

SUBCHAPTER B : MANDATORY ENFORCEMENT HEARINGS

§70.51

Effective July 7, 1999

§70.51. Mandatory Enforcement Hearings.

(a) The executive director shall monitor compliance with all permits and licenses issued by the commission. If the evidence available to the executive director through the monitoring process indicates that a permittee or licensee is in substantial noncompliance for a period of four consecutive months, or for a shorter period of time if the executive director considers an emergency to exist, the executive director shall report this fact to the commission together with the information relating to the noncompliance. The executive director may consider the magnitude and frequency of noncompliances with permit or license limitations and conditions in determining the existence of substantial noncompliance.

(b) On receiving a report under subsection (a) of this section, the commission shall call and hold a hearing to determine whether the permittee or licensee who is the subject of the executive director's report to the commission has been in substantial noncompliance with his or her permit or license. Notice for this hearing shall issue in accordance with §70.104(b) and (c) of this title (relating to Notice of Executive Director's Preliminary Report), except that in the event that notice is performed under §70.104(b) of this title, by publication, the contents of that notice need only include the name of the respondent, a summary of the relief sought by the executive director, and the right of the person to a hearing if such exists.

(c) At the conclusion of the hearing, the commission shall issue an order stating one of the following:

- (1) no violation of the permit or license has occurred;
- (2) a violation of the permit or license has occurred, but has been corrected and no further action is necessary to protect the public interest;
- (3) the executive director is authorized to enter into a compliance agreement;
- (4) a violation of the permit or license has occurred and an administrative penalty is assessed as provided by the Texas Water Code or the Texas Health and Safety Code; or
- (5) a violation of the permit or license has occurred, and the executive director is directed to have enforcement proceedings instituted against the permittee or licensee through the office of the attorney general.

Derivation Table
Rule Log No. 95123-263-AD
Procedural Rules
Adopted May 8, 1996
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Chapter 70 - Enforcement
Subchapter B : Mandatory Enforcement Hearings

This table tracks sections during and after rule revisions. The column on the left lists the current sections prior to the revision. The column on the right lists where the section is proposed to end up in the final adoption.

New Section	Old Section
70.51	337.71