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Spotlight on Enforcement

The TCEQ embarks on a self-examination of its enforcement functions. Public comment is sought as well.

Agency review focuses on policies and practices

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The TCEQ has embarked on an in-depth examination of its enforcement functions. Staff has been directed to delve into all aspects of the compliance and enforcement operations.

The TCEQ is responsible for investigating violations of state environmental laws and taking corrective action. In Texas, more than 175,000 facilities, including businesses and municipalities, have the potential to affect the environment.

"We began talking last year about a comprehensive review," said Chairman Kathleen Hartnett White. "The compliance and enforcement process is one that has evolved, starting with the formation of this agency in the early 1990s. Over the years, there have been changes--by statute and by the commission--but no overarching evaluation of this kind."

White said public involvement will be essential in getting a true assessment of the program, noting that comments are being sought from around the state.

"If the ultimate findings show that the enforcement process takes too long, then we must re-examine our priorities, and determine the most effective and efficient approaches," she said. "Our utmost concern is with the fairness and timeliness of the agency's enforcement actions."

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Environmental Oversight

Investigations and enforcement are vital tools in addressing environmental problems. At the same time, the TCEQ also promotes voluntary compliance through pollution prevention programs, regulatory workshops, and assistance to businesses and local governments ([see Site Visits Help with Compliance](#)).

But when environmental laws are violated, the TCEQ has the authority to levy penalties--as much as \$10,000 a day per violation for administration cases and \$25,000 a day per violation in civil judicial cases.

In a typical year, the agency investigates more than 70,000 regulated entities for compliance with environmental laws and responds to 5,000 to 6,000 complaints.

In fiscal 2003, the TCEQ issued 955 administrative orders, which yielded \$5.4 million in fines and generated \$1.8 million for Supplemental Environmental Projects. With SEPs, the violator contributes all or part of the administrative fine to an environmental project in the community where the violation occurred.

If administrative orders and penalties do not result in environmental compliance, the TCEQ can refer cases to the Texas Attorney General. Last year, the AG's office obtained 37 judicial orders in cases referred by the TCEQ or in which the TCEQ was a party. Those orders resulted in \$16.8 million in civil penalties and another \$1.6 million directed to SEPs.

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Major Components

Acting Executive Director Glenn Shankle, who is overseeing the internal enforcement review, said the year-long project covers three essential areas:

Compliance history. Under this new program, each regulated entity receives a classification based on its compliance record the past five years. This classification is considered by the TCEQ in decisions related to permits, enforcement, use of announced inspections, and participation in voluntary programs. The compliance history examination will evaluate components and definitions of the program, classifications, and use of ratings.

Penalties and correction actions. This review will re-examine the penalty policy, the technical recommendations within enforcement orders, and the use of SEPs.

Enforcement process. This broad topic covers collection of delinquent penalties, how enforcement cases are initiated and prioritized, the procedures for handling complaints, and all the steps in enforcement cases.

In addition to re-evaluating these critical components of enforcement, staff members are studying comments received from the public and the regulated community.

Shankle said hearings held in Arlington, Midland, Harlingen, and Houston this year drew more than 100 people, who offered a broad spectrum of views on agency policies and use of resources.

In addition, he said another 377 comments had been received from a questionnaire mailed to stakeholders and posted on the agency Web site.

Comments received included these statements: The TCEQ takes too long to respond to complaints; the new compliance history program should be simplified; and violations do not result in penalties high enough to be a deterrent.

Concerns also were raised over possible conflicts in the formulas used to classify compliance history and to calculate administrative penalties.

"In addition to the comments we've already gathered, we plan to post our draft report on the Web site, probably in August, and again invite the public to respond," said Shankle.

Meanwhile, the commissioners receive updates on the enforcement review at their monthly work sessions, which are open to the public. The trio will vote this fall on the staff recommendations.

For more information, see the [TCEQ Enforcement Process Review](#).

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Administrative Orders for Environmental Violations

The total of 955 administrative orders issued in fiscal 2003 was the highest annual number since 1996, when the agency was authorized to impose administrative penalties. The recent increase resulted from stepped-up investigations of underground storage tanks and new permitting requirements in the air quality program.

Fiscal Year	Number of Orders	Penalties Assessed (in millions)	SEP Contributions* (in millions)
2003	955	\$5.4	\$1.8
2002	887	\$5.6	\$2.3
2001	850	\$4.3	\$1.3
2000	843	\$5.2	\$1.6

*the TCEQ sometimes directs penalty dollars to be paid to Supplemental Environmental Projects designed to benefit the community in which the violation occurred. Examples of SEPs are restoring wildlife habitat and cleaning up abandoned dump sites.

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