;
- Alamo Area Council of Government (AACOG) – operates monitors in the TCEQ network; and
- South East Texas Regional Planning Commission (SETRPC) – operates monitors in the TCEQ network.

Non-profit Organization:

- North Texas Commission (NTC) – operates monitors in the TCEQ network.

Universities and Research Institutions:

- University of Texas System (Austin, Galveston, El Paso, San Antonio, Rio Grande Valley) – operates monitors in the TCEQ network and share data from monitoring sites it operates;
- Texas A&M University (College Station) – operates monitors in the TCEQ network;
- University of Houston (Main and Clear Lake) – shares data from monitoring sites it operates;
- Texas Tech University – operates monitors in the TCEQ network; and
- St. Edward's University – shares data from monitoring sites it operates.

Industry:

- Houston Regional Monitoring – shares data from monitoring sites it operates;
- Texas Petrochem – shares data from monitoring sites it operates;
- Goodyear Tire and Rubber – shares data from monitoring sites it operates;
- Texas City Industry Group – shares data from monitoring sites it operates;
- Marathon Petroleum – shares data from monitoring sites it operates;
- Freeport Industry Group – shares data from monitoring sites it operates;
- Freeport LNG – shares data from monitoring sites it operates; and
- San Antonio City Public Services – shares data from monitoring sites they operates.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

Contracts are used for air monitoring operations, sample analysis, laboratory waste disposal, data management, and validation.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $2,286,040.

- **the number of contracts accounting for those expenditures;**

Eighteen contracts.

- **the method used to procure contracts;**

The contracts are procured through open market solicitation or awarded as interagency contracts.

- **top five contracts by dollar amount, including contractor and purpose;**

Stationary Air Monitoring Network Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-20-10016	Orsat LLC	Contract to provide on-call operations and maintenance, technical support, and training for automated gas chromatographs located at state initiative sites.	$380,128
582-20-10014	Orsat LLC	Contract to provide on-call operations and maintenance, technical support, and on-training for automated gas chromatographs located at federally-required sites.	$319,174
582-20-10020	Desert Research Institute	Particulate Matter 2.5 ($PM_{2.5}$) Filter Laboratory Analysis Program	$277,692
582-20-10012	Texas Precision Monitoring	Contract to operate and maintain multiple samplers at the Houston Deer Park #2 monitoring station.	$212,539
582-19-90040	City of San Antonio	Contract to operate and maintain five continuous air monitoring stations.	$204,856

- **the methods used to ensure accountability for funding and performance; and**

Contracts are monitored by a contract manager to ensure expenditures do not exceed the contract amount and the work is performed in accordance with contract requirements before payments are approved. Separate division personnel audit contractor performance to verify costs and troubleshoot potential problems that would impede the contractor's ability to fulfill contract deliverables.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The program provides grants to local air pollution control agencies to carry out responsibilities under Section 105 of the Clean Air Act. Federal funds make up 60% of the cost, while state and local agencies provide the remaining 40%.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

The Stationary Air Monitoring Network measures ambient concentrations for six commonly occurring air pollutants known as criteria pollutants. They include ozone, nitrogen dioxide, sulfur dioxide, carbon monoxide, particulate matter, and lead. Due to their potential impact on human health and the environment, the Federal Clean Air Act provides for the establishment of national ambient air quality standards (NAAQS) for the criteria air pollutants. In addition, the Stationary Air Monitoring Network measures a variety of air toxics, pollutants known or suspected to cause cancer or other serious health effects. These include hydrogen sulfide, volatile organic compounds (e.g., benzene, ethylbenzene, toluene, xylene, butadiene, and styrene), metals (e.g., arsenic, chromium, and mercury), carbonyls (e.g., formaldehyde), and semi-volatile organic compounds (e.g., naphthalene and pyrene). The specific pollutants measured at each monitoring station can be identified using the GeoTAM viewer.

While TCEQ's air monitoring network includes more than double the number of federally required monitors, as well as numerous state-initiated monitors. Placement of air monitors is determined consistent with federal air monitoring rules using population trends, reported emissions inventory data, local meteorological data, and, if available, existing air monitoring data for a given area. Each specific monitor location must meet strict siting criteria under 40 CFR Part 58 Appendix E including minimum spacing from trees or other obstructions, freedom of influences from specific sources, and logistical considerations, such as available space, power, and level terrain. Final site selection is contingent on TCEQ receiving proper access authorization from property owners for properties meeting these siting criteria.

In addition, TCEQ may prioritize monitor placement in areas with potential air quality issues, or to address local air quality concerns. In response to increasing concerns regarding local air quality from the public and elected officials due to events such as natural disasters, industrial fires and increased oil and gas activity, TCEQ deployed ten new stationary air monitors in specific areas of the state. At the end of FY 2019, TCEQ procured three new automated gas chromatographs (autoGCs) for air toxics monitoring in three communities along the Houston Ship Channel. In FY 2020, four new stationary monitors were deployed in central Texas near aggregate mining operations in response to localized concerns. Due to increased oil and gas activity in the Permian Basin, three stationary monitors are being deployed to monitor sulfur compounds as well as air toxics. The budget supports the ongoing operation, maintenance and data validation of these new sites.

Each specific monitor location must meet strict siting criteria under 40 CFR Part 58 Appendix E including minimum spacing from trees or other obstructions, freedom of influences from specific sources, and logistical considerations, such as available space, power, and level terrain. Final site selection is contingent

on TCEQ receiving proper access authorization from property owners for properties meeting these siting criteria.

TCEQ uses a variety of measures to ensure its air monitoring data are of the utmost quality. Air monitors are assessed daily to verify their operations remain within proper specifications. TCEQ personnel physically visit each monitoring station on a weekly basis to conduct various quality control checks and preventive maintenance activities. The monitoring instruments themselves must meet rigorous sampling and analytical requirements prescribed under 40 CFR Part 58 Appendix A Section 3, and undergo daily, weekly, and quarterly quality control checks to verify the instrument's calibration, accuracy, and precision. In addition, independently calibrated instruments are used to perform quarterly and annual audits of the air monitors and their operation. Finally, a validation assessment is performed to verify all data meet data quality objectives under 40 CFR Part 58 Appendix A Section 2.3. The data are reviewed for outliers, regional comparability, quality assurance and quality control requirements, and other data quality assessment indicators. Data that do not meet these objectives completely are invalidated or denoted accordingly.

TCEQ's Stationary Air Monitoring Network is designed to measure pollutant concentrations for assessing regional air quality representative of areas frequented by the public. Monitors can measure the impact on air quality from industrial sources present in an area, but do not measure the emissions from individual sources or determine a source's compliance with permitted emission limits. Data from the ambient air monitoring network is used to determine compliance with NAAQS, evaluate pollutant trends, forecast daily air quality conditions, perform air quality and human health impact studies, and inform regulatory decisions. Finally, while stationary air monitors may provide useful data during disasters or emergency events, they are not specifically intended for those purposes.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Mobile Monitoring Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Mobile Monitoring Program

Location/Division: Austin Headquarters / Monitoring Division

Contact Name: Cory Chism, Deputy Director, Monitoring Division

Statutory Citation for Program: None

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Mobile Monitoring Program conducts short-term mobile air monitoring assessments in support of regional investigations, special air quality assessment projects, environmental emergencies, and natural disaster recovery. The program consists of a fleet of three monitoring vans capable of continuous, real-time measurement of a wide range of target pollutants while in transit. Using on-board instrumentation and GPS mapping capabilities, these monitoring vans provide net upwind/downwind measurements; in-transit surveys to identify pollution hot spots; identification of odorous compounds; plume tracing using wind speed, wind direction, and optical gas imaging of potential sources; and data for regulatory and/or health impacts assessments. Housed in Austin, these three monitoring vans are available to perform mobile monitoring activities anywhere in the state. In addition to these monitoring vans, the program includes two rapid assessment survey vehicles capable of continuous, real-time measurement and mapping of fourteen target compounds. Anticipated for deployment by the first quarter of FY 2022, these rapid assessment survey vehicles will be located in TCEQ's coastal regions to provide routine mobile monitoring assessments in the heavily industrialized areas of Beaumont, Houston, and Corpus Christi.

During the 87th Legislative Session, TCEQ received four full-time equivalent employees (FTEs) and $250,000 for each year of the 2022-2023 biennium to operate the agency's mobile air monitoring equipment in the coastal regions. Six staff currently maintain and operate the three vans and onboard instrumentation, as well as perform quality assurance and data reporting functions. With the operation of each van requiring a driver and an analyst, these four FTE employees will significantly increase the staff available for routine monitoring van operations, performing quality assurance and data reporting functions, and rotating van operators during extended deployments.

The Mobile Monitoring Program also includes the use of handheld monitoring and optical gas imaging technologies to augment on-board instrumentation.

Mobile Monitoring deliverables include validating air quality data, pollutant concentration mapping, technical reports, infrared and optical gas imagery, and investigative and scientific documentation. These deliverables are used in a variety of applications, including assessment of Air Pollutant Watch List (APWL) areas, environmental emergency response, disaster recovery, complaint investigations, source identification, and determinations related to public health. As provided under Texas Health and Safety Code (THSC) Section 382.0161, TCEQ maintains the APWL to identify those areas in Texas where monitoring data show persistent, elevated concentrations of air toxics. TCEQ uses the APWL process to focus its resources, notify the public, engage stakeholders, and develop strategic actions to reduce emissions.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

During FY 2020, the Mobile Monitoring Program implemented upgrades and enhancements to improve its effectiveness and efficiency. These included the addition of a new rapid assessment survey van and instrumentation retrofits to two existing vans. The new equipment allows for sampling in-transit for a broader list of pollutants, which improves the agency's ability to conduct air monitoring during responses to emergencies, incidents, and natural disasters, and support investigations related to local air quality concerns. In addition to implementing these upgrades, the Mobile Monitoring Program conducted air quality surveys for hydrogen sulfide in the Permian Basin area, resulting in the placement of three new stationary air monitors; assisted regional investigators in identifying potential sources of chronic odors related to complaints; and provided air monitoring surveys in response to the Corpus Christi Tule Lake Channel Fire and Hurricane Laura in Beaumont-Port Arthur. In FY 2021, the monitoring vans participated in response to Hurricane Delta, Winter Storm Uri, and regional investigations of fugitive emissions.

There are no existing performance measures for the Mobile Monitoring Program.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The Mobile Monitoring Program was established in the mid-1980s. Although its original intent focused on permitting and enforcement actions, the application of TCEQ's mobile monitoring technology has expanded significantly to include environmental emergency response, disaster recovery, and complex investigation assistance.

In 2019, the legislature appropriated funding to allow the agency to expand and make technology upgrades to its mobile monitoring fleet. The new equipment provided needed retrofits to allow in-transit sampling for a broader list of target pollutants, which improves TCEQ's ability to conduct air monitoring during responses to emergencies, incidents, and natural disasters, and support investigations related to local air quality concerns.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

N/A

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Based on agency needs, the program is engaged to provide technical consultation on strategic monitoring approaches, conduct mobile monitoring project work, or respond in the event of an environmental emergency or disaster. Internal agency customers may include TCEQ regional offices, Toxicology Division, Air Quality Division, and Air Permits Division.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Mobile Monitoring Program Funding Sources

Account	Account Title	FY 2020 Expended
0151	Clean Air Account - Dedicated	$468,795
5094	Operating Permit Fees Account- Dedicated	$699,133
TOTAL		**$1,167,928**

The program is funded in the Air Quality Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The City of Houston operates a mobile laboratory providing mobile monitoring of specific target pollutants. In addition, the EPA operates the Trace Atmospheric Gas Analyzer (TAGA) bus, a self-contained mobile laboratory capable of real-time ambient air monitoring and mapping for a variety of target pollutants.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The program is available to conduct mobile monitoring activities statewide. While TCEQ's mobile monitoring program is used to assist and augment TCEQ's investigative efforts, it may be called upon to assist in large scale emergency or disaster response by local governments and the Texas Department of Emergency Management. TCEQ coordinates activities with local, state, and federal partners, as appropriate, when responding to emergency events. Additionally, deployment of TCEQ's mobile monitoring assets includes coordination with regional investigative staff, and internal data users, such as the Air Quality Division and Toxicology Division.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

All TCEQ mobile monitoring activities are coordinated through the appropriate TCEQ regional office, which also coordinates as needed with relevant local governments. During large-scale environmental emergencies or disaster events, TCEQ also coordinates with EPA on the deployment of their TAGA bus to maximize the coverage of responding mobile monitoring assets.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Laboratory Accreditation Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Laboratory Accreditation Program

Location/Division: Austin Headquarters / Monitoring Division

Contact Name: Cory Chism, Deputy Director, Monitoring Division

Statutory Citation for Program: Texas Water Code (TWC) Section 5.134 and Section 5.801 et seq.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Laboratory Accreditation Program is a voluntary program that accredits environmental laboratories providing analytical data directly or indirectly to the agency. Accreditation ensures environmental laboratories meet established standards of operation and reduces the risk of making decisions based on poor environmental data. The components of accreditation include on-site assessments of laboratories, semiannual proficiency testing, adherence to recognized quality-assurance and quality control standards, and minimum qualifications for the personnel performing environmental tests and key managers. In addition, TCEQ collects fees from laboratories to support administration of the Laboratory Accreditation Program, issues accreditation certificates to laboratories, and maintains extensive records regarding laboratories and their accreditations.

TCEQ is one of 14 agencies located in 14 states, in addition to three non-governmental accreditation bodies, comprising the National Environmental Laboratory Accreditation Program (NELAP). Collectively, these agencies have issued over 1,200 accreditations to environmental laboratories located in the U.S., Canada, Puerto Rico, Europe, South Korea, and Fiji.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

TCEQ issues accreditations to environmental laboratories after determining the ability of the lab to perform analytical tests in accordance with published methodologies and meet NELAP standards. TCEQ currently offers accreditation for 10,653 separate fields of accreditation, encompassing most environmental laboratory analyses. Each field is a unique combination of matrix, analytical method, and parameter.

TCEQ demonstrates effectiveness of the Laboratory Accreditation Program through the actions taken regarding issuance and denial of applications for accreditation. Since 2005, TCEQ has accredited a total of 327 laboratories, while denying 38 applications for initial accreditation or accreditation renewal after determining minimum performance and analytical standards were not met.

Certification of TCEQ's Laboratory Accreditation Program as an accreditation body is renewed through The NELAC Institute (TNI) annually. TNI also conducts a thorough onsite assessment of TCEQ's program

every three years as a part of the renewal process. The Laboratory Accreditation Program successfully completed TNI renewal assessments in 2009, 2012, 2015, and 2018. The program will be assessed again in 2021.

TCEQ reports the number of environmental laboratories accredited as a key output measure to the LBB. In FY 2020, 254 environmental laboratories held accreditations issued by TCEQ, achieving 95.85% of the annual target of 265.

The following performance measure is reported in Section II, Exhibit 2.

- Number of environmental laboratories accredited.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affecting the Laboratory Accreditation Program.

2001

- The Sunset Advisory Commission recommended, and HB 2912 (77R) required, TCEQ to administer a voluntary laboratory-accreditation program consistent with the NELAP (TWC Section 5.801). The agency has done so.

2005

- TCEQ's accreditation program received approval from EPA and other accrediting states.

2008

- Requirements concerning the use of accredited laboratories became effective on July 1, 2008 (TWC Section 5.134).

2010

- The accreditation rules under 30 TAC Chapter 25 were amended to reference the TNI NELAP standard and revise accreditation fees.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The Laboratory Accreditation Program affects all environmental laboratories supplying analytical data for agency decisions, directly to TCEQ, or indirectly through regulated entities. These laboratories include commercial, governmental, and certain in-house environmental laboratories operated by regulated entities. Laboratories needing accreditation must meet program requirements and pay associated fees.

The program may also affect regulated entities relying on laboratories for the analysis of environmental samples. As of June 2021, 250 laboratories held accreditations issued by TCEQ (108 of which are located outside of Texas, including:

- 172 commercial laboratories;
- 65 laboratories operated by local governments; and
- 13 laboratories operated by state and federal agencies, universities, and non-profit organizations.

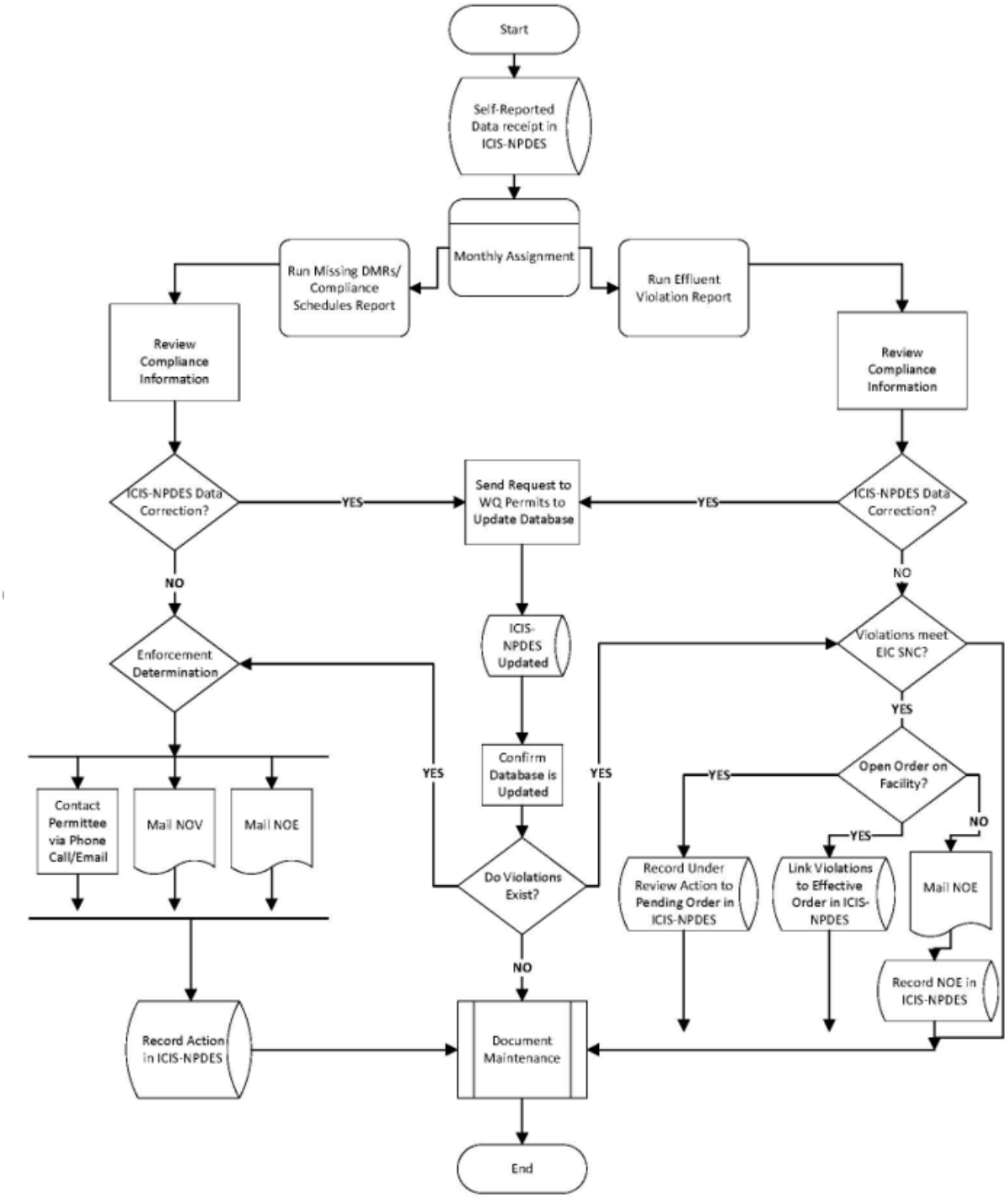
F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The Laboratory Accreditation Program is administered and operates according to requirements and timeframes contained in the 2016 National Environmental Laboratory Accreditation Conference (NELAC) Standard and TCEQ's laboratory accreditation procedures.

These procedures address, among other things, receipt and processing of applications for accreditation, planning and conducting inspections, confidential business information, complaints, and sanctions (denial, suspension, and revocation). The procedures also address internal controls, such as inspector training and qualifications, standards of conduct, annual audits, annual management reviews, and recordkeeping.

The following flowchart illustrates the laboratory accreditation process.

Laboratory Accreditation Process Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Laboratory Accreditation Program Funding Sources

Account	Account Title	FY 2020 Expended
5065	Environmental Testing Laboratory Accreditation Account - Dedicated	$705,593

The program is funded in the Enforcement and Compliance Support Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

TCEQ is one of 14 state agencies certified to issue accreditations under the NELAP.

TCEQ's Public Drinking Water (PDW) Program performs laboratory approvals (not accreditations) for laboratories that analyze parameters associated with process control. Unlike the laboratory approvals, accreditations apply to analyses related to agency decisions on items such as permit compliance.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TNI Standard, applicable to all accrediting bodies, includes requirements precluding duplication or conflict among accrediting states. For example, non-federal laboratories must apply for primary accreditation in their home state unless the state has no accreditation program or does not offer the fields of accreditation needed by a laboratory.

In addition, under the TNI Standard, accreditations issued by one state must be accepted by other accrediting states. Other accrediting states must issue secondary (or reciprocal) accreditations to laboratories holding primary accreditations from another state. The other states may not impose any inspection, testing, or quality control requirements on laboratories applying for secondary accreditation and must issue secondary accreditations within 30 days. TCEQ's Laboratory Accreditation Program is required under Title 30 Texas Administrative Code (30 TAC) Section 25.22 to provide secondary accreditation for laboratories located in other states and accredited by another NELAP accreditation body.

Requirements for public drinking water systems under 30 TAC Section 290.119 outline when laboratory accreditation versus laboratory approval is required, preventing duplication and conflict between the accreditation program and the PDW program's laboratory approvals. Parameters differ between accreditation and approval.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The Laboratory Accreditation Program accredits all laboratories operated by units of local government or federal agencies that analyze environmental samples for compliance with the federal Safe Drinking Water Act and report to TCEQ. The program accredits laboratories operated by units of local government,

regional governments, or federal agencies, that are required under TCEQ rules (30 TAC Section 25.6) to be accredited or, that voluntarily choose to be.

To determine compliance with 40 CFR Section 142.10(b) and in accordance with the EPA Manual for the Certification of Laboratories Analyzing Drinking Water, 5th Edition (EPA 815-R-05-004, January 2005), the program is reviewed by EPA Region 6 every three years to assess conformance to requirements associated with enforcement (primacy) delegation under the Safe Drinking Water Act.

To maintain status as an accrediting body, under the TNI Standard, the Laboratory Accreditation Program is reviewed by a team representing other accrediting states on a triennial basis to assess, among other things, conformance to national accreditation standards and determine whether to continue recognition of accreditations issued by TCEQ. The program successfully completed TNI renewal assessments in 2009, 2012, 2015, and 2018 and will be assessed again in 2021.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The contracts provide qualified laboratory assessors to plan, organize, conduct, and report the results of on-site assessments of environmental laboratories. The program also has a contract for maintenance of the laboratory accreditation database.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $198,003.

- **the number of contracts accounting for those expenditures;**

Three contracts.

- **the method used to procure contracts;**

These contracts were procured through an open-market solicitation by requests for proposal.

- **top five contracts by dollar amount, including contractor and purpose;**

Laboratory Accreditation Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-17-70654	Sims and Associates	Lab assessments	$95,590
582-17-70653	Shepherd Technical Services	Lab assessments	$98,563
582-20-10021	AQS, Inc.	Maintenance contract for laboratory accreditation database	$3,850

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines, which include, but is not limited to financial monitoring, auditing and record keeping. Vendor performance

is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted unless discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Quality Assurance Program

A. Provide the following information at the beginning of each program description.

***Name of Program or Function**:* Quality Assurance Program

Location/Division: Austin Headquarters / Monitoring Division

Contact Name: Cory Chism, Deputy Director, Monitoring Division

Statutory Citation for Program: Texas Water Code (TWC) Sections 26.023 and 26.0135; Title 40 Code of Federal Regulations (CFR) Parts 31 and 35.

B. What is the objective of this program or function? Describe the major activities performed under this program.

Quality in environmental programs contributes to public health and safety, economic development, efficient use of public monies, technical credibility, and a recognition of excellence. The achievement of quality in environmental programs is the responsibility of each employee of TCEQ.

TCEQ's Quality Assurance (QA) program provides a formal quality assurance system covering a wide range of federal and state environmental programs, including all federally funded environmental activities where data is produced. In addition, certain state laws also require quality-assured environmental data. In other cases, the importance and complexity of environmental operations warrant implementation of a formal quality assurance program.

TCEQ uses a semi-decentralized structure for its QA program, relying on one agency division to coordinate the development and implementation of the agency-wide program and related systems; and on offices, divisions, and individual programs to implement other quality assurance elements and systems. The Monitoring Division serves as the quality assurance coordinating division for TCEQ.

The QA program is responsible for developing the agency's Quality Management Plan (QMP), reviewing programmatic quality assurance project plans (QAPPs), performing audits of programmatic quality systems, reviewing and tracking corrective actions, and reporting.

Approval of the QMP by TCEQ's agency senior management reflects the agency's commitment to the principles and quality systems described in the document.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

TCEQ's QA program must be approved annually by the EPA, Region 6. As outlined under 40 CFR Part 35 and EPA QA/R-2, EPA Requirements for Quality Management Plans, annual approval of the QA program is a prerequisite for federal funding of environmental data activities.

TCEQ's QMP requires an annual assessment of the agency's quality assurance system with results and findings submitted to EPA for review and approval. TCEQ's QA program has been reapproved each year since FY 1995.

There are no existing performance measures for the QA program.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

N/A

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

N/A

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The QA program coordinates an annual review and revision to TCEQ's QMP for submittal to and approval by EPA. The program is also delegated authority by EPA to review and approve QAPPs for the Galveston Bay Estuary (GBEP), Nonpoint Source (NPS), and Total Maximum Daily Load (TMDL) programs. In addition, the program provides review and comment of other air, water, and waste related QAPPs prior to their submittal for approval by EPA. The program conducts assessments of programmatic quality systems, reviews and approves corrective actions, and prepares annual reports on agency quality assurance performance and activities.

Copies of the QMP are issued to those staff whose work is directly related to the collection, analysis, and use of environmental data by TCEQ. At a minimum, staff is responsible for ensuring work products are of known and documented quality and deemed acceptable for their intended use.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Quality Assurance Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0151	Clean Air Account - Dedicated	N/A	N/A	$759,845
0153	Water Resource Management Account - Dedicated	N/A	N/A	$95,473
0549	Waste Management Account - Dedicated	N/A	N/A	$67,237
0555	Federal Funds	66.605	Performance Partnership Grants	$189,194
0777	Interagency Contracts	N/A	N/A	$119,137
5094	Operating Permit Fees Account- Dedicated	N/A	N/A	$374,141
TOTAL				**$1,605,027**

The program is funded in the following strategies:

- Enforcement and Compliance Support;
- Waste Assessment and Planning; and
- Water Assessment and Planning.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

While the Monitoring Division serves as the quality assurance coordinating division responsible for development and implementation of the agency-wide program, TCEQ offices, divisions, and individual program areas implement other quality assurance elements and systems.

EPA also provides quality assurance functions and serves as an oversight body for quality assurance elements required of federal programs or related to the receipt of federal funds.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ's QA program is organizationally independent of operational programs and activities within the agency and has sufficient access and authority to coordinate development and implementation of the agency's quality system.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The QA program works closely with EPA Region 6 quality assurance personnel who provide oversight for federal quality assurance requirements.

As necessary to comply with 40 CFR Part 35 and EPA QA/R-2, EPA Requirements for Quality Management Plans, TCEQ's QA program may conduct quality system assessments of city and/or county governments performing monitoring or other data collection activities for TCEQ.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Landscape Irrigation Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Landscape Irrigation Program

Location/Division: Austin Headquarters / Program Support and Environmental Assistance Division (PSEAD)

Contact Name Kristi Mills-Jurach, P.E., Assistant Director, Office of Compliance and Enforcement

Statutory Citation for Program: Texas Occupational Code (TOC) Chapter 1903; Texas Water Code (TWC) Chapter 37.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Landscape Irrigation Program (LIP) is tasked with conserving water and protecting the public health regarding landscape irrigation systems. This is accomplished by the administering of agency regulations governing landscape irrigation systems, as well as providing technical guidance, outreach, and education to the public and regulated communities. These regulations require local jurisdictions with a population of 20,000 or more to adopt local ordinances governing landscape irrigation in their area. This constitutes a local LIP. In areas with no adopted local programs, TCEQ is the primary enforcement authority.

Major activities include:

- regulatory assistance and guidance for municipalities, the public, and regulated community;
- technical assistance;
- education and outreach;
- facilitation of the Irrigator Advisory Council (IAC); and
- complaint investigations, corrective action guidance, and enforcement referrals.

A key component of the program is backflow prevention. Licensed irrigators must ensure suitable backflow prevention assembly devices are in place and functioning properly. These devices prevent contaminants from entering a public water system via a landscape irrigation system.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The following performance measures are reported in Section II, Exhibit 2.

- Number of citizen complaints investigated;
- Number of investigations of water sites and facilities; and
- Average days from air, water, or waste investigation to report completion.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Target*	FY 2020 Actual Performance	FY 2020 % of Annual Target
LIP Investigations	N/A	11	N/A

*There are no specific landscape irrigation investigation targets; however, they do contribute to LBB Performance Measure Output 03-01-01.03, Number of Investigation of Water Sites and Facilities.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The mission and functions of LIP have not significantly changed since its inception. LIP staff continue to work with local municipalities and their customers to provide guidance in the implementation of LIPs across the state. In areas where ordinances have not been adopted, TCEQ staff serve as the primary enforcement authority.

The most recent LIP changes came from updates to the landscape irrigation regulations (Title 30 Texas Administrative Code [30 TAC] Chapter 344) that became effective on July 1, 2020. These changes were in response to petitions filed by the Irrigator Advisory Council. Although the primary petition request to require all landscape irrigation systems to be classified as a health hazard was denied, the regulations were updated to clarify requirements and reflect current practices. Significant changes included providing for increased protection of public health and water conservation and updating terms and definitions to align with 30 TAC Chapter 290 Public Drinking Water.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

For FY 2020, the following occupational licenses administered by TCEQ were affected by the LIP:

- Landscape irrigators – 6,653;
- Landscape irrigation technicians – 1,401;
- Landscape irrigation inspector – 81; and
- Backflow prevention assembly testers – 5,526.

The following entities and individuals are affected by the LIP:

- Public water systems – 6,250;
- Private citizens and businesses who own and operate a landscape irrigation system(s) – not quantifiable;
- Landscape irrigation businesses – not quantifiable;
- Irrigation equipment manufacturers and distributors – not quantifiable;
- Plumbers - 35,897; and
- Plumbing inspectors – 1,548.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The LIP has two dedicated staff members in the central office who assist regulated entities, and the public, with complaints, regulatory guidance, technical assistance, outreach and education.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Landscape Irrigation Program Funding Sources

Account	Account Title	Total
0153	Water Resource Management Account - Dedicated	$87,772

The program is funded in the Field Inspections and Complaints Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Local jurisdictions with a population of 20,000 or more are required to adopt local ordinances governing landscape irrigation at least as stringent as the 30 TAC Chapter 344, Landscape Irrigation rules. Approximately 118 municipalities have complied with the requirement to adopt ordinances. In areas not required to have local programs, TCEQ is the primary enforcement authority. The fundamental difference between the function TCEQ serves and that of the municipalities or districts is that TCEQ does not administer any of the local irrigation system permitting requirements, plan approval, on-site inspection, or oversight of installation. Another primary difference is TCEQ oversees all occupational licensing requirements for irrigation professionals and is the primary resource for regulatory and educational materials. The areas where the local and state programs are similar are in promoting water conservation and protecting public health regarding landscape irrigation systems.

The Texas State Board of Plumbing Examiners (TSBPE) issues licenses for plumber inspectors who are authorized to function as an irrigation inspector and plumbers who can install and maintain irrigation systems. TCEQ coordinates with the TSBPE prior to initiating enforcement against licensed plumbers and plumbing inspectors.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

LIP staff are the primary regulatory contacts and administer and investigate landscape irrigation complaints submitted to TCEQ. LIP staff work with licensed irrigators, irrigation technicians, irrigation inspectors, Texas State Board of Plumbing Examiners, backflow prevention assembly testers, and the public to administer the landscape irrigation rules.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

LIP works with local jurisdictions, including cities, municipalities, and water purveyors, that have adopted landscape irrigation ordinances to ensure consistent application of rules. For those local jurisdictions that do not have an ordinance, the program also serves as the primary enforcement authority and public education coordinator.

LIP also works with the Texas State Board of Plumbing Examiners on coordination of rule and enforcement matters impacting both agencies.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Regulation of landscape irrigation is necessary to ensure the conservation of water and protection of public health and potable water supply by having specifically outlined occupational licensing requirements, minimum design standards and operating requirements. Regulated entities are inspected

at the local level through the permitting, inspection, and approval process for those municipalities, districts, and special districts with populations greater than 20,000.

Any person may submit a complaint against any individual or company regarding landscape irrigation. Landscape irrigation complaints are typically investigated by LIP staff as a file or record review investigation and is conducted in the office (not on-site). LIP is a complaint-based program and follows TCEQ's standard complaint and enforcement procedure.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Refer to the Office of Compliance and Enforcement, Field Operations Program, Question P for complaint related data for this program.

On-Site Sewage Facility Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: On-Site Sewage Facility Program

Location/Division: Austin Headquarters / Program Support and Environmental Assistance

Contact Name: Kristi Mills-Jurach, P.E., Assistant Director, Office of Compliance and Enforcement

Statutory Citation for Program: Texas Health and Safety Code (THSC) Chapters 366 and 367; Texas Water Code (TWC) Section 5.124.

B. What is the objective of this program or function? Describe the major activities performed under this program.

TCEQ's On-Site Sewage Facility (OSSF) Program is designed to eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems.

TCEQ has established a permitting process for the construction, alteration, repair, extension, and operation of new or replacement OSSFs. TCEQ has statutory authority to delegate the program and the permitting requirements to local governmental entities, known as Authorized Agents (AA). In absence of an AA, TCEQ regional staff serves the community in that capacity. Approximately 75% of the state is within an AA's jurisdiction with the remaining 25% under TCEQ's jurisdiction. OSSF staff review and recommends approval of local orders that codify the requirements of the local programs. The Program Support Section (PSS) staff within the Program Support and Environmental Assistance Division (PSEAD) provides oversight of the required periodic compliance inspections of the delegated OSSF programs, in coordination with TCEQ regional offices, to ensure state regulations are appropriately administered. PSS staff also manages the On-Site Activity Reporting System (OARS), which is used to collect monthly data on the number and types of OSSF permits issued, and enforcement activities. PSS staff also maintains information on AA enforcement actions and make information available to the Office of Waste, Occupational Licensing and Registration Division (OLRD). The history of court judgements against OSSF license holders is used by OLRD to support decisions on issuing, renewing, or revoking licenses. PSS staff also provides technical assistance and support to local governmental entities who have or are seeking delegation, licensees, OSSF manufacturers, and the regulated community. In addition, TCEQ regional staff conducts on-site inspections of OSSF installations in areas under TCEQ jurisdiction. This function is covered under the Field Operations Program.

Primary program activities include:

- Adopting, maintaining, and enforcing a minimum state code for design, construction, installation, operation, and maintenance of OSSFs, which TCEQ promulgated in Title 30 Texas Administrative Code (30 TAC) Chapter 30 Subchapters A and G, and 30 TAC Chapter 285.
- Reviewing and approving non-standard treatment systems and technologies.
- Maintaining a permitting process for the construction, alteration, repair, extension, and operation of OSSFs.
- Delegating regulatory authority to local governments.
- Providing oversight for periodic reviews of delegated OSSF programs.

- Providing technical assistance and support to local governmental entities, licensees, OSSF manufacturers and the regulated community.
- Managing a grant program for research into OSSF technologies funded through collected fees as required by HB 2771 (85R) and THSC Chapter 367.
- Administering OARS.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The following performance measures are reported in Section II, Exhibit 2.

- Number of investigations of water sites and facilities;
- Number of citizen complaints investigated;
- Average days from air, water, or waste investigation to report completion; and
- Number of applications to address water quality impacts reviewed.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

TCEQ is required by THSC Chapter 366 Section 366.001(1) to "eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation and maintenance of on-site sewage disposal systems." The following history highlights significant actions directly affecting the OSSF Program.

1977

- In November 1977 the Texas Department of Health (TDH) published the first “Construction Standards for On-Site Sewage Facilities.”

1987

- On January 10, 1987, HB 1875 (70R) was passed to regulate OSSFs statewide.

1989

- On September 1, 1989, HB 2136 (71R) reorganized Title 5, Sanitation and Environmental Quality, Subtitle B, Solid Waste, Toxic Chemicals, Sewage, Litter and Water, to numerous new Chapters in the THSC. THSC Chapter 366, concerning On-Site Sewage Disposal Systems, was created, which became effective on September 1, 1989. The TDH was the state agency still charged with regulating OSSFs.

1992

- On March 1, 1992, the environmental health responsibilities of the TDH were transferred to the Texas Water Commission, which included all responsibilities under the current OSSF laws and regulations. A ten-dollar fee charged for every OSSF permit in Texas was established with fees

collected and grants awarded by Texas On-Site Wastewater Treatment and Research Council (TOWTRC).

1993

- On August 30, 1993, the legislature passed SB 1042 (73R) which modified portions and added to the 1987 law and sections of THSC Chapter 366 that authorized administrative and civil penalties.
- On September 1, 1993, the Texas Water Commission was combined into a new agency, the Texas Natural Resource Conservation Commission (TNRCC). TNRCC was charged with regulating OSSFs.

2002

- On July 31, 2002, the OSSF 30 TAC Chapter 285 Regulations were revised to address HB 2912 (77R) prior to the adoption date of July 10, 2002. This rule update resulted in the addition of one amendment and one new subsection. This version of the OSSF regulations required a licensed Soil/Site Evaluator as of September 1, 2002.

2011

- TOWTRC was ended by the legislature by HB 2694 (82R). Duties previously performed by TOWTRC were transferred to TCEQ. The bill requires revenue for the Texas Onsite Wastewater Treatment Council fee be deposited to the Water Resource Management Account #153.

2017

- HB 2771 (85R) passed, requiring TCEQ to award competitive grants using the account holding the $10 OSSF fees and TCEQ created the On-Site Sewage Research Advisory Council.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

- TCEQ has delegated OSSF regulatory authority to 354 local governmental entities, known as AAs.
- Over the last fiscal three years (FY 2019, FY 2020, and FY 2021), on average 41,000 OSSF permits were issued annually in Texas. Of these permits, approximately 40,000 were issued by local governmental entities.
- AAs are required to have a licensed Designated Representative (DR) to facilitate the local program, in accordance with 30 TAC Section 285.62(1).
- DRs are required to ensure only individuals with an appropriate OSSF license perform installation or maintenance of an OSSF, as per 30 TAC Sections 285.61(1) and 285.62(9).

Number of On-Site Sewage Facility Delegated Authorities by Type

Fiscal Year	Counties	Cities	Districts*	Total
FY 2010	192	124	18	334
FY 2011	192	125	19	336
FY 2012	192	127	19	338
FY 2013	192	129	21	342
FY 2014	192	130	21	343
FY 2015	192	130	19	341
FY 2016	191	131	19	341
FY 2017	191	132	19	342
FY 2018	193	132	19	344
FY 2019	195	132	19	346
FY 2020	195	134	19	348
FY 2021	196	138	20	354

* Districts defined as: fresh water supply districts, river authorities, municipal water authorities, health districts, water supplies, and water control and improvement districts

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The primary functions of the OSSF program include implementation on three levels: central administration, regional and authorized agent oversight; and compliance determinations.

Central Administration:

- Review and approve proprietary products for use on OSSF system design;
- Provide technical review and assistance on non-standard OSSF system designs;
- Review and approve AA applications;
- Provide training for AA staff and Designated Representatives (DRs);
- Provide technical assistance to the regulated community;
- Provide administrative and technical assistance to regional staff and AA;
- Coordinate and administer the OSSF research grant program (HB 2771 85R) and THSC Chapter 367); and
- Administer and manage OARS. AAs submit monthly activity reports to TCEQ through OARs. TCEQ also collects fees submitted by AAs in accordance with THSC Chapter 367.

Regional Office Programs:

- Conduct annual audits or reviews of AAs to ensure AAs have properly implemented an OSSF program for their jurisdictions;
- Issue permits for OSSF systems within TCEQ jurisdiction;
- Perform installation inspections to ensure systems are constructed and installed in accordance with 30 TAC Chapter 285 requirements;

- Perform complaint investigations;
- When violations are identified, prepare an administrative enforcement referral for public health and nuisance violations, or violations of OSSF regulatory program requirements. TCEQ's Enforcement Division may pursue administrative remedies pursuant to TWC Chapter 7, or refer a matter to the Office of the Attorney General (OAG) for civil enforcement in accordance with THSC Section 343.011 and Chapter 366 Subchapter F;
- Perform development plan reviews to ensure compliance with regulations; and
- Ensure maintenance and reporting requirements for advance treatment systems are performed as required.

Authorized Agent Programs:

- Issue permits for OSSF systems;
- Perform installation inspections to ensure systems are constructed and installed in accordance with 30 TAC Chapter 285 requirements;
- Perform complaint investigations;
- File enforcement action with the appropriate local court for violations cited;
- Perform development plan review(s) to ensure compliance with local and state regulations;
- Submit monthly reporting of OSSF activities through OARS; and
- Ensure maintenance and reporting requirements for advance treatments systems are performed as required.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

On-Site Sewage Facility Program Funding Sources

Account	Account Title	FY 2020 Expended
0153	Water Resource Management Account - Dedicated	$119,405

The program is funded in the Water Resource Permitting Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Certain local governmental authorities (e.g., counties, cities, river authorities, health districts, and water districts) are authorized by TCEQ to regulate and manage OSSF programs within their jurisdiction, performing the same functions as TCEQ except for licensing and imposing administrative penalties. AAs may also implement more stringent standards for an OSSF within their jurisdiction.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

At the request of a local governmental authority, TCEQ may delegate administration and enforcement of OSSF rules. Delegation prohibits TCEQ from taking independent action on specific cases in the jurisdiction of that authority. However, TCEQ conducts annual audits or reviews of the local program to ensure it is

managed in accordance with statutes and 30 TAC Section 285.12. An AA's order, ordinance, or resolution may be revoked for failure to implement, administer, or enforce THSC 30 TAC Chapter 285, or its order, ordinance, or resolution. An authorized agent may relinquish their delegation as allowed by 30 TAC Section 285.10(d). For any area where such delegation has not occurred, TCEQ enforces the OSSF rules.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Please refer to Q and I.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

L. Provide information on any grants awarded by the program.

The program awards competitive grants to support applied research and demonstration projects regarding on-site wastewater treatment technology and systems. Projects are selected by six-person panel consisting of two TCEQ employees and four other individuals.

The applied research and demonstration projects are applicable to wastewater treatment technology and systems in the State of Texas that are directed toward improving the quality and reducing cost of wastewater treatment, including wastewater reuse. Eligible grant recipients are accredited colleges and universities in Texas, other governmental entities, and acceptable public or private research centers.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

OSSF systems in Texas serve single-family homes, schools, churches, restaurants, apartments, condominiums, RV parks, manufactured home communities, and other structures. Proper construction and maintenance of OSSF systems are essential for the protection of water in the state, as defined in TWC Section 26.001. OSSF systems are an invaluable source for recharge of groundwater supplies. Through development of better OSSF treatment methods and with the ability to reuse treated wastewater, OSSF systems are helping provide additional ways to reduce the demand on the limited water supply in Texas.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	16,123	17,250
Total number of entities inspected	1,409	1,551
Total number of complaints received from the public	184	159
Total number of complaints initiated by agency	170	149
Number of complaints pending from prior years	8	12
Number of complaints found to be non-jurisdictional	1	0
Number of jurisdictional complaints	183	159
Number of jurisdictional complaints found to be without merit	73	63
Number of complaints resolved	169	160
Average number of days for complaint resolution	117	131
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
Other • NOV	115	101

Clean Water Certification Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Clean Water Certification Program

Location/Division: Austin Headquarters / Program Support and Environmental Assistance Division

Contact Name: Kristi Mills-Jurach, P.E., Assistant Director, Office of Compliance and Enforcement

Statutory Citation for Program: Texas Water Code (TWC) Section 26.044.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Clean Water Certification Program (CWC) manages the self-certification of marine sanitation devices (MSDs) and boat pump-out stations (POSs) through the collection of fees and the issuance of Clean Water decals for boat owners to affix to their vessels. The regulations prohibit the discharge of treated or untreated boat sewage into waters in the state, require permanently installed MSDs on certain boats, and require the certification of MSDs and POSs. The program's goal is reducing sewage discharges into waters in the state from boats and sewage POSs.

As defined under the provisions of TWC Chapter 26, TCEQ is authorized to administer the certification of MSDs and boat POSs and Texas Parks and Wildlife Department (TPWD) may enforce the certification requirements. The rules allow TCEQ to delegate its authority to local governments or other state agencies to perform the certification functions. Fees collected by the delegated entity are retained by the entity.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Target*	FY 2020 Actual Performance	FY 2020 % of Annual Target
Marine Sanitation Devices	N/A	1949	N/A
Pump Out Stations	N/A	52	N/A

*There are no performance targets for the Clean Water Certification Program. Certifications are issued on-request and there are no investigations; complaints are referred to TPWD.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affecting the Clean Water Certification Program.

1985

- The program was created for the purpose of reducing sewage discharges into water in the state from boats and sewage pump-out stations. The program was delegated to the Texas Water Commission when the Texas Department of Water Resources was reorganized in 1985.

2009

- SB 2445 (81R) amended TWC Sections 26.044 and 26.045 by revising the definition for the term "boat;" adding definitions for "boat pump-out station," "shoreside, mobile, or floating installation," and "surface water in the state" and by changing the frequency for renewal of certifications for pump-out stations from annual to biennial.

2010

- The boat sewage rules in Title 30 Texas Administrative Code (30 TAC) 321 Subchapter A were repealed and readopted on November 5, 2010. The readopted rules incorporated the changes required by SB 2445.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The CWC requires owners of boats with MSDs and owners of POSs to obtain a decal, self-certifying the MSD or POS is operating properly to prevent the discharge of sewage into Texas waterways. A total of 1,949 MSDs and 52 POSs have been certified. These registrations were required to be renewed by January 1, 2021, for the 2022-2023 biennial period.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Owners of boats with MSD or POSs are required to obtain a CWC decal and register their information through TCEQ's Single-Use Non-Cross Media Electronic Reporting Rule (CROMERR) Submission System (SUNSS). The on-line application for SUNSS access can be found at TCEQ's CWC homepage. Registrations are either initial registrations or renewal registrations. Provided information enables the CWC coordinator to produce decals, which are printed in batches and mailed to the POS owners. The owners are required to apply these decals to their vessel or station.

The CWC coordinator provides technical assistance to customers and provides assistance with the registration process. Because all decals expire at the end of a biennium, the coordinator conducts the renewal cycle, which involves outreach to registered owners to inform them to re-register their vessels or stations with TCEQ to meet deadlines.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Clean Water Certification Program Funding Sources

Account	Account Title	FY 2020 Expended
0153	Water Resource Management Account - Dedicated	$17,680

The program is funded in the Water Resource Permitting Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

As defined under the provisions of TWC Chapter 26, TCEQ is authorized to administer the certification of MSDs and boat POSs; TPWD may enforce the certification requirements. The rules allow TCEQ to delegate its authority to local governments or other state agencies wishing to perform certification functions. Fees collected by the delegated authority are retained by the entity. TCEQ collects and administers fees, and the TPWD oversees compliance and enforcement. Under the authority granted to the CWC, the agency can delegate program oversight and application processing to any local governmental entity wishing to perform the certification functions.

There are currently no delegated CWC programs. The Brazos River Authority (BRA) was granted authority on December 13, 2004, and had authority rescinded, at the request of the BRA, on March 21, 2018. The San Jacinto River Authority was granted authority on February 23, 1994, and had authority rescinded at the authority's request on April 10, 2018, due to lack of activity.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TPWD has the authority to enforce the regulations in 30 TAC Chapter 321 Subchapter A. Many of the vessels required to have marine sanitation devices and boat pump-out stations certified by TCEQ must also be registered with the TPWD.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

TCEQ is authorized to administer the certification of MSDs and boat POSs. The TPWD may enforce the certification requirements, as well as violations of 30 TAC Chapter 321 Subchapter A.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Clean Water Certification. A boat owner with an on-board toilet, marine sanitation device or MSD, is required to obtain a boat registration through TPWD and a toilet sticker through TCEQ. Two different agencies for one boat. In addition, most boat owners have little, if any, interaction with our agency. The enforcement authority for TCEQ rules concerning the disposal of sewage from boats is in Texas Parks and Wildlife Code Section 31.129. This statute allows for a game warden or peace officer who is certified as a marine safety enforcement officer to enforce TCEQ rules concerning the disposal of sewage from boats. If a complaint is received regarding noncompliance with the boat sewage disposal regulations, TCEQ refers the complaint to the TPWD. The management of the Clean Water Certification program by two different agencies presents a customer service issue because the boat owner with a MSD needs to make two separate transactions, with two different agencies, for two registrations (one for the boat and another for the MSD). Most of the CWC regulated community does not interact with TCEQ outside of this program.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

The regulations protect water quality by prohibiting the discharge of treated or untreated boat sewage into waters in the state, require permanently installed MSDs on certain boats, and require the certification of MSDs and POSs. The program's primary function is the issuance of the Clean Water decals and referring complaints regarding potential noncompliance with 30 TAC Chapter 321 Subchapter A, to TPWD. If there

are allegations of noncompliance with any other TCEQ regulations, staff will forward to the appropriate TCEQ region for follow-up.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	6,293	6,598
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
Other • NOV	N/A	N/A

Small Business and Local Government Assistance Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Small Business and Local Government Assistance

Location/Division: Austin Headquarters / Program Support and Environmental Assistance Division

Contact Name: Kristi Mills-Jurach, P.E., Assistant Director, Office of Compliance and Enforcement

Statutory Citation for Program: Section 507 of the 1990 Federal Clean Air Act Amendments; Texas Water Code (TWC) Section 5.135.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Small Business and Local Government Assistance (SBLGA) Section provides confidential compliance assistance on air, water, and waste regulations to small businesses and small local governments. Major activities are described below.

Federal and state laws require TCEQ to provide compliance assistance to small businesses and the agency also offers this service to small local governments. This service is confidential, except when there is an imminent threat to the environment or when the assistance is a direct result of a referral by an enforcement arm of the agency. By keeping assistance confidential, and separate from enforcement, the agency encourages entities to seek assistance and achieve compliance. SBLGA offers compliance assistance through:

- direct on-site assistance;
- a toll-free hot line and a dedicated email box answered by its staff;
- active participation on agency rule, standard permit, and general permit teams;
- compliance workshops and webinars;
- regulatory updates via GovDelivery email and text messaging service;
- regulatory guidance development; and
- advisory committees.

Section 507 of the 1990 Federal Clean Air Act (CAA) Amendments require all states to implement a program to help small businesses comply with all facets of the CAA, employ an ombudsman to represent small-business interests before the state environmental regulatory agency, and convene a Compliance Advisory Panel (CAP) comprised of individuals that advise the agency on the concerns and interests of small businesses. The state equivalent to that statute is TWC Section 5.135, which requires that compliance assistance be provided across all environmental media, including air programs.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The effectiveness of this program is demonstrated through positive feedback submitted by customers via the customer service surveys, which are administered by the External Relations Division. In addition, surveys submitted by attendees of the various compliance assistance workshops and webinars are generally overwhelmingly positive. Refer to Section II Key Functions and Performance, Question K, Exhibit 2. SBLGA activities are reported under the Performance Measure: number of small businesses and local governments assisted.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

SBEA was created in 1999 by merging multiple assistance programs. SBEA was composed of the former Office of Pollution Prevention and Recycling, the Small Business Assistance Program, and the Local Government Assistance Program. At the same time, the agency deployed more assistance resources to TCEQ regional offices. (see Attachments for TCEQ's Area and Regional map with SBLGA compliance specialists).

In 2009, TCEQ created the rural ombudsman position to act as the primary liaison between TCEQ and small local government representatives, and rural community staff members

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

For compliance-assistance purposes, a small business is defined as a regulated business with 100 or fewer employees statewide, and a small local government is defined as a city with a population of 50,000 or fewer, a county with 100,000 people or fewer, or a school district with a student population of 100,000 or fewer. SBLGA does not use any monetary threshold for defining these entities. Assistance is available based solely on size. Most businesses and governments served are very small—for example, businesses with fewer than 20 employees. The program provides direct one-on-one assistance to approximately 7,900 businesses and governments on average per year. Of these, approximately 18% are Local governments and 82% are small businesses:

- 18% local governments;
- 29% small businesses with less than 20 employees;
- 7% small businesses with 21-100 employees;
- 2% small businesses with 101-250 employees;
- 1% small businesses with 251-500 employees;
- 2% >500 employees;
- 6% environmental consultants;
- 3% new business inquiries;
- 7% private citizens; and
- 25% undetermined/ or anonymous.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The section has employees located both in the central office and the regions. There is at least one staff member in 15 of the 16 regional offices who is available to assist regulated entities one-on-one, including on-site. More populous regions, including Houston, Dallas-Fort Worth, and San Antonio, have multiple SBLGA personnel.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Small Business and Local Government Assistance Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$44,965
0151	Clean Air Account - Dedicated	N/A	N/A	$493,843
0153	Water Resource Management Account - Dedicated	N/A	N/A	$358,522
0549	Waste Management Account - Dedicated	N/A	N/A	$488,439
0555	Federal Funds	66.805	Leaking Underground Storage Tank Trust Fund Program	$785,557
0655	Petroleum Storage Tank Remediation Account - Dedicated	N/A	N/A	$228,220
5094	Operating Permit Fees Account- Dedicated	N/A	N/A	$115,674
TOTAL				**$2,515,220**

The program is funded in the Enforcement and Compliance Support Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

EPA is also required to have a small business assistance program and ombudsman (CAA Section 507 Amendments). The EPA counterpart is known as the asbestos and small business ombudsman. The program has some similarities to its state counterparts, but important differences as well.

The program is similar because there is an ombudsman, a national-level CAP, and a compliance-assistance hot line. The program also advocates on behalf of small businesses within EPA. The national program also helps disseminate information among all of the state programs for small-business assistance.

The program is different because it serves more as a clearinghouse of information to state programs and less as a direct compliance-assistance. Direct on-the-ground assistance, and the degree to which it is performed, is left to the states. Further, the guidance documents it creates are based solely on federal rules.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Because of the different natures and products of the programs, there is no duplication of effort. Coordination is achieved through participation in meetings with EPA and other state programs. The state has also participated in national conferences with EPA and other programs as resources have allowed. All states also must report their activities annually to EPA.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The section assists local units of government with compliance assistance and technical matters. Additionally, the agency created the rural ombudsman position in 2009 to act as the primary liaison between TCEQ and small local government representatives, and rural community staff members.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**

The contracts executed between TCEQ and Emerald Environmental Services, LTD., is for the provision of environmental compliance site visits of facilities with USTs that have made a request to TCEQ to provide environmental compliance education and site visits at facilities within Hurricane Harvey affected counties. The contractor is required to assist with conducting educational workshops for PST facilities at the request of TCEQ. Additionally, there was a contract to remove an Underground Storage Tank, and an expenditure to analyze an e-coli sample through a laboratory.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $1,004,728.

- **the number of contracts accounting for those expenditures;**

Two contracts.

- **the method used to procure contracts;**

These contracts were competitively bid through the request for proposal process and the purchase was completed through TCEQ purchasing process.

- **top five contracts by dollar amount, including contractor and purpose;**

Small Business and Local Government Assistance Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-18-80025	Emerald Environmental Services, LTD.	Small Business Site Visit and Compliance Education Assistance Program	$986,448
582-18-14510	EE and G	Contractor to remove underground storage tank (UST)	$18,280

- **the methods used to ensure accountability for funding and performance; and**

Each contract is monitored by a contract manager to ensure expenditures do not exceed the contract amount and the work is performed in accordance with contract requirements before payments are approved. Separate division personnel audit contractor performance to verify costs and work product.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Edwards Aquifer Protection Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Edwards Aquifer Protection Program

Location/Division: Austin Headquarters, San Antonio Regional Office, and Austin Regional Office / Central Texas Regional Area

Contact Name: David Van Soest, Interim Director, Central Texas Area

Statutory Citation for Program: Clean Water Act (CWA) Section 33; United States Code (USC) Sections 1311 and 1319; Texas Water Code (TWC) Sections 26.046 and 26.0461.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Edwards Aquifer is a source of drinking water for over two million people including the city of San Antonio and surrounding Central Texas communities. The aquifer is a karst aquifer covered in fractures, caves, sinking streams, and sinkholes that are direct conduits to the aquifer from the surface. The Edwards Aquifer Protection Program (EAPP) regulates activities having the potential to pollute the Edwards Aquifer and hydrologically connected surface streams in order to protect existing and potential uses of groundwater and maintain Texas Surface Water Quality Standards. The program implements federal and state statutes and Title 30 Texas Administrative Code (30 TAC) Chapter 213.

The EAPP conducts an administrative and technical review of applications for regulated activities located in the recharge, transition or contributing-zones of the aquifer. These activities include construction, clearing, excavation, sewage collection, underground and aboveground storage tanks, or anything altering the topography of a site or having the possibility to contaminate the aquifer and connected surface waters. Plans are for pre-construction authorization for certain regulated activities in the following zones:

- Recharge and Contributing – Residential and non-residential or commercial development;
- Recharge and Transition – Installation of underground and above-ground storage tanks; and
- Recharge only – Sewage collection systems.

Eight counties are affected by the regulations: Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, and Williamson. The regulated area of the aquifer covers approximately 3,580 square miles and includes portions of the eight counties sharing the aquifer's recharge, contributing, and transition zones. Staff based in the Austin and San Antonio regional offices are managed out of the Austin Regional Office. They are responsible for:

- review and approval of standard applications;
- review and approval of optional enhanced measures;
- review and approval of innovative technology use and evaluation;
- protection of sensitive geologic features;
- performance of initial site assessments prior to construction; and
- performance of compliance investigations.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The following performance measures are reported in Section II, Exhibit 2.

- Number of applications to address water quality impacts reviewed;
- Number of investigations of water sites and facilities;
- Number of citizen complaints investigated; and
- Average days from air, water, or waste investigation to report completion.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
Plans Approved	N/A	781	N/A
Plans Withdrawn	N/A	15	N/A
Plans Denied	N/A	2	N/A
Plans Expired	N/A	1	N/A

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affecting the EAPP.

1959

- The legislature created the Edwards Underground Water District. The district supplied maps previously unavailable and assisted licensing authorities.

1970

- The Texas Water Quality Board issued the first regulations for the protection of the aquifer recharge and buffer zones. The first counties affected were Kinney, Uvalde, Medina, Bexar, Comal, and Hays. Sources of pollution, such as underground storage tanks, above-ground storage tanks, and sewer lines, were regulated.

1974

- Water-pollution abatement plans were first required.

1977

- The installation of new underground storage tank sites had to be approved prior to construction. The sites were required to have double-walled tanks and piping as well as a method of leak

detection. These standards were in advance of the statewide regulations on underground storage tank systems and first went into effect in 1989.

1984

- Water-pollution abatement plans were required for regulated developments including residential, commercial, and industrial. A Geologic Assessment (GA) was required for housing developments with 100 or more family living units, and non-residential developments greater than five acres. Also, ongoing testing requirements for sewer lines were established.

1986

- Upon petition, construction activities in portions of Williamson County became regulated.

1988

- Fees were assessed for all types of development. These one-time fees cover the review of the protection plans as well as inspections during and after construction. The money is used to support program efforts.

1990

- Construction in portions of Travis County was first regulated.
- GA requirements for residential developments were decreased to 25 or more units, plus notification of recharge features was made mandatory.

1996

- GA required for all new, regulated developments except residential sites less than 10 acres.

1997

- The schedule of fees was increased by the legislature.

1999

- Significant rule changes went into effect. The changes included a design performance standard for permanent best management practices. The standard applies to water quality systems used for stormwater treatment. The rules also require engineers to certify the construction of the systems and to ensure maintenance of these systems. The 1999 rule changes brought the contributing-zone into regulation. Regulated activities are those having the potential for polluting surface streams crossing the recharge zone, including large construction projects and installation of petroleum storage tanks.

2001

- TCEQ began distributing contributing-zone plans to affected municipalities, counties, or groundwater conservation districts according to HB 2912 (71R), which added TWC Section 26.137, mandating a 30-day public comment period for the applications. Also, as a result of HB 2912 Bill,

TWC Section 26.051 was added requiring the agency to prepare reports of annual expenditures of funds related to the EAPP.

2013

- Senate Bill 59 (83R) repealed TWC Section 26.051. Program administration expenditure reports that summarized the annual costs to implement the EAPP were no longer required to be compiled, prepared, and submitted to the legislature.

2018

- The EAPP implemented electronic notice of pending plans to affected incorporated cities, groundwater conservation districts, and counties in which the proposed regulated activity will be located. Additionally, the pending plans are also available on TCEQ's EAPP webpage.
- GAs included in applications expire 10 years after the GA's original certification date.

2020

- Streamlined application forms were made available for roadway projects.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

EAPP designs are required to be sealed by a professional engineer licensed by the Texas Board of Professional Engineers. If a plan requires submittal of a GA, this assessment is required to be sealed by a professional geoscientist licensed by the Texas Board of Professional Geoscientists. Void mitigation plans may be submitted by either a professional engineer or professional geoscientist, depending upon the regulated activity. Because EAPP submittals are on-demand activities, a statistical breakdown of persons affected is not available.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

EAPP staff conduct administrative and technical reviews of all plan applications. A plan must be declared administratively complete or deficient within 30 days of receipt as outlined in 30 TAC Chapter 213.

After a plan is deemed administratively complete, the plan is provided to affected incorporated cities, groundwater conservation districts, and counties in which the proposed regulated activity will be located. The plans are also made available on TCEQ's EAPP webpage and any person can file comments within 30 days of the date that the application is mailed to local governmental entities.

The plans are reviewed for technical completeness in accordance with 30 TAC Chapter 213 and program technical guidance including temporary best management practices (BMPs), permanent BMPs, and total suspended solids reduction calculations.

Per 30 TAC Chapter 213, plans must be completely reviewed within 90 days of the date of administrative completeness. Plans can be issued, withdrawn, denied, or expired.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Edwards Aquifer Protection Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0153	Water Resource Management Account - Dedicated	N/A	N/A	$1,399,746
0555	Federal Funds	66.605	Performance Partnership Grants	$56,761
0666	Appropriated Receipts	N/A	N/A	$78,350
TOTAL				**$1,534,857**

The program is funded in the Field Inspections and Complaints Strategy and the Water Resource Permitting Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Local Governments. Some local municipalities, through their approved ordinances, have restrictions or guidance the same as, or similar to, TCEQ rules in regard to development over the Edwards Aquifer. While these local ordinances are required to be met by a regulated entity, they are not incorporated into or recognized by TCEQ's EAPP. Local municipality authorization is separate and apart from any TCEQ authorization. Differences can include preferences in the type or removal efficiency of BMPs and other types of restrictions such as land clearing and or wildlife restrictions and ordinances.

TCEQ Water Quality Division. The Water Quality Division regulates construction activities under a Construction General Permit (CGP) if one acre or more of soil is disturbed. If disturbance occurs in a county regulated by TCEQ's EAPP, the entity must also obtain an EAPP authorization. Temporary BMPs listed in the CGP Stormwater Pollution Prevention Plan may be replicated in EAPP submittals.

TCEQ Water Availability Division (WAD). WAD maintains official maps of the Edwards Aquifer Recharge, Transition, and Contributing Zones. WAD also maintains the Edwards Aquifer Map Viewer. This interactive map viewer allows users to view the areas of Texas subject to regulation by TCEQ under the EAPP.

During review of an EAPP plan located in the Recharge or Transition Zones, TCEQ regional office staff conduct an on-site assessment to review and identify any geologic features and may initiate an investigation if regulated activity has commenced. An on-site assessment does not occur prior to CGP issuance however, as these are issued automatically through the State of Texas Environmental Electronic Reporting System (STEERS).

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The EAPP does not recognize ordinances or requirements from local governments. Local authorization is separate and apart from TCEQ authorization.

TCEQ's website informs customers any applicable EAPP requirements are *in addition to* other TCEQ water quality permitting requirements. The EAPP also implements several ways in which customers can ask questions or get clarification on plan requirements, including dedicated Regional employees available to take calls each day, and an EAPP electronic mailbox monitored by the program staff.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The program has a contract agreement with the Texas Department of Transportation (TxDOT) for expedited plan review with a primary program staff member for road and bridge infrastructure projects. The contract was developed as an Interagency Agreement under Government Code Chapter 771 and had a FY 2020 income of $71,350. This agreement resulted in 11 plans being approved in FY 2020 with an average completion time of 50 days, well within the required 90-day issuance timeframe in 30 TAC Chapter 213.

Additionally, the program has a concurrence letter with the U.S. Fish and Wildlife Service (USFWS). The USFWS issued letters on September 4, 2007, to the Governor of Texas and TCEQ that concurs the EAPP authorization program with enhanced water control measures addresses known threats to the species identified by USFWS. The concurrence is not a delegation of the USFWS responsibilities under the Endangered Species Act but rather an acknowledgment the program meets the USFWS standards.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

L. Provide information on any grants awarded by the program.

The program contracts with the University of Texas' Bureau of Economic Geology (BEG) for the revision and update of the program's technical guidance manual, *Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices* (RG-348), and the total suspended solids removal calculation spreadsheet. The contract is procured as an Interagency Agreement through Chapter 771 of the Government Code and as a grant under TWC Section 5.124.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

The objective of the EAPP is explained above in Question B. Regulation is needed so the Edwards Aquifer and hydrologically connected surface streams remain protected for Texans today and in the future as the Edwards Aquifer is the primary source of drinking water for over two million people in Central Texas.

If non-compliance with an EAPP plan is found during a site assessment, the entity will be investigated under standard Office of Compliance and Enforcement investigation protocols and any violations will be documented and addressed per TCEQ's Enforcement Initiation Criteria. Additionally, complaints filed against an EAPP plan holder are investigated per TCEQ's Complaints Process.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Exhibit 13: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	9,995	10,262
Total number of entities inspected	669	619
Total number of complaints received from the public	95	39
Total number of complaints initiated by agency	61	42
Number of complaints pending from prior years	7	13
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints	95	39
Number of jurisdictional complaints found to be without merit	34	17
Number of complaints resolved	52	38
Average number of days for complaint resolution	97	282
Complaints resulting in disciplinary action:	23	21
administrative penalty	$136,804	$153,302
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
Other • NOV	27	28

Field Operations Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Field Operations Program

Location/Division: Austin Headquarters / Office of Compliance and Enforcement

Contact Name: Randy Ammons, Director, North Central and West Texas

Statutory Citation for Program: TCEQ regional offices are responsible for monitoring compliance across nearly every program within the jurisdiction of TCEQ. Generally, Texas Water Code (TWC) Chapter 7 grants TCEQ authority to enforce statues, rules, orders, permits, or other decisions of TCEQ. There are other program-specific citations referenced throughout this response.

B. What is the objective of this program or function? Describe the major activities performed under this program.

TCEQ's Field Operations Program consists of 16 regional offices and one satellite office located throughout the state and the Program Support and Environmental Assistance Division (PSEAD) located in TCEQ's central office. The regional offices are divided into four areas including the: Border and Permian Basin, Coastal and East Texas, Central Texas, and North Central and West Texas (see Attachments for Area and Regional map). The areas are managed by four area directors who ensure the regions are functioning pursuant to established policies and procedures. The major activities performed by TCEQ regional offices include:

- conducting investigations at regulated entities across the state to determine compliance with applicable air, water, and waste rules and regulations;
- investigating environmental complaints based on information from Texas residents, organizations, or other concerned parties;
- addressing violations documented during investigations through written notices of violation (NOVs) or development of formal enforcement referrals;
- monitoring the quality of ambient air, surface water (rivers, lakes, and bays), and public drinking water;
- overseeing and ensuring compliance with water rights regulations and allocating the limited water resources in certain designated areas of the state when drought conditions exist; and
- responding to environmental emergencies including natural disasters statewide as needed.

The PSEAD supports the regional offices through the following functions:

- Development, coordination, and implementation of statewide region support including annual investigation workplans, investigator training events, special initiatives, data and webpage maintenance, and responding to complaints, and public information requests;
- Coordination with, and reporting to, the EPA and the LBB; and
- Provide multi-media program guidance and technical assistance to TCEQ staff, the regulated community, and the public. TCEQ regulatory areas to which regional and PSEAD staff provide compliance and technical assistance include: public water supply; air quality; emissions events; Surface Water Quality Monitoring programs; industrial and municipal wastewater; petroleum storage tanks; concentrated animal feeding operations; industrial and hazardous waste;

municipal solid waste; outdoor burning; pretreatment; sludge; Stage II Vapor Recovery (Stage II); emergency response; aggregate production operation; water rights; stormwater; and Tier II Chemical Reporting Program (Tier II).

The following additional PSEAD programs are described in separate SER sections:

- Small Business and Local Government Assistance;
- On-site Sewage Facility (OSSF) Program;
- Landscape Irrigation Program; and
- Clean Water Certification Program.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

The following performance measures are reported in Section II, Exhibit 2.

- Number of investigations of air sites;
- Number of investigations of water sites and facilities;
- Number of investigations of waste sites;
- Number of emission events investigations;
- Number of citizen complaints investigated;
- Number of spill cleanup investigations;
- Average days from air, water, or waste investigation to report completion;
- Number of applications to address water quality impacts reviewed;
- Number of applications to address water rights impacts reviewed; and
- Number of drinking water samples collected.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

2010

- Closure of Amarillo Region satellite office in the City of Perryton. The Perryton satellite office was set up to provide quicker response to odor complaints allegedly associated with corporate hog farms located in the area. By 2010, the number of complaints had declined to the level the Perryton office was no longer necessary and could be handled out of the Amarillo office.

2011

- House Bill (HB) 571 (82R), added a requirement in Texas Water Code (TWC) Chapter 28A for the registration and investigation of certain aggregate production operations (APOs). TCEQ adopted rules implementing HB 571 on June 13, 2012, which are codified in 30 Texas Administrative Code (30 TAC) Chapter 342.
- Expanded Texas Areas from three to four: Border and Permian Basin; Coastal and East Texas; Central Texas; and North Central and West Texas. Expanding the number of areas from three to

four reduced the number of regions each area director oversees. This change allowed the area directors to be more involved in the ongoing functions of their respective regions and be more responsive to media and legislative inquires.

2014

- To implement federal regulations (40 Code of Federal Regulations (40 CFR) Part 51), TCEQ amended 30 TAC Chapter 115 to specify owners or operators of new gasoline stations are not required to install Stage II equipment, and existing facilities in the current program areas may decommission Stage II equipment. The effective date of EPA's approval of the rule and SIP revisions was April 16, 2014. Beginning May 16, 2014, gasoline stations began the process of removing Stage II equipment. Gasoline stations were required to complete decommissioning activities by August 31, 2018.

2015

- As a result of HB 942 (84R), the Tier II Chemical Reporting Program was transferred from the Department of State Health Services (DSHS) to TCEQ. Regional investigators began conducting investigations of Tier II facilities in the fall of 2015.

2017

- As a result of EPA's Revised Total Coliform Rule (78 FR 10269), Field Operations received eight additional public water supply (PWS) investigators to conduct field validation of corrective actions taken by PWS who had evidence of coliform contamination. These were incorporated into scheduled on-site sanitary surveys.
- HB 2582 (85R) amended TWC Chapter 28A by adding a fifth exemption to the definition of an APO. This excluded the extraction area from which marble or granite material is extracted for decorative or artistic uses and the average amount of riprap removed per year in the preceding 10-year period is less than 1,500 tons.

2019

- The Field Operations Program received eight additional municipal solid waste (MSW) investigators. Prior to receiving the addition investigators, managing the total volume of MSW facilities generally required prioritizing landfill investigations in response to complaints received. The additional eight FTE employees enabled routine comprehensive investigations of active MSW landfills every three years and of inactive or closed MSW landfills as a result of complaints or risk assessment.
- HB 907 (86R) amended TWC Chapter 28A to require TCEQ to investigate APOs every two years during the first six years in which the APO is registered, and at least once every three years thereafter. The bill also increased the maximum annual registration fee for APOs from $1,000 to $1,500 as well as increased the maximum penalty assessed to an unregistered APO from $10,000 to $20,000 for each year the APO operates without a registration. The bill also increased the maximum penalty assessed to an APO operated three or more years without being registered from $25,000 to $40,000.

2020

- EPA's coal combustion residuals (CCR) requirements were adopted by TCEQ (30 TAC Chapter 352). The CCR program required additional oversight of certain hazardous waste landfills and the Office of Compliance and Enforcement (OCE) received one additional industrial and hazardous waste (IHW) investigator to coordinate the program.

2021

- As a result of HB 2771 (86R), TCEQ assumed responsibility of the wastewater discharge program for oil and gas facilities previously under the jurisdiction of the Railroad Commission of Texas. The Field Operations Program received four FTE employees designated to conduct field inspections and complaint investigations of regulated entities.
- EPA's Federal Lead and Copper Rule Revision (LCRR) was published on December 22, 2020, and added new requirements for approximately 5,500 public water systems. The proposed rule expands requirements for lead service line inventories and lead service line replacement; establishes a new, lower trigger level for action; strengthens evaluation and implementation of corrosion control treatment; establishes new sampling procedures; updates and shortens timeframes for risk communication requirements; and requires sampling of drinking water outlets at approximately 25,000 schools and childcare facilities. The LCRR implementation requires a significant increase in resources, including staff and a data management system. OCE is allocated an increase of $1.1 million and five FTE employees for implementation of the Federal Lead and Copper Rule Revision related specifically to field investigations.
- The APO program was originally initiated with four FTE employees to manage an estimated universe of 600 APO entities with an inspection frequency of once every three years. Currently, the universe of APOs is approximately 1,000 and the inspection frequency has been statutorily changed to once every two years. The funded APO FTE employees have not been adjusted upward accordingly in TCEQ appropriations. In addition to scheduled Comprehensive Compliance Investigations (CCIs), investigators also conduct other activities such as complaints, record reviews, violation follow-ups, and annual surveys to identify unregistered APOs. Approximately one-third of APO investigations expand to include multiple TCEQ programs, primarily stormwater. Additionally, HB 907 (87R) increased the frequency of investigations to every two years, resulting in an annual increase of approximately 300 investigations.
- There are large and complex APO sites within Texas that must be accurately identified and their geographic footprint fully documented. APO verified boundary mapping has become necessary due to the complexity of multiple companies and regulated activities occurring within the physical boundaries of large acreage APOs. There can be 20 or more regulated activities occurring concurrently on an APO site. TCEQ needs a comprehensive way to document these activities both locationally within an APO's metes and bounds, and activity-specific based on regulations that control those activities across all TCEQ programs (air, water, waste, and the EAPP).
- TCEQ was provided seven additional FTE employees from the 87th legislature to be placed in the regions with the greatest needs.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The agency regulates almost 723,000 public and private facilities and/or individuals in Texas that affect, or have the potential to significantly affect, the environment. Each year, the regional offices are

responsible for investigating a significant portion of TCEQ's regulated community. Additionally, the regional offices and staff in PSEAD respond to complaints submitted by public citizens and elected officials. Question P provides a breakdown of the investigations by program.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The primary function of the Field Operations Program is to assess compliance of regulated entities, respond to citizen complaints, and evaluate the impact of emergency response events and air emissions events.

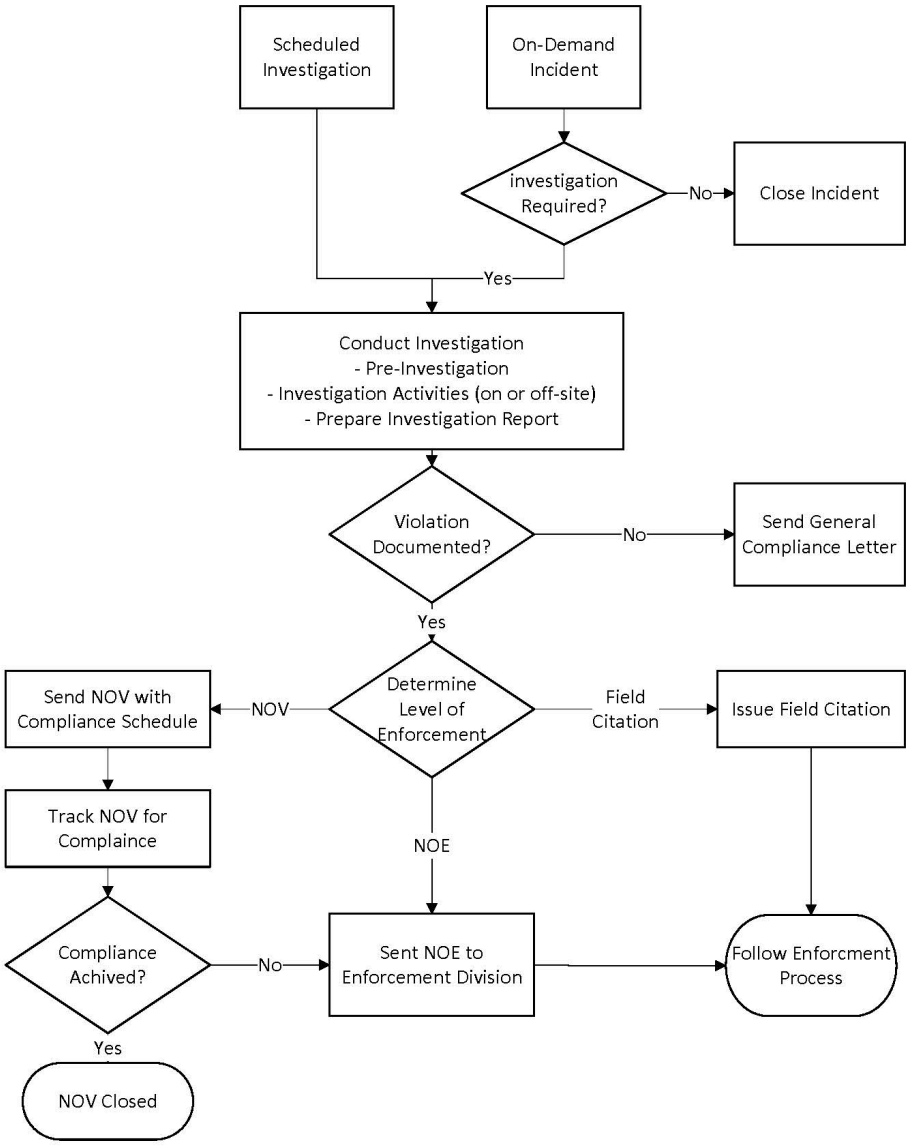
Regional and central office staff conduct investigations to ensure regulated entities comply with applicable environmental rules and regulations through issuance of notices of violations (NOVs), field citations and formal notices of enforcement (NOEs). Where possible, staff work with regulated entities to ensure violations are resolved in a timely manner.

Air/Water Monitoring Programs. Regional offices set up pre-established reconnaissance routes in areas of concern such as the Gulf Coast's industrial ports or near oil and gas refineries where frequent complaints or impacts to ambient air quality monitors are observed. The purpose of these investigations is to identify potential sources impacting air quality in the area for further evaluation and enforcement. Air reconnaissance investigations typically involve the use of handheld air monitoring equipment and optical gas imaging cameras (OGICs) at multiple facilities, particularly those involving an established route.

In addition, Regional Offices conduct fugitive-focused investigations. This is a specialized investigation focusing on volatile organic compound (VOC) leaks and emissions at petrochemical and refining facilities. These investigations typically involve the use of OGICs and handheld air monitoring equipment. The goal is to identify emission sources posing a risk such as leaking components and pinhole leaks and assess compliance with Leak Detection and Repair (LDAR) rules.

The following flowchart illustrates the investigation process.

Investigation Process Flowchart



To maintain consistency across the four areas and the 16 regions, the area directors meet on a weekly basis. In addition to these weekly meetings, the area directors also meet with the PSEAD director to discuss workplan performance, and any inconsistencies across the regions. The regional section managers and regional directors also meet monthly to discuss region issues, directives, and workplan implementation and issues. Additionally, there are standing programmatic committees (Air Investigator, Stack Testing, Edwards Aquifer, Oil and Gas, Water Rights, Aggregate Production Operations, Safety, Solid Waste, Petroleum Storage Tank, Public Water Supply, Stormwater, Water Quality, Surface Water Quality Monitoring, Concentrated Animal Feeding Operations, On-Site Sewage Facility and Emergency Response Committees) comprised of representatives from the regions, a liaison from PSEAD, and a section manager that meets quarterly. Committees are essential for programmatic, technical, operational, administrative, and state-wide coordination. The purpose of these committees is to research and coordinate issues affecting regional staff across the state, then recommend modifications and improvements, which are presented to the steering committee for review and approval by management prior to implementing. The steering committee is comprised of the four area directors and additional OCE deputy directors, as needed.

Developing Workplan. In preparation for each fiscal year, the Field Operations Program's regional and central office personnel develop a workplan to determine the number and types of investigations to be conducted statewide. The workplan is developed to ensure state and federal statutory requirements are being met, specifically the EPA Compliance Monitoring Strategy (air, wastewater, and hazardous waste), Public Water System Sanitary Surveys, the Federal Energy Policy Act (underground storage tanks), and the state aggregate production operation regulations. In addition, other on-demand activities are planned for based on historical annual work performed. Those include investigations of reported emission events (EEs), emergency response, and complaints. Plan development also considers LBB performance measure targets, state and federal funding, federal grant workplan commitments, agency priorities, and regional knowledge of historical issues and concerns. The workplan development also considers the most effective use of investigation resources, such as availability of investigative staff and contractors.

Emissions Events. Emissions must be authorized in Texas, before construction is started on a facility. These authorizations cover routine operations but may also cover certain types of maintenance, startup, and shutdown (MSS) activities. Emissions in excess of permit limits may be caused by emergencies, negligent or intentional acts of the owner or operator, upsets or malfunctions, or unplanned MSS activities. Upsets and unplanned MSS fall within the emissions event program. These are eligible for the affirmative defense if they are reported properly and meet other criteria provided in 30 TAC Sections 101.201 and 101.211. An initial notification with estimated emissions is required within 24 hours of discovery of an emissions event and this may be revised in the final notification due two weeks after the end of the emissions event. After the final notification is received, TCEQ investigates instances of excess emissions and takes enforcement action when appropriate. TCEQ receives and investigates approximately 4,000 events per year, and additional information is available in Chapter 5 of the Annual Enforcement Report. The enabling laws for this program are Texas Health and Safety Code (THSC) Sections 382.0215 and 382.0216, and the reports of emissions events are available on TCEQ's website in the Air Emission Event Report Database.

Conducting Investigations

The Field Operations Program's investigators conduct scheduled investigations, such as planned activities based on workplan development criteria, and on-demand investigations, such as unplanned activities complaints, emissions events, and emergency-response actions. These investigations are further divided into three categories:

- Compliance Investigation—compliance evaluation using established investigation protocol.
- Agent Evaluation—evaluation of the performance of a regulated entity administering a program over which TCEQ has jurisdiction.
- Site Assessment—characterization of site conditions related to an authorization approval or established standard, or to aid in the establishment of a standard.

A Field Operations Program investigation generally requires pre-investigation activities, including reviewing the background file, determining applicable requirements, gathering relevant checklists and publications, and contacting the regulated entity to schedule the investigation, if necessary. Advance notification is not given for certain investigations, such as complaints, for an entity with an unsatisfactory compliance classification and for enforcement follow-up investigations. The investigation includes an entrance interview, review of site records, investigator observations, sampling (if appropriate), and an exit interview. Post-investigation activities include assessment of the information gathered, compliance determinations, assessment of the need for additional site visits or information, an enforcement determination, and documentation of the investigation in writing. Issues identified by investigators that could potentially become violations if not corrected, are noted as additional issues in the investigation reports. Investigation reports and associated information are maintained in the Consolidated Compliance and Enforcement Data System (CCEDS).

PSEAD provides analysis of data for field activities and contributes to various reports provided to internal and external customers. This includes the Annual and Monthly Enforcement Reports, the Biennial Report Appendix A – Assessment of Complaints Received, EPA Performance Partnership Grant reporting, and LBB reporting.

Air/Water Monitoring Programs. Regional offices set up pre-established reconnaissance routes in areas of concern such as the Gulf Coast's industrial ports or near oil and gas refineries where frequent complaints or impacts to ambient air quality monitors are observed. The purpose of these investigations is to identify potential sources impacting air quality in the area for further evaluation and enforcement. Air reconnaissance investigations typically involve the use of handheld air monitoring equipment at multiple facilities, particularly those involving an established route.

During natural disasters or other emergency events involving regulated entities, regional staff, and agency contractors, if needed, conduct air monitoring and reconnaissance to pinpoint air quality impacts to populated areas. As an event demands, TCEQ investigators also may conduct in-house and field surveys of public water and wastewater systems to assess impacts and aid systems to quickly recover, such as helping with State of Texas Assistance Request (STAR) requests. TCEQ staff guide water systems regarding issuance of boil water notices and work directly with system operators to expedite getting systems back to operational status. Releases of wastewater from sanitary sewers often occur because of flooding and TCEQ actively monitors facilities reporting spills. Simultaneously, TCEQ conduct outreach and provides technical guidance to other wastewater facilities in flood-impacted areas.

Surface Water Quality Monitoring (SWQM). The Field Operations Program's investigators and aquatic scientists, as part of the SWQM program, collect surface water quality samples, and, in conjunction with the Office of Water, compile data as an integrated evaluation of physical, chemical, and biological characteristics of aquatic systems in relation to human-health concerns, ecological conditions, and designated uses. The SWQM program includes a routine monitoring network, intensive surveys, special studies, and use attainability analyses. The program also coordinates with local governments and river authorities. The SWQM programs encompass a full range of activities required to obtain, manage, store, assess, share, and report water quality information to other TCEQ programs, agency management, other

agencies and institutions, local governments, and the public. This information is used by the agency to make informed decisions and direct limited resources to projects in order to develop water quality standards, identify impacted water bodies, provide early notifications of adverse water quality conditions, set permit limits for discharges, and develop restoration strategies for watershed initiatives. The following sections of the TWC are important to the Surface Water Quality programs and were developed to meet the requirements of the Federal Clean Water Act Section 305(b): TWC Sections 26.011, 26.012, and 26.0135 through 26.036. Additionally, the following state administrative rules apply: 30 TAC Chapter 307, which includes Texas Surface Water Quality Standards, and 30 TAC Sections 290.101 through 121, which includes the Texas Drinking Water Standards.

Drought/Water Rights. TCEQ's Office of Water is responsible for the issuance of water rights permits and amendments to all permits except for some temporary permits. Temporary permits for use of state water for up to 10 acre-feet for one calendar year or less are issued by a regional office or a Watermaster. The areas of the state without a Watermaster rely on regional investigators to enforce water rights regulations. The investigations conducted by region investigators generally begin with a complaint filed with the regional office.

Other water rights duties conducted by the regional offices, particularly during times of drought, include on-site evaluations of priority calls. At any time, a water right holder may submit a priority call to TCEQ if they feel the water appropriated to them is not available. Outside of a Watermaster area, regional staff will respond to the priority call and coordinate with the Office of Water to address the priority call. Regional investigators may also perform stream flow measurements during times of drought which are an integral part of determining the current state of a stream.

Emergency Response (ER). TCEQ is identified as the state's lead agency for the response to all discharges or spills of oil, used oil, petroleum products, hazardous substances, industrial solid waste, or other substances into the environment in a quantity equal to or greater than the reportable quantities defined in 30 TAC Section 327.4 (relating to Reportable Quantities) in any 24-hour period. This authority is derived from TWC Section 26.039, the Texas Hazardous Substances Spill Prevention and Control Act, found in TWC Sections 26.261-26.268, and THSC Section 361.024.

TCEQ ER encompasses TCEQ's OCE staff within TCEQ regional offices, Program Support Section, and Critical Infrastructure Division (CID). Structure of the ER program differs from region to region based on personnel, resources available, and the historical number of ER events in the region. Regardless of regional program structure, each region is required to maintain 24-hour capability to respond to incidents. Each region is also required to have an ER coordinator assigned to provide oversight for ER within the region and coordinate with management for staffing and ER duties. Extensive training is required for all ER staff. This includes training in agency- and job-specific duties, the federally required Incident Command System (ICS) program, health and safety protocols, equipment competence, real-time drills, and tabletop exercises.

The CID's role in the ER program is described in a separate SER section.

Complaint Handling. TCEQ places a high priority on response to citizen complaints. TCEQ encourages and receives important information and evidence from Texas citizens and this enhances the agency's ability to evaluate compliance of regulated entities. TCEQ evaluates all complaints received. If an individual has an environmental concern, they may contact the agency through our complaint hotline or file a complaint using an online form. In addition, the status of complaints may be tracked on TCEQ's website. If TCEQ receives a report of an imminent threat to health or to the environment, the agency will respond as soon

as possible, but no later than 24 hours. Complaints within TCEQ's jurisdiction are assigned a priority with corresponding investigation timelines based on the information given during the initial contact with the complainant. TCEQ investigators conduct complaint investigations in accordance with policies and procedures established under the various programs within our jurisdiction.

Ensuring Compliance through Notices of Violation and Formal Enforcement Referrals. If violations are documented during an investigation, the field operations investigator and management are responsible for initiating enforcement based on TCEQ's enforcement-initiation criteria (EIC), is approved by the executive director to ensure consistent handling of air, water, and waste violations documented by TCEQ staff. Violations are addressed with a field citation, notice of violation (NOV), or notice of enforcement (NOE) depending on the significance and pattern of noncompliance. An NOE is the beginning of TCEQ's formal enforcement process, which may result in an order issued and penalty approved by the commission. If an enforcement case is referred to the Office of the Attorney General, the investigator may be required to testify on the facts of the investigation.

TCEQ's enforcement process begins when a violation is discovered during an investigation conducted either at the regulated entity's location or through a review of records at TCEQ offices. Most violations are quickly corrected in response to NOVs. An NOV documents the violations discovered during the investigation, specifies a timeframe to respond, and requires documentation of compliance.

If serious or continuing violations are identified during an inspection, as defined by the EIC, TCEQ initiates enforcement and the business or individual inspected receives an NOE. The EIC is approved by the executive director to ensure consistent handling of air, water, and waste violations documented by TCEQ staff.

The NOE documents the violations and puts the recipient, or respondent, on notice the case has been referred for enforcement. This notice also lets respondents know they can appeal the NOE by requesting an enforcement review meeting if they believe the violations were cited in error and they have information that was not previously evaluated by the investigator.

Once the investigation is complete, the investigation is transferred to the Enforcement Division to process these enforcement actions, as necessary.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Field Operations Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$1,784,327
0151	Clean Air Account - Dedicated	N/A	N/A	$7,270,306
0153	Water Resource Management Account - Dedicated	N/A	N/A	$9,599,634
0549	Waste Management Account - Dedicated	N/A	N/A	$7,346,039
0550	Hazardous and Solid Waste Account - Dedicated	N/A	N/A	$199,120
0555	Federal Funds	12.113	State Memorandum of Agreement Program for Reimbursement	$48,253
0555	Federal Funds	66.204	Multipurpose Grants to States and Tribes	$405,241
0555	Federal Funds	66.605	Performance Partnership Grants	$5,539,567
0555	Federal Funds	66.804	State Underground Storage Tanks Program	$1,316,119
0655	Petroleum Storage Tank Remediation Account - Dedicated	N/A	N/A	$2,790,318
0777	Interagency Contracts	N/A	N/A	$1,620,730
5094	Operating Permit Fees Account-Dedicated	N/A	N/A	$6,743,543
TOTAL				**$44,663,197**

The program is funded in the following strategies:

- Air Quality Assessment and Planning;
- Enforcement and Compliance Support;
- Field Inspections and Complaints;
- Waste Assessment and Planning;
- Waste Management and Permitting;
- Water Assessment and Planning; and
- Water Resource Permitting.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Spill Response. This is handled by the Texas General Land Office (GLO), the Railroad Commission of Texas (RRC), the Texas Parks and Wildlife Department (TPWD), and TCEQ. Each agency has jurisdiction over spills according to the source of the spill, material spilled, quantity spilled, and location of the spill. For example, GLO has jurisdiction over coastal oil spills greater than 240 barrels, while RRC has jurisdiction over all spills from activities associated with the exploration, development, or production of oil, gas, and geothermal resources, including coastal spills of 240 barrels or less of crude oil. TPWD interacts with TCEQ when spills occur that destroy wildlife or habitat. In accordance with TWC Section 26.261, TCEQ has jurisdiction over all other solid waste spills, which encompasses hazardous, nonhazardous, industrial and municipal solid

wastes. Additionally, regulations addressing spills are found in 30 TAC Section 327, with specific required actions outlined in 30 TAC Section 327.5. In general, spills must be cleaned up to background or prerelease conditions. For spills requiring more than 180 days to clean up, the cleanup requirements are specified in the Texas Risk Reduction program rules of 30 TAC Chapter 350.

Surface Water Quality Monitoring. TCEQ's SWQM Program coordinates the annual planning and development of a coordinated monitoring schedule for organizations, such as river and municipal water authorities, who supply data to TCEQ's SWQM Program. TCEQ and the organizations meet to discuss state monitoring needs and negotiate sampling schedules to ensure appropriate coverage. This type of schedule has been in place for over ten years, and its development has been modified to ensure TCEQ objectives of the SWQM Program are met.

Office of Water. TCEQ's Water Supply Division conducts record reviews of self-reported water sampling data and develops enforcement referrals. The Field Operations Program's staff reviews this same data when conducting an on-site investigation, however, they document these as additional issues in the investigation reports and do not initiate an enforcement referral.

Enforcement Division. TCEQ's Enforcement Division conducts record review investigations for past due fees and to determine or recognize compliance with commission order violations and technical requirements. The Field Operations Program staff may review an outstanding violation when conducting an on-site investigation but would capture it as an additional issue or as an order violation after consultation with the Enforcement Division.

Federal. EPA is authorized to conduct investigations at the facilities TCEQ regulates. Although most EPA investigations are conducted independent of TCEQ, there is coordination between the agencies, and TCEQ may host EPA staff on investigations or accompany EPA staff on investigations. EPA and TCEQ may share technical information related to compliance initiatives such as observations from aerial surveillance programs.

Local Governments. Local governments have statutory authority to conduct investigations regarding environmental requirements. TCEQ contracts with local air programs (LAPs) in nonattainment areas (Dallas, Fort Worth, El Paso, Houston, and Galveston County) to conduct air and PST investigations. These investigations are included in TCEQ's workplan, are documented in the CCEDS database, and count towards meeting targets for TCEQ LBB performance measures, and federal grant workplan agreements.

Railroad Commission of Texas. RRC has jurisdiction over hazardous and nonhazardous industrial and municipal solid wastes resulting from activities associated with the exploration, development, or production of oil, gas or geothermal resources. This includes transportation of crude oil or natural gas by pipeline. TCEQ and RRC share jurisdiction under the Clean Air Act for oil and gas facilities in accordance with 16 TAC Section 3.30. RRC has jurisdiction over exploration and TCEQ has jurisdiction over production and refineries. Beginning January 15, 2021, the authority over wastewater discharges from oil and gas facilities was transferred from RRC to TCEQ. RRC retains authority over stormwater activities involving unrefined oil and gas. TCEQ regulates the disposal of septage generated at oil and gas sites. There is significant coordination which occurs with RRC on oil and gas issues.

Texas Department of Licensing and Regulation (TDLR). TDLR conducts investigations for calibration and accuracy of gasoline dispensers at the same gasoline service stations where TCEQ regulates the control of volatile organic compounds and underground petroleum storage tanks. Until 2019, these investigations

were under the jurisdiction of the Texas Department of Agriculture. TCEQ and TDLR will refer complaints, as appropriate.

Texas State Soil and Water Conservation Board (TSSWCB). TSSWCB conducts evaluations of nonpoint source animal feeding operation dischargers below the threshold number of animals requiring a TCEQ permit. TCEQ conducts compliance investigations of permitted concentrated animal feeding operations and complaint investigations of animal feeding operations in accordance with 30 TAC Section 321 Subchapter B.

Texas Pollutant Discharge Elimination System (TPDES) Discharge Monitoring Reports. The Compliance Monitoring Team within TCEQ's Enforcement Division conducts record reviews of self-reported effluent discharge monitoring data. The Field Operations Program's staff reviews this same data when conducting an on-site investigation, however, they capture any non-compliance issues as an additional issue and do not initiate an enforcement referral.

University of Texas at Arlington (UTA). TCEQ contracts with UTA to conduct investigations of underground storage tanks, public water supplies, and reported emissions events. UTA investigation assignments are generally limited in scope and less complex than the assignments for TCEQ staff. This allows UTA to complete a large number of investigations consistently. All UTA investigators have authorization to conduct investigations on behalf of TCEQ and refer violations to TCEQ's Enforcement Division.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Spill Response. GLO, RRC, TPWD and TCEQ have jurisdiction over spills according to the source of the spill, material spilled, quantity spilled, and location of the spill. Each agency's jurisdiction and role is specified in The State of Texas Oil and Hazardous Substances Spill Contingency Plan. Additionally, a MOU between TCEQ and the RRC (30 TAC Section 7.117) further clarifies jurisdictions between the agencies.

Surface Water Quality Monitoring. TCEQ's SWQM Program coordinates the annual planning and development of a coordinated monitoring schedule for organizations, such as river and municipal water authorities, who supply data to TCEQ's SWQM Program. TCEQ and the organizations meet to discuss state monitoring needs and negotiate sampling schedules to ensure appropriate coverage. This type of schedule has been in place for over ten years, and its development has been modified to ensure TCEQ objectives of the SWQM Program are met.

Federal. TCEQ and EPA have specific memorandums of agreement (MOAs) and memorandums of understanding (MOUs) which define how the agencies will coordinate activities, so duplication of effort is minimized. TCEQ participates in a performance partnership grant (PPG) with EPA which identifies the number of facilities TCEQ will inspect. TCEQ also develops Compliance Monitoring Strategies (CMS) with EPA for the Clean Air Act (Title V), Texas Pollutant Discharge Elimination System (wastewater) and Resource Conservation and Recovery Act (hazardous waste) which identify investigation frequency and scope for categories of facilities. Performance for the PPG and CMS is reported to EPA monthly, semi-annually, or annually, depending on the program. Monthly meetings are held between OCE staff and EPA Region 6 staff on the major air, wastewater, and hazardous waste programs. During these meetings, EPA will identify facilities they are planning to inspect. In addition, there are quarterly compliance and enforcement managers meetings between EPA and TCEQ to discuss issues of mutual interest.

Local Governments. TCEQ assigns workplans to the local air programs (LAP), oversees work through work product evaluations (WPE), refers complaints, and meets routinely to discuss progress. TCEQ evaluates contract performance annually. In addition to formal contracts, TCEQ coordinates informally with local governments and other authorities performing investigations to prevent duplication of effort.

Railroad Commission of Texas. THSC Chapter 361 Subchapter A defines the jurisdictional boundaries for waste regulation. TCEQ and RRC have two MOUs for water and waste outlining the duties of each agency. Quarterly coordination meetings between the agencies are an opportunity to discuss emerging issues of interest to both, share data and other information, and resolve ongoing issues where both parties are involved.

Texas Department of Licensing and Regulation. Prior to September 1, 2019, the Texas Department of Agriculture (TDA) conducted investigations for calibration and accuracy of gasoline dispensers at the same gasoline service stations TCEQ regulates. There was a MOU between TCEQ and TDA establishing procedures for referring instances of non-compliance observed during each agency's respective investigations. TCEQ and TDLR have not entered into a MOU to date, however, TCEQ continues following its standard complaint referral process when a complaint under TDLR's jurisdiction is received.

Texas State Soil and Water Conservation Board. A MOU outlines the authority of TCEQ and TSSWCB over agricultural and silvicultural point and nonpoint source pollution programs. The TSSWCB conducts nonpoint source evaluations of animal feeding operations below the threshold number of animals requiring a TCEQ permit. TCEQ addresses operations above the threshold.

TPDES Discharge Monitoring Reports. Screening of self-reported effluent data for formal enforcement is conducted by the TPDES Compliance Monitoring Team for all TPDES facilities. This function is specified in TCEQ's EIC. Regional investigators review self-reported effluent data as part of facility investigations to better understand overall operations and performance.

University of Texas at Arlington. TCEQ has contracts in place with UTA to conduct underground storage tank inspections, public water supply investigations, and air emissions event reviews. In addition, TCEQ provides oversight through work product evaluations (WPE) and reviews any enforcement referral from the Enforcement Division. TCEQ completes annual contractor performance reviews.

There are additional MOAs or MOUs in place to ensure the Field Operations Program avoids duplication with other state agencies. These additional listings of MOUs or MOAs are discussed in Section II in response to Question E.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Please refer to H and I.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

Outside contractors are hired to assist with temporary personnel services, perform medical monitoring for field investigators and central office staff, and conduct non-routine minor construction and janitorial services at the regional offices. The Field Operations Program hires contractors to review emissions events

and prepare investigation reports under the oversight of TCEQ staff. The program also maintains contracts to perform laboratory analyses, provide technical training, and offer technical guidance and support.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $1,338,817.

- **the number of contracts accounting for those expenditures;**

84 contracts.

- **the method used to procure contracts;**

The method used to procure contracts is a systematic approach to procure services the agency requires. The procurement process is not competed by one individual. It takes a team of stake holders to complete a successful contract through multiple phases. A contract can be a direct award, where it is noncompetitive, and is interagency, interlocal, or intergovernmental. Contracts may also be solicited through a request for proposal or request for grant application where respondents are graded upon their responses provided to the request. These processes allow for negotiations between a proposer and the agency. The program uses the Texas Comptroller of Public Account's contract for temporary personnel.

- **top five contracts by dollar amount, including contractor and purpose;**

Field Operations Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-17-70412	University of Texas Health Services	Annual Occupational Medical Monitoring Program	$565,990
582-19-96452 582-20-10383 582-20-10383 582-20-10384 582-20-10388 582-20-10399 582-20-10399 582-20-10400 582-20-10401 582-20-13706 582-20-13707 582-20-13802 582-20-13828 582-20-13878 582-20-13881 582-20-13882 582-20-13936 582-20-13937 582-20-13938	WorkQuest	Temporary Personnel Services – MLEIP Intern, assistance in preparing emission event and on-demand reports, administrative duties and developing requirements for applications and ColdFusion tools.	$343,490
582-17-70419	Lower Colorado River Authority	Remedial and compliance analysis of samples	$181,856
582-20-10412 582-20-10527	WorkQuest-Services	Janitorial services for regional offices	$80,326
582-20-10280	Texas Facilities Commission	Non-routine minor construction services for Park 35.	$49,872

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines, which include, but are not limited to financial monitoring, auditing and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted unless discrepancies are resolved.

- **a short description of any current contracting problems.**

The program did not experience any contracting problems.

L. Provide information on any grants awarded by the program.

The Field Operations Program provides grants to local air programs (LAPs) in nonattainment areas (Dallas, Fort Worth, El Paso, Houston, and Galveston County) to conduct air and PST investigations. These investigations are documented in the CCEDS database and included in the TCEQ workplan. The investigations count towards meeting targets for performance measures and federal grant workplan agreements. TCEQ also uses grants to contract with the University of Texas Arlington (UTA) to conduct investigations of underground storage tanks. UTA investigations have authorization to conduct investigations on behalf of TCEQ and refer violations to the TCEQ Enforcement Division. Grant funds are awarded by using the agency's systematic approach to procure services the agency requires.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Evaluating Houston Regional Office. Relocation of TCEQ's Houston Regional Office from the Elias Ramirez State Office Building (ERB) is a major priority due to the lack of security of the current facility to support TCEQ's mission-critical compliance and disaster emergency response field activities. **Refer to Section IX, Major Issues, Facility Review – Houston Regional Office.**

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Agriculture
Animal Feeding Operations
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	1,059	1,053
Total number of entities inspected	285	260
Total number of complaints received from the public	73	54
Total number of complaints initiated by agency	65	50
Number of complaints pending from prior years	2	4
Number of complaints found to be non-jurisdictional	4	12
Number of jurisdictional complaints	73	54
Number of jurisdictional complaints found to be without merit	52	37
Number of complaints resolved	106	52
Average number of days for complaint resolution	174	167
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	64	62

Air Quality
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	74,496	76,904
Total number of entities inspected	6,155	5,635
Total number of complaints received from the public	3,355	3,519
Total number of complaints initiated by agency	1,577	1,514
Number of complaints pending from prior years	149	61
Number of complaints found to be non-jurisdictional	443	401
Number of jurisdictional complaints	2,912	3,118
Number of jurisdictional complaints found to be without merit	2,045	2,433
Number of complaints resolved	2,592	2,916
Average number of days for complaint resolution	59	64
Complaints resulting in disciplinary action:	219	339
administrative penalty	$5,055,825	$8,510,345
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	1,230	1,180

Includes Air Operating Permit, Air New Source Review, Air Non-Permitted, Air Emissions Inventory, and Emissions Banking and Trading.

Aggregate Production Operations
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	1,017	1,056
Total number of entities inspected	527	686
Total number of complaints received from the public	135	191
Total number of complaints initiated by agency	109	82
Number of complaints pending from prior years	6	5
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints	135	191
Number of jurisdictional complaints found to be without merit	56	59
Number of complaints resolved	120	115
Average number of days for complaint resolution	98	141
Complaints resulting in disciplinary action:	28	27
administrative penalty	$157,132	$172,499
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	161	157

Industrial Hazardous Waste (IHW)
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	19,372	17,240
Total number of entities inspected	1,245	1,201
Total number of complaints received from the public	297	284
Total number of complaints initiated by agency	147	117
Number of complaints pending from prior years	20	11
Number of complaints found to be non-jurisdictional	82	67
Number of jurisdictional complaints	215	217
Number of jurisdictional complaints found to be without merit	97	125
Number of complaints resolved	190	181
Average number of days for complaint resolution	152	132
Complaints resulting in disciplinary action:	33	17
administrative penalty	$1,082,264	$634,119
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	350	427

Includes IHW, Dry Cleaner, and Emergency Response.

Municipal Solid Waste (MSW)
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	19,652	19,841
Total number of entities inspected	848	746
Total number of complaints received from the public	2,438	1,767
Total number of complaints initiated by agency	517	413
Number of complaints pending from prior years	50	34
Number of complaints found to be non-jurisdictional	557	660
Number of jurisdictional complaints	1,861	1,108
Number of jurisdictional complaints found to be without merit	1,507	811
Number of complaints resolved	1733	1134
Average number of days for complaint resolution	82	119
Complaints resulting in disciplinary action:	64	79
administrative penalty	$794,431	$997,386
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	318	279

Occupational Licensing
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	45,724	44,800
Total number of regulated entities	N/A	N/A
Total number of entities inspected	2,667	2,520
Total number of complaints received from the public	40	36
Total number of complaints initiated by agency	15	28
Number of complaints pending from prior years	2	0
Number of complaints found to be non-jurisdictional	7	1
Number of jurisdictional complaints	33	35
Number of jurisdictional complaints found to be without merit	18	6
Number of complaints resolved	40	14
Average number of days for complaint resolution	348	393
Complaints resulting in disciplinary action:	25	20
administrative penalty	$9,801	$12,773
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	14	6

Includes Landscape Irrigation, PWS, PST/UST, MSW, OSSF, WQ, and Visible Emissions Evaluators.

Petroleum Storage Tank (PST)
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	30,905	31,052
Total number of entities inspected	6,454	5,384
Total number of complaints received from the public	132	137
Total number of complaints initiated by agency	94	87
Number of complaints pending from prior years	7	5
Number of complaints found to be non-jurisdictional	29	30
Number of jurisdictional complaints	103	107
Number of jurisdictional complaints found to be without merit	61	76
Number of complaints resolved	92	109
Average number of days for complaint resolution	161	137
Complaints resulting in disciplinary action:	341	351
administrative penalty	$2,551,687	$3,003,166
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	880	655

Public Water Supply/System
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	19,659	19,667
Total number of entities inspected	3,510	3,169
Total number of complaints received from the public	1,650	1,282
Total number of complaints initiated by agency	915	771
Number of complaints pending from prior years	53	39
Number of complaints found to be non-jurisdictional	36	51
Number of jurisdictional complaints	1,616	1,231
Number of jurisdictional complaints found to be without merit	806	657
Number of complaints resolved	1,334	1,278
Average number of days for complaint resolution	99	126
Complaints resulting in disciplinary action:	364	461
administrative penalty	$476,778	$664,297
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	12,293	11,936

Water Quality
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	37,990	41,623
Total number of entities inspected	5,136	5,033
Total number of complaints received from the public	2,741	2,631
Total number of complaints initiated by agency	1,049	875
Number of complaints pending from prior years	54	63
Number of complaints found to be non-jurisdictional	984	952
Number of jurisdictional complaints	1,750	1,665
Number of jurisdictional complaints found to be without merit	963	939
Number of complaints resolved	1,541	1,380
Average number of days for complaint resolution	89	144
Complaints resulting in disciplinary action:	243	246
administrative penalty	$3,179,845	$3,676,177
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	1,395	1,119

Includes Wastewater Permits, Sludge, Stormwater, Pretreatment, Water Quality Non-Permitted, and Water Utility.

Water Rights
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	12,873	13,163
Total number of entities inspected	19,250	19,811
Total number of complaints received from the public	128	120
Total number of complaints initiated by agency	94	89
Number of complaints pending from prior years	4	3
Number of complaints found to be non-jurisdictional	8	1
Number of jurisdictional complaints	120	119
Number of jurisdictional complaints found to be without merit	101	102
Number of complaints resolved	97	97
Average number of days for complaint resolution	116	123
Complaints resulting in disciplinary action:	30	25
administrative penalty	$46,277	$78,042
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other • NOV	7	2

Includes areas with a Watermaster program and all other Water Rights throughout the state.

Underground Injection Control (UIC)
Exhibit 13: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	569	579
Total number of entities inspected	46	5
Total number of complaints received from the public	0	2
Total number of complaints initiated by agency	0	1
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints	0	2
Number of jurisdictional complaints found to be without merit	0	2
Number of complaints resolved	0	0
Average number of days for complaint resolution	0	0
Complaints resulting in disciplinary action:	4	3
administrative penalty	$508,484	$126,476
Reprimand	N/A	N/A
Probation	N/A	N/A
Suspension	N/A	N/A
Revocation	N/A	N/A
other • NOV	13	4

Includes all UIC classes.