

# The Advocate



For and about small businesses and local governments affected by environmental regulations

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## TCEQ Seeking Supplemental Environmental Project Third-Party Administrators

The TCEQ is seeking interested organizations (“third-party administrators”) to receive Supplemental Environmental Project (SEP) funds. These fund recipients would be required to carry out environmental projects geared toward cleaning up illegal dump sites, tire dump sites, or other projects that would provide a quantifiable benefit to the environment, such as improving water, soil, or air quality throughout the state.

To qualify as a third-party recipient of SEP funds, you must be a governmental agency or a tax-exempt 501(c)(3) nonprofit, be willing and able to maintain a separate bank account for SEP funds, be willing to report to the TCEQ quarterly, and submit an application for an approvable SEP to the TCEQ.

Your first step is to submit an application to the TCEQ to request consideration of your project. There is no fee to submit an application and there is no deadline for submittal. If the project is approved, the applicant will enter into an agreement with the TCEQ. Organizations that enter into an agreement with the TCEQ become third-party administrators and are then eligible to receive SEP funds to cover certain costs of performing environmental projects. SEP funds may be used for the direct cost of performing an approved environmental project. Examples include supplies, materials, equipment, project management, and contract labor. However, note that your organization cannot pay its administrative costs with SEP funds. For a list of allowable costs, contact

the SEP program. SEP funds are voluntarily contributed by respondents in enforcement actions, so fund availability and certainty cannot be guaranteed.



Using SEPs advances the goals of clean air, water, and soil throughout Texas and enhances the environment in communities. Money from SEP projects can be used toward environmental improvement projects in your local community. Applications can be found at [www.tceq.texas.gov/legal/sep/forms.html](http://www.tceq.texas.gov/legal/sep/forms.html).

To see examples of the types of projects that have been approved, visit the list of pre-approved projects at [www.tceq.texas.gov/legal/sep/pre-approved-seps.html](http://www.tceq.texas.gov/legal/sep/pre-approved-seps.html). For more information on becoming a third-party administrator, contact the SEP Program at 512-239-2223. ■

## Drought Update

The TCEQ continues to closely monitor water resources during this historic drought. If you are a public water system operator, you have likely received letters or phone calls from the agency encouraging you to enforce the water restrictions outlined in your drought contingency plan, and to report your plan status to the TCEQ.

To enter or update your drought contingency plan status, including water restrictions, water outages, minimum water needs, alternate sources, and other drought-related issues, use

our new online form located at [www.droughtreport.org](http://www.droughtreport.org).

If you have questions about drought contingency plans, drought reporting, or our online tools, please call the drought hotline at 1-800-447-2827. ■



# New Method for Determining Compliance History Coming Down the Pike

The TCEQ is in the process of revising the Compliance History Rules as directed by Article 4 of House Bill 2694.

The changes to the Compliance History Rules require the TCEQ to develop a method of evaluating compliance history that takes into account both positive and negative factors and ensures consistency among the variety of entities we regulate. The new compliance history determination will include information relating to the owner's or operator's complexity and size, and will take into consideration the severity of violations cited by the TCEQ and the EPA.

Below is a timeline for rule development, including the opportunity for public participation in the rulemaking process:

- Jan. 25, 2012 - Proposed rule package set to go to Commissioners Agenda
- Feb. 10, 2012 - Proposal published in Texas Register
- March 12, 2012 - Public comment period begins
- June 27, 2012 - Adoption at Commissioners Agenda
- July 19, 2012 - Rule effective

For more information, please contact the Small Business and Local Government Assistance section on our toll-free hotline at 1-800-447-2827. ■

## Local Compliance Assistance Specialists are Ready to Help You!

Free, confidential help in your backyard.

<b>Region 1 - Amarillo</b> <i>Patty Avery,</i> 806-468-0505	<b>Region 9 - Waco</b> <i>Polly Porter,</i> 254-761-3039
<b>Region 2 - Lubbock</b> <i>Celeste Hoehne,</i> 806-796-7642	<b>Region 10 - Beaumont</b> <i>Charlie Adams,</i> 409-899-8788 <i>Lori Palmer,</i> 409-899-8789
<b>Region 3 - Abilene</b> <i>John Aquilino,</i> 817-588-5836 <i>Lynn Owens</i> 817-588-5927	<b>Region 11 - Austin</b> <i>Colin Barth,</i> 512-239-7015
<b>Region 4 - Dallas-Ft. Worth</b> <i>Tasha Burns,</i> 817-588-5868 <i>Lynn Owens,</i> 817-588-5927 <i>John Aquilino,</i> 817-588-5836	<b>Region 12 - Houston</b> <i>Danielle Doss,</i> 713-767-3693 <i>Cynthia Williams,</i> 713-767-3549
<b>Region 5 - Tyler</b> <i>Jack Holsomback,</i> 903-535-5158	<b>Region 13 - San Antonio</b> <i>Nathan Weiss,</i> 210-403-4092
<b>Region 6 - El Paso</b> <i>Pamela Aguirre,</i> 915-834-4974	<b>Region 14 - Corpus Christi</b> <i>Glenda Swierc,</i> 361-825-3421
<b>Region 7 - Midland</b> <i>Celeste Hoehne,</i> 806-796-7642	<b>Region 15 - Harlingen</b> <i>Jonathan Diaz,</i> 956-389-7428 <i>Imelda Peña,</i> 956-389-7427
<b>Region 8 - San Angelo</b> <i>Colin Barth,</i> 512-239-7015 <i>Nathan Weiss,</i> 210-403-4092	<b>Region 16 - Laredo</b> <i>Carmen Ramirez,</i> 956-721-8457

## TCEQ's Guidance, Please!

The Small Business and Local Government Assistance section offers free documents with straightforward and easy-to-understand information and guidance. The following are some of our recent additions:

### *RG-499: RV Parks: Am I Regulated?*

– Guidance that informs recreational vehicle (RV) parks that some of their activities may be regulated by the TCEQ. Regulated activities include: supplying water for drinking, hand washing, dish washing, cooking, or bathing; providing wastewater treatment

or disposal; providing waste disposal; or disturbing one or more acres of land during construction activity.

### *New PST Tool: Inventory Control*

*Worksheets* (available on the TCEQ's website <[www.TexasEnviroHelp.org](http://www.TexasEnviroHelp.org)> by clicking on the "Petroleum Storage Tank (PST) Facilities" link) – New worksheets help PST facilities perform inventory control. You can use the spreadsheets in correlation with the EPA's "Doing Inventory Control Right for Underground Storage Tanks" document. ■

## The TCEQ Issues Pesticides General Permit

The TCEQ has issued a new Texas Pollutant Discharge Elimination System (TPDES) Pesticides General Permit, TXG870000, on Nov. 2, 2011, with provisional coverage starting 90 days from this date. The Pesticides General Permit authorizes the application of biological pesticides or chemical pesticides that leave a residue in water when such

applications are made into, over, or near water. The permit provides coverage for individuals or entities responsible for any of the following pest management activities: mosquito and other nuisance-insect pests, vegetation and algae, animal pests, area-wide, and forest canopy.

Some operators are automatically covered. For detailed information on

the pesticides general permit, visit <[www.tceq.texas.gov/goto/pesticide-permit](http://www.tceq.texas.gov/goto/pesticide-permit)>.

For more information about the permitting process, please call the TCEQ's Water Quality Division, Concentrated Animal Feeding Operation (CAFO) Permits Team, at 512-239-4671. ■



# Renewal of the Phase II Municipal Separate Storm Sewer Systems General Permit

The current Phase II (Small) Municipal Separate Storm Sewer Systems (MS4s) General Permit, TXR040000, expires on Aug. 13, 2012. In February 2012, the TCEQ will post the renewal draft of the MS4 permit for public comment through the Texas Register and several newspapers throughout the state. Following a public meeting in March, the TCEQ's response to comments will be available by the end of May. The new permit is scheduled for adoption by the TCEQ commissioners in July 2012.

Operators of small MS4s, fully or partly located within an urbanized area (UA), as determined by either the

2000 or 2010 census, must obtain coverage under the renewed Phase II MS4 permit using a Notice of Intent form.

New UA maps from the 2010 census may not be available until after the permit's effective date. Operators of small MS4s, as determined by the 2010 decennial census (occurring every 10 years), must obtain coverage within 180 days of the issuance of the UA maps. The TCEQ will notify those newly regulated entities by mail.

Operators that were previously permitted must reapply or obtain a waiver if applicable. MS4s serving a population of less than 1,000 within a UA may qualify for a waiver.

Principal changes to the MS4 permit include separating operators into four levels based on the population served within a UA, and certain permit requirements will be established for specific levels.

For additional details or to obtain a copy of the proposed draft MS4 permit, please go to: [www.tceq.texas.gov/permitting/stormwater/storm-water-navigation/ms4.html](http://www.tceq.texas.gov/permitting/stormwater/storm-water-navigation/ms4.html). ■

## Penalty Policy Update

The 82nd Legislature's Sunset Bill required revisions to the TCEQ's penalty policy. The revisions include an increase for penalties currently authorized by statute and a limit on enhancements to penalties based on the compliance history of a regulated entity. The increases to penalties based on compliance history are required to be capped at 100 percent of the base penalty for any individual violation.

In addition to changes required by the Sunset legislation, the TCEQ made changes that include requirements from other legislation and previous commission directives affecting the penalty policy. Some of the additional changes include:

- allowing TCEQ discretion in assessing penalties to rock crusher and concrete batch plants in certain situations (SB 1003)
- establishing a new penalty for violations on emissions inspections of motor vehicles
- establishing a new penalty for violations of computer recycling rules
- establishing penalties for violations of rules relating to dry cleaners
- implementing penalty calculations that will recover the economic benefit of avoiding compliance with environmental rules. This provision will not apply to political subdivisions and nonprofits.

The TCEQ approved changes to the penalty policy on Sept. 28, 2011. You can request the current penalty policy or visit: [www.tceq.texas.gov/publications/rg/rg-253/](http://www.tceq.texas.gov/publications/rg/rg-253/). ■

## U P C O M I N G E V E N T S

### Drinking Water Advisory Work Group

Jan. 31, 2012, 9 a.m.–noon  
TCEQ Campus  
12100 Park 35 Circle, Bldg E, Room 201S, Austin 78753  
Contact: James Beauchamp, 512-239-6174

### Water Quality Advisory Work Group

Jan. 31, 2012, 1:15 p.m.–3:30 p.m.  
TCEQ Campus  
12100 Park 35 Circle, Bldg E, Room 201S, Austin 78753  
Contact: 512-239-4671

### Small Business Advisory Committee (SBAC)

Fort Worth SBAC  
Feb. 15, 2012, 2 p.m.–4 p.m., Location TBD  
Contact: Lynn Owens, 817-588-5927

Dallas SBAC  
Feb. 16, 2012, 10 a.m.–noon, Location TBD  
Contact: John Aquilino, 817-588-5836

Houston SBAC  
Mar. 22, 2012, 10 a.m.–noon  
Houston Galveston Area Council  
3555 Timmons Lane, Conference Room C, Houston 77027  
Contact: Danielle Doss, 713-767-3693

### Environmental Trade Fair and Conference

May 1–2, 2012  
Austin Convention Center  
500 East Chavez Street, Austin 78701  
Contact: [events@tceq.texas.gov](mailto:events@tceq.texas.gov) or 512-239-3100