VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Air Permits
Location/Division	3rd Floor / Building C / Air Permits Division / Office of Permitting and Registration
Contact Name	Steve Hagle, P.E.
Actual Expenditures, FY 2008	$10,427,835
Number of FTEs as of August 31, 2008	188.5

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

The Texas Clean Air Act (TCAA), Texas Health and Safety Code, Chapter 382, governs all air quality permitting in the state and implements provisions of the Federal Clean Air Act (FCAA). The TCAA requires authorization for all air contaminants in addition to authorization of federally regulated pollutants.

The main objective of the Air Permits Division is to review and authorize air applications and registrations for facilities that, when operational, would emit contaminants into the air. The division meets its objective through two air permitting programs: New Source Review (NSR) Permits and Title V Federal Operating Permits (FOP). The NSR Permits Program has a major and a minor component. The term "major" is used to determine the applicability of federal (or major) NSR and Title V and is based on a stationary source's annual potential to emit a federally regulated pollutant. The state's "minor" NSR program applies to all facilities that emit pollutants at levels less than a major source.

The NSR Permit Program requires stationary sources of air pollution to obtain authorization before construction or alteration of a facility. For "major" NSR facilities, the authorization types include a Prevention of Significant Deterioration (PSD) permit and a Nonattainment (NA) permit. Several types of "minor" NSR authorizations are available, and a source's facilities may be able to qualify for more than one type under the NSR permits program.

Title V refers to the section of the FCAA that requires this type of permit. The Title V FOP Program requires major sources and certain federally identified minor sources to obtain a permit that consolidates all applicable air requirements in a single document. A Title V permit grants a source permission to operate.

NSR Permits Program

The NSR Permits Program requires stationary sources of air pollution to obtain permits

before construction begins. The NSR is also referred to as *construction permitting* or *preconstruction permitting*. Under the TCAA, the NSR program addresses all contaminants emitted from a facility including those pollutants for which there is a national ambient air quality standard (NAAQS) and precursors to the formation of identified pollutants, if applicable.

Primary NSR Authorization Types

Before work begins, a person who plans to construct a new facility or to modify an existing facility must satisfy the criteria of a streamlined authorization for a *de minimis* facility or source, a permit by rule, or a standard permit or obtain a case-by-case permit (minor NSR permit or federal NSR PSD or NA permit).

- *De Minimis Facilities/Sources.* De minimis emissions are so small that a registration, authorization, or certification before construction is not required. To qualify, emissions must meet the conditions specified by commission rule.

- *Permit-by-Rule (PBR) Claims and Registrations.* Permits by rule are for facilities with insignificant emissions of air contaminants that produce more than *de minimis* emissions but less than other permitting options. Some PBRs require registration. Facilities must meet all conditions specified by commission rules for PBR requirements. There is no case-by-case review for PBRs. A PBR can never be used to authorize emissions that must undergo PSD or NA review. The public participates in rule development and adoption.

- *Standard Permit (SP) Claims and Registrations.* If an applicant cannot claim a PBR for a facility, the facility may qualify for a SP. Standard permits are tailored to industry type. Facilities must meet all conditions specified by the SP. There is no case-by-case review for SPs. An SP can never be used to authorize emissions that must undergo PSD or NA review. The public participates in the SP adoption process.

- *New Construction or Modification Permit.* Applicants with facilities that do not qualify for PBRs or SPs can submit an NSR permit application. New construction and modifications to extant facilities are also known as *case-by-case permits* for major or minor sources. Applicants can negotiate a best available control technology (BACT) and emission limit, which is not allowed for PBRs and SPs. An applicant must demonstrate compliance with all applicable rules and regulations and acceptability of off-property health impacts due to permitted emissions. The public participates in the permitting process and has the opportunity to request meetings and hearings on individual applications. A minor NSR construction permit must be renewed every 10 years.

- *PSD Permit.* A PSD permit is a federal NSR permit required if an applicant wants to locate in an area that meets NAAQS and permitted emissions would exceed federal significant emission levels for regulated pollutants. Applicants must identify control technologies and demonstrate compliance with all applicable rules and regulations; and acceptable off-property impacts due to permitted emissions. The public participates in the permitting process and has the opportunity to request meetings and hearings. A PSD

permit does not expire but can be modified. If a PSD permit is required, the authorization is separate, based on federal requirements, and PSD, NA, and minor NSR permit authorizations can exist at the same time.

- *Nonattainment Permit.* An NA permit is a federal NSR permit required if an applicant wants to locate a source of emissions to an area that does not meet NAAQS and permitted emissions would exceed federal significant emission levels for that area. Unlike PSD permits, NA permits require enhanced control technologies and emission reductions to offset the proposed emissions increases. The public participates in the permitting process and has the opportunity to request meetings and hearings. An NA permit does not expire but can be modified. If an NA permit is required, the authorization is separate, based on federal requirements, and NA, PSD, and minor NSR permit authorizations can exist at the same time.

Other NSR Authorization Types

- *112(g) Permit.* A 112(g) permit is a federal NSR construction or modification permit that establishes federally enforceable case-by-case maximum achievable control technology (MACT) emission limitations and controls for hazardous air pollutants (HAPs) at a major source. Under FCAA 112(g), relating to HAPs, the division must determine MACT standards for major sources of HAPs for which a standard has not been promulgated or has been vacated by the courts.

- *Plant-wide Applicability Limit (PAL) Permit.* Major source permit applicants have the option of establishing a federal PAL for all facilities at a site or a stand alone process. The site-wide emission caps provide facilities with greater flexibility to modernize operations without triggering federal NSR. A PAL must be renewed every 10 years.

- *Flexible Permit.* A flexible permit is a minor NSR construction or modification permit that covers emissions from many facilities. This type of authorization allows an owner or operator more flexibility in managing operations by staying under an overall emissions cap or individual emission limitation. Owners or operators are allowed to structure flexible permits to best serve their needs while assuring BACT equivalent controls and acceptable impacts.

- *Maintenance, Startup, Shutdown Permit (MSS).* An MSS permit is a construction or modification permit for major or minor NSR that establishes emission limitations for planned MSS sources or activities.

- *Permit Amendment.* After a permit is issued, the permit holder may need to change the manner in which the facility is operated. An amendment consists of a change in method of control, change in character of emissions, or increase in actual or allowable emissions. Amendments go through the same review process as an NSR permit for a new facility, which may include public participation if the emissions increases exceed the de minimis criteria defined by commission rule and change in character.

- *Changes to a Qualified Facility.* The 74th Texas Legislature passed SB 1126 which gave qualified facilities the flexibility to make physical and operational changes without a permit. All facilities involved must be qualified at the time of the change. A facility is qualified if it had a permit or amendment issued within 120 months before the change occurred or it is exempted from permitting requirements, or has controls that are at least as effective as best available control technology. There can be no net increases or new contaminants, and SB 1126 cannot be used to authorize new facilities. SB 1126 authorization requires notification, documentation, and recordkeeping.

Title V Federal Operating Permit Program

The Title V Program requires major sources and certain minor sources to obtain a permit that consolidates all applicable air requirements in a single document. A Title V permit grants a source permission to operate. There are two types of operating permits:

- *General Operating Permit (GOP).* The GOP is a streamlined Title V authorization that is designed to cover numerous similar sources. An owner or operator can apply for an authorization to operate under a GOP. The GOP is similar to an NSR SP as it contains uniform conditions that apply to all sources in a defined class. Applicants cannot claim a GOP if they are subject to NSR case-by-case construction or modification permits. The public participates in GOP adoption.

- *Site Operating Permit (SOP).* The SOP documents all requirements that apply at a site, or an area for large sites. The public participates in the process and is notified through public notice in newspapers and sign postings, and has the opportunity to request meetings and petition the Environmental Protection Agency (EPA). Applicants must certify compliance with the SOP annually.

Other Title V Authorization Types

- Permit Revisions and Renewals. After initial permit issuance, changes at a site or in applicable requirements may result in the need to revise the Title V permit. Changes at a site may include addition or removal of emission sources, operational changes, or changes to existing monitoring, reporting, recordkeeping, and testing requirements identified in the permit. The public participates in the process and is notified through public announcement at the TCEQ Web site or public notice in newspapers and sign postings, and has the opportunity to request meetings. Also, the public can petition the EPA for significant revisions and renewals.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Number	Type	FY 08 Performance Measure	Percent of Annual Target
01-02.01	Outcome	Percent of air quality permit applications reviewed	98.89

		within established time frames	
01-02-01.01	Output	Number of state and federal new source review air quality permit applications reviewed (key)	81.79
01-02-01.02	Output	Number of federal air quality operating permits reviewed (key)	78.91
01-02-01.01	Explanatory	Number of state and federal air quality permits issued	74.70
01-02-01.02	Explanatory	Number of federal air quality permits issued	74.11

The variances in the performance measures listed above are attributable to state and federal regulatory rule changes and rules vacated by federal court that extended the time needed to review and issue air permits.

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.

The following history highlights significant actions that have directly affected the Air Permits Division.

2001

- The 77th Legislature made the permitting of grandfathered facilities mandatory as part of the agency's sunset review in HB 2912. Facilities that were not modified since August 31, 1971 were previously "grandfathered" from the requirement to obtain a permit.

2006

- The commission adopted rules that remove, over a seven-year period, the ability for regulated entities to claim an affirmative defense for planned maintenance, startup, and shutdown activities. While the rule did not require authorization, it resulted in increased requests to permit planned maintenance, startup, and shutdown emissions.

2007

- The D.C. Circuit Court of Appeals issued a final ruling on the court's December 2006 decision on the rule to implement the eight-hour ozone NAAQS. This ruling restores NSR applicability thresholds and emission offsets pursuant to classifications previously in effect for areas designated in nonattainment for the one-hour ozone standards.

2008

- The D.C. Circuit Court of Appeals restored electric utility steam generating units to the list of regulated source categories subject to MACT standards and invalidated the EPA's Clean Air Mercury Rule.

- Since 1992, when the EPA approved Texas' major clean air permitting plan, the state has submitted more than 30 regulatory changes. The Business Coalition for Clean Air (BCCA) Appeal Group, Texas Association of Business (TAB), and Texas Oil and Gas Association (TxOGA) sued the EPA seeking deadlines for it to act on the state's proposed changes to its previously approved plan. Although the EPA approved the original and many updates to the Texas NSR permitting program, EPA has not approved significant

portions of various subsequent air permitting rules submitted to the EPA since 1993 as revisions to the State Implementation Plan (SIP).

2009

- The BCCA, TAB, TxOGA, and EPA agreed to a schedule whereby the EPA shall sign for publication in the *Federal Register* notices of final rulemaking to approve or disapprove, in whole or in part, key SIP revisions.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Air Permitting Program affects any organization or person that plans to construct a new facility or modify an existing facility that emits air contaminants into the air, including the public; universities; city and county governments; small businesses; manufacturers; industries; semiconductor plants; power plants; refineries; chemical plants; mechanical, construction, and agricultural activities; etc. The Air Permits Division does not track specific affected persons or organizations but does track permit authorizations by major- or minor-source categories. There are approximately:

- 52,000 active NSR permits and authorizations at 28,000 sites; and

- 500 general operating permits and 1100 site operating permits at 1,400 Title V sites.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Air Permits Division functions under a division director and is part of the Office of Permitting and Registration. All Air Permits personnel, except for five in Corpus Christi, San Antonio, and Houston, are located in the central office.

Business Program Section (BPS). The BPS supports air permitting by conducting the air-permit initial administrative review. Key tasks: updating the central registry and division database, checking fee and delinquent-fee applicability, requesting site review, confirming administrative completeness of applications, and development and distribution of public-notice packages. In addition, the BPS assists with document processing, permit distribution, human resources, and financial management.

Technical Program Support Section (TPSS). The TPSS supports air permitting by maintaining information management systems and databases; developing templates, forms, and word-processing macros; developing rules; evaluating or conducting air dispersion modeling; and acting as liaison with internal agency staff and external government, regulated, and public entities.

Technical Review. Once it is deemed administratively complete, an application is transferred to one of the five permitting sections for the technical review to determine whether the operations of a proposed facility will comply with all applicable federal and state rules and regulations and not adversely impact public health or welfare.

During the technical review process, the permit reviewer:

- checks compliance history and regional site review comments;
- identifies sources;
- reviews emission characterization;
- quantifies emissions;
- determines federal applicability;
- determines BACT;
- determines the applicability of federal and state regulatory limits;
- evaluates impacts on the public health and welfare; and
- drafts the permit.

In addition, the technical review includes, as applicable:

- first-public-notice verification;
- second-public-notice preparation and verification;
- meetings with the public; and
- response to comments from public notices, meetings, and hearings.

Rule Registrations Section (R&RS). This section conducts the technical review for PBRs and SPs. Reviewers must ensure that each PBR claim meets all of the general conditions and specific conditions of the PBR or that the facility meets the general and specific conditions of the SP. The reviewer checks that the registrant has included necessary emission calculations.

The R&RS also conducts the technical review for Title V general operating permits. The process for granting an authorization to operate is streamlined since these authorizations are not subject to individual public notice and the permit requirements are predetermined. The permit reviewer must determine if the application meets the qualification criteria, verify site-wide and unit-specific requirements, and ensure that the application has proper certification.

NSR Permits Sections (Chemical, Combustion and Coatings, and Mechanical, Agricultural and Construction). These sections conduct the technical review for NSR case-by-case permits. This type of review is more complicated than one of the streamlined permit authorizations. In addition to new construction and modification to existing facilities, other activities requiring NSR authorization include changes in application representations and renewal of existing authorizations. The NSR Permits Sections also conduct the technical review for major sources or major modifications. These reviews are similar to a minor NSR case-by-case permit review but can be more complex.

PSD Permits. PSD permitting applies to major sources and major modifications in attainment areas. A permit reviewer determines applicability of federal regulatory limits;

evaluates BACT; and evaluates impacts through an air quality analysis to demonstrate that permitted emissions will not cause or contribute to an exceedance of an NAAQS or PSD increment concentration. The effects to visibility, soil and vegetation, and any adverse impacts to Class I areas must also be determined. The permit reviewer also develops the preliminary determination summary of key portions of the technical review, part of the second public notice package.

NA Permits. Nonattainment permitting applies to major sources and major modifications in nonattainment areas. The permit reviewer determines applicability of federal limits based on the specific nonattainment county designation; evaluates lowest achievable emission rate controls, which are usually more stringent than BACT; and oversees the acquisition of emission reductions to offset the proposed emissions increases.

Operating Permits Section (OPS). The OPS conducts the technical review for Title V site operating permits. Permit reviewers evaluate Title V applications and develop permits that codify all applicable state and federal requirements for all of the emission units at a permitted site or area. The SOP includes all applicable requirements including emissions limits and monitoring, record keeping, and reporting. The permit also requires that the source report compliance status with respect to permit conditions to the TCEQ. The permit reviewer also develops the statement of basis, a document that explains the terms of the permit and is part of the public notice package. In addition, the technical review includes public notice verification and response to comments as applicable.

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).

Account	Name	Amount
5094	Operating Permit Fees	$6,344,085
0151	Clean Air Account	$4,035,669
0555	Federal Funds	$48,081

Strategy—A.2.1—Air Quality Permitting

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

No internal or external programs provide identical or similar services or functions.

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.

Not Applicable

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.

EPA Region 6 Multimedia Planning and Permitting Division, Air Programs. The Air Permits Division implements the federal NSR Permit and Title V federal operating permit programs.

Local Programs. The Air Permits Division coordinates with local city and county programs during the permitting process.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Expended - $210,661

Contracts - 7

Temporary staff services and engineering interns were obtained to support the division's permitting processes, allowing the full-time staff to focus on complex and highly advanced permit projects.

The division monitored work weekly and vendors met expectations. The division reconciled contract costs monthly and reported quarterly to its director. All funds were spent appropriately.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Proposed statutory changes are unknown at this time but may be required for the commission to satisfy the EPA's concerns related to the NSR and Title V Operating Permit Programs and obtain approval of the SIP (indicated in the last bullet of Question D, above).

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

The division issues permits and authorizations that meet the requirements of the Texas

Clean Air Act. The EPA approved the division's NSR air permitting program and the division issues "federal" permits (for prevention of significant deterioration and nonattainment) on the EPA's behalf. In addition, the EPA has approved the division's Title V program.

Air quality permits are legally binding documents that include enforceable conditions with which the owner or operator must comply. Some permit conditions are general to all types of facilities; some are developed for specific facilities. Overall, the permit conditions establish limits on the types and amounts of air pollution allowed, operating requirements for pollution control devices or pollution prevention activities, and monitoring and record-keeping requirements. Several flowcharts, *Abbreviated Process Flow,* showing the highest volume permit reviews are included following Question O.

N. 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.**

Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable, please see Field Operations Question O for complaint-related data related to this program.

Abbreviated Process Flow
New Source Review (NSR) Case-by-Case Application
New Construction and Modification

Application Received

↓

Administrative Review

Update Central Registry/Division Database
Confirm Permit Status
Check Fee and Delinquent Fee Applicability
Request Site Review
Confirm Application Administratively Complete
Develop and Distribute Public Notice Package
Transfer Application to NSR Permitting Section

↓

Technical Review

Check Compliance History and Review Regional Site Input
Identify Sources, Review Emission Characterization and Quantify Emissions
Determine Federal Applicability
Evaluate Control Technology and Impacts
Determine Applicability of Federal/State Regulatory Limits
Resolve Technical Deficiencies
Respond to Comments (From Public Notice/Meeting Non Contested/Non Federal)
Draft Permit (Conditions and Emission Rates)
Request Region/Local Program Comments
Modify Draft Permit
Confirm Application Technically Complete
Develop Public Notice Package (New/Modified Federal Applications)
Conduct Public Meeting as Applicable
Respond to Comments (From Public Notice/Meeting)

↓

If Non Contested

Issue Permit

↓

If Contested → Send Permit to Commission Agenda
Hearing Denied →Issue Permit
Hearing Granted →Refer to State Office Administrative Hearings
→ Back For Commission Decision
Commission: Issues, Modifies, Denies, Remands Permit

Abbreviated Process Flow
New Source Review (NSR)
Permit by Rule/Standard Permit/General Operating Permit
Registration

Registration Received

↓

Administrative Review

Update Central Registry/Division Database

Confirm Permit Status

Check Fee and Delinquent Fee Applicability

Request Site Review

Confirm Registration Administratively Complete

Transfer Registration to NSR Permitting Section

↓

Technical Review

Check Compliance History

Review Regional Site Review

Review Emission Characterization

Quantify Emissions

Certify for Federal Applicability

Determine Applicability of Federal/State Regulatory Limits

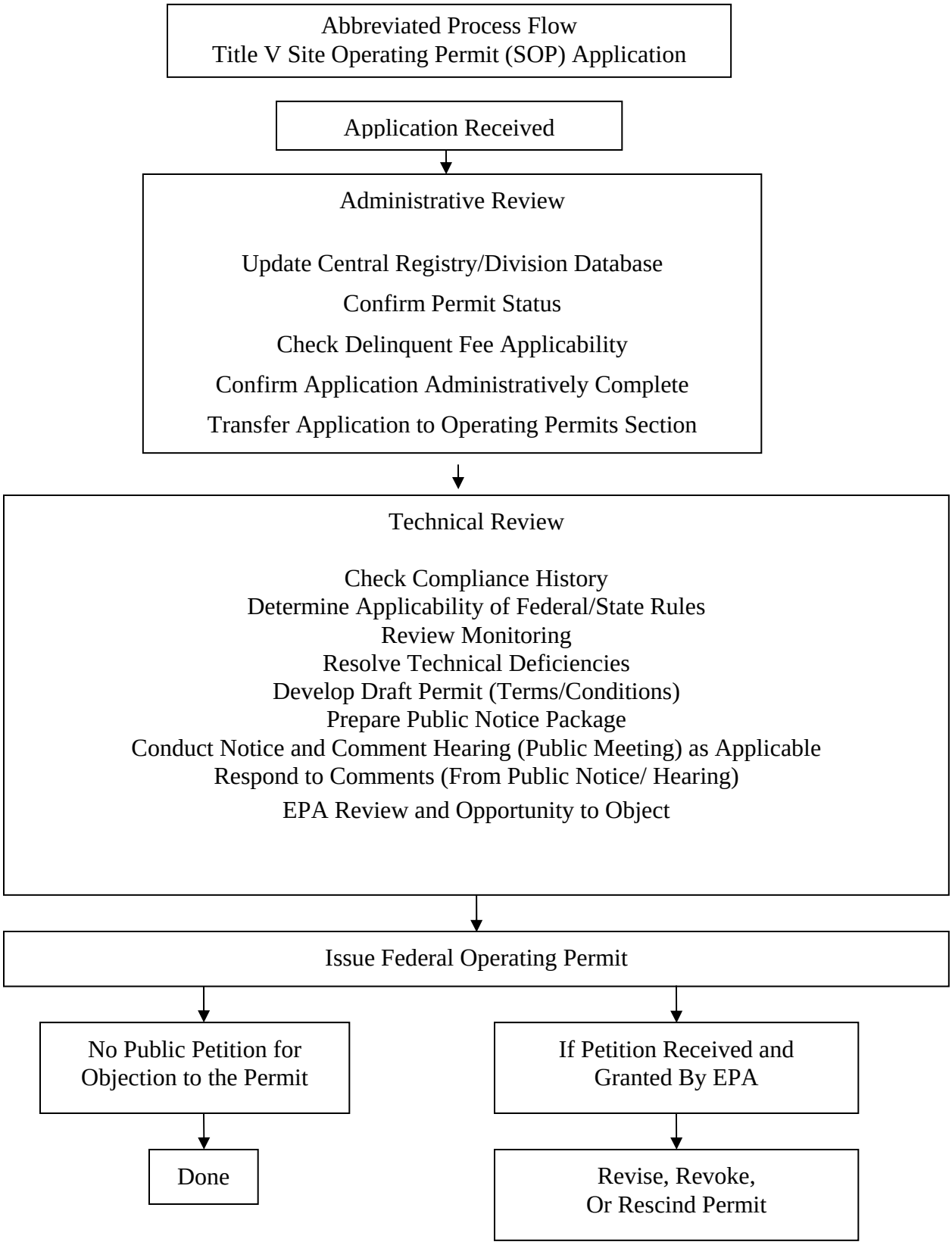
Resolve Technical Deficiencies

Confirm Application Technically Complete

Draft Authorization Letter

↓

Confirm Registration


Abbreviated Process Flow
Title V Site Operating Permit (SOP) Application
Application Received
Administrative Review
Update Central Registry/Division Database
Confirm Permit Status
Check Delinquent Fee Applicability
Confirm Application Administratively Complete
Transfer Application to Operating Permits Section
Technical Review
Check Compliance History
Determine Applicability of Federal/State Rules
Review Monitoring
Resolve Technical Deficiencies
Develop Draft Permit (Terms/Conditions)
Prepare Public Notice Package
Conduct Notice and Comment Hearing (Public Meeting) as Applicable
Respond to Comments (From Public Notice/ Hearing)
EPA Review and Opportunity to Object
Issue Federal Operating Permit
No Public Petition for Objection to the Permit
Done
If Petition Received and Granted By EPA
Revise, Revoke, Or Rescind Permit

VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Groundwater Planning and Assessment
Location/Division	3rd Floor / Building F / Water Rights Permitting and Availability Section / Water Supply Division / Office of Permitting and Registration
Contact Name	Todd Chenoweth
Actual Expenditures, FY 2008	$783,074
Number of FTEs as of August 31, 2008	10

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

The Groundwater Planning and Assessment Program supports the Texas Groundwater Protection Committee (TGPC), an interagency committee charged with developing and updating a comprehensive groundwater protection strategy, studying and making legislative recommendations to improve groundwater protection, reporting to the legislature on its activities, and publishing an annual report on groundwater monitoring and contamination. The program supports the TGPC through program and monitoring coordination, water quality assessment, public participation and outreach, and special projects.

The program also coordinates and supports the state management plan for prevention of pesticide contamination of groundwater, the TCEQ's Edwards Aquifer Protection Program, and the TCEQ's program to notify private well owners of potential groundwater contamination.

As part of the Edwards Aquifer Protection Program under 30 Texas Administrative Code (TAC) Chapter 213, the agency gives technical assistance and offers support for geographic information systems. The program works closely with the Edwards Aquifer Protection Program administered by the Austin and San Antonio regional offices, Field Operations Division, Office of Compliance and Enforcement.

The Groundwater Planning and Assessment Program also supports groundwater management functions for TCEQ by:

- processing, review, and facilitation of landowner petitions for groundwater conservation district (GCD) creation;

- evaluating legislation that creates new or modifies existing GCDs and providing water development policy impact statements to state leadership processing and coordination of limited oversight of GCDs relating to groundwater management plans and

joint district planning in common groundwater management areas;

- GCD management plan noncompliance review and compliance enforcement referrals;

- evaluating and designating as appropriate Priority Groundwater Management Areas (PGMAs) and creating GCDs in PGMAs subject to landowner and local government actions;

- educational and technical assistance upon request;

- maintaining records of state well reports; and

- establishing the form and content of groundwater availability certifications.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

FY 08 Output Measure 01-01-02.02	Percent of Annual Target
Number of Groundwater Assessments (Key)	98.33

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.

1949

- The legislature authorizes the petition process for the designation of under ground water reservoirs and the creation of underground water conservation districts.

1959

- Legislative efforts to protect the Edwards Aquifer from contamination begin. The Groundwater Planning and Assessment Program is responsible for field mapping and other technical services to support these and subsequent efforts.

1975

- The EPA designates the Edwards Aquifer as the first sole-source aquifer in the country. The Groundwater Planning and Assessment Program begins receiving funding through Section 106 of the Clean Water Act to coordinate sole source aquifer activities with the EPA and to support state efforts to protect the aquifer from contamination.

1985

- The legislature establishes the critical area process.

1989

- The legislature requires GCDs to develop comprehensive management plans.

- The legislature creates the Texas Groundwater Protection Committee and established the state's groundwater protection policy and goal.

1995

- The legislature codifies sections specific to management areas and critical areas into Texas Water Code, Chapter 35 and sections specific to GCDs into Texas Water Code, Chapter 36.

1997

- The legislature adopts SB 1, which includes new processes for landowner petitions to create GCDs and GCD management plan adoption and state agency roles related to the plans, and replaces the critical area process with the PGMA process.

1999

- The legislature requires the TCEQ to adopt rules that establish the appropriate form and content of a groundwater availability certification to be attached to a municipal or county plat application.

2001

- The legislature adopts SB 2, which streamlines GCD creation and PGMA processes and clarifies TCEQ authority.

2005

- The legislature requires joint GCD planning in groundwater management areas.

2008

- The agency position for the executive director's designated chairman for the TGPC and designated representative to the Edwards Aquifer Recovery Implementation Program is transferred from the Chief Engineer's Office to the Water Supply Division in the Office of Permitting and Registration.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Approximately 57 percent of all water used by Texans is groundwater found in nine major, 21 minor, and several additional undifferentiated local aquifers. Approximately 79 percent of groundwater is used for irrigation, with the remainder used for municipal, rural, and domestic consumption; livestock; electric utilities; and industry. Approximately 36 percent of municipal water and virtually all of the rural water in Texas comes from groundwater.

The GCDs are the state's preferred method of groundwater management, allowing for the conservation, preservation, protection, recharge, and prevention of waste of the

groundwater resources within their jurisdictions. The GCD's primary authority is threefold: permitting water wells, developing a comprehensive management plan, and adopting the necessary rules to implement the management plan. As of July 2009, 95 established (confirmed) GCDs and five unconfirmed GCDs have been created. The 95 established GCDs cover all or part of 151 of the state's 254 counties.

A Priority Groundwater Management Area (PGMA) is an area designated and delineated by the TCEQ that is experiencing, or is expected to experience within the next 25 years, critical water problems including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies. To date, the TCEQ has designated seven PGMAs that include all or part of 35 counties. The designation of the PGMAs has encouraged local initiative to establish 18 GCDs to address groundwater management in most of the designated areas. For all or part of 10 counties in the designated PGMAs, GCDs need to be created, whether initiated locally or by the TCEQ. Refer to the flowchart *PGMA designation and GCD creation process* following Question O.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

State law designates the TCEQ as the lead agency of the TGPC, and the executive director as the TGPC's chairman. The executive director has designated a member of the Water Supply Division staff as his designated representative to the TGPC, also administering the routine functions of the committee. The TCEQ personnel also serve in support roles and chair subcommittees, reporting to, and coordinating with, the executive director's designated representative.

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).

Account	Name	Amount
0001	General Revenue	$33,374
0153	Water Resource Management Account	$267,797
0555	Federal Funds	$377,638
0777	Interagency Contracts	$104,265

Strategy—A.1.2— Water Assessment and Planning

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

Not Applicable

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 TCEQ, through its administration of most of the State's environmental and water quality regulatory programs, is primarily responsible for protecting groundwater quality. In addition, groundwater quality regulatory programs exist at: the Texas Railroad Commission (RRC) (oil and gas production and surface mining); the Texas Department of Agriculture (TDA) (pesticide use); the Department of State Health Services (DSHS) (water resource protection); the Texas State Soil and Water Conservation Board (TSSWCB) (agricultural and silviculture nonpoint source pollution); and the Texas Department of License and Regulation (TDLR) (water well construction).

The TGPC was created to bridge gaps between existing state groundwater programs and to optimize water quality protection by improving coordination among agencies involved in groundwater activities. The TGPC is composed of members from the TCEQ (chairman), Texas Water Development Board (TWDB) (vice chairman), RRC, DSHS, TDA, TSSWCB, Texas Alliance of Groundwater Districts, Texas AgriLife Extension Service, University of Texas Austin Bureau of Economic Geology, and Texas Department of Licensing and Regulation.

A Memorandum of Agreement (MOA) regarding state agency groundwater management program responsibilities and coordination was signed in April 2001 by the TCEQ and the TWDB and updated and amended in August 2007. The PGMA evaluations conducted by the program involve the TWDB, Texas Parks and Wildlife Department, and TDA, and the PGMA hearings are conducted by the State Office of Administrative Hearings. The program also coordinates intermittently with the State Auditor's Office (SAO) on issues relating to GCD management plan implementation reviews performed by the SAO.

The Water Supply Division also supports the activities of the Edwards Aquifer Recovery Implementation Program (EARIP) created in SB 3, 80th Legislature (2005), through representing the agency on the Steering Committee, the Recharge Facilities Feasibility Subcommittee and the Implementation Agreement Work Group. The TCEQ has signed an MOA governing participation in the EARIP process, and has agreed to the Steering Committee's operational 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.

Federal
The program is partially supported by federal grants and coordinates with EPA Region 6 to implement groundwater protection programs.

The program confers with and coordinates with the United States Fish and Wildlife Services Southwest Region on the Edwards Aquifer Recovery Implementation Plan.

The program coordinates with and uses some groundwater quality analyses data from the United States Geological Survey Texas Water Science Center.

State
The program coordinates groundwater protection and management with the following state agencies or authorities:

- Department of State Health Services
- Texas Railroad Commission
- State Auditor's Office
- State Office of Administrative Hearings
- Texas AgriLife Extension Service
- Texas Alliance of Groundwater Districts
- Texas Department of Agriculture
- Texas Department of Licensing and Regulation
- Texas Groundwater Protection Committee
- Texas Parks and Wildlife Department
- Texas State Soil and Water Conservation Board
- Texas Water Development Board
- University of Texas Bureau of Economic Geology

Regional, Local
The program confers with and coordinates with the Edwards Aquifer Authority and other stakeholders on the Edwards Aquifer Recovery Implementation Plan.

During PGMA designation and GCD creation, the program notifies and uses input from the following stakeholder groups:

- Counties,
- Municipalities,
- GCDs,
- regional water planning groups,
- river authorities,
- public water suppliers, and
- water-supply districts.

The program uses laboratory services provided by the Lower Colorado River Authority.

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

- **the amount of those expenditures in fiscal year 2008;**

- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Total FY 08 contract expenditures for the four administered contracts were $210,102. The contracts provide support for ongoing groundwater assessment, protection, and management functions and projects. Important objectives and deliverables of these contracts include:

- digitization of unique state well reports for public access for groundwater assessment, protection, and management uses;
- evaluation of arsenic in groundwater to provide critical information to public water supply systems;
- establishment of basic standards used to produce analytical data as requested by the TCEQ for remedial and compliance analysis of water samples in accordance with established testing standards for federally funded programs; and
- facilitation of educational programs and publications on drinking water for domestic and private water-well owners.

The TCEQ standard requirements for interagency contracts apply. The performing party of the contract is required to adhere to all applicable standards, principals, and guidelines detailed in Office of Management and Budget circulars A-21 and A-110, including those related to financial monitoring, auditing and record keeping. Contracts are subject to the receipt and availability of funds appropriated to or secured by the TCEQ. This funding is in place before the contract is executed through TCEQ budgeting and planning; accountability for funding is with the TCEQ budget staff and the contract manager. Performance is ensured via standard project management practices, including initiation, planning, execution, control and closure. Performance under the scope of work is assessed though a schedule and a set of deliverables and projects are not considered complete and accepted unless discrepancies are resolved.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

None

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

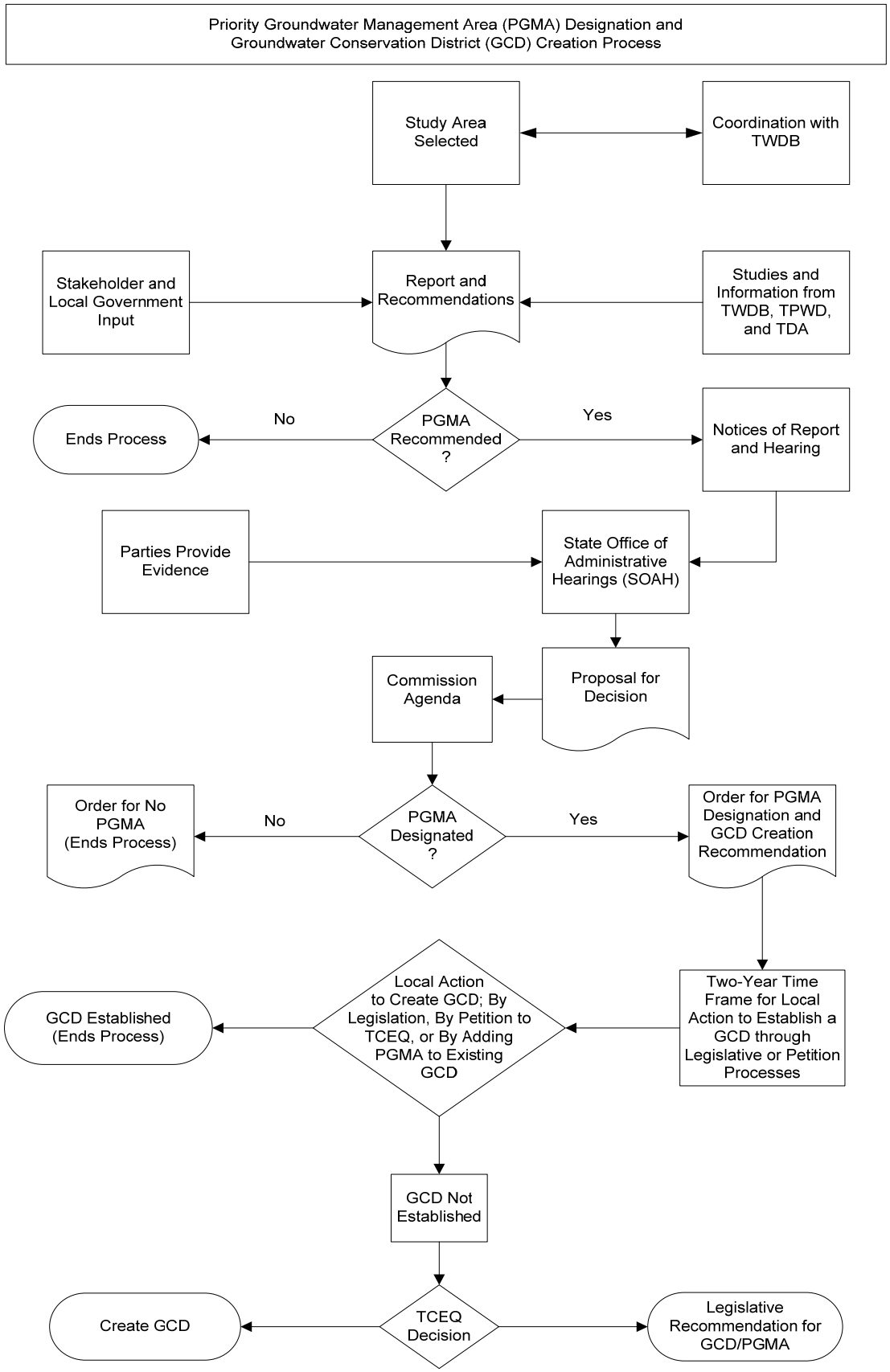
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Commission on Environmental Quality
Groundwater Planning and Assessment
Exhibit 12: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2007 and 2008

Please see Field Operations Question O for additional complaint data related to this program.	**FY 2007**	**FY 2008**
Total number of regulated persons	Not applicable	Not applicable
Total number of regulated entities	89	93
Total number of entities inspected	Not applicable	Not applicable
Total number of complaints received from the public	1	1
Total number of complaints initiated by agency	3	4
Number of complaints pending from prior years	7	9
Number of complaints found to be non-jurisdictional	1	0
Number of jurisdictional complaints found to be without merit	Not applicable	Not applicable
Number of complaints resolved	2	9
Average number of days for complaint resolution	Not applicable	Not applicable
Complaints resulting in disciplinary action:	1	0
administrative penalty	Not applicable	Not applicable
reprimand	Not applicable	Not applicable
probation	Not applicable	Not applicable
suspension	Not applicable	Not applicable
revocation	Not applicable	Not applicable
other	1	0


Priority Groundwater Management Area (PGMA) Designation and Groundwater Conservation District (GCD) Creation Process
Study Area Selected
Coordination with TWDB
Stakeholder and Local Government Input
Report and Recommendations
Studies and Information from TWDB, TPWD, and TDA
Ends Process
No
PGMA Recommended ?
Yes
Notices of Report and Hearing
Parties Provide Evidence
State Office of Administrative Hearings (SOAH)
Commission Agenda
Proposal for Decision
Order for No PGMA (Ends Process)
No
PGMA Designated ?
Yes
Order for PGMA Designation and GCD Creation Recommendation
GCD Established (Ends Process)
Local Action to Create GCD; By Legislation, By Petition to TCEQ, or By Adding PGMA to Existing GCD
Two-Year Time Frame for Local Action to Establish a GCD through Legislative or Petition Processes
GCD Not Established
Create GCD
TCEQ Decision
Legislative Recommendation for GCD/PGMA

VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Industrial and Hazardous Waste Permits
Location/Division	5th Floor / Building F / Industrial and Hazardous Waste Permits Section / Waste Permits Division / Office of Permitting and Registration
Contact Name	Earl Lott
Actual Expenditures, FY 2008	$2,474,702
Number of FTEs as of August 31, 2008	37

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

The objective of the Industrial and Hazardous Waste (IHW) Permits Section is to protect human health and the environment by responsibly managing and administering waste-related programs. This objective is achieved by ensuring that requirements are met for the permitting of hazardous waste treatment, storage, and disposal facilities and off-site industrial non-hazardous waste storage and treatment facilities.

The IHW Permits Section is responsible for reviewing permit applications for storage, processing or disposal of hazardous and non-hazardous waste from those generators and waste-management facilities required to obtain permits. The section also reviews applications to modify existing permits and documents required as a condition of an IHW permit and reviews notifications of certain types of industrial solid-waste management.

The Surface Casing Program reports to the Manager of the IHW Permits Section. The program's function is to make recommendations regarding groundwater protection to the Texas Railroad Commission (RRC) and the oil and gas industries. Its groundwater protection recommendations indicate the depths of any freshwater zone and the base of the usable-quality water. This information is used by the RRC in its drilling permits, and by industry in the design of surface casings for oil and gas wells, cathodic protection wells, and boreholes for seismic exploration.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The section is responsible for the permitting of hazardous and non-hazardous waste treatment, storage, and disposal facilities. It also audits non-hazardous industrial solid-waste streams to ensure that those wastes have been correctly classified by the generators.

Number	Type	FY 08 Performance Measure	Percentage of Annual Target
01-02-03.01	Outcome	Number of new system waste evaluations conducted	100.70
01-02-03.03	Output	Number of hazardous waste permit applications reviewed (key)	123.75
01-02-03.02	Explanatory	Number of hazardous waste permits issued	103.13

The Surface Casing Program issued 25,655 recommendation letters in FY 08. While there are no statutory time lines, internal goals are four days for processing expedited requests and 10 days for routine requests. Over 95 percent of applications were processed within 10 working days of being administratively complete.

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.

IHW Permits

1997

- Texas adopts the EPA's Combustion Strategy for hazardous-waste-combustion facilities, which includes conducting risk assessments on emissions from hazardous-waste combustors.

- Texas imposes risk assessments and/or screens on all combustion facilities permitted under the Resource Conservation and Recovery Act (RCRA) as part of the Combustion Strategy.

2003

- Texas Implements Risk Screening Procedures for hazardous-waste-combustion facilities permitted under the RCRA.

2007

- Texas adopts Maximum Achievable Control Technology (MACT) regulations (40 CFR Part 63, Subpart EEE) as amended through October 25, 2006.

Surface Casing

1955

- The Surface Casing Program is formalized as part of the Texas Board of Water Engineers.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

IHW Permits
Currently, over 190 facilities in Texas have industrial or hazardous waste permits. Nearly all are industrial—such as petroleum refineries, chemical manufacturers, military bases—or are commercial waste-management facilities.

Certain facilities are required to submit notifications of their waste management activities in lieu of applying for a permit. IHW Permits reviews these notifications for on-site disposal of non-hazardous waste. Examples of industrial waste generators who may be eligible for on-site disposal include facilities such as power plants, commercial agricultural facilities, and aluminum mills.

Surface Casing
The Surface Casing Program recommendations regarding groundwater protection affect the oil and gas industry, including seismic exploration, oil and gas well drilling, and cathodic protection for oil and gas wells as well as pipelines.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The IHW Section resides within the Waste Permits Division of the Office of Permitting and Registration. The section's technical staff consists of engineers, geoscientists, and chemists.

IHW Permits
The function of the IHW Permits Section is to review permit applications for the management of industrial solid waste and hazardous waste.

Applications are first reviewed for administrative completeness to ensure they contain all of the required information. Next is a technical review to ensure that the application meets requirements and any permit issued protects human health and the environment. Deficiencies noted during the administrative and technical reviews are transmitted to the applicant by letter.

When the application is considered technically complete, an initial draft permit (IDP) is prepared. After receipt and consideration of comments on the IDP, a final draft permit is prepared. Notice is published in a newspaper and mailed after the application is administratively complete and after the FDP is prepared.

If no comments on the application are received, the executive director will issue the permit. The executive director must respond to any public comment received. If no request for a public hearing is received, the permit will be issued. If a public hearing is requested, the commissioners will determine whether it will take place.

Surface Casing

The Surface Casing Program reviews applications for seismic exploration, oil- and gas-well drilling, and cathodic protection for oil and gas wells as well as pipelines, and makes recommendations for groundwater protection. Applications are processed within four working days of receipt for expedited processing and within 10 working days for standard processing. After the applications are reviewed for administrative completeness, the well is located in a geographical information system database. The geological data are then reviewed and a groundwater protection recommendation letter is prepared and sent to the applicant. Texas statute requires the recommendation letter to be based on original geological work and sealed by a TCEQ geoscientist.

Refer to the flowchart *IHW Permits Section Application Review Process* following Question O for more detail on the IHW permit application review process.

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).

Account	Name	Amount
0153	Water Resource Management Account	$532,029
0549	Waste Management Account	$862,045
0001	General Revenue	$64,195
0555	Federal Funds	$1,016,433

Strategies:
A.2.3—Waste Management and Permitting
A.2.2—Water Resource Permitting
A.1.2—Water Assessment and Planning

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

Not Applicable

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.

Not Applicable

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.

IHW Permits

- EPA Region 6—Under the RCRA Grant Commitments, the TCEQ commits to processing a targeted number of permit applications established by EPA each fiscal year.

- EPA Region 6—Coordinates review of MACT EEE Comprehensive Performance Test Plans and results of Comprehensive Performance Tests for combustion facilities.

- Redevelopment authorities, the Department of Defense, EPA Region 6 and Base Realignment and Closure—Works with these authorities and with TCEQ Remediation personnel to achieve the maximum productive reuse of former military properties.

Surface Casing

- Acts as an adviser to the RRC concerning groundwater protection. The program reviews hydrologic data and electrical logs to determine depths of freshwater and the base of usable-quality water. The program recommends which hydrologic zones should be protected and the depth at which to set the surface casing for proposed drilling projects. The RRC reviews the TCEQ recommendations and, after accepting or modifying them, makes the final decision on the drilling permit.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

$125,882.27 with the University of Texas at Austin.

University of Texas at Austin

Purpose—Personnel with the Bureau of Economic Geology (BEG) develop spatial and tabular data, served over the Internet (ArcIMS), for a number of counties each year (for Denton, Tarrant and Johnson counties in FY 08) that allows oil and gas operators, TCEQ personnel, or other users to determine probable surface casing requirements.

Accountability—BEG supplies scanned copies of well logs to TCEQ annually and copies are spot checked.

Problems— monthly billing from BEG/UT lags significantly.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

None

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

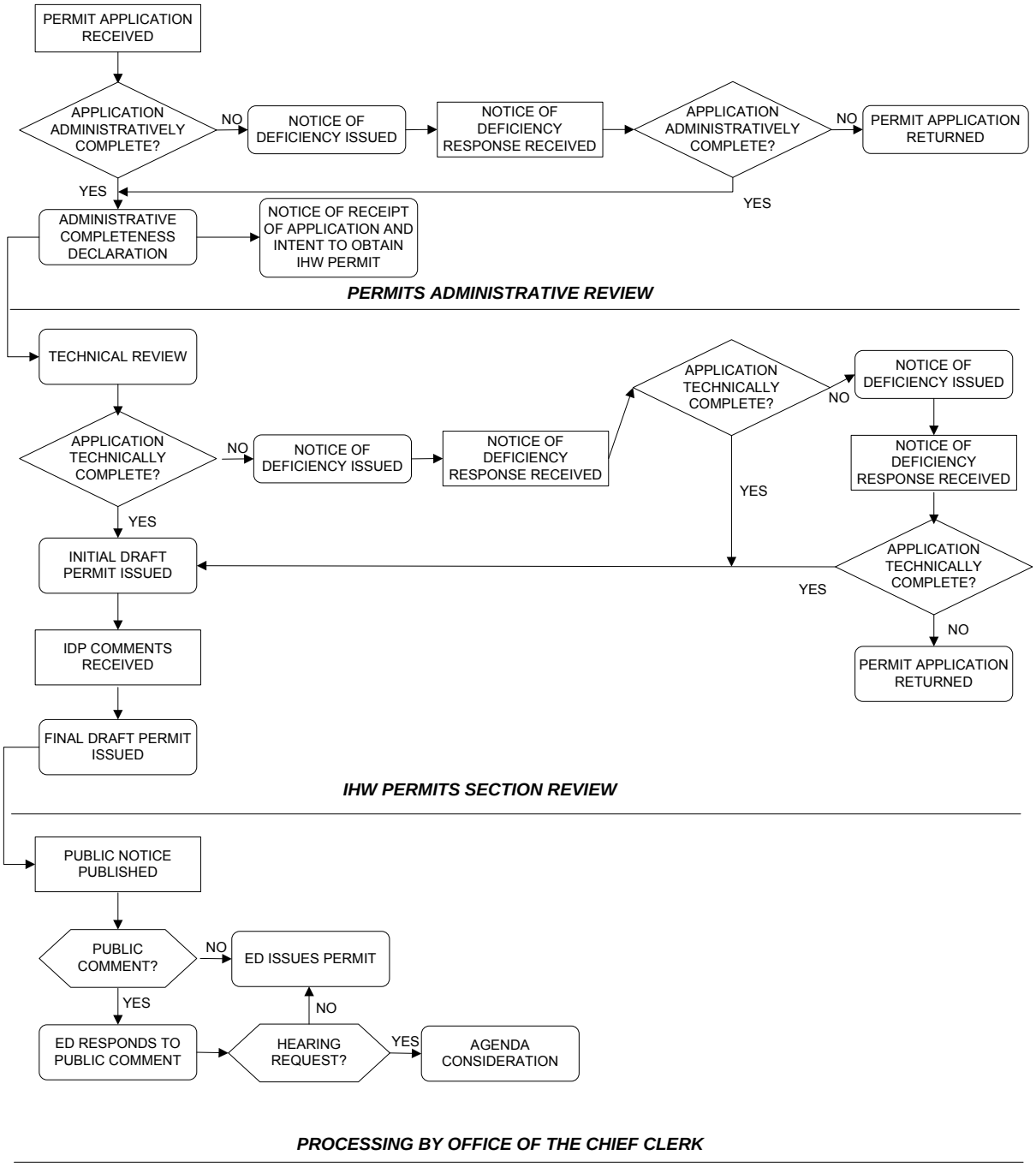
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable, please see Field Operations Question O for complaint-related data related to this program.

IHW PERMITS SECTION APPLICATION REVIEW PROCESS



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Municipal Solid Waste Permitting
Location/Division	5th Floor / Building F / Municipal Solid Waste Permits Section / Waste Permits Division / Office of Permitting and Registration
Contact Name	Earl Lott
Actual Expenditures, FY 2008	$13,136,299 ($10,986,324 pass-through grants to COGs)
Number of FTEs as of August 31, 2008	37.5

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

The objective of the Municipal Solid Waste (MSW) Permitting Program is to protect human health and the environment through regulation of the handling, storage, processing, and disposal of municipal solid waste. The program also promotes and encourages recycling by authorizing this activity through a more streamlined mechanism than a permit.

The program is responsible for reviewing applications for handling, storing, processing, and disposing of municipal solid waste. It also reviews applications to modify or amend existing permits and registrations and other required documents.

Regional Solid Waste Grant Program (RSWGP)

- The RSWGP's objective is to pass through appropriated funds to the 24 councils of governments (COGs) throughout Texas.

- COGs use the funds to maintain an inventory of closed MSW landfills, conduct regional coordination and planning activities, maintain a regional solid waste management plan, and administer pass-through grant programs to fund regional and local MSW projects.

Biennially, the MSW Program:

- *allocates the Regional Solid Waste Grant funds to the state's 24 COGs based on a formula that takes into account population, area, solid-waste-fee generation, and public-health needs,*

- *enters into a contract with each COG for use of the funds, and*

- *reviews and approves each COG's funding plan and application.*

Annually, the MSW Program:

- *reviews and approves proposed implementation projects,*
- *reviews quarterly financial status reports,*
- *conducts site visits,*
- *reviews and approves budget amendments,*
- *reviews and approves implementation project amendments,*
- *provides technical assistance to COGs and recipients of RSWGP funds, and*
- *trains COG solid-waste and financial coordinators.*

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The program implements its objectives through issuing of permits, registrations, and other authorizations. To receive an authorization, potential operators of an MSW facility must demonstrate competence and adherence to the rules.

Number	Type	FY 08 Performance Measure	Percent of Annual Target
01-02-03.02	output	Number of non-hazardous waste permit applications reviewed (key)	98.31
01-02-03.01	explanatory	Number of non-hazardous waste permits issued	98.31
01-02-03.03	explanatory	Number of corrective actions implemented by responsible parties for solid waste sites	100
01-01-03.01	output	Number of MSW facility capacity assessments (key)	98.4
01-01-03.01	efficiency	Average cost per MSW facility capacity assessment (key)	92.3
01-01-03.01	explanatory	Number of councils of governments in the state with 10 or more years of disposal capacity	100

Regional Solid Waste Grant Program

- Annual Reports and Reports of Follow-up Results - These data are submitted by each of the 24 COGs detailing the cumulative results of funded projects. Data for the results report are formatted, published, and presented to the legislature as the Regional Council of Government and Municipal Solid Waste Program Report.

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.

Not Applicable

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The MSW Permitting Program affects the MSW management industry and local governments. Any person requesting authorization to handle, process, or dispose of municipal solid waste must demonstrate competency to perform the regulated activity. The public may be affected by the manner in which the solid waste is managed. The program manages 272 permits for landfills, and 58 permits and 112 registrations for processing facilities. Other types of facilities are authorized via notifications to the program, which serve as written commitments to comply with relevant regulatory standards.

Regional Solid Waste Grant Program

- RSWGP funds are specifically designated for the 24 COGs, which set aside a portion of their funds for pass-through grants to local governments, school districts, and special districts. Refer to the table *Municipal Solid Waste Regional Planning Grant Program- FY 08 Grant Allocation* following Question O.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The MSW Permits Section is in the Waste Permits Division within the Office of Permitting and Registration. Refer to flowcharts *MSW Registration Application Process* and *MSW Permit Application Process* following Question O.

The program processes applications for handling, storing, processing, and disposing municipal solid waste using established procedures. Applications are first reviewed for administrative completeness to ensure they contain all of the required information. Second, a technical review is conducted to ensure that the design and operation of the facility meet requirements and protect human health and the environment. Any deficiencies noted during review are transmitted to the applicant through a letter.

The application is posted on a publicly accessible web site and signage is posted at the facility's proposed location. Depending on the type of application, notice is published in a newspaper and/or mailed to the list of entities in 30 TAC, Chapter 39, Section 39.413. Following technical review a draft permit/registration is prepared. If no requests for a public hearing are received, the permit will be sent forward for issuance.

Facilities seeking authorization for activities such as recycling clean wood through mulching and composting or source separation of construction and demolition debris or household recyclables are required to submit a notice of intent for authorization to operate. Following review and approval of the notice of intent, the recycling activity is authorized by letter.

The RSWGP is administered by a team leader and three planners. In administering the program, its staff reviews each of the 24 COGs' funding plans and grant applications and determines whether each conforms to its Regional Solid Waste Management Plan (RSWMP) and the RSWGP contract. Throughout the year, program personnel review a variety of documents submitted by each COG, including (1) implementation project plans, (2) its quarterly financial status report, (3) budget amendments, and (4) feasibility studies. These documents are reviewed to ensure compliance with the RSWMP, the RSWGP contract, the Uniform Grant Management Standards, and TCEQ rules. Program personnel give technical assistance to COGs and recipients of the RSWGP funds and train COG solid-waste and financial coordinators. Additionally, program personnel monitor COG performance through desk audits of financial and project data, site-visits, and on-site audits.

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).

Account	Name	Amount
0549	Waste Management Account	$2,144,386
5000	Solid Waste Disposal Fee	$10,986,324 (COGs)
0001	General Revenue	$5,589

Strategies:
A.1.3—Waste Assessment and Planning
A.2.3—Waste Management and Permitting

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

Not Applicable

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.

Not Applicable

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.

Regional Solid Waste Grant Program

The TCEQ works directly with COGs in the administration of the RSWGP. COGs were created under Local Government Code Chapter 391 to deal with the problems and planning needs that require regional attention.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

None

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

None

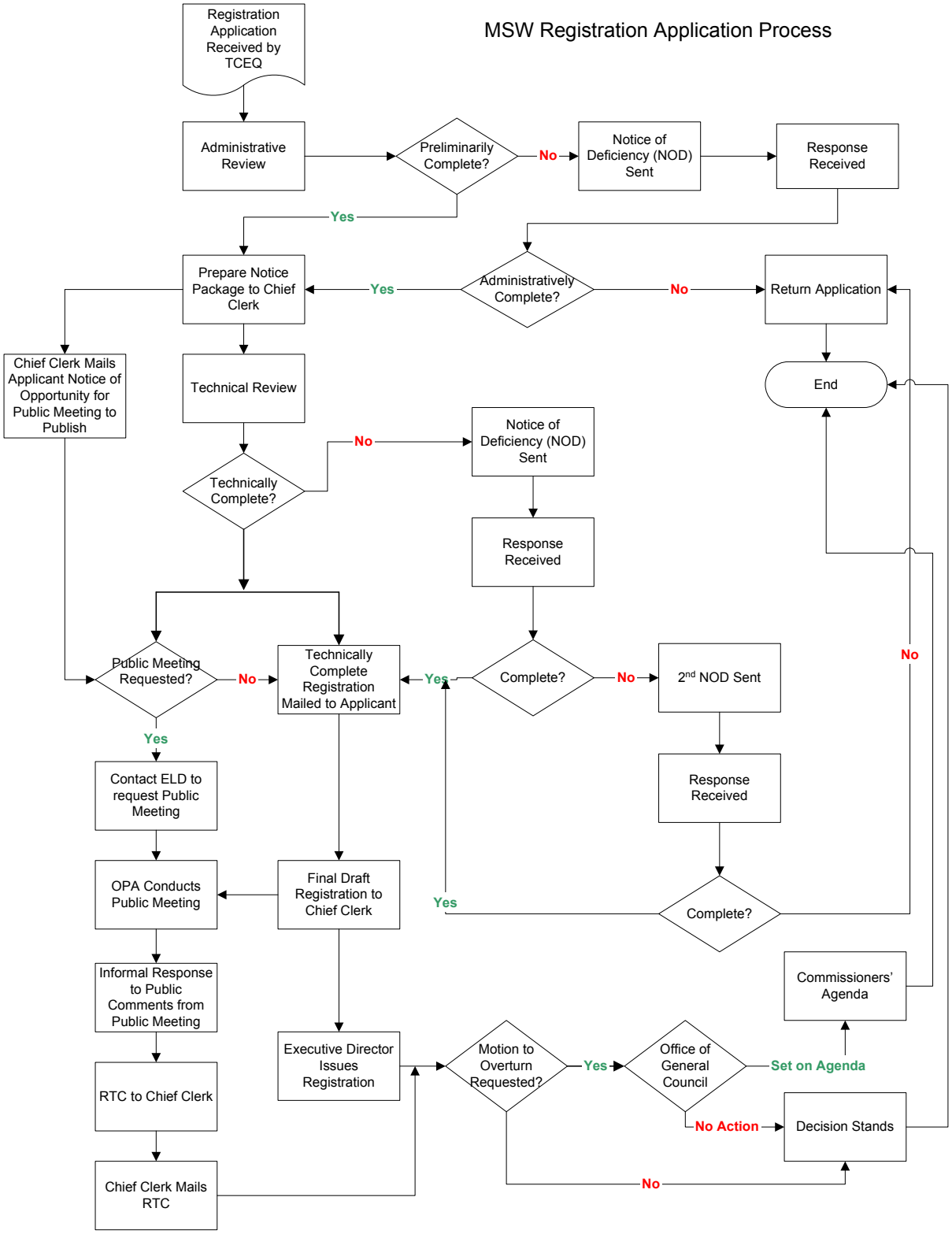
N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

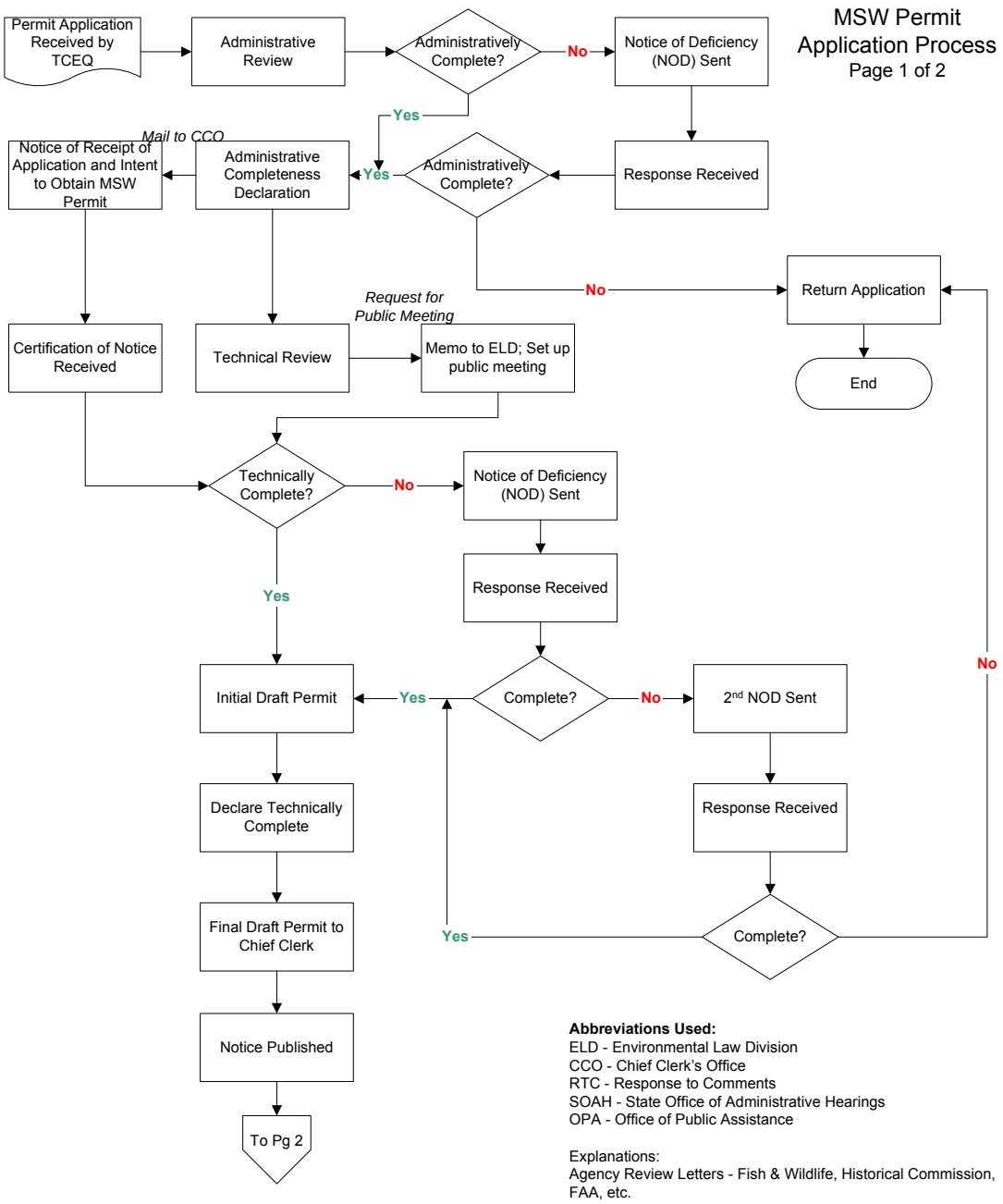
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

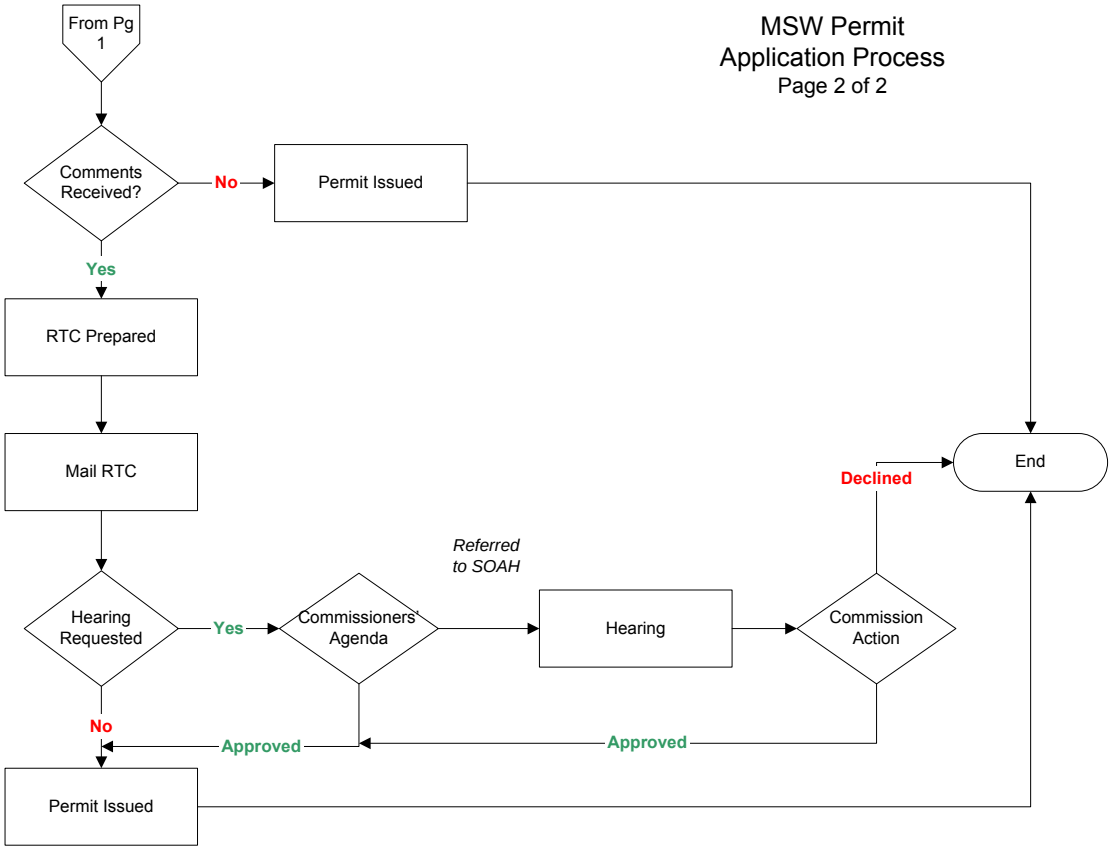
Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable, please see Field Operations Question O for complaint-related data related to this program.


MSW Registration Application Process
Registration Application Received by TCEQ
Administrative Review
Preliminarily Complete?
No
Notice of Deficiency (NOD) Sent
Response Received
Yes
Prepare Notice Package to Chief Clerk
Yes
Administratively Complete?
No
Return Application
Chief Clerk Mails Applicant Notice of Opportunity for Public Meeting to Publish
Technical Review
End
No
Notice of Deficiency (NOD) Sent
Technically Complete?
Response Received
Public Meeting Requested?
No
Technically Complete Registration Mailed to Applicant
Yes
Complete?
No
2nd NOD Sent
No
Yes
Contact ELD to request Public Meeting
Response Received
OPA Conducts Public Meeting
Final Draft Registration to Chief Clerk
Yes
Complete?
Informal Response to Public Comments from Public Meeting
Commissioners' Agenda
Executive Director Issues Registration
Motion to Overturn Requested?
Yes
Office of General Council
Set on Agenda
RTC to Chief Clerk
No Action
Decision Stands
Chief Clerk Mails RTC
No


MSW Permit Application Process
Page 1 of 2
Permit Application Received by TCEQ
Administrative Review
Administratively Complete?
No
Notice of Deficiency (NOD) Sent
Response Received
Yes
Administratively Complete?
Yes
Administrative Completeness Declaration
Mail to CCO
Notice of Receipt of Application and Intent to Obtain MSW Permit
No
Return Application
End
Request for Public Meeting
Memo to ELD; Set up public meeting
Technical Review
Certification of Notice Received
Technically Complete?
No
Notice of Deficiency (NOD) Sent
Response Received
Yes
Complete?
No
2nd NOD Sent
Response Received
Complete?
No
Yes
Initial Draft Permit
Yes
Declare Technically Complete
Final Draft Permit to Chief Clerk
Notice Published
To Pg 2
Abbreviations Used:
ELD - Environmental Law Division
CCO - Chief Clerk's Office
RTC - Response to Comments
SOAH - State Office of Administrative Hearings
OPA - Office of Public Assistance
Explanations:
Agency Review Letters - Fish & Wildlife, Historical Commission, FAA, etc.


MSW Permit
Application Process
Page 2 of 2
From Pg 1
Comments Received?
No
Permit Issued
Yes
RTC Prepared
Mail RTC
Hearing Requested
Yes
Commissioners' Agenda
Referred to SOAH
Hearing
Commission Action
Declined
End
No
Approved
Approved
Permit Issued

Municipal Solid Waste Regional Planning Grant Program	
FY 08 Grant Allocation	
Council of Governments	**FY 2008**
Alamo Area Council of Governments	$882,010.00
Ark-Tex Council of Governments	178,847.00
Brazos Valley Council of Governments	170,000.00
Capital Area Council of Governments	664,530.00
Central Texas Council of Governments	181,935.00
Coastal Bend Council of Governments	326,352.00
Concho Valley Council of Governments	170,000.00
Deep East Texas Council of Governments	226,198.00
East Texas Council of Governments	374,070.00
Golden Crescent Regional Planning Commission	170,000.00
Heart of Texas Council of Governments	209,484.00
Houston-Galveston Area Council	2,120,920.00
Lower Rio Grande Valley Development Council	407,095.00
Middle Rio Grande Development Council	170,000.00
Nortex Regional Planning Commission	181,041.00
North Central Texas Council of Governments	2,410,208.00
Panhandle Regional Planning Commission	384,780.00
Permian Basin Regional Planning Commission	318,683.00
Rio Grande Council of Governments	371,124.00
South East Texas Regional Planning Commission	183,347.00
South Plains Association of Governments	262,942.00
South Texas Development Council	170,000.00
Texoma Council of Governments	170,000.00
West Central Texas Council of Governments	282,758.00
	$10,986,324.00

Note: each Council of Government spends everything it receives.

VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Occupational Licensing
Location/Division	1st Floor / Building D / Operating Licensing Section / Permitting and Registration Support Division / Office of Permitting and Registration
Contact Name	Kelly Zrubek
Actual Expenditures, FY 2008	$2,685,126
Number of FTEs as of August 31, 2008	20

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

The Occupational Licensing Program protects the public's health, safety, and economic welfare by ensuring that environmental professionals are qualified and competent, and adhere to established professional standards.

The program licenses individuals engaged in environmental occupations. Regulation in the form of licensing is necessary to ensure qualified individuals and entities are performing safe and effective operations and to prevent adverse impacts on human health and the environment.

The program:

- issues occupational licenses and registrations for environmental occupations;
- reviews applications for licenses to verify education and work experience and completion of required training;
- issues deficiency letters to applicants who do not meet the education or work experience requirements;
- administers and grades licensing examinations;
- analyzes exams and sends a letter informing applicants who fail the exam;
- establishes standards to train and certify visible emissions evaluators;
- reviews and approves training courses relating to the operation and maintenance of Stage II vapor recovery systems;
- reviews and approves training courses and training providers for all licensing programs;
- develops licensing examinations; and
- maintains license and registration records.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

During FY 08 the program:

- received 24,798 license and registration applications;
- administered 12,015 examinations for licenses; and,
- issued and/or renewed 22,014 licenses and registrations.

Number	Type	FY 08 Performance Measure	Percent of Annual Target
01-02-04.01	output	Number of applications for occupational licensing	103.41
01-02-04.02	output	Number of examinations administered *(key)*	111.25
01-02-04.03	output	Number of licenses and registrations issued	95.71
01-02-04.01	efficiency	Average annualized cost per license and registration	102.78

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.

2001

- The 77th regular legislative session passed HB 3111 which added Chapter 37 to the Texas Water Code, consolidating administrative requirements and establishing uniform procedures for the occupational and registration programs administered by the TCEQ.

2009

- On July 1, 2009 the occupational licensing and training approval functions of the Compliance Support Division were transferred from the Office of Compliance and Enforcement to the Permitting and Registration Support Division in the Office of Permitting and Registration.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The program regulates more than 50,000 individuals and entities.

Table 1. Individuals and Entities Affected by TCEQ Occupation Licensing, FY08

Type of License	Number of Licenses
Backflow prevention assembly testers	4,745
Customer-service inspectors	1,774
Landscape irrigation (irrigators, inspectors, technicians)	6,262
Leaking petroleum storage tanks (corrective-action project managers and specialists)	1,374

Municipal solid waste facility supervisors	1,207
On-site sewage facilities, such as septic tanks (apprentices, designated representatives, installers, maintenance providers, maintenance technicians, site evaluators)	7,390
Public water system operators and operating companies	14,883
Stage II vapor recovery evaluator training and certification *(this activity certifies training providers not individuals)*	62
Underground storage tank on-site supervisors and contractors	1,437
Visible emissions evaluator training and certification *(this activity certifies training providers not individuals)*	2
Wastewater operators and operating companies	10,833
Water treatment specialists	595
Total Number of Licensees	**50,564**

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Refer to flowcharts *New Occupational License Application Process, New Occupational License Exam Process, License Renewal Application Process, Occupational Licensing Training Material Approval Process* following Question O.

The program is administered in accordance with the statutory requirements of:

- Texas Water Code, Chapters 26 and 37;
- Texas Health and Safety Code, Chapters 341 and 361;
- Texas Occupations Code, Chapters 1903 and 1904; and
- 30 TAC, Chapter 30, Subchapters A–L.

Table 2 lists the types of licenses the Occupational Licensing Program is responsible for and the applicable statutory authority.

Table 2. Occupational Licensing Program—Statutory Authority	
Texas Water Code	
Title 2. Water Administration	
Subtitle F. Occupational Licensing and Registration	
Chapter 37. Occupational Licensing and Registration	
Licensing Program	**Statutory Authority**
Backflow prevention assembly testers	Texas Health and Safety Code Section 341.033
Customer service inspectors	Texas Health and Safety Code Section 341.034

Landscape irrigation (irrigators, inspectors, technicians)	Texas Occupations Code Section 1903.251
Leaking petroleum storage tanks (corrective action project managers and specialists)	Texas Water Code Section 26.3573(j)
Municipal solid waste facility supervisors	Texas Health and Safety Code, Section 361.027; Federal Safe Drinking Water Act Amendments of 1996, Sections 1419(A), 1452
On-site sewage facilities, such as septic tanks (apprentices, designated representatives, installers, maintenance providers, maintenance technicians, site evaluators)	Texas Health & Safety Code, Section 366.071
Public water system operators and operating companies	Texas Health and Safety Code Section 341.034; Federal Safe Drinking Water Act Amendments of 1996, Sections 1419(A), 1452
Stage II vapor recovery representatives	Texas Water Code Sections 5.103 and 5.105; Texas Health and Safety Code Section 382.017
Underground storage tank on-site supervisor licensing and contractor registration	Texas Water Code Sections 26.342–45, 26.451–54
Visible emissions evaluator training and certification	40 CFR 60, Appendix A: Method 9—Visual Determination of Opacity of Emissions from Stationary Sources
Wastewater operator and operating companies	Texas Water Code Section 26.0301
Water treatment specialists	Texas Occupations Code Section 1904.051

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).

Account	Name	Amount
0468	Occupational Licensing Account	$1,022,970
0555	Federal Funds	$1,662,156

Strategy—A.2.4—Occupational Licensing

Rider 9—Appropriations Limited to Revenue Collection: Occupational Licensing

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

The Texas Department of Licensing and Regulation (TDLR) and the Texas State Board of Plumbing Examiners (TSBPE) also issue occupational licenses. The TCEQ, TDLR, and TSBPE all issue occupational licenses; however, the licenses are all different in nature and there is no overlap of jurisdiction.

Not all TCEQ licensing and training processes can be standardized under an umbrella licensing authority, like the TDLR, because of the unique training and specialization

oversight required for environmental occupational licenses as well as the federal primacy designation of related TCEQ programs. The TCEQ can perform public outreach and supply consumer information by alignment of occupational licensing and program area functions within the agency.

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 coordinates with TDLR and TSBPE to ensure that administrative requirements and procedures for the occupational and registration programs are administered in a uniform manner consistent with the Sunset Occupational Licensing Model, issued November 20, 2007.

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 TCEQ approves training that providers use to educate professionals who engage in activities regulated by the TCEQ.

- *Cities:* Amarillo, Arlington, Austin, Dallas, Fort Worth, Frisco, Grand Prairie, Houston, Irving, Odessa, San Antonio, Texarkana, Waco

- *River Authorities:* Brazos River Authority, Guadalupe-Blanco River Authority, Lower Colorado River Authority, Trinity River Authority

- *Municipal Utility Districts:* Tarrant County MUD No. 1

- *Council of Governments:* North Central Texas Council of Governments

- *Higher Education:* Amarillo College, Austin Community College, Brookhaven College, El Paso Community College, Houston Community College, Dallas County Community College, Tarrant County Community College, Texas A&M University (Texas Engineering Extension Service)

The TCEQ has a Memorandum of Agreement with the North Central Texas Council of Governments that allows regional staff from the TCEQ's Dallas–Fort Worth Office to use council facilities to administer licensing exams monthly.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**

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

Amount	Number of Contracts	General Purpose
$70,857.43	2	Professional-Temporary Services

Program management routinely meet with contracted personnel to review progress and give direction and input on significant issues.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The TCEQ does not have the authority to consider extenuating circumstances regarding the grace period for renewing expired occupational licenses and registrations it administers. The TCEQ has received requests to extend the deadline because of a death in the family, for medical reasons, and for other extenuating circumstances. This limitation has led to a number of customer complaints. Amend Texas Water Code Section 37.006 to extend the grace period from 30 to 60 days and repeal the current limit on renewal fees for expired licenses.

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

None

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

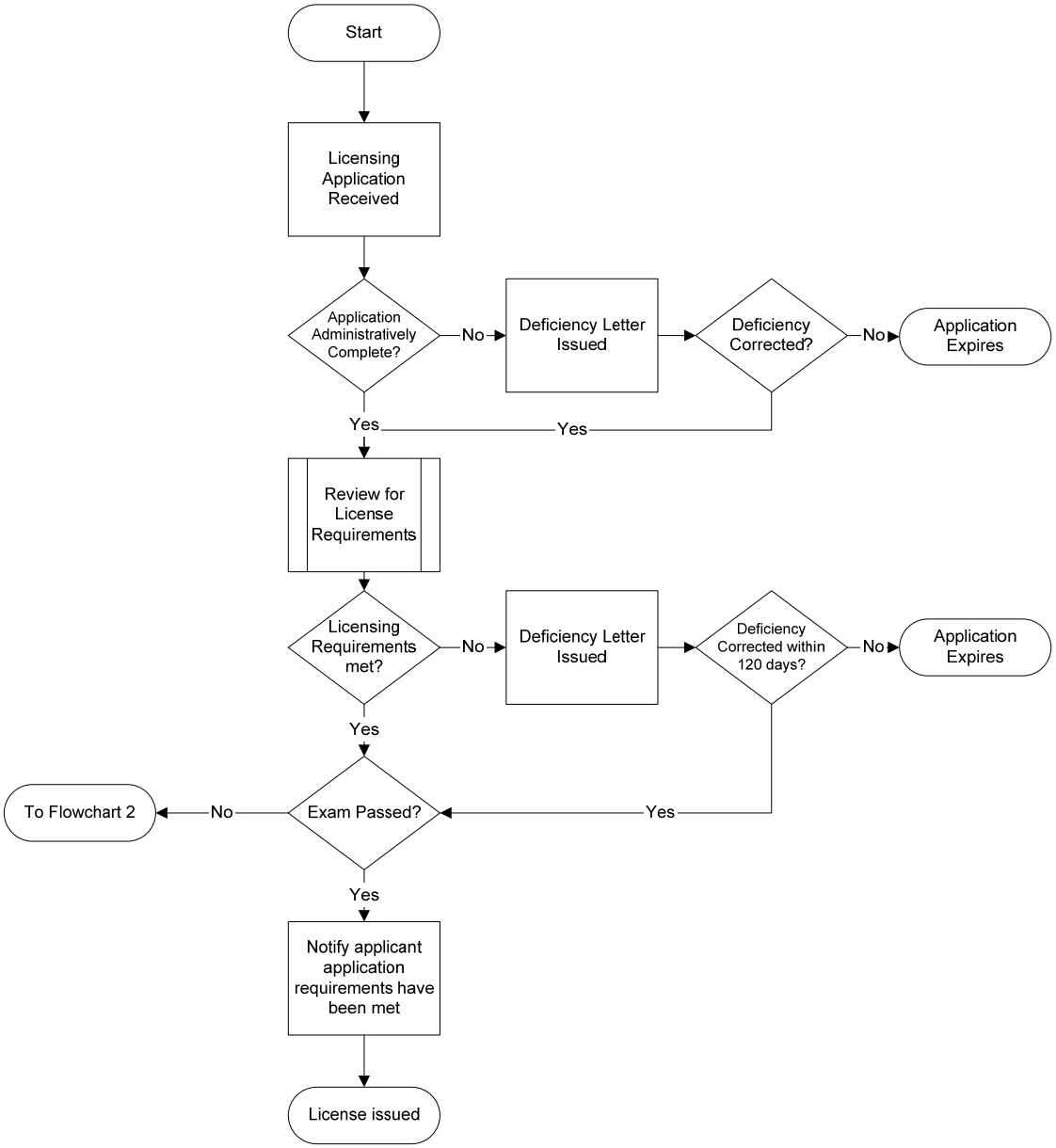
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

Not Applicable

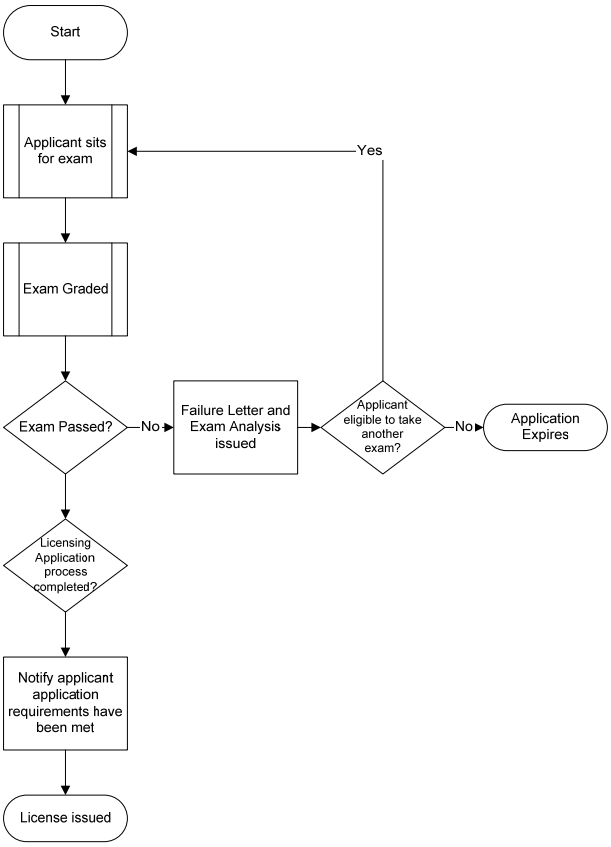
O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Commission on Environmental Quality Occupational Licensing Program Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008		
	FY 2007	**FY 2008**
Total number of regulated persons	49,637	50,564
Total number of regulated entities	Not applicable	Not applicable
Total number of entities inspected	Not applicable	Not applicable
Total number of complaints received from the public	6	0
Total number of complaints initiated by agency	1	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints found to be without merit	0	0
Number of complaints resolved	7	0
Average number of days for complaint resolution	60	Not applicable
Complaints resulting in disciplinary action:	1	0
administrative penalty	Not applicable	Not applicable
Reprimand	0	0
Probation	1	0
Suspension	0	0
Revocation	0	0
Other	0	0

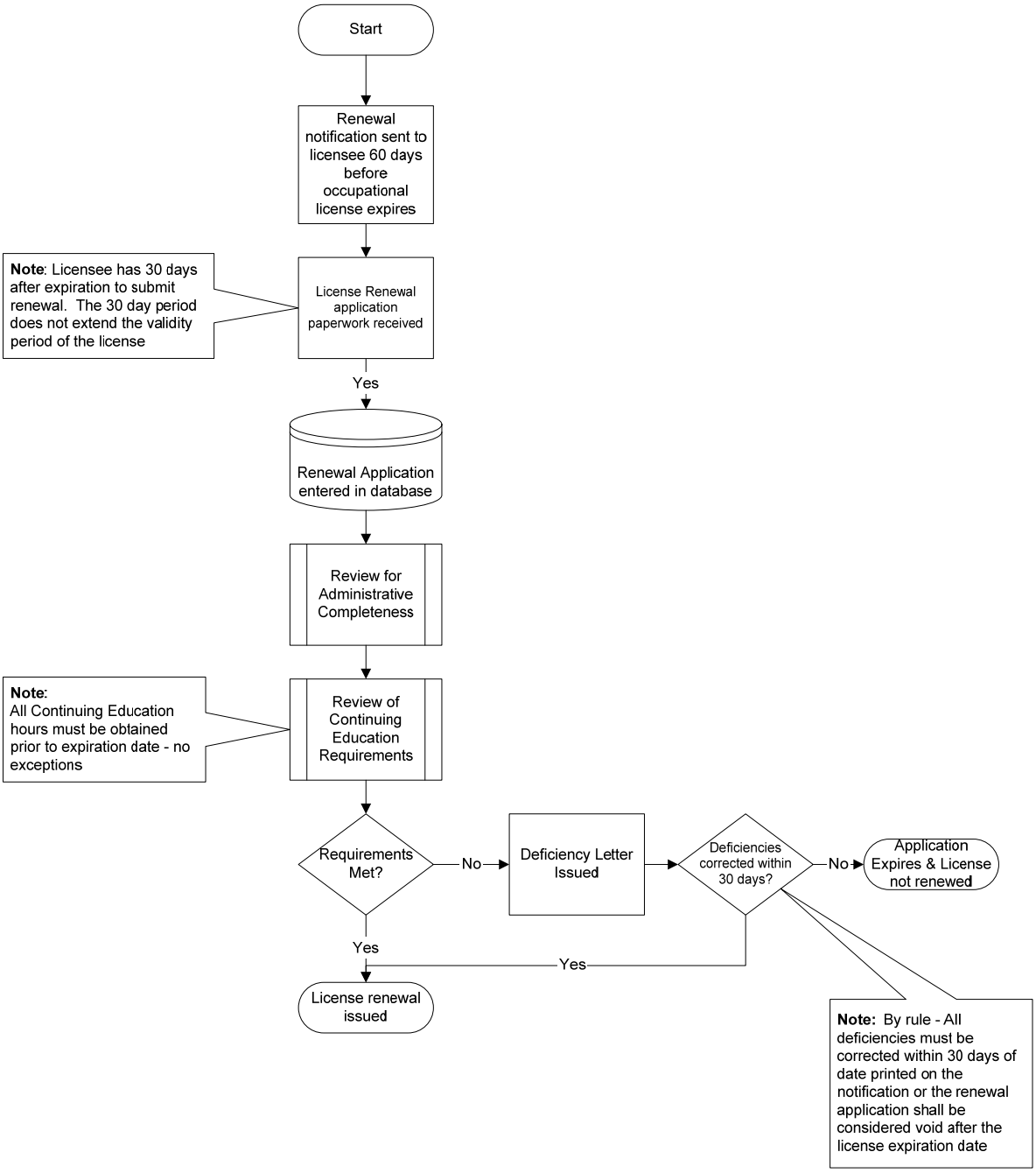
New Occupational License Application Process



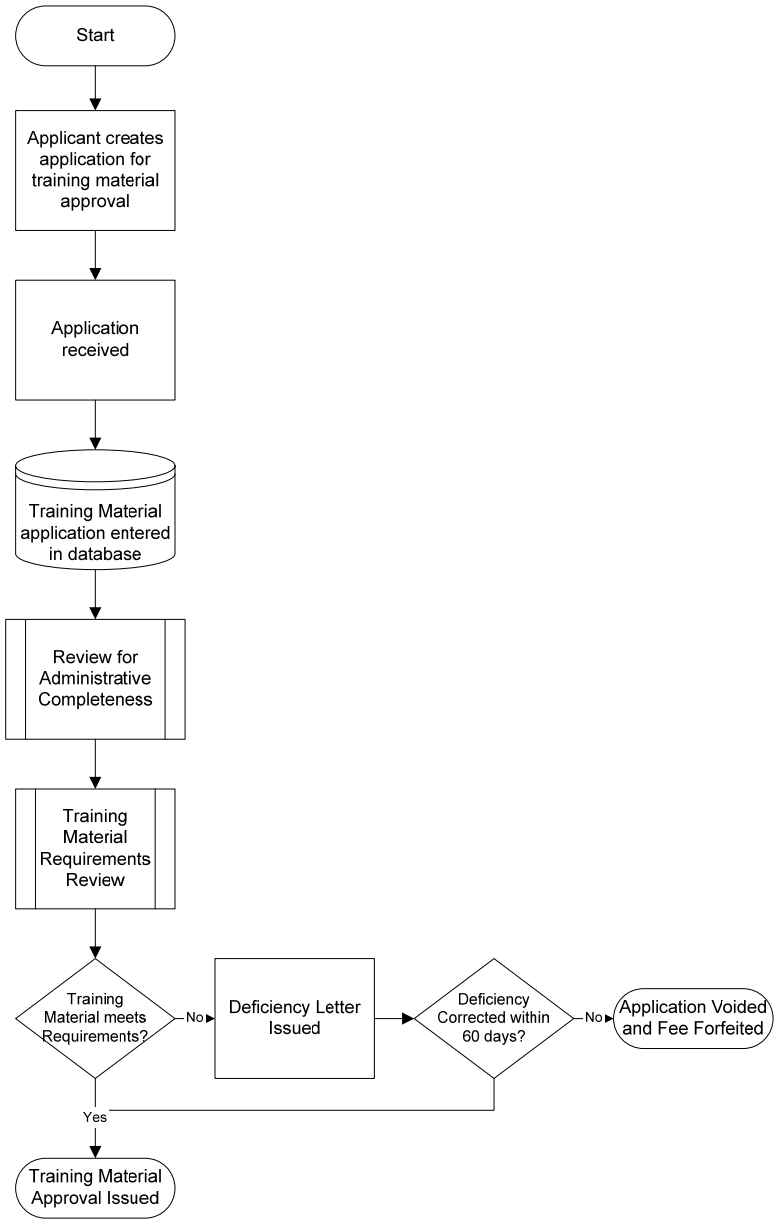
New Occupational License Exam Process



License Renewal Application Process



Occupational Licensing Training Material Approval Process



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Permitting and Registration Support
Location/Division	1st Floor / Building D / Permitting and Registration Support Division / Office of Permitting and Registration
Contact Name	Kelly Zrubek
Actual Expenditures, FY 2008	$3,578,588
Number of FTEs as of August 31, 2008	64

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

The Permitting and Registration Support (PRS) Program performs a wide variety of duties involving regulation, data quality management, information technology, organization, and administrative support for various programs within the TCEQ.

The program performs the following tasks:

- registering and authorizing petroleum storage tanks (PSTs), dry cleaners, industrial and hazardous waste (IHW), used oil, sludge transporters, medical waste, and enclosed containers;
- managing the agency's Central Registry application;
- analyzing business area processes and document requirements;
- designing and developing IT solutions and providing technical liaison support; and
- serving as the Office of Permitting and Registration's representative and voting member on the Information Technology Work Group and other major technical agency committees.

Petroleum Storage Tanks

The program has a PST Registration Team that maintains registration and construction notification information for underground and aboveground petroleum storage tanks. The team also processes state mandated self-certifications and proof of financial assurance, which result in the issuance of a delivery certificate that authorizes the facility to receive deliveries of product into underground storage tanks (USTs).

Dry Cleaners
The program registers and collects registration and solvent fees from distributors of dry cleaning solvents, dry cleaner facilities, drop stations, and current and former property owners. The fees are paid into the Dry Cleaner Remediation Fund, which is used to administer the registration of facilities and clean up contaminated sites.

IHW Registration and Reporting
The program maintains IHW registration and reporting information for generators and transporters. The Environmental Protection Agency (EPA) has authorized the program to assign EPA ID numbers and submit information on handlers twice a week to the EPA. The program tracks annual waste summaries from IHW generators and is responsible for compiling and submitting a biennial report to EPA Region 6.

Used Oil
The program maintains registration and reporting information for used oil collection centers, and handlers of used oil and used oil filters.

Sludge Transporter
The program maintains sludge transporter registration and reporting information for transporters of liquid wastes.

Enclosed Containers
The program maintains enclosed container permit by rule and reporting information for both stationary compactors and special collection routes.

Medical Waste
The program maintains registration by rule and reporting information for transporters, self-transporters, and mobile on-site treaters of medical waste.

The program also provides technical assistance and outreach for the IHW Registration and Reporting, used oil, sludge transporter, enclosed container, and medical waste regulated communities.

Central Registry
The program's Central Registry Team is responsible for operations related to the agency's Central Registry—a single centralized area for the TCEQ to record common information about its regulated community, such as company names, addresses, and telephone numbers.

Process Automation
The Process Automation Team (PAT) assists in process analysis, requirements documentation, data model design, and design and development of information technology solutions. The PAT supports major TCEQ applications such as the State of Texas Environmental Electronic Reporting System (STEERS), the Authorization and Remediation Tracking System (ARTS), the Internal Data Application (IDA), and the agency electronic payment application (ePay), as well as numerous other technology and data publication

applications.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Performance Measures

Number	Type	FY 08 Performance Measure	Percent of Annual Target
03-01-03.02	output	Number of quarts of used oil diverted from landfills and processed (in millions)	129.94
04-01-01.01	output	Number of petroleum storage tank self-certifications processed	91.62

Used oil collection varies with economic and business conditions. Collection centers voluntarily report the amount of used oil they generate and recycle. In FY 08, they voluntarily reported 21.4 million quarts of used oil, which pushed performance above projections for the fiscal year.

Self-certifications processed during FY 08 fell below the projected numbers as a result of a new requirement to file proof of financial assurance with the annual self-certification that resulted in the return of many submissions and a delay in processing forms.

Petroleum Storage Tanks

Since its inception, the program has registered 37,538 tank owners at 69,941 facilities with 167,660 underground and 28,734 aboveground storage tanks.

Approximately 32,000 amendments were processed in FY 08. On average, 17,000 self-certifications with proof of financial assurance are processed annually. Construction notification is required for any new tank being placed in service and for upgrades and repairs; in FY 08 the TCEQ received 1,979 construction notifications. In addition, the program responded to 21,038 phone calls from the regulated community and interested parties.

Dry Cleaners

The number of registrations for FY 08 was 3,301. In addition, the program responded to 5,578 phone calls from the regulated community and interested parties.

IHW Registration and Reporting

The program processes waste summary reports annually, allowing registrants to submit their reports via U.S. mail or through STEERS. In calendar year 2008, the program processed 4,067 annual waste summaries. The regulated community has an efficiency option of updating notices of registrations via STEERS.

Used Oil
The program processes renewals biennially and reports annually. The program regulates approximately 2,268 used oil collection centers and approximately 405 handlers of used oil and oil filters.

Sludge Transporter
The program regulates 1,323 sludge transporters. The program accepts initial applications, updates to notices of registration, notification requests to temporarily store sludge waste, and cancellation requests.

Enclosed Containers
The program has 19 active permits by rule.

Medical Waste
The program has 41 active registrations by rule.

Central Registry
There are 399,541 regulated entities and 278,588 customer records in the TCEQ's Central Registry. The TCEQ has 246 Central Registry users including regulatory program and field operations personnel with the ability to edit and update information.

Process Automation

- **STEERS:** There are 9,963 STEERS users reporting data for nine program areas. The total number of STEERS submissions through August 2009 is 336,700.

- **ARTS:** There are 115,457 permits and registrations in ARTS.

- **ePay:** From its inception in September 2004 through August 2009 there have been 51,986 transactions using ePay.

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.

Petroleum Storage Tanks
1986

- The Texas Water Commission is designated to receive and process UST registrations.

1987

- SB 779 authorizes the Texas Water Commission to develop and administer a comprehensive underground storage tank regulatory program.

1989

- HB 1588 authorizes limited regulation of aboveground storage tanks; establishes the Petroleum Storage Tank Remediation Fund providing financial assistance to owners and

operators of leaking petroleum storage tanks; imposes a bulk delivery fee to finance the program; and establishes a registration program for contractors who perform corrective action.

1995

- Texas receives EPA approval to allow the state program to operate in lieu of the federal regulatory program.

1998

- Eligibility ends for owners and operators to report a release and receive reimbursement for cleanup under 30 TAC Chapter 334, Subchapter H.

1999

- HB 2815 requires owners and operators of certain regulated underground storage tanks to certify compliance with applicable TCEQ rules to receive deliveries of product.

2007

- HB 3554 extends the PST Reimbursement Program for eligible Leaking Petroleum Storage Tank (LPST) sites through August 2012.

Dry Cleaners

2003

- The Dry Cleaner Program is created by HB 1366 and codified in Texas Health and Safety Code Chapter 374. This law establishes new environmental standards for dry cleaners and a remediation fund to assist with the assessment and remediation of contamination caused by dry cleaning solvents.

2005

- HB 2376 authorizes removal of the five-year ownership requirement for landowner eligibility for the remediation program, revises the fee structures, extends the deadline for opting out of the Dry Cleaner Facility Release Fund, and limits the applicability of some performance standards.
- SB 444 extends the deadline for opting out of the Dry Cleaner Facility Release Fund to February 28, 2006, and credits some dry cleaners that opted out for previously paid fees.

2007

- HB 3220 creates registration requirements for current and former property owners who wish to claim benefits from the Dry Cleaner Remediation Fund; allows liens against property for past due registration fees and cleanup costs that occurred while fees were in arrears; and, prohibits the use of perchloroethylene at sites where the commission has completed cleanup.

IHW Registration and Reporting
1990

- Texas receives final authorization to administer the federal Resource Conservation and Recovery Act program, including registration requirements.

Used Oil
1994

- Used oil filters are banned from landfill disposal by TCEQ rule; the ban is subsequently added to the Texas Health and Safety Code in 1995.

1997

- The EPA delegates the used oil program to the TCEQ. Since then the program remains largely unchanged, except that its emphasis has shifted from education more toward regulation.

1999

- TCEQ authority regarding used oil filters is clarified in HB 2619.

Medical Waste
1989

- The Texas Department of Health promulgates medical waste regulations, including registration requirements.

1992

- The Municipal Solid Waste Program is transferred from the Texas Department of Health to the Texas Water Commission, including registration of medical waste transporters and permitting of medical waste management facilities.

Process Automation
1999

- The TCEQ Information Strategic Plan (ISP) is created.

2003

- The original Process Automation Team is reorganized to better support the Office of Permitting and Registration through one centralized team.

2005

- The Registration and Reporting Team is brought into the Permit and Registration Support Division to streamline registrations and authorizations.

2007

- ISP revision further improves management of information at the TCEQ, including better tracking of registration and permit management, greater public access to TCEQ data and services, and greater access to information through electronic reporting systems and enhanced information security.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Petroleum Storage Tank
The program affects owners and operators of regulated storage tanks, as well as current and former owners of property where a release has occurred. The program serves the public and facilities that store regulated petroleum products and hazardous substances. Included in TCEQ's registrations are 167,660 underground tanks and 28,734 aboveground tanks at 69,941 facilities. Generally, application to, or registration with, the program is the only requirement for receiving services.

Dry Cleaners
The program serves 1,923 owners who have registered 3,301 dry cleaning facilities and drop stations with the TCEQ; 178 current or former property owners have registered, representing 190 sites where a release from a facility has or may have occurred.

IHW Registration and Reporting
The program serves all facilities, public and private, that manage industrial or hazardous waste, whether permitted or exempt. Approximately 6,000 facilities are registered.

Used Oil
The program serves persons or companies that collect, process, and dispose of regulated used oil and used oil filters. Approximately 405 handlers of used oil or used oil filters and 2,268 used oil collection centers are regulated and served by this program.

Sludge Transporters
The program serves persons or companies that transport sludge waste. There are approximately 1,323 active registrants in the Sludge Transporter Program.

Enclosed Containers
The program serves persons or companies that compact or transport waste in enclosed containers. There are four active permits by rule for special collection routes and 15 active permits by rule for stationary compactors.

Medical Waste
The program serves persons or companies that transport regulated medical waste from homes or offices to disposal facilities. The program serves four regulated on-site treaters of medical waste in vehicles, nine medical-waste self-transporters and 25 medical waste transporters.

Central Registry and Process Automation
These two teams benefit all external TCEQ customers, as well as internal management and staff by continually improving access to data collected and managed by the TCEQ.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

In FY 08, the program was comprised of an Administration unit and two sections; the Process Automation / Central Registry Section and the Registration and Reporting Section. Refer to flowcharts *Petroleum Storage Tanks Overview, Dry Cleaning Overview, IHW Overview, Medical Waste Transport Overview, Used Oil Overview, Enclosed Containers Overview and Sludge Overview* showing processes found following Question O.

Petroleum Storage Tanks
The PST Program is administered by two separate offices within the TCEQ: Petroleum Storage Tank Registration in the Office of Permitting and Registration, and LPST and PST Technical Standards in the Office of Compliance and Enforcement.

Dry Cleaners
The Dry Cleaner Program is administered in separate offices. The Dry Cleaner Registration Team is in the Office of Permitting and Registration and the Dry Cleaner Remediation Program is in the Office of Compliance and Enforcement. The Dry Cleaner Registration Team administers the registration of facilities, drop stations, distributors, and property owners.

IHW Registration and Reporting
The IHW registration process begins when a form is received from an organization that is planning to manage industrial or hazardous waste. A registration number is assigned and a notice of registration is prepared, which lists all waste management units and waste that is generated and sent to the facility.

Used Oil, Sludge Transporters, Enclosed Containers, Medical Waste
A registration form is received from the applicant and a registration number or a permit by rule ID number is assigned upon completion of the review of the applications. The applicant is notified.

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).

Account	Name	Amount
0146	Used Oil Recycling Account	$259,300
0151	Clean Air Account	$189,362
0153	Water Resource Management Account	$561,666
0549	Waste Management Account	$1,194,414
0550	Hazardous and Solid Waste Remediation Fee	$510,724
0555	Federal Funds	$178,096

0655	Petroleum Storage Tank Remediation	$456,339
5093	Dry Cleaning Facility Release	$219,816
0001	General Revenue	$8,871

Strategies:
A.1.3—Waste Assessment and Planning
A.2.1—Air Quality Permitting
B.1.1—Safe Drinking Water
B.1.2—Water Utilities Oversight
D.1.2—Hazardous Materials Cleanup
A.2.3—Waste Management and Permitting
D.1.1—Storage Tank Administration and Cleanup

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

Petroleum Storage Tanks
The EPA has determined that TCEQ's state rules are no less stringent than the federal rules and has granted Texas state program approval.

Process Automation
The Information Resources Division (IRD) within the TCEQ Office of Administrative Services provides services similar to those provided by the PAT, which has specialized business knowledge and experience required for the IT demands of the Office of Permitting and Registration.

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.

Petroleum Storage Tanks
The EPA's Office of Underground Storage Tanks has delegated, through a Memorandum of Agreement, to the State of Texas the responsibility for implementing the Subtitle I Underground Storage Tank Program under the Resource Conservation and Recovery Act. The EPA serves as an information resource and supports the state with grants from the Leaking Underground Storage Tank Trust Fund.

Process Automation
The PAT coordinates with the IRD to ensure that requirements and procedures for IT projects are administered in an uniform manner consistent with standards of the Department of Information Resources Statewide Project Delivery Program. The PAT and IRD developers work together to leverage resources on projects when possible.

To ensure no duplication of efforts, all new IT initiatives must undergo Information Technology Work Group 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.

A local, state, or federal unit of government may interact with the program when the unit's activities are subject to registration or reporting requirements under one of the activities the program administers.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

None

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

None

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

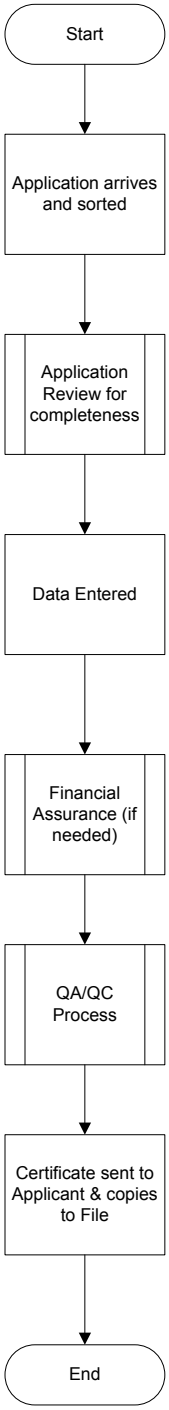
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

Not Applicable

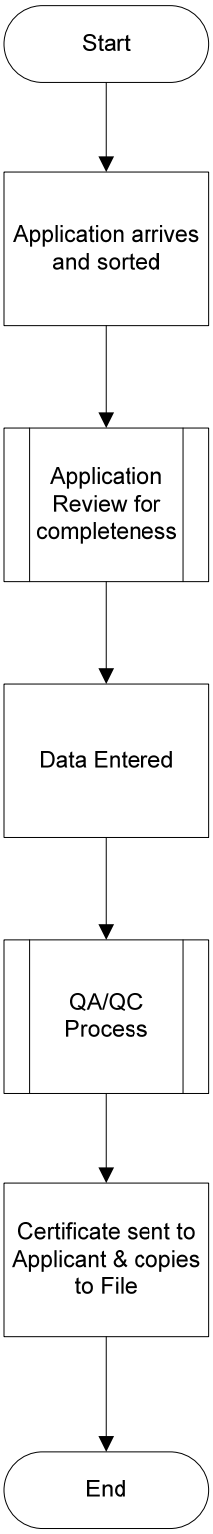
O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable, please see Field Operations Question O for complaint-related data for this program.

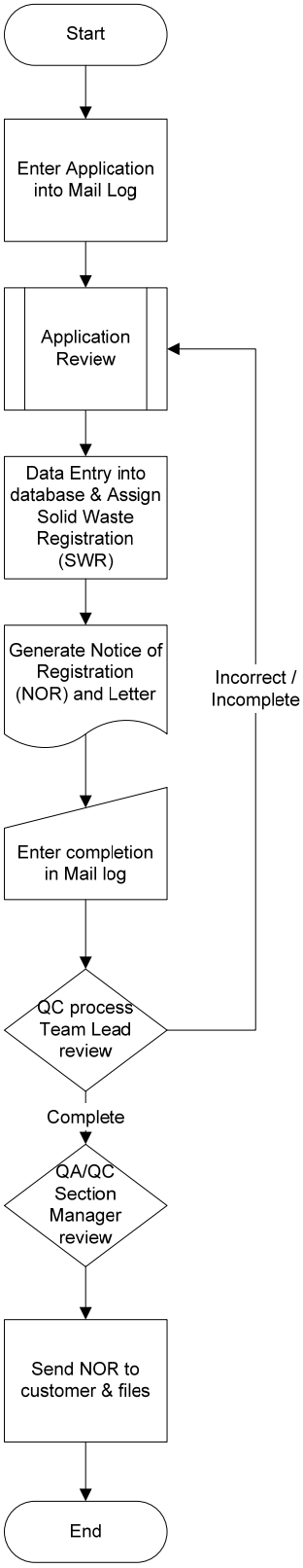
Petroleum Storage Tanks Overview



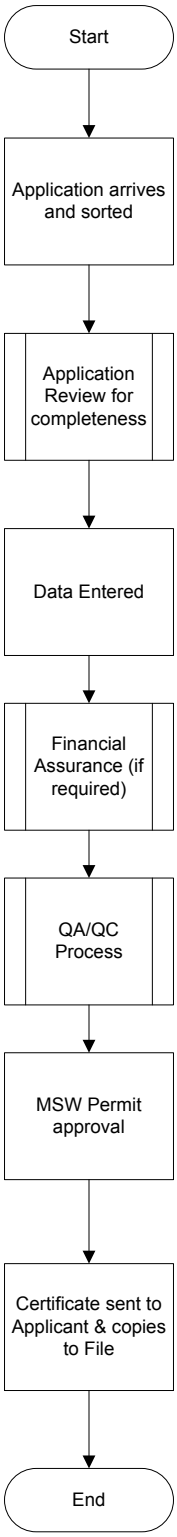
Dry Cleaning Overview



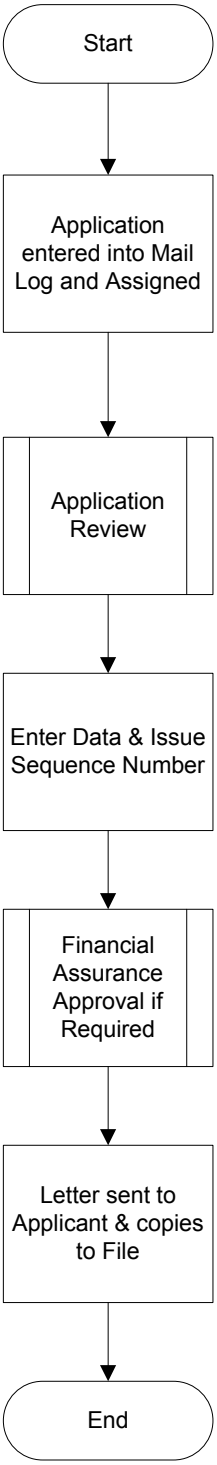
IHW Overview



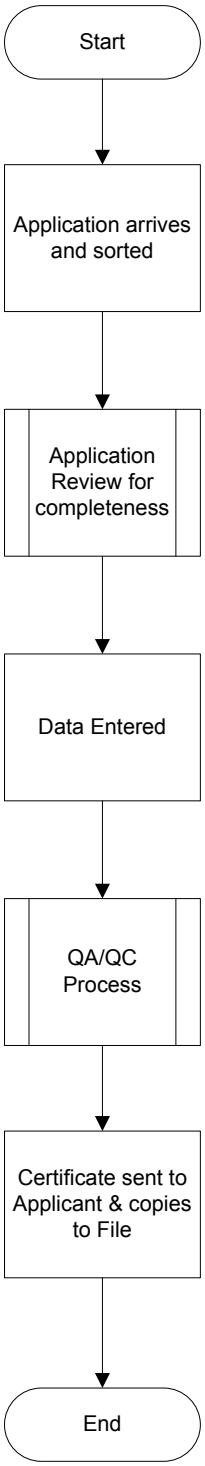
Medical Waste Transport Overview



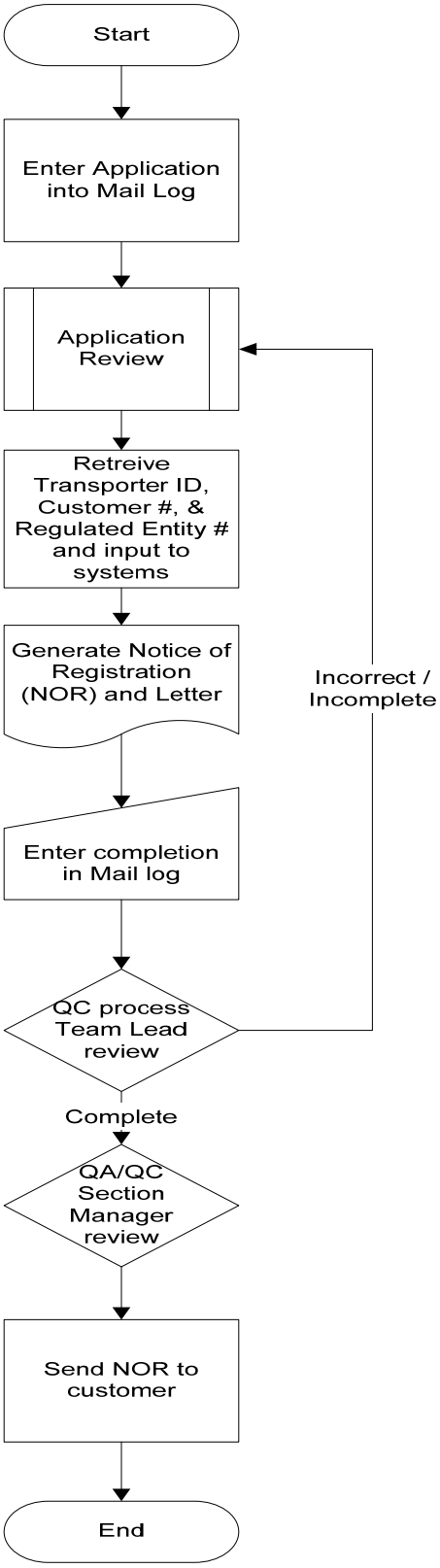
Used Oil Overview



Enclosed Containers Overview



Sludge Overview



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Public Drinking Water
Location/Division	3rd Floor / Building F / Public Drinking Water Section / Water Supply Division / Office of Permitting and Registration
Contact Name	Todd Chenoweth
Actual Expenditures, FY 2008	$7,237,122
Number of FTEs as of August 31, 2008	44.5

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

The Public Drinking Water (PDW) Section administers the requirements of the Environmental Protection Agency's (EPA) federal Safe Drinking Water Act (SDWA). This includes:

- ensuring that public water systems (PWSs) supply safe and healthy drinking water to Texans;
- determining PWS compliance with applicable federal chemical and microbial drinking water standards;
- maintaining the inventory of PWSs in Texas;
- implementing the Texas Source Water Assessment and Protection Program, which includes an assessment of potential contamination of water sources;
- evaluating innovative and non-standard treatment technologies for PWSs;
- technical assistance for backflow prevention and cross-connection control;
- overseeing the Texas Optimization Program, which sets individual and combined filter-monitoring requirements for turbidity, specifically requirements for third-party comprehensive performance evaluations; and
- ensuring that all community PWSs send their customers an annual report of drinking-water quality called a *consumer confidence report*.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

FY 2008 Outcome Measures for Strategy Code 02-01-01:	% of Annual Target
Percent of Texas population served by PWSs which meet drinking water standards (*key*) (Outcome 01)	102.13
Percent of Texas PWSs protected by a source water protection program (Outcome 02)	101.05
Percent of Texas population served by PWSs protected by a program which prevents connection between potable and non-potable water sources (Outcome 03)	96.02

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.

2002

- The Water Sector Homeland Security Program was federally initiated via the Bioterrorism Act of 2002, which specifically denoted the responsibilities of the EPA and the water sector.

2004

- The PDW Section used funds from a counterterrorism grant to support the statewide coordination of public drinking-water security.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The PDW Section ensures that the approximately 6,800 PWSs in Texas (estimated to serve 92 percent of Texans) follow the requirements of the SDWA. The remaining eight percent of the population is served by private sources that do not meet the regulatory definition of a PWS.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The PDW Section achieves its required functions and deliverables through activities which include:

- determining compliance for various chemical or microbial contaminants and collecting chemical samples for regulated contaminants (refer to flowchart *Public Drinking Water Compliance Determination* following Question O);

- maintaining inventory data for PWSs in order to forward those data to the EPA;

- reviewing and approving or disapproving requests from PWSs to operate some innovative treatment that is not explicitly covered in 30 TAC Chapter 290, Subchapter D, through an exception (refer to flowchart *Exceptions and Alternate Capacity Requirement* following Question O);

- overseeing the Total Coliform Rule and Disinfectant Level Quarterly Operating Report Program to ensure safe drinking water;

- maintaining a program of cross-connection control to ensure that contaminants do not enter a PWS distribution system through a connection of a contaminant source and the system's pipes; and

- implementing the Texas Source Water Assessment and Protection Program. This includes assessing potential contamination of water sources and using those results to develop best management practices for PWSs.

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).

Account	Name	Amount
0153	Water Resource Management Account	$1,407,023
0555	Federal Funds	$3,933,945
0777	Interagency Contracts	$1,885,122
0001	General Revenue	$11,032

Strategy—B.1.1—Safe Drinking Water

Rider 35–Brush Control Study

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

The PDW Section, as well as other programs within the TCEQ, coordinates with the following agencies regarding drought-related issues (and with a representative of groundwater-management interests appointed by the governor):

- Governor's Division of Emergency Management
- Texas Water Development Board

- Texas Parks and Wildlife Department
- Texas Department of Agriculture
- Texas AgriLife Extension Service
- State Soil and Water Conservation Board
- Texas Department of Housing and Community Affairs
- Texas Department of Rural Affairs
- Texas Forest Service
- Texas Department of Transportation
- Texas Department of State Health Services
- Office of the State Climatologist of Texas
- Governor's Division of Economic Development and Tourism

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 of effort on drought issues, the PDW Section participates on the Drought Preparedness Council, which meets monthly to discuss current drought issues. The council prepares a report which is distributed through the Governor's Division of Emergency Management.

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.

- EPA Region 6: The EPA Region 6 is responsible for the routine evaluation and support of the TCEQ's SDWA primacy program. Additionally, EPA and TCEQ are both support agencies for the National Response Framework.

- U.S. Department of Homeland Security (DHS): The PDW staff interacts with the DHS at exercises and drills for emergency response and recovery.

- Texas Water Development Board (TWDB): The TWDB and the PDW Section and the Utilities and Districts Section entered into a Memorandum of Agreement for information exchange and interagency assistance related to the State Revolving Fund. Additionally, the TCEQ coordinates with the Texas Natural Resources Information System of the TWDB to obtain images for mapping projects.

- Texas Parks and Wildlife Department (TPWD), Texas Department of Criminal Justice (TDCJ), Texas Department of Transportation (TxDOT): The TPWD, TDCJ, and TxDOT all own and operate public water systems. The PDW Section and all three agencies interact because of their ownership of those systems.

- Texas Department of Rural Affairs (TDRA): The PDW Section and the TDRA interact because public water systems use Community Development Block Grant funding for improvements.

- Texas Department of State Health Services (DSHS): The TCEQ and the DSHS interact via regulatory coordination of companies producing beverages and foods using their own sources of water.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Total contract expenditures were $4,881,524 for FY 08. The 14 contracts were for:

1. Administration of an Internet-based system for rapid response to an emergency.
2. Collecting on the locations of critical facility infrastructure for future disaster response.
3. A baseline-data and chemical study in each major metropolitan area of the state.
4. Improvement of digital map resolution for planning and emergency response.
5. Security and emergency-response programs for smaller water systems.
6. Hiring interns and contract employees for projects related to drinking water.
7. Collecting compliance samples for PWSs.
8. Bottles and instructions for PWS sampling.
9. Data acquisition for the annual report.
10. Analyzing samples for special investigations.
11. Source Water Assessment and Protection Program augmentation, update, and support.
12. Assessments of source water protection and outreach to designated PWSs.

13. Microparticulate analysis to determine groundwater under the influence of surface water.

14. Logistics for the annual Public Drinking Water Conference.

The TCEQ's standard requirements for interagency contracts apply. The performing party of the contract is required to adhere to all applicable standards, principles, and guidelines detailed in Office of Management and Budget circulars A-21 and A-110, including those related to financial monitoring, auditing, and record keeping. Contracts are subject to the receipt and availability of funds appropriated by the legislature to the TCEQ. This funding is in place before the contract is executed through TCEQ budgeting and planning process; accountability for funding is with the TCEQ budget staff and the contract manager. Performance is ensured via standard project-management practices including initiation, planning, execution, control and closure. Performance under the scope of work is assessed though a schedule and a set of deliverables, and projects are not considered complete nor accepted unless discrepancies are resolved.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

None

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

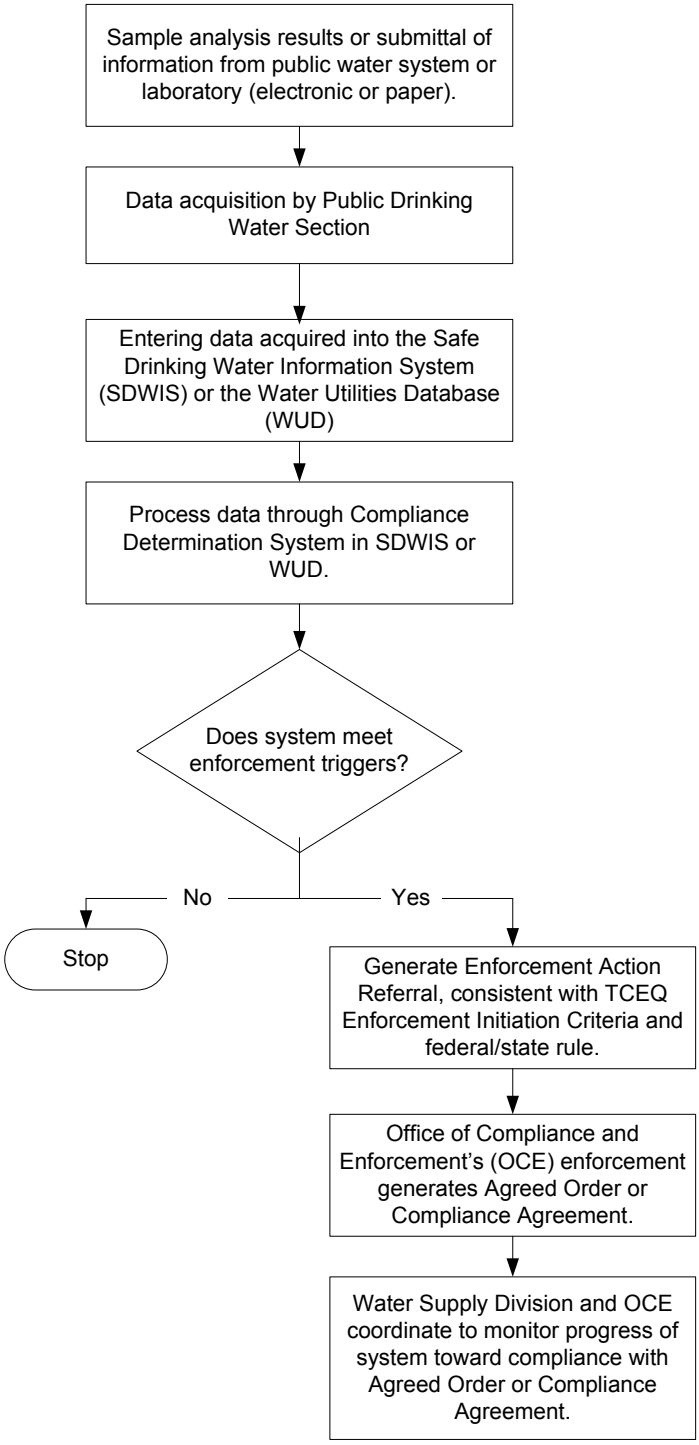
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

Not Applicable

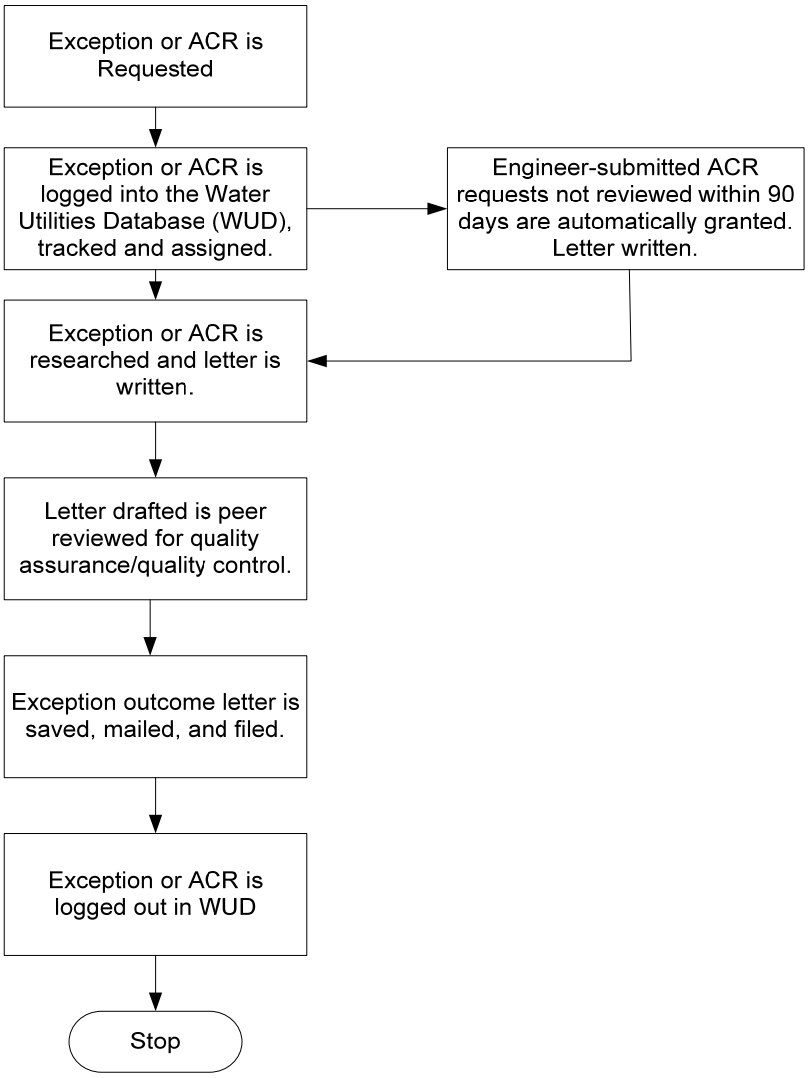
O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Commission on Environmental Quality Public Drinking Water Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008		
Please see Field Operations Question O for additional complaint data related to this program.	**FY 2007**	**FY 2008**
Total number of regulated persons	Not applicable	Not applicable
Total number of regulated entities	6,720	6,761
Total number of entities inspected	Not applicable	Not applicable
Total number of complaints received from the public	Not applicable	Not applicable
Total number of complaints initiated by agency	Not applicable	Not applicable
Number of complaints pending from prior years	Not applicable	Not applicable
Number of complaints found to be non-jurisdictional	Not applicable	Not applicable
Number of jurisdictional complaints found to be without merit	Not applicable	Not applicable
Number of complaints resolved	Not applicable	Not applicable
Average number of days for complaint resolution	Not applicable	Not applicable
Complaints resulting in disciplinary action:	Not applicable	Not applicable
administrative penalty	Not applicable	Not applicable
Reprimand	Not applicable	Not applicable
Probation	Not applicable	Not applicable
Suspension	Not applicable	Not applicable
Revocation	Not applicable	Not applicable
Other	Not applicable	Not applicable

Public Drinking Water Compliance Determination



Exceptions and Alternate Capacity Requirement (ACR)



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Radioactive Materials Licensing and Permitting (including Underground Injection Control)
Location/Division	1st Floor / Building F / Radioactive Materials Division / Waste Permits Division / Office of Permitting and Registration
Contact Name	Susan Jablonski
Actual Expenditures, FY 2008	$2,389,175
Number of FTEs as of August 31, 2008	32.5

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

The objective of the Radioactive Materials Licensing and Permitting Program is to protect the public and workers from unnecessary radiation exposure and to protect the environment from contamination resulting from the possession, storage, or disposal of radioactive materials.

The major activities performed under the Radioactive Materials Program are regulation, compliance and enforcement, and radioactive-material licensing of facilities storing, processing, or disposing of:

- uranium ore (including mining, extraction, and separation of ore);
- by-product material waste;
- low-level radioactive waste;
- non-oil- and -gas naturally occurring radioactive material; and/or
- radioactive waste generated from federal government activities.

Additionally, the program oversees the reclamation of historic burial sites for radioactive materials and other contaminated sites, including former uranium mines.

The objective of the Underground Injection Control (UIC) Program is to protect underground sources of drinking water (USDW) through permitting of underground injection of fluids. Regulation of wells used for underground injection must maintain the quality of fresh water to the extent consistent with public health and welfare and the operation of existing industries. The UIC Team is responsible for permitting of Class I, III, and V injection wells. Through permit issuance, the UIC Team regulates siting, construction, operation, maintenance, monitoring, and closure of the following classes of injection wells:

- Class I wells, which inject hazardous and non-hazardous wastewater below

USDWs;

- Class III wells, which inject fluids for recovery of minerals (e.g., uranium, sulfur, and sodium sulfate); and
- Class V (miscellaneous) wells, mostly shallow wells and primarily used in cleaning up groundwater contamination.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Radioactive Materials Program's effectiveness is shown by the absence of unnecessary radiation exposure and contamination of workers, the public, and the environment resulting from the possession, storage, and disposal of radioactive materials, accomplished through its work on the following:

- initial license applications processed: 2
- license amendments processed: 6
- license applications in progress: 2
- license amendments in progress: 6
- communications with licensees (sent and received): 191
- meetings with all applicants and licensees: 70
- inspections: 13

The program's performance measure (01-03-01) demonstrates that, at the end of FY 08, the licensing related to low-level radioactive waste licensing for the applicant Waste Control Specialists, LLC, had attained 90 percent of its annual performance target. The 10 percent shortfall resulted from a request from the applicant for an extension.

The UIC Program's effectiveness is shown by the absence of contamination in underground sources of drinking water, accomplished through its work on the following:

- UIC permits reviewed: 93.
- UIC permits issued: 68.

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.

1954

- Congress passes the Atomic Energy Act regulating radioactive material.

1959

- Congress enacts Section 274 of the Atomic Energy Act allowing states to enter into agreements to regulate radioactive material.

1963

- Governor Daniel signs an agreement making Texas an "Agreement State" under the authority of the U.S. Nuclear Regulatory Commission (NRC).

1980

- Congress passes the Low-Level Radioactive Waste Policy Act making individual states responsible for waste generated in their borders.

1982

- Governor Clements signs an amendment to the agreement with the NRC.

1985

- Congress passes the Low-Level Radioactive Waste Policy Amendment Act to encourage groups of states to form compacts to site regional disposal facilities.

1988

- Pursuant to the Hazardous and Solid Waste Amendments (1984), the EPA adopts more stringent requirements for injection of hazardous waste at 40 CFR 146, Subpart G, and 40 CFR 148.

1989

- The Texas Water Commission adopts rule amendments to ensure equivalence with the new EPA requirements for injection of hazardous waste.

1998

- The EPA adopts regulations banning certain types of Class V injection wells.

2001

- The Texas Natural Resource Conservation Commission amends rules to ensure equivalence with new EPA requirements for Class V injection wells.

2008

- Governor Perry appoints six people to the Texas Low-Level Radioactive Waste Disposal Compact Commission, which becomes active. Governor Douglas of Vermont follows by naming two people to serve.

2009

- The Radioactive Materials Program's inspection function is transferred to the TCEQ Office of Compliance and Enforcement—Homeland Security.

- The Radioactive Materials Division is moved under the Waste Permits Division and the UIC Team is moved from the Industrial and Hazardous Waste Section to the Radioactive Materials Division.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Radioactive Materials Program affects:

- approximately 250 workers at regulated radioactive-material facilities
- approximately 1,000,000 people living within 10 miles of a regulated facility
- approximately 23,500 acres of land where facilities are located
- 14 radioactive-material licensees
- 4 applicants

The Underground Injection Control Program affects:

- 106 Class I wells among 51 industrial facilities
- 7 permitted sites for Class III injection wells
- 36,000 Class V injection wells

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

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Radioactive Materials and Underground Injection Control Programs accomplish their objectives through the licensing or permitting and regulatory oversight of *in situ* uranium recovery, radioactive waste processing and storage, low-level radioactive waste disposal, by-product material disposal, disposal of naturally-occurring radioactive waste materials that are not related to oil and gas production, and UIC wells. The main licensing and permitting processes are illustrated in the flowcharts *Radioactive Materials Division License Review Process* and *Underground Injection Control Program Application Review Process* following Question O.

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).

Account	Name	Amount
0001	General Revenue	$606,579
0088	Low Level Radioactive Waste	$968,139
0549	Waste Management Account	$732,156
0555	Federal Funds	$82,301

Strategies:
A.3.1—Radioactive Materials Management
A.2.3—Waste Management and Permitting

Rider: 26 – Appropriation in Excess of the Biennial Revenue Estimate: Low-Level Radioactive Waste Disposal

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

- Texas Department of State Health Services: licensing for possession, use (including industrial, medical, and academic), and transportation of radioactive material.

- Texas Railroad Commission: permitting for the disposal of oil and gas naturally occurring radioactive material.

- Nuclear Regulatory Commission: radioactive-materials licensing and decommissioning of nuclear facilities; inspection and enforcement of NRC licensees.

- 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 Radioactive Materials Licensing and Permitting Division coordinates activities:

- Through Memoranda of Understanding and through the rulemaking process with the Texas Department of State Health Services and Texas Railroad Commission to delineate jurisdiction and coordination in the regulation and licensing for radioactive materials.

- Through an agreement between the Texas Governor and Nuclear Regulatory Commission to regulate the possession, storage, and disposal of radioactive materials and source-material recovery in Texas.

- Through regularly scheduled meetings and coordination with Field Operations Division inspectors and their supervisors on compliance and enforcement for radioactive-materials licensing.

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

- Nuclear Regulatory Commission: The Radioactive Materials Licensing and Permitting Division is an Agreement State Program with NRC federal oversight through concurrence on licensing and rulemaking, compatibility reviews, and an NRC Integrated Materials Performance Evaluation every four years.

- Federal Emergency Management Agency (FEMA): The Radioactive Materials Licensing and Permitting Division co-operates with FEMA to respond to emergencies at nuclear power plants.

- Homeland Security: The Radioactive Materials Licensing and Permitting Division works with Homeland Security to ensure that licensees are following Homeland Security protocol for handling certain radioactive materials that could be used malevolently.

State

- Texas Radiation Advisory Board (TRAB): The Radioactive Materials Licensing and Permitting Division reports to TRAB at each of its quarterly meetings and is available to answer questions about the program.

- Edwards Aquifer Authority and various municipal and county governments: The Radioactive Materials Licensing and Permitting Division staff reviewers of applications for authorizations of Class V injection well coordinate with these authorities as needed.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

- Total contract expenditures: $257,859.42

- Two interagency contracts: University of Texas and Texas A&M University

- Contracts are for regulatory support involving specific expertise in complex scientific, geologic, socioeconomic, financial, and engineering licensing matters, as well as expert testimony as needed to support the agency.

- The TCEQ program manager, with respect to the work requested under each contract, reviews invoices and submits a summary report of the services provided to ensure that the deliverables in the work orders were met in a timely manner. A contract specialist maintains a spreadsheet of each contract, reconciles with the Uniform Statewide Accounting System each invoice submitted for payment, and reconciles with the Texpenditure database.

- The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

The Radioactive Materials Licensing and Permitting Division has captured attention nationally and internationally. In May 2008, the commission issued a license for by-product disposal to Waste Control Specialists, LLC (WCS) and, in January 2009, approved an order concerning WCS's application for disposal of low-level radioactive waste. Once the license is issued, the WCS location will be the first site for disposal of class A, B, and C low-level radioactive waste built in the United States in more than 30 years. It will be built under the auspices of the Low-Level Radioactive Waste Policy Act, enacted in 1980 (and amended in 1985) to promote regional facilities for disposal of low-level radioactive waste.

The Radioactive Materials Licensing and Permitting Division facilitate extensive public interest in the form of electronic and telephone inquiries and through outreach, including public and stakeholder meetings and public presentations. The program had the lead on 20 public information requests and produced timely responses requiring 152 work hours in FY 08.

Due to the radioactive nature of the materials and waste regulated, The Radioactive Materials Licensing and Permitting Division has unique financial-assurance requirements including funds held for third-party facility closure, decommissioning, institutional control and custodial care, and potential necessary corrective action that may require intervention after a radioactive material license is terminated. The UIC Program also requires financial assurance for the plugging and abandonment of wells under its jurisdiction.

N. 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.**

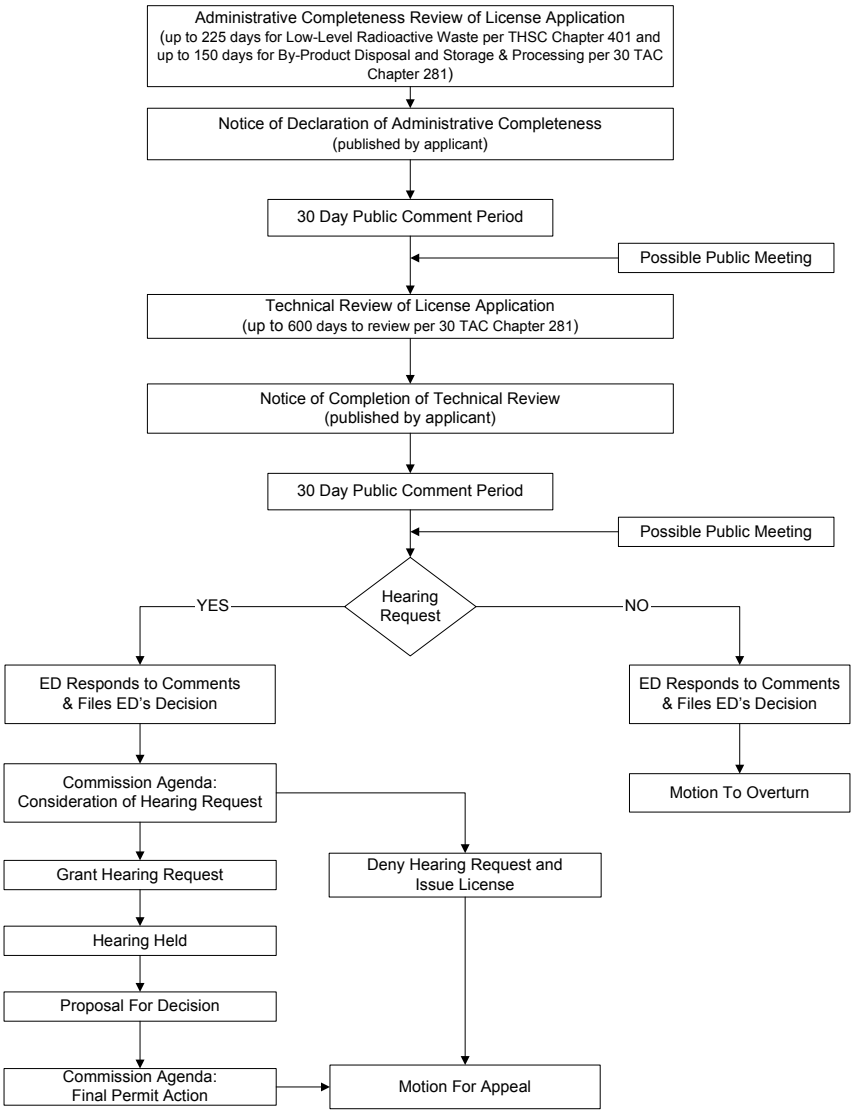
Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

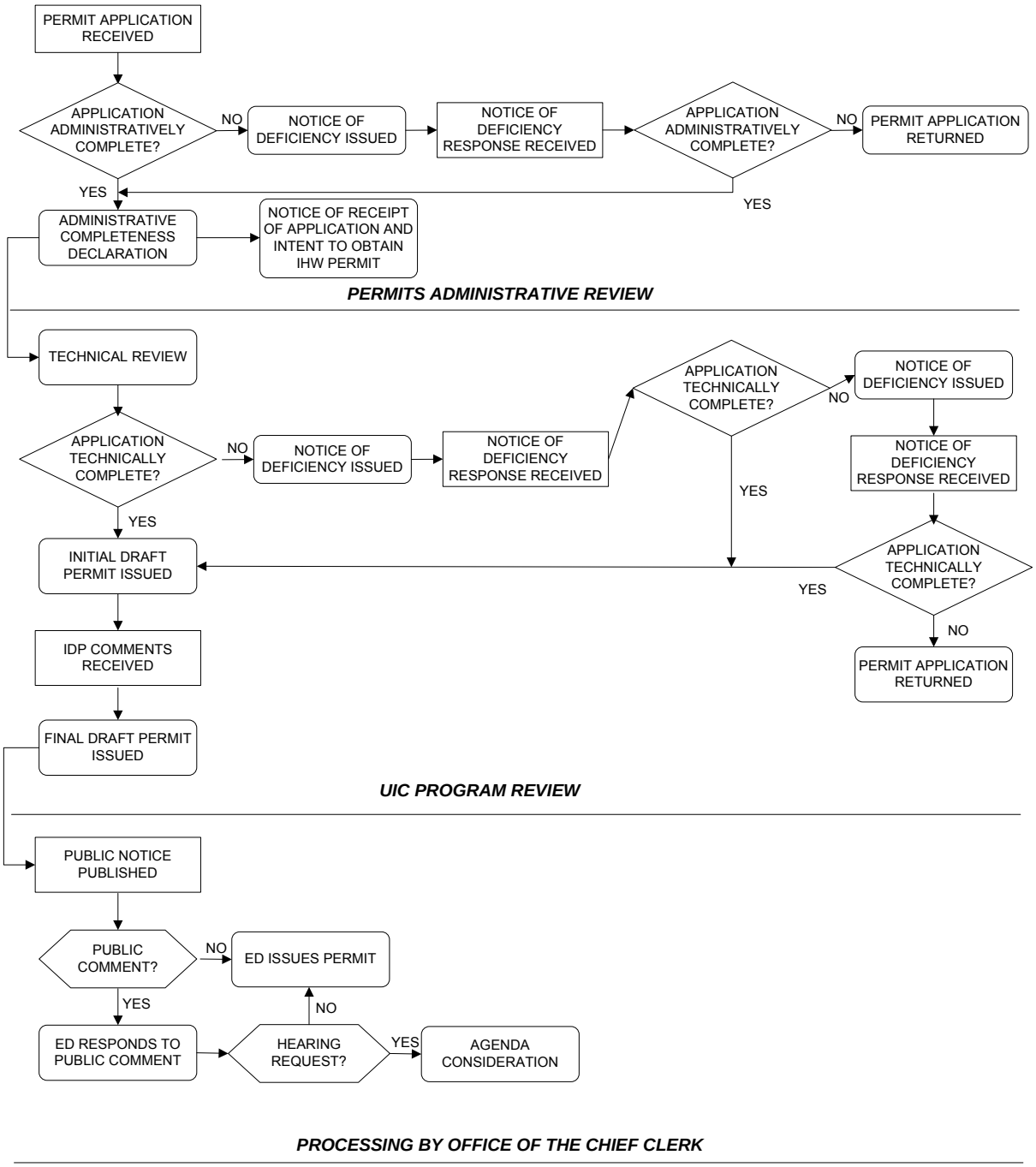
Texas Commission on Environmental Quality Radioactive Materials Licensing and Permitting (including Underground Injection Control) Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008		
	FY 2007	**FY 2008**
Total number of regulated persons	Not applicable	0
Total number of regulated entities	Not applicable	15
Total number of entities inspected	Not applicable	13
Total number of complaints received from the public	Not applicable	0
Total number of complaints initiated by agency	Not applicable	13
Number of complaints pending from prior years	Not applicable	0
Number of complaints found to be non-jurisdictional	Not applicable	0
Number of jurisdictional complaints found to be without merit	Not applicable	Not applicable
Number of complaints resolved	Not applicable	13
Average number of days for complaint resolution	Not applicable	>30
Complaints resulting in disciplinary action:	Not applicable	0
administrative penalty	Not applicable	0
Reprimand	Not applicable	0
Probation	Not applicable	0
Suspension	Not applicable	0
Revocation	Not applicable	0
Other	Not applicable	0

Radioactive Materials Division
License Review Process

(initial issuance, renewal, and major amendment applications received after January 1, 2007)



Underground Injection Control (UIC) Program
Application Review Process



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	River Compact Commissions
Location/Division	3rd Floor / Building F / Water Supply Division / Office of Permitting and Registration
Contact Name	Herman R. Settemeyer
Actual Expenditures, FY 2008	$361,541
Number of FTEs as of August 31, 2008	7

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

The River Compact Commissions' objectives are to ensure that the State of Texas receives and maximizes 100 percent of its equitable share of the interstate waters of the Canadian, Pecos, Red, Sabine Rivers and the Rio Grande and their tributaries as allocated by the appropriate interstate compact.

In addition, the River Compact Commissions develop programs to increase the quantity and improve the quality of the water available in Texas.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

To meet the Texas River Compact Commissions' objectives, accounting of interstate water deliveries under each compact is completed annually. Texas' share under each compact and the share the state received in FY 08 are summarized below.

Number	Type	FY 08 Performance Measure	Percent of Annual Target
05-01.01	outcome	Percentage Received of Texas' equitable share of quality water annually as Apportioned by the Canadian River Compact (key)	35
05-01.02	outcome	Percentage Received of Texas' equitable share of quality water annually as apportioned by the Pecos River Compact (key)	217
05-01.03	outcome	Percentage Received of Texas' equitable share of quality water annually as apportioned by the Red River Compact (key)	100
05-01.04	outcome	Percentage Received of Texas' equitable share of quality water annually as apportioned by the Rio Grande Compact (key)	94

05-01.05	outcome	Percentage Received of Texas' equitable share of quality water annually as apportioned by the Canadian River Compact (key)	98

All states were in compliance with the Compacts in FY 08, although severe drought prevented the Canadian River Compact and Rio Grande Compacts from achieving their goals.

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.

1939

- Rio Grande Compact signed March 18.

1949

- Pecos River Compact signed December 3.

1950

- Canadian River Compact signed December 6.

1953

- Sabine River Compact signed January 26.

1978

- Red River Compact signed May 12.

1991

- The 72nd legislature repealed Texas Water Code, Sections 41.0031, 42.0031, 43.0031, 44.0031, and 46.0031—regarding the Rio Grande and Pecos, Canadian, Sabine, and Red River Compacts, respectively—which had made the River Compact Commissions subject to the Texas Sunset Act.

2005

- The 79th legislature transferred the commissions, historically separate state agencies, to the TCEQ.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The primary function of the River Compact Commissions is to ensure that the State of Texas receives its equitable share of the interstate waters of the Canadian, Pecos, Red, Rio Grande, and Sabine Rivers and their tributaries as allocated by the appropriate interstate Compact. Water users within the five river basins under compacts rely on them to ensure that water is available for use.

Basin	Total Number of Water Rights	Total Permitted Diversion (acre feet)
Canadian River	39	164,788.52
Pecos River	50	502,385.35
Red River	277	896,022.84
Rio Grande (without Pecos)	847	6,427,666.63
Sabine River	192	1,888,985.64

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Commissioners are appointed by the governor. Each river compact commission has either one or two appointed commissioners, who typically reside and have an office within the river basins they serve.

The TCEQ's Executive Director serves, by statute, as the Texas commissioner for the Red River Compact.

The Texas Water Code provides that the TCEQ will cooperate with the commissioners in the performance of their duties and furnish any information they need. The TCEQ funds, houses, and gives technical support (through its Water Supply Division) to the river compact's commissioners.

The Office of the Attorney General gives legal assistance to the River Compact Commissions.

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).

Account	Name	Amount
0001	General Revenue	$361,541

Strategies:
E.1.1—Canadian River Compact
E.1.2—Pecos River Compact
E.1.3—Red River Compact
E.1.4—Rio Grande River Compact
E.1.5—Sabine River Compact

Rider 21, Administrative Cost for the Texas River Compact Commission

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

Not Applicable

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.

Not Applicable

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.

Each of the interstate river compact commissions includes:

- a non-voting federal chairman appointed by the President of the United States, and
- one or two voting members from each affected state: *Canadian River*—New Mexico, Texas, Oklahoma; *Pecos River*—Texas, New Mexico; *Red River*—Oklahoma, Texas, Arkansas, Louisiana; *Rio Grande*—Colorado, New Mexico, Texas; and *Sabine River*—Texas, Louisiana.

In addition to the members, the River Compact Commissions work closely with other federal agencies to ensure that water operations and deliveries comply with the established compacts, such as:

- Department of Interior, Bureau of Reclamation,
- Army Corps of Engineers,
- Fish and Wildlife Service, and
- Geological Survey.

Commissioners in Texas and the TCEQ also work closely with state, regional, and local agencies such as: the Texas Parks and Wildlife Department; river authorities; counties; municipalities; and water districts.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

None

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

The State of Texas has entered into five interstate water compacts involving the Canadian, Pecos, Red, and Sabine Rivers and the Rio Grande. Each compact is recognized under both state and federal law as an agreement dividing the waters in these rivers and their tributaries among states.

Each Compact is administered by an Interstate Commission. Each Interstate Commission consists of one or two members appointed to represent each state as prescribed by each Compact and a federal commissioner appointed by the President of the United States.

In Texas, Texas Water Code Chapters 41, 42, 43, 44, and 46 provide for the administration of each of the five river compact commissions by the Texas River Compact Commission, which also represents the state on each of the interstate commissions and protects Texas' rights under each individual compact. River Compact Commissioners are appointed by the governor and must be confirmed by the Texas Senate, except for the TCEQ's Executive Director, who by statute serves on the Red River Compact Commission.

N. 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.**

Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not Applicable

VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Utilities and Districts
Location/Division	3rd Floor / Building F / Utilities and Districts Section / Water Supply Division / Office of Permitting and Registration
Contact Name	Todd Chenoweth
Actual Expenditures, FY 2008	$5,524,978
Number of FTEs as of August 31, 2008	53

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

The Utilities and Districts Section (UDS) has jurisdiction over the service areas, rates, and financial activities of water and sewer utilities. UDS has original jurisdiction over investor-owned utilities. It also has some appellate jurisdiction over rates, service areas and financial activities of political subdivisions (municipalities, water districts and counties), water supply corporations (WSCs) and entities that submeter or allocate water and wastewater bills. The UDS programs that accompany this jurisdiction assure customers receive continuous and adequate water and wastewater services at just and reasonable costs.

The UDS reviews applications for:

- Certificates of Convenience and Necessity (CCNs), which delineate water and sewer service areas;
- certain water and wastewater utility rate changes;
- creations of water districts; and
- review of water-district financing for water, wastewater, and drainage improvements.

The UDS also:

- reviews engineering plans for public system improvements;
- oversees the TCEQ's portion of the grant set-asides program of the Drinking Water State Revolving Fund under the Safe Drinking Water Act;

- administers a program to help water systems develop and maintain financial, managerial and technical capacity; and

- receives and resolves consumer complaints about water service and rates.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Number	FY 08 Performance Measure	Percent of Annual Target
02-01-02.01	Utility rate reviews performed (key)	97.00
02-01-01.02	District applications processed	134.36
02-01-01.03	CCN applications processed	99.56

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.

1989

- As a result of an economic downturn and the bankruptcy of a number of water districts, the TCEQ adopted feasibility rules to establish criteria for bond application approval.

1996

- Congress reauthorized the Safe Drinking Water Act, creating the Drinking Water State Revolving Fund and the capacity-development program.

2005

- The Texas Legislature revised the criteria for granting CCNs to include impacts on landowners and added a process for certain landowners to be released from CCN areas.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Utilities and Districts Program affects those businesses and authorities that provide retail water and wastewater utility services and their retail customers.

Retail Public Utilities in Texas				
Retail Public Utility Type	**Utilities**	**Water Customers**	**Water CCNs**	**Sewer CCNs**
Cities	1,444	7,474,195	593	489
Water Districts	862	2,159,842	155	92
Water Supply Corp.	847	621,172	789	58
Private or Investor Owned	785	214,063	634	146
Totals	3,938	10,469,272	2,171	785

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

For water and sewer CCN, rate and district creation applications, an application is submitted to TCEQ and public notice given. If the application is uncontested and meets rule criteria, the application can be approved. If the application is contested by a valid protester or the TCEQ's executive director, the matter is referred to the State Office of Administrative Hearings. Refer to the flowchart *Utilities and Districts Application Process* following Question O.

District bond applications, minor district applications, and engineering plans are technically reviewed and approved by the executive director.

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).

Account	Name	Amount
0001	General Revenue	$79,500
0153	Water Resource Management Account	$2,232,543
0555	Federal Funds	$1,434
0777	Interagency Contracts	$3,211,501

Strategies:
B.1.2—Water Utilities Oversight
B.1.1—Safe Drinking Water

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

The Texas Water Development Board (TWDB) reviews some minor engineering plans for public water systems and water district bond applications for infrastructure projects that are funded by the TWDB. The TCEQ reviews major public water system plans including wells and surface water treatment plants that are not subject to TWDB review.

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 TCEQ has a Letter of Agreement with the TWDB that describes how responsibilities for reviewing engineering plans are coordinated 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.

The UDS works with:

- local and regional governments that operate water or sewer utilities and are involved in UDS's utility or district application processes;

- the EPA and the TWDB on the Drinking Water State Revolving Fund;

- the Drinking Water Advisory Work Group to meet and coordinate with program stakeholders; and

- the Secretary of State's Border Infrastructure Group and the Office of Community and Rural Affairs Infrastructure Group to coordinate water and wastewater projects with other state and federal regulatory and funding agencies.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The UDS had contracted expenditures of $2,760,620 in FY 08 for seven contracts. The UDS contracts:

- supplied financial, managerial and technical assistance and training for water systems and utilities,

- conducted high-level engineering and financial-compliance feasibility studies and water quality studies,

- produced digitized maps of water and sewer districts,

- conducted legislatively mandated evaluations of the Bexar Metropolitan Water District, and

- supported programs with application processing and plan review.

TCEQ standard requirements for interagency contracts apply. The performing party of the contract is required to adhere to all applicable standards, principles, and guidelines detailed in Office of Management and Budget circulars A-21 and A-110 including those related to

financial monitoring, auditing, and record keeping. Contracts are subject to the receipt and availability of funds appropriated by the Texas Legislature to the TCEQ. This funding is in place before the contract is executed through TCEQ budgeting and planning processes; accountability for funding is with the TCEQ budget staff and the contract manager. Performance is ensured via standard project-management practices, including initiation, planning, execution, control and closure. Performance under the scope of work is assessed though a schedule and a set of deliverables and projects are not considered complete and accepted unless discrepancies are resolved.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

- Allow the executive director to approve uncontested service area agreements or contracts under Texas Water Code (TWC) Section 13.248; water district dissolutions under TWC Section 49.231; and water-district conversion requests under TWC Section 54.030. Currently these uncontested items must go to the commission for approval.

- Remove the requirement in TWC Section 13.187(f), that rate hearings must be held in the local area if more than half the customers reside in a county with a population of more than 2.5 million (i.e., Harris County). This will save staff and travel resources.

- Allow a permit exemption for small sewer utilities with a potential of less than 15 connections as is currently provided for small water utilities. TWC Section 13.242(c) currently allows a water utility with a potential of less than 15 connections to be exempt from having a CCN; however, a retail sewer provider serving one or more connections must have a CCN.

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

None

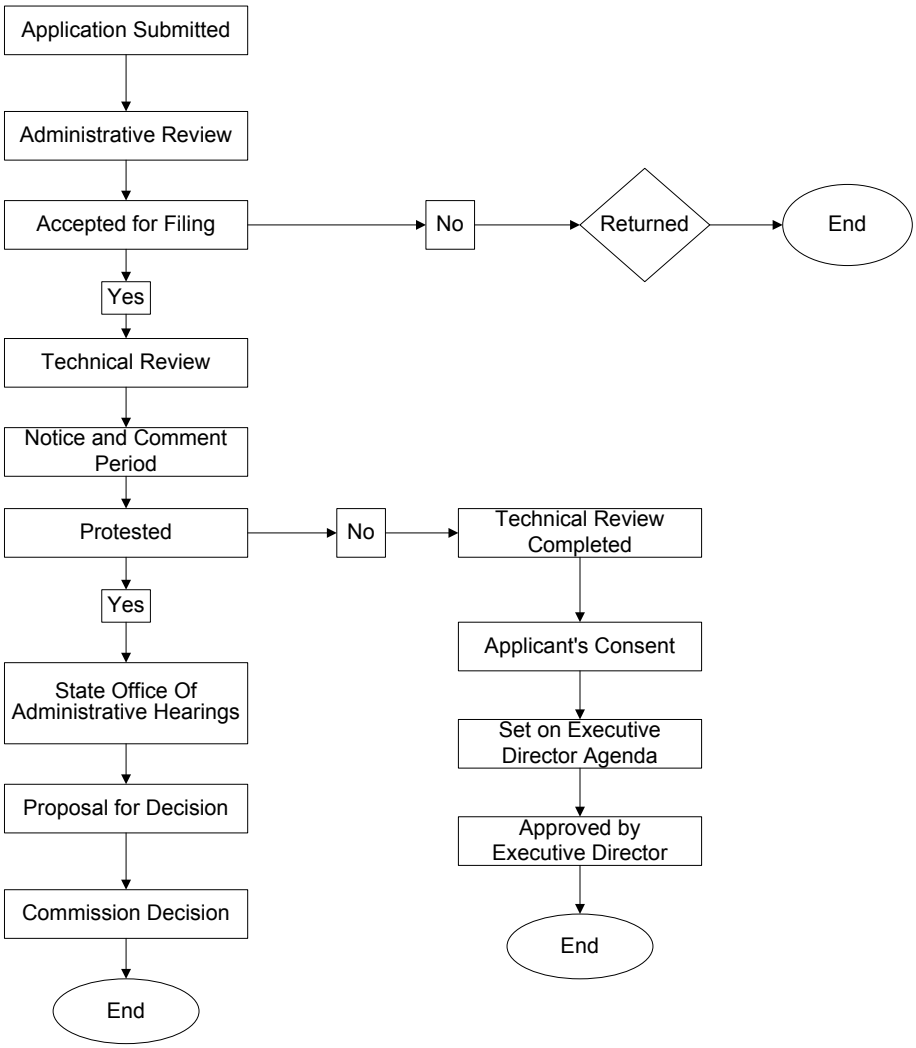
N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **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.**

Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Commission on Environmental Quality Utilities and Districts Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008		
Please see Field Operations Question O for additional complaint data related to this program.	**FY 2007**	**FY 2008**
Total number of regulated persons	Not applicable	Not applicable
Total number of regulated entities	9,019	9,633
Total number of entities inspected	Not applicable	Not applicable
Total number of complaints received from the public	1,377	1,711
Total number of complaints initiated by agency	Not applicable	Not applicable
Number of complaints pending from prior years	Not applicable	Not applicable
Number of complaints found to be non-jurisdictional	Not applicable	Not applicable
Number of jurisdictional complaints found to be without merit	Not applicable	Not applicable
Number of complaints resolved	1,377	1,711
Average number of days for complaint resolution	17	9
Complaints resulting in disciplinary action:	0	0
administrative penalty	Not applicable	Not applicable
Reprimand	Not applicable	Not applicable
Probation	Not applicable	Not applicable
Suspension	Not applicable	Not applicable
Revocation	Not applicable	Not applicable
Other	Not applicable	Not applicable

Utilities and Districts Application Process



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Wastewater Permitting
Location/Division	2nd Floor / Building F / Wastewater Permitting Section / Water Quality Division / Office of Permitting and Registration
Contact Name	Charles Maguire
Actual Expenditures, FY 2008	$3,574,959
Number of FTEs as of August 31, 2008	50.5

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

Texas Water Code (TWC), Section 26.121 requires issuance of wastewater permits or other authorizations to persons discharging "sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state." This includes storm water discharges from industrial and municipal facilities. The objective of the Wastewater Permitting Program is to protect the quality of the surface water and groundwater in Texas by regulating the types and amounts of pollutants introduced into those waters.

The Environmental Protection Agency (EPA) delegated the issuance of National Pollutant Discharge Elimination System (NPDES) permits to the TCEQ. The Wastewater Permitting Program issues Texas Pollutant Discharge Elimination System (TPDES) permits and Texas Land Application Permit (TLAP) authorizations. A TPDES permit is issued to facilities that discharge directly to surface water such as streams, rivers, lakes, reservoirs, bays, and estuaries. A TLAP is issued to facilities that do not discharge to surface water but rather discharge wastewater via irrigation or land application of manure or sludge.

The Wastewater Permitting Program issues these authorizations under two general categories: individual authorizations and authorizations under a statewide general permit.

- *Individual authorizations* are issued following a detailed technical review of an application submitted by an individual entity. The authorization is site-specific to the regulated activity, the wastes and volumes generated, and the location.

- *General permits* are developed for similar types of activities and can be issued for statewide or regional use. Once the program has issued a general permit individual entities may seek authorization to operate under the terms and conditions of the general permit.

Other teams that do not issue permits or authorizations but assist in protecting water quality are the Storm Water and Pretreatment Team's Pretreatment Program and the Wastewater Permitting Section Engineering Review, all located within the Wastewater Permitting Program.

- *Engineering review* addresses completed plans and specifications for domestic wastewater treatment facilities and collection systems required to be submitted to the TCEQ under TWC, Section 26.034(b).

- *Pretreatment* ensures that large cities and other municipalities have the tools to regulate industrial discharges into their collection and treatment systems, preventing pass through of pollutants and interference with the treatment plant. Pretreatment staff members also perform annual audits of authorized pretreatment programs, review and approve new developing pretreatment programs, and process modifications to previously approved programs. The pretreatment staff approves notices of violations that potentially escalate to formal enforcement.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Number	Type	FY 08 Performance Measure	% of Annual Target
01-02-02.01	output	Number of applications to address water quality impacts applications review *(key)*	111.36*
01-02-02.02	outcome	Percent of water quality permit applications reviewed within established time frames	93.33
01-02-02.04	outcome	Annual percent reduction in pollution from permitted wastewater facilities discharging to waters of the state *(key)*	360

**Note:* This measure is shared with other programs within the agency. The number reported here represents the combined total for all agency participants in this measure.

Performance under this measure was slightly below projected performance as a result of EPA Region 6 objections to TPDES permits. In FY 08, EPA Region 6 and the TCEQ resolved those objections.

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.

2000

- The Wastewater Permitting Program issued the industrial multi-sector general permit for storm water.

2003

- 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation, changed the authorization for land applying Class B sludge from a registration to an individual permit based on adopted legislation.

2004

- The TCEQ implemented an electronic permit application system, ePermits, to accept and streamline storm water general permit applications.

2006

- 30 TAC Chapter 311, Subchapter H became effective in August. TWC Sections 26.551–26.562 required the rulemaking to protect, through permitting, the John Graves Scenic Riverway of the Brazos River from runoff and sedimentation due to quarry operations.

2007

- The Wastewater Permitting Program issued the municipal separate-storm-sewer-system general permit for small cities (MS4 Phase II).

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Wastewater Permitting Program regulates any individual or organization that discharges waste into or adjacent to waters in the state, including commercial and industrial facilities; construction sites; state, federal, and local government; and small businesses.

The following authorizations issued by the program are active:

- individual TPDES domestic permits: 2119
- individual TLAP domestic permits: 471
- individual TPDES industrial permits: 625
- individual TLAP industrial permits: 122
- individual Class B sewage sludge land application permits: 71
- septage and water-treatment-plant-sludge land-application registrations: 107
- individual permits for large municipal separate storm sewer systems: 26
- small and medium municipal separate-storm-sewer-system authorizations under general permit: 114
- individual industrial storm water permits: 99
- individual industrial wastewater-reuse authorizations: 114
- individual domestic wastewater-reuse authorizations: 285
- industrial wastewater activities authorized under various general permits: 791
- industrial storm water authorization under general permit: 11,261
- construction storm water authorization under general permit: 10,628

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Refer to flowcharts *Work Flow-Individual Permit and General Permit Development Process* following Question O that depict the program's functions.

The Wastewater Permitting Program developed the following time frames for processing authorizations, from date of application receipt until final issuance, including issuance of public notice. They do not include the time necessary for a contested case hearing if one is conducted:

- permits: 300–330 days
- registrations: 270 days
- plans and specifications review: summary review, 30 days; full review, 120 days
- reclaimed-water authorizations: 60 days
- pretreatment: audit reports, 60 days; program modifications, 120–300 days

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).

Account	Name	Amount
0555	Federal Funds	$1,025,382
0153	Water Resource Management Account	$2,549,577

Strategy—A.2.2—Waste Resource Permitting

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

The following groups have permitting functions similar to those of this program.

While issuing permits for wastewater discharges from aquaculture facilities falls under the responsibility of the Wastewater Permitting Program, aquaculture facilities may also require exotic-species permits from the Texas Parks and Wildlife Department (TPWD) and operating licenses from the Texas Department of Agriculture (TDA). The TPWD permit is specific to exotic-species issues; the TDA license relates to overall operation of the facility, whereas the TCEQ issues permits specific to wastewater discharge.

The Railroad Commission of Texas (RRC) is responsible for regulating discharges from all crude-oil exploration and recovery operations and all natural gas operations. The TCEQ has authority to regulate discharges from petroleum refining. The RRC does not have

delegated NPDES authority from the EPA; therefore companies and other organizations under RRC jurisdiction must obtain NPDES authorizations from the EPA.

The Wastewater Permitting Program oversees on-site-sewage-facility systems with waste of greater than 5,000 gallons per day and any processors of wastewater that are not domestic. However, the TCEQ's Field Operations Division investigates on-site small domestic systems that do not discharge to surface waters and are less than 5,000 gallons of waste per day.

The Texas Water Development Board (TWDB) reviews and approves domestic wastewater plans and specifications for recipients of TWDB grant funding. Any variances to design criteria in 30 TAC Chapter 217 requested by permittees are coordinated with the Wastewater Permitting Program.

The TCEQ's Edwards Aquifer Protection Program (Field Operations Division) reviews and approves Water Pollution Abatement Plans for storm water construction in the Edwards Aquifer recharge and contributing zones. These plans include some of the elements required under the Storm Water Construction General Permit.

Consistent with TWC, Section 26.034(d), and 30 TAC Section 217.8, the TCEQ has authorized multiple cities in Texas to approve plans and specifications for domestic wastewater collection systems 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.

30 TAC Section 7.103 - The MOU with the TPWD and the TDA relates to aquaculture operations. The TCEQ is the permitting authority for aquaculture and coordinates permitting efforts with the TPWD (related to disease and invasive and exotic species) and the TDA (related to TDA licensing requirements). Annual coordination meetings are held among the three agencies.

30 TAC Section 7.117 - The MOU with the RRC gives guidance on jurisdictional responsibilities relating to oil and gas operations.

The TCEQ has entered into a contract with Harris County for the administration of the county's on-site general permit (TXG530000). The TCEQ is responsible for developing, issuing, and reissuing the general permit; Harris County, for administering it.

The program issues approval letters to cities that have applied for the authority to review collection-system plans within their jurisdiction. Approved cities are identified at the TCEQ's Web site; outreach to the engineering community prevents duplication and conflict.

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 permitting process involves municipalities, municipal utility districts, water control and improvement districts, river authorities, counties, state agencies, federal agencies, and other governmental authorities that commonly require permits to treat and discharge wastewater.

The Water Quality Division hosts quarterly Water Quality Advisory Work Group meetings to ensure that stakeholders (including units of government) are informed of current issues and receive input on various issues.

The EPA, not the TCEQ, issues NPDES permits to any wastewater discharge from Indian tribal lands.

The TCEQ has entered into a Memorandum of Agreement (MOA) with EPA Region 6 that outlines both agencies' responsibilities for administering the TPDES program. Quarterly and annual reporting is required under the MOA. Annual program manager meetings are held among all Region 6 states, and the EPA audits the TPDES program every two years.

Under the TPDES program, notification of TPWD, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Texas Historical Commission is required to ensure proper agency coordination. Notice is given to each agency on pending permit applications to ensure review of and comment on proposed permit applications.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The Wastewater Permitting Program had four contracts with universities for student interns, for a total expenditure of $834,479 in FY 08.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

TWC, Section 26.0285, requires TCEQ-issued permits for the discharge of waste within a single watershed or region to bear the same expiration date to enable a comprehensive evaluation of the combined effects of multiple discharges within the same watershed or

region. Prior to adoption of TWC, Section 26.0285, the TCEQ's practice was to issue permits for a term of five years, consistent with federal requirements. To ensure compliance with this statute the TCEQ routinely issues permits for terms significantly less than the five years allowed under federal requirements, which significantly increases resources required from both the agency and the regulated community. The program recommends eliminating TWC, Section 26.0285.

TWC, Section 26.0191, allows the commission to issue emergency orders consistent with TWC, Section 5.509. TWC, Section 5.509(a)(2)(D), requires the commission to make a finding that a discharge under the authority of an emergency order will not present a significant hazard to uses of the receiving water. By the time the information has been collected for review by the executive director, the discharges necessitating the request for an emergency order usually have already occurred. We recommend deleting TCEQ's authority to issue an emergency order in this situation.

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

None

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

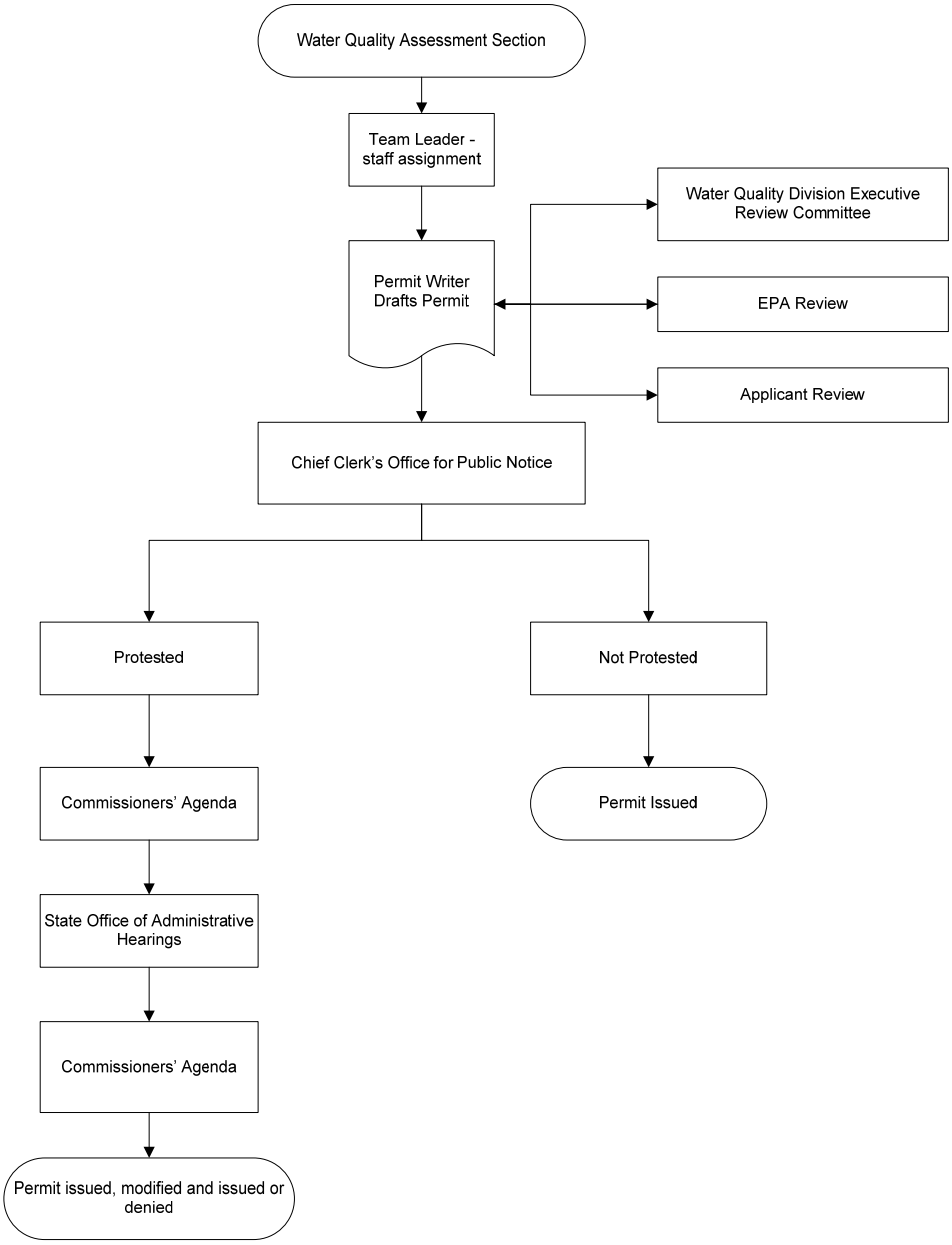
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

Not Applicable

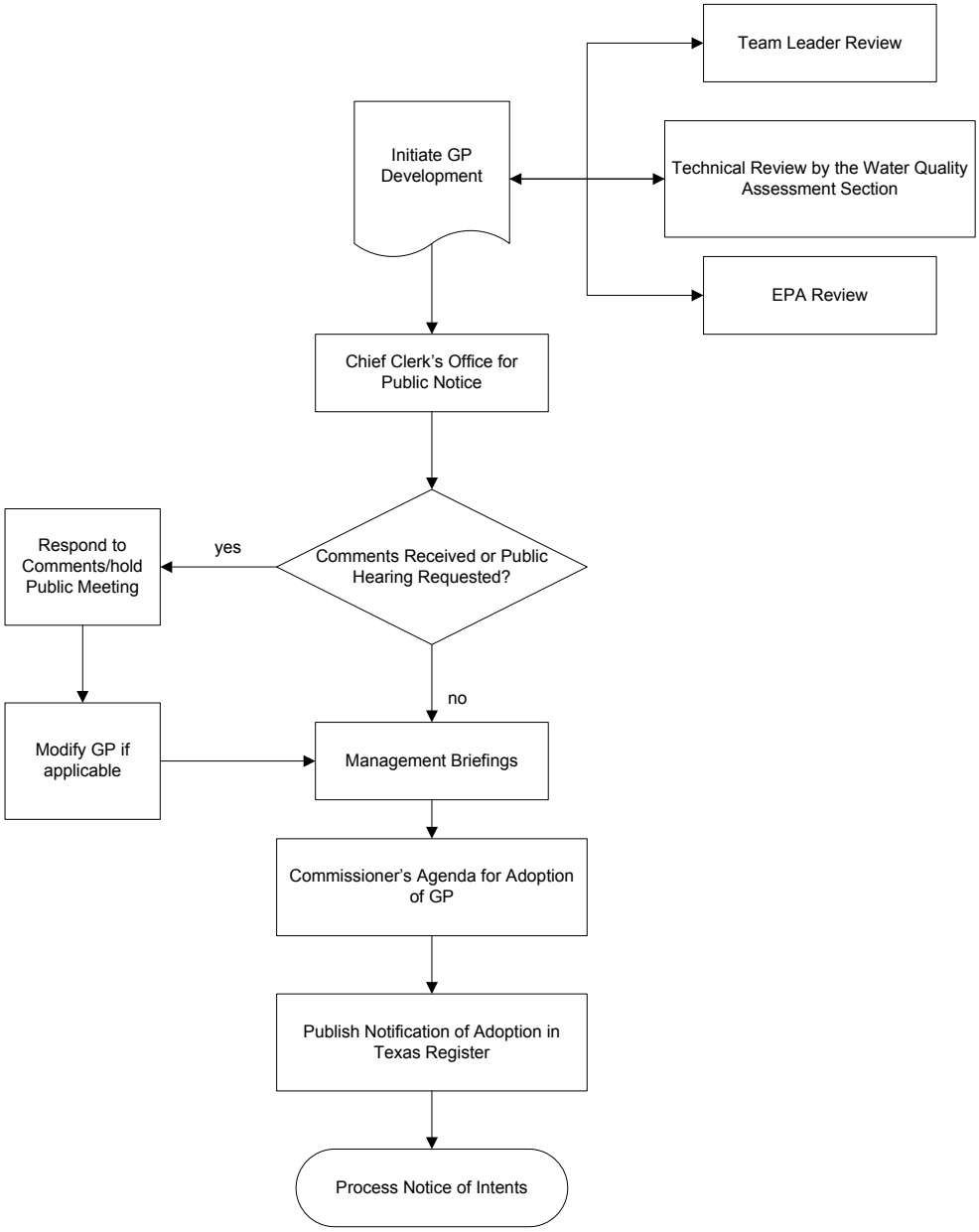
O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Commission on Environmental Quality Wastewater Permitting Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008		
	FY 2007	**FY 2008**
Total number of regulated persons	Not applicable	Not applicable
Total number of regulated entities	Not applicable	Not applicable
Total number of entities inspected	14	Not applicable
Total number of complaints received from the public	Not applicable	Not applicable
Total number of complaints initiated by agency	14	Not applicable
Number of complaints pending from prior years	6	Not applicable
Number of complaints found to be non-jurisdictional	Not applicable	Not applicable
Number of jurisdictional complaints found to be without merit	Not applicable	Not applicable
Number of complaints resolved	16	Not applicable
Average number of days for complaint resolution	240	Not applicable
Complaints resulting in disciplinary action:	14	Not applicable
administrative penalty	Not applicable	Not applicable
reprimand	Not applicable	Not applicable
probation	Not applicable	Not applicable
suspension	Not applicable	Not applicable
revocation	Not applicable	Not applicable
Other: Notice of Violation	14	Not applicable

Work Flow-Individual Permit



General Permit (GP) Development Process



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Water Quality Assessment
Location/Division	2nd Floor / Building F / Water Quality Assessment Section / Water Quality Division / Office of Permitting and Registration
Contact Name	Charles Maguire
Actual Expenditures, FY 2008	$2,486,894
Number of FTEs as of August 31, 2008	38

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

The Water Quality Assessment (WQA) Program is responsible for:

- developing technical recommendations related to dissolved oxygen in water;
- defining water quality uses and appropriate in-stream criteria for the streams, rivers, lakes, reservoirs, and estuaries in the state;
- developing critical conditions for scientifically based Texas Pollutant Discharge Elimination System (TPDES) wastewater discharge permit limits for the protection of surface waters consistent with the Texas Surface Water Quality Standards;
- maintaining and updating quarterly the State Water Quality Management Plan (WQMP);
- conducting technical reviews and providing geological and agronomic recommendations to be incorporated into Texas Land Application Permits (TLAPs) to protect groundwater from potential contamination due to waste and wastewater discharges;
- conducting Clean Water Act (CWA) Section 401 State Water Quality Certifications for the United States Army Corps of Engineers (USACOE) and for CWA Section 404 permits regarding the discharge of dredged or fill material into U.S. waters; and
- writing permits for concentrated animal-feeding operations (CAFOs), including hog farms, cattle feedlots, egg farms, and dairies.

The WQA Program meets its objectives by:

- numerical modeling to develop permit limits for dissolved-oxygen standards for the protection of water quality;

- analyzing the potential of wastewater to mix with surface waters;

- maintaining precise digital information of wastewater discharge locations;

- evaluating proposed TPDES wastewater discharges to ensure that water quality standards are properly assigned and maintained in receiving waters, and

- administering the Whole Effluent Toxicity program to ensure protection of surface water from in-stream toxicity due to wastewater discharges.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Number	Type	FY 08 Performance Measure	% of Annual Target
01-01-02.01	output	Number of surface water assessments (*key*)	97*
01-02-02.03	output	Number of CAFO authorizations reviewed (*key*)	137

*This measure is shared measure with other programs in the agency. The number reported here represents the combined total for all agency participants in this measure.

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.

2000

- A Memorandum of Agreement (MOA) takes effect, outlining the TCEQ's state certification of the USACOE Federal CWA Section 404 dredge and fill permits.

2004

- The TCEQ issues its first CAFO General Permit, TXG920000.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The WQA Program affects any person, business, or other organization required to obtain a permit to discharge industrial or domestic wastewater into or adjacent to waters in the state. At this time, this includes approximately 2,300 active domestic-discharge and 1,000 active industrial-discharge facilities. Also included are 740 regulated CAFO facilities.

Persons affected by CWA Section 401 Water Quality Certification requirements include commercial navigation, transportation, retail or residential land development; private

property developers; local, state, and federal infrastructure projects; and, any other CWA Section 404 permit applicant.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The WQA Program has an established deadline of 30 days for reviewing permit applications, performing any necessary analyses, and conveying specific permit provision information to the Wastewater Permitting Program.

The CWA 401 State certification program is administered in partnership with the USACOE, with which the agency has an MOA outlining the associated processes and deadlines.

CAFO individual permits have agency-set deadlines of 300–330 days from receipt to issuance. General permits have notices of intent to be issued within 180 days. There are two CAFO permit writers in regional offices.

Refer to the flowcharts *Wastewater Permit Work Flow for Discharge Applications, Wastewater Permit Work Flow Texas Land Application Permits, WQMP Update Process, 401 State Water Quality Certification Work Flow, CAFO Individual Permit Process Work Flow, and CAFO General Permit Notice of Intent Work Flow* following Question O.

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).

Account	Name	Amount
0153	Water Resource Management Account	$1,556,829
0555	Federal Funds	$906,103
0001	General Revenue	$23,962

Strategies:
A.1.2—Water Assessment and Planning
A.2.2—Water Resource Permitting

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

The Standards Development Team of the Water Quality Planning Division in the Chief Engineer's Office is responsible for the development of the Texas Surface Water Quality Standards.

The TCEQ coordinates with the Texas Water Development Board (TWDB) regarding potential infrastructure funding projects. The wastewater-discharge proposals contained in those projects undergo technical review so that any aspects that may be difficult to permit can be resolved prior to finalization.

If a reservoir-development project is seeking a new water-rights permit, the CWA Section 401 program coordinates closely with the TCEQ's Water Supply Division regarding mitigation-sequence requirements.

The Texas State Soil and Water Conservation Board administers a voluntary program in which Animal Feeding Operations (AFOs), smaller facilities that are not defined or designated as CAFOs, can obtain a water quality management plan. This plan assists these smaller, unpermitted facilities in complying with TCEQ requirements for AFOs.

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 WQA Program's Standards Implementation Team works closely with the Chief Engineer's Office Standards Development Team and meets frequently to discuss issues applicable to both program areas. Standard operating procedures have been developed to coordinate receiving-water assessments, variances, and site-specific studies between the program areas.

Implementation of the MOA between the USACOE and TCEQ allows the two agencies to avoid redundancy on a single project.

The TCEQ participates in regularly scheduled Joint Evaluation Meetings (JEMs) between the U.S. Fish and Wildlife Service, National Marine Fisheries Service, the EPA, the Texas Parks and Wildlife Department (TPWD), the General Land Office, the applicant and the USACOE. The JEMs may be scheduled as part of a pre-application process or to resolve comments submitted during the public-notice process. These meetings serve as a forum for all programs to identify and discuss concerns and to seek consensual resolutions.

The CAFO Team is the lead program for coordinating the Agriculture Stakeholder Group, a voluntary group of participants, open to the public, that meets several times a year to discuss issues related to implementation of and compliance with agriculture rules and regulations. The work group currently has representation from consulting firms, agricultural industry, engineering firms, environmental organizations and government bodies including the Natural Resource Conservation Service, the Texas State Soil and Water Conservation Board, the TPWD, the EPA, and the City of Waco.

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 WQA Program, through permitting, deals with municipalities, municipal utility districts, water control and improvement districts, river authorities, counties, state agencies, federal agencies and other government authorities that commonly require permits to carry out their responsibilities and permitting requirements.

The Water Quality Division (WQD) hosts quarterly Water Quality Advisory Work Group meetings, allowing stakeholders to be informed of current issues and the WQD to receive their input.

EPA Region 6, through delegation of the National Pollutant Discharge Elimination System program, has oversight regarding effluent limits in TPDES permits. Coordination and communication with the EPA regarding permit limitations is a requirement for efficient and timely permit issuance.

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Effective September 1, 2008, the TCEQ underwent an internal reorganization that divided the responsibilities of the then Standards Team. As a result, contracts which became the responsibility of the Water Quality Planning Division of the Chief Engineer's Office will be reported by that Division. Only those contracts in which the responsibility for oversight remained with the WQD, Office of Permitting and Registration, are reported below.

For FY 08, the WQA Program had three contracts with universities: two for interns and one for development of a regional guidebook. A fourth contract was with the U.S. Geological Survey for a study related to the Barton Springs segment of the Edwards Aquifer.

Expenditures for the four contracts totaled $84,534.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

None

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

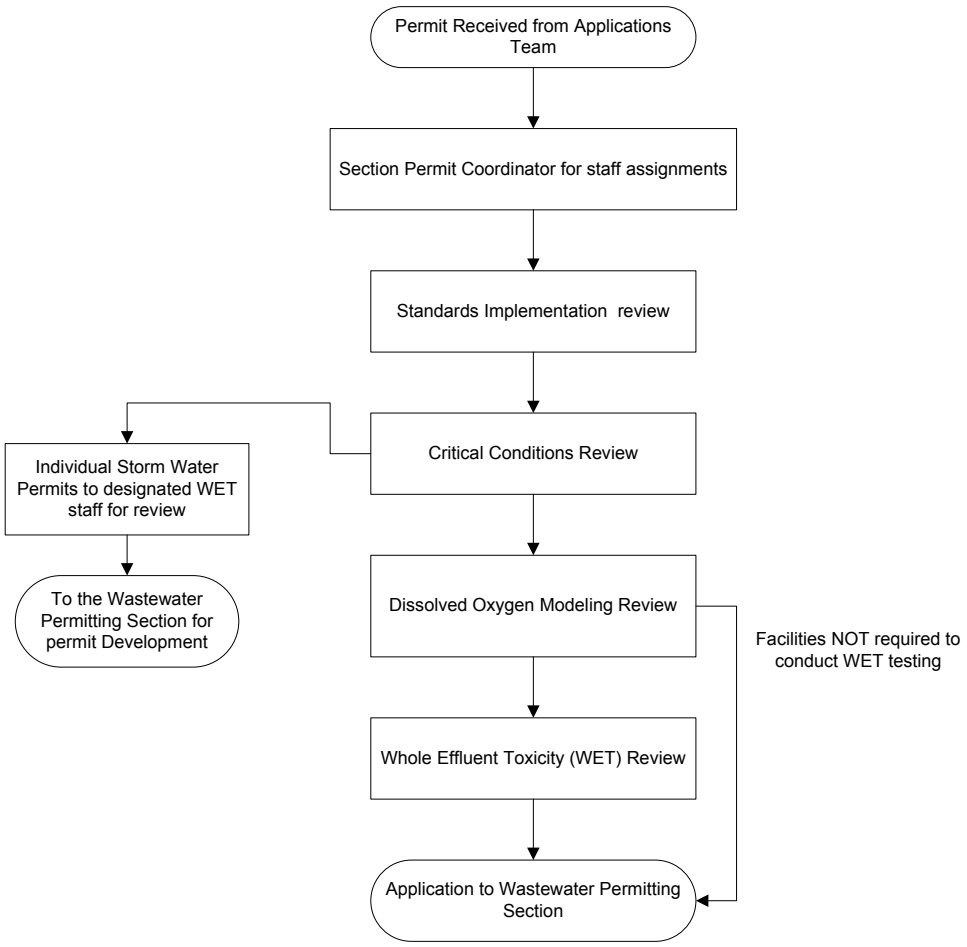
- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public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

Not Applicable

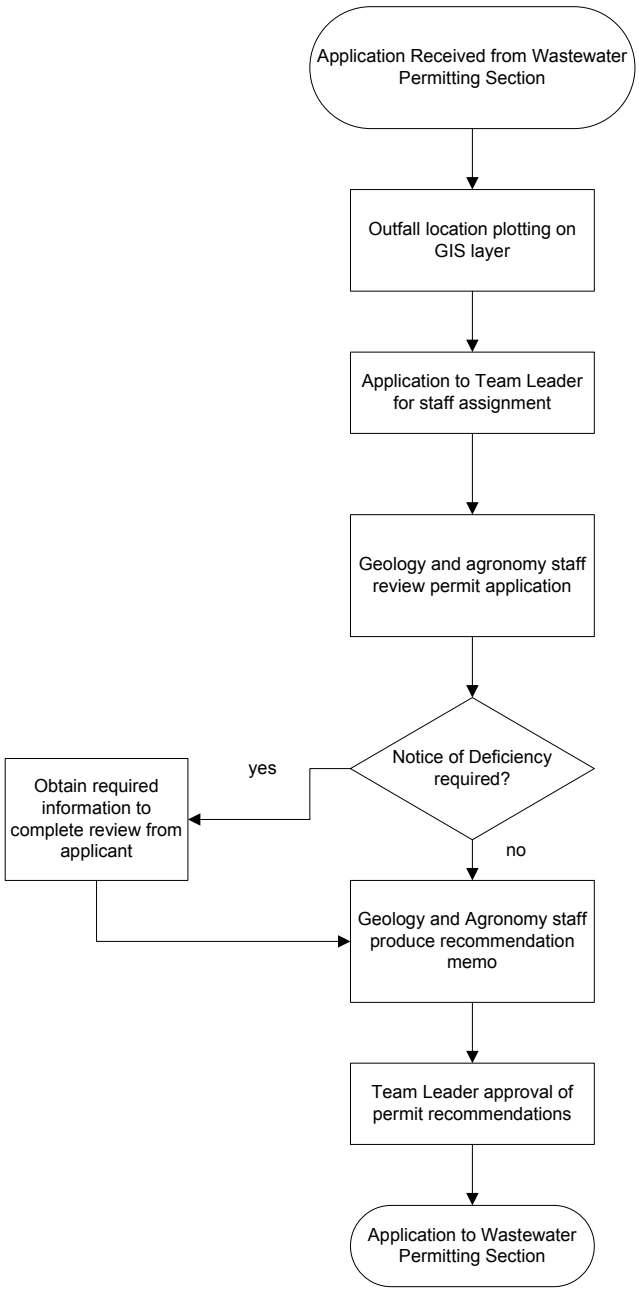
O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Commission n Environmental Quality Water Quality Assessment Section Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008		
Please see Field Operations Question O for additional complaint data related to this program.	**FY 2007**	**FY 2008**
Total number of regulated persons	Not applicable	Not applicable
Total number of regulated entities	Not applicable	Not applicable
Total number of entities inspected	Not applicable	Not applicable
Total number of complaints received from the public	Not applicable	Not applicable
Total number of complaints initiated by agency	1	0
Number of complaints pending from prior years	3	3
Number of complaints found to be non-jurisdictional	Not applicable	Not applicable
Number of jurisdictional complaints found to be without merit	Not applicable	Not applicable
Number of complaints resolved	1	0
Average number of days for complaint resolution	1	Not applicable
Complaints resulting in disciplinary action:	1	0
administrative penalty	Not applicable	Not applicable
reprimand	Not applicable	Not applicable
probation	Not applicable	Not applicable
suspension	Not applicable	Not applicable
revocation	Not applicable	Not applicable
Other: Notice of Violation	1	0

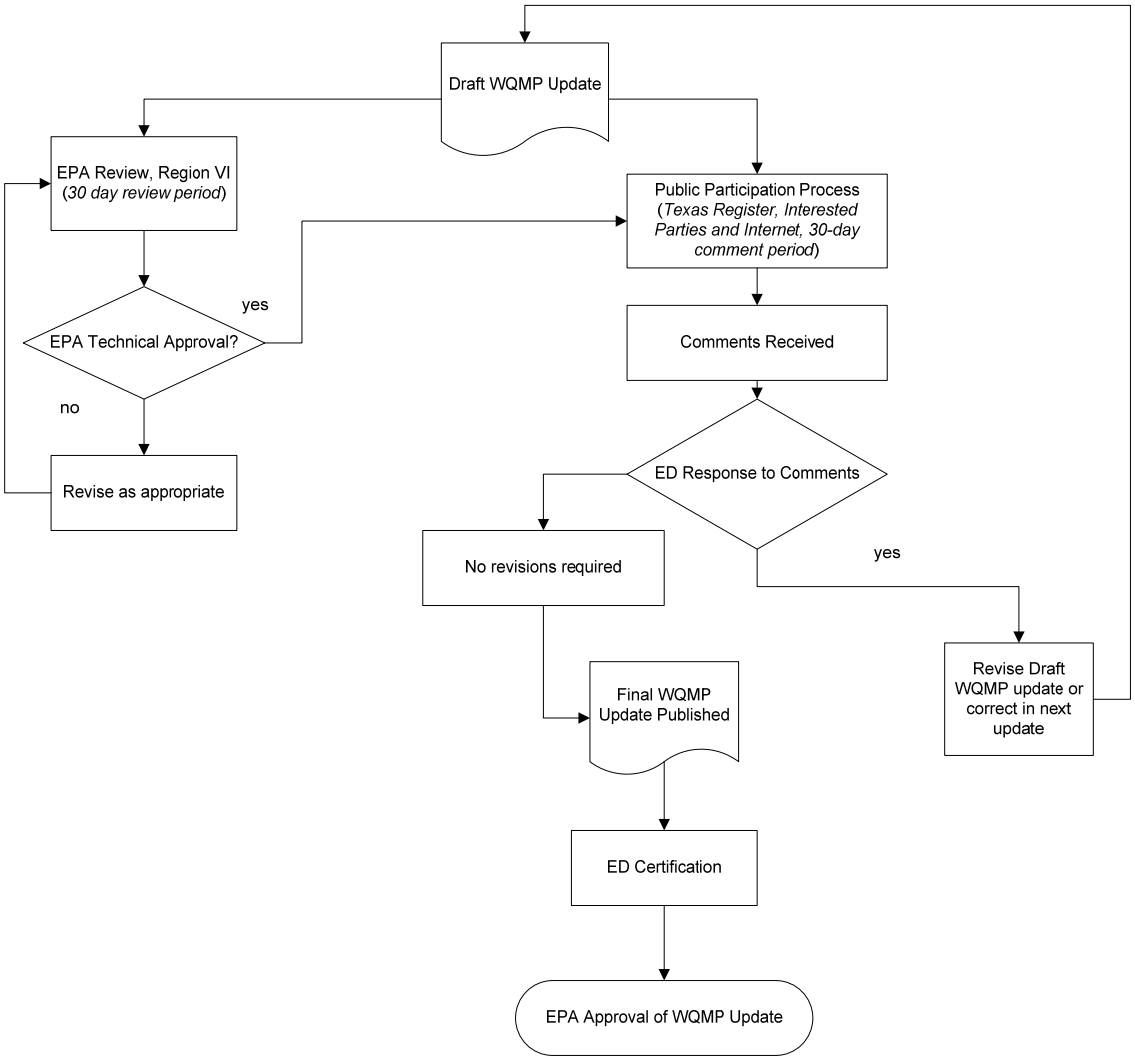
Wastewater Permit Work Flow for Discharge Applications



Wastewater Permit Work Flow Texas Land Application Permits

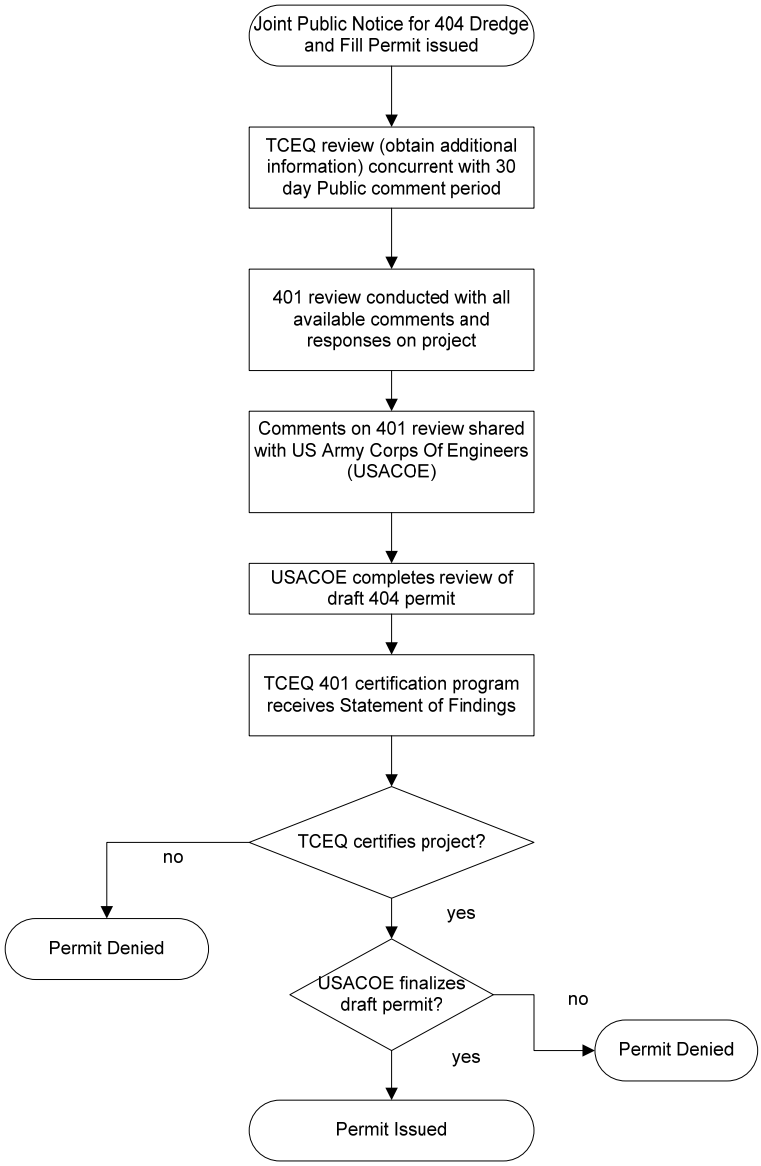


Water Quality Management Plan (WQMP) Update Process Flowchart

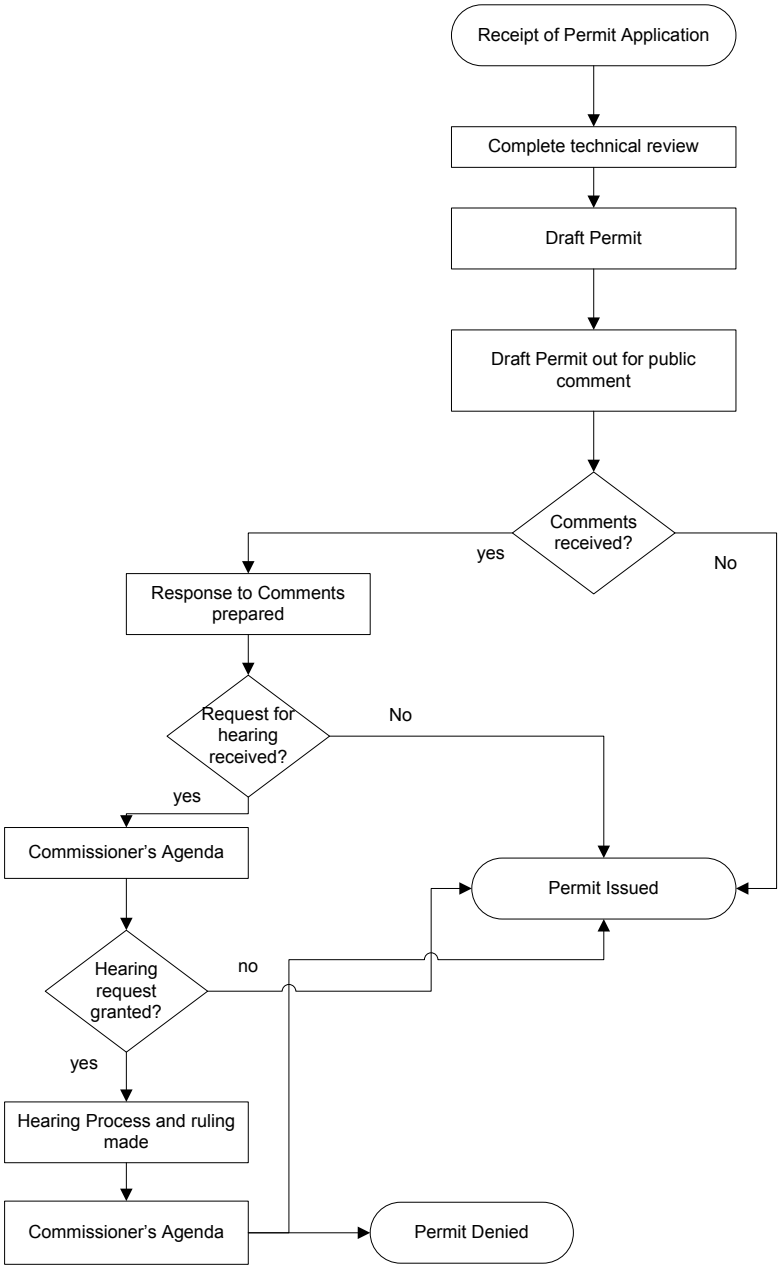


NOTE: Requests for Commission review may occur after ED certification, at which time the WQMP Update will be reviewed by the Commission

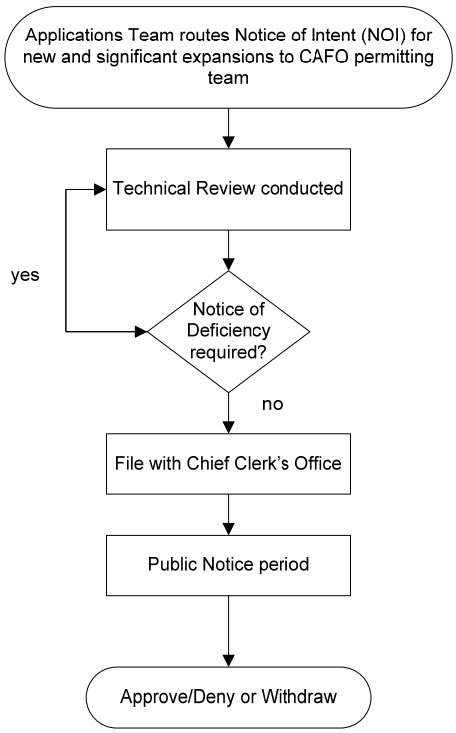
401 State Water Quality Certification Work Flow



CAFO Individual Permit Process Work Flow



CAFO General Permit Notice of Intent Work Flow



VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

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

Name of Program or Function	Water Rights Permitting and Availability
Location/Division	3rd Floor / Building F / Water Rights Permitting and Availability Section / Water Supply Division / Office of Permitting and Registration
Contact Name	Todd Chenoweth
Actual Expenditures, FY 2008	$2,371,797
Number of FTEs as of August 31, 2008	35

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

Under Texas Water Code (TWC) Section 11.021, water in the "rivers, streams, underflow, lakes and the arms of Texas' portion of the Gulf of Mexico" is considered state water. Use of this water is acquired through an appropriation obtained via the permitting process established in TWC Chapter 11. Water rights are granted on a "first come, first served" basis. There is a limited amount of water in any stream that can be permitted for use.

The Water Rights Permitting and Availability (WRPA) Section coordinates the issuance, renewal and modification of water rights permits, which number about 6,200 in the state. Approximately 500 applications, ownership changes, and water supply contracts are processed annually. In FY 08, approximately 130 of these were applications for new water rights or amendments to existing water rights. The remaining 270 applications were for water supply contracts and ownership changes.

Applications are reviewed for administrative and technical requirements and technical analyses are conducted to evaluate effects on other water rights, instream uses, bays and estuaries, water quality, conservation, and the public welfare. This analysis also determines water availability. The WRPA Section functions as a single point of contact within the agency for water rights permit applications, coordinating with other legal and technical authorities that may review and comment on the application.

In addition, water conservation and drought contingency plans are reviewed every five years for those required by Texas law to submit such plans. The WRPA Section also administers the state plumbing fixtures program and maintains a list of fixtures approved for sale and use in the State of Texas.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

LBB Number	Type	FY 08 Performance Measure	Percent of Annual Target
01-02.03	Outcome	Percent of water-rights applications reviewed within the established time frame	112.65
01-02-02.02	Output	Number of applications to address water rights impacts reviewed	106.72 *

*This measure is shared with other programs within the agency. The number reported here is the combined total for all agency participants in this measure.

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.

2001

- The 77th Legislature adopted SB 2 which required the TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) to establish and maintain a program to collect instream flow data and to conduct studies to determine instream flow conditions in the state's rivers and streams necessary to support a sound ecological environment.

2007

- The 80th Legislature adopted SB 3 which created a basin-by-basin process for developing recommendations to meet instream needs as well as freshwater inflows to affected bays and estuaries. The legislation requires the TCEQ to adopt environmental flow standards via rulemaking. The bill also creates a 23-member Water Conservation Advisory Council to monitor the development and implementation of water conservation strategies.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Applicants for new water rights may be private individuals, businesses, or governmental bodies. Permitted water right holders include municipalities, industrial users, mining operations, farmers and ranchers, and river authorities, which typically wholesale water to other users. Approximately 70 percent of state water rights are permitted for irrigation. Municipal and industrial water use each account for approximately eight percent of the total number of permitted water rights. Other uses could also include recreational, instream flow, mining, etc.

Permitted water right holders may apply to amend their existing water rights, contract for sale of the water to another party or purchase additional water from another water right

holder, or sell their water right, in which case a change of ownership is filed with the executive director.

For water conservation and drought contingency plans, affected persons and organizations include water right holders, retail and wholesale public water suppliers, and irrigation districts.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The general application process is summarized in the flowchart *Water Rights Permitting Application Process* following Question O. More specifically, the process progresses as follows.

- Applications are submitted and assigned to a project manager, who distributes the applications to technical teams—conservation, instream uses, hydrology, and dam safety—for administrative review.

- If additional information is required, a request for information (RFI) is sent to the applicant. If the applicant does not respond, the application is returned.

- If the applicant supplies the information requested in the RFI, the application is administratively complete, appropriate notice is sent to affected parties, and the technical review begins.

- The technical reviews develop recommendations regarding denial or issuance of the permit based on state law. The technical reviews may also recommend special conditions to protect other water right holders, instream uses, water quality, and freshwater inflows to the bays and estuaries, or include conservation recommendations.

- Once the notice comment period is finished and all technical reviews are complete, a draft permit is generated, then sent to the appropriate TCEQ regional office and to anyone who protested the application or requested to review the draft permit.

- If the protestants wish to proceed, the application is scheduled for a Commission Agenda, where a decision is made to either issue the permit or send the application to the State Office of Administrative Hearings (SOAH).

- If the application is not protested, the permit is issued by the executive director.

- If the application is sent to SOAH, a hearing is conducted and a recommendation is issued. The commission reviews that recommendation and has the authority to decide whether to deny, grant, or modify the application.

For reviews of water conservation and drought contingency plans mandated by SB 1, 75th legislative session, TCEQ rules require that entities submit these plans by a specific date every five years. The plans are subject to an administrative review in accordance with the statute.

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).

Account	Name	Amount
0001	General Revenue	$386,955
0153	Water Resource Management Account	$1,683,644
0555	Federal Funds	$171,533
0777	Interagency Contracts	$129,665

Strategy—A.2.2—Water Resource Permitting

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

The Texas Instream Flow Program was established in 2001 by SB 2 which directed the TCEQ, the TPWD, and the TWDB to establish and continuously maintain a program for collecting and evaluating data on instream flow.

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 TCEQ entered into a Memorandum of Agreement (MOA) with TWDB and TPWD relating to an operating agreement for instream flow studies mandated by SB 2. The MOA establishes a tri-agency coordinating committee to provide overall policy direction to the instream flow program and develop a programmatic work plan, identifying the priority study areas, assigning agency responsibilities for conducting the studies, and setting time frames.

- The WRPA Section established a Water Rights Advisory Work Group (WRAWG), a voluntary group of participants that meets quarterly to discuss issues related to water rights permitting. The meetings are open to the public. The WRAWG currently has representation from municipal, industrial, mining, and irrigation users; river authorities; engineering and law firms; environmental organizations; and governmental bodies. WRAWG meetings are webcast through the TCEQ's site. Archived meeting webcasts are also available.

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.

- TPWD: A participant with the TCEQ in SB 2 instream flow studies and on the Water Conservation Advisory Council. The TPWD may also choose to become a party in contested case applications.

- TWDB: Also a participant with the TCEQ in SB 2 instream flow studies and on the Water Conservation Advisory Council. The TWDB also reviews water conservation plans in support of loan applications.

- The WRPA Section, as well as personnel from the TWDB and the TPWD, coordinates with the Environmental Flows Advisory Group, the Science Advisory Committee (SAC), the Basin and Bay Area Stakeholder Committees (BBASCs) and the Bay Basin Expert Science Teams (BBESTs) to give technical assistance and generate reports based on the groups' recommendations. The Environmental Flows Advisory Group, SAC, BBASCs, and BBESTs were established by SB 3, 80th Legislative Session, 2007. The Environmental Flows Advisory Group oversees implementation of the environmental flows process and is assisted by the SAC acting as an independent scientific group. Stakeholder groups (BBASCs) for each bay and basin area identified in the statute are appointed by the Environmental Flows Advisory Group and, in turn, also appoint their own science advisory committees (BBESTs).

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

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The WPRA Section administered eight contracts in FY 08, with expenditures totaling $563,628. These include a transfer of $10,800 of Federal Emergency Management Agency (FEMA) grant funds to the TWDB, as part of the transfer of the Floodplain Management Program to that state agency. The FY 06 FEMA grant ended on September 30, 2007, so one month's funds were transferred.

The purposes of the WRPA Section contracts are support for ongoing updates and maintenance of the Water Availability Modeling (WAM) system and to obtain methods and techniques to enhance the WRPA's ability to perform technical evaluations for impacts on instream uses and bays and estuaries. Contract deliverables include:

- Developing a graphical interface tool for geographic information system (GIS) display of WAM outputs for spatial analysis and investigation of a method to determine reservoir capacity for small reservoirs across the state.

- Developing enhancements to the existing WAM.

- Reviewing and suggesting revisions to the current desktop methodology (Lyons' method) used by the TCEQ to establish environmental flows in Texas rivers and streams.

- Developing a GIS for environmental data.

- Building a comprehensive, geospatially explicit database of occurrence for all freshwater fishes of Texas.

- Evaluating temporal changes in harmonic mean daily streamflow in Texas.

- Compiling and organizing existing information on the hydrology, biology and physical habitat, physical processes and water quality of the Trinity River Basin.

TCEQ standard requirements for interagency contracts apply. The performing party is required to adhere to all applicable standards, principles, and guidelines detailed in Office of Management and Budget circulars A-21 and A-110, including those related to financial monitoring, auditing, and record keeping. Contracts are subject to the receipt and availability of funds appropriated to or secured by the TCEQ. This funding is in place before the contract is executed through TCEQ budgeting and planning; accountability for funding is with the TCEQ budget staff and the contract manager.

Performance under each contract is ensured via standard project management practices, including initiation, planning, execution, control and closure. Performance under the scope of work is assessed though a schedule and a set of deliverables, and projects are not considered complete nor accepted unless discrepancies are resolved.

The program experienced no contracting problems in FY 08.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None

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

None

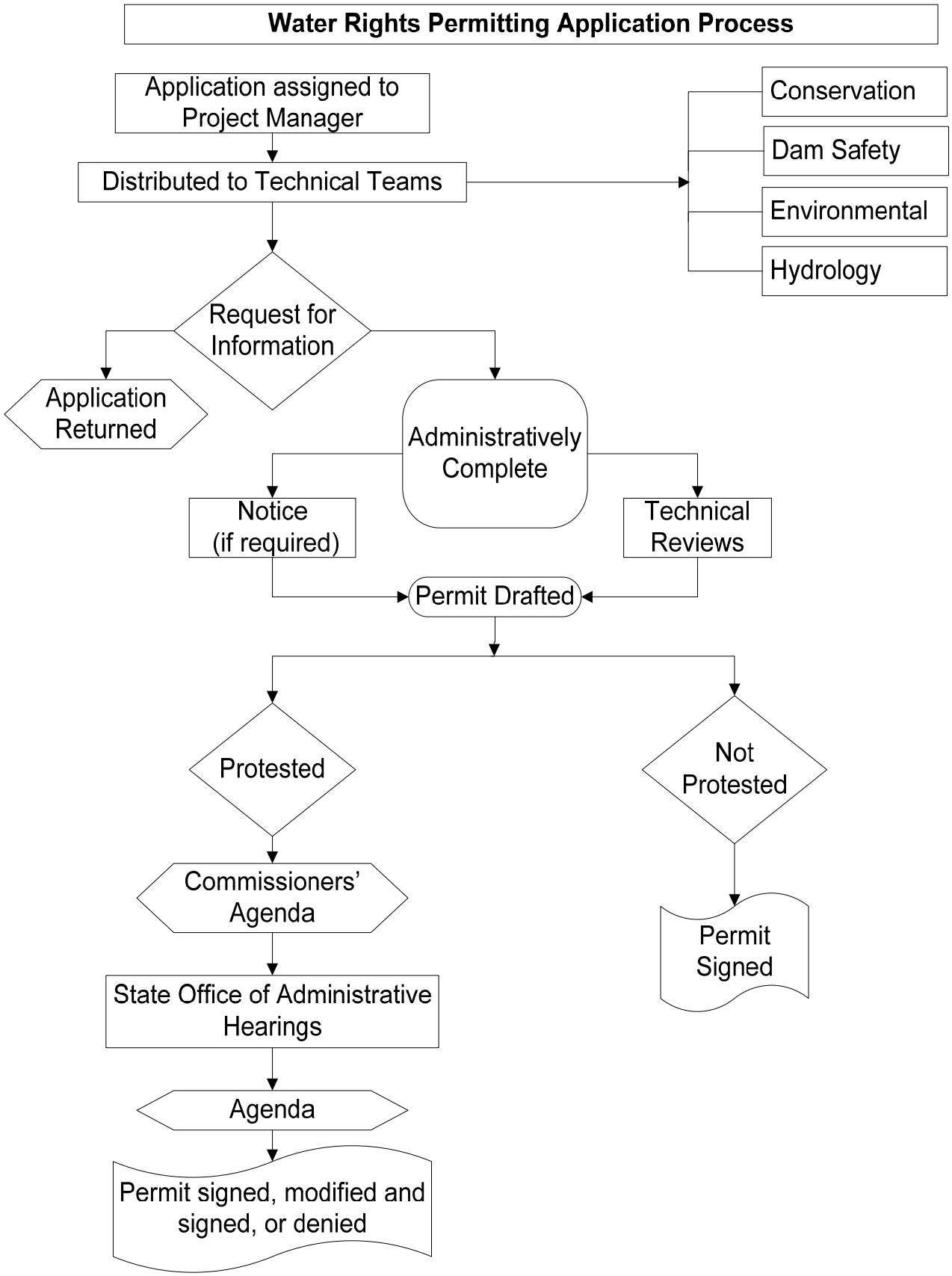
N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **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.**

Not Applicable

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable, please see Field Operations Question O for complaint-related data related to this program.


Water Rights Permitting Application Process
Application assigned to Project Manager
Distributed to Technical Teams
Conservation
Dam Safety
Environmental
Hydrology
Request for Information
Application Returned
Administratively Complete
Notice (if required)
Technical Reviews
Permit Drafted
Protested
Not Protested
Commissioners' Agenda
Permit Signed
State Office of Administrative Hearings
Agenda
Permit signed, modified and signed, or denied