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Revamping the Enforcement Process

An intense study of the TCEQ's enforcement activities results in sweeping changes to the program.

Major Changes to Follow Agency's Review

A major shift in the TCEQ enforcement philosophy and process is under way, after commissioners approved more than 70 recommendations for making the program more efficient and meaningful.

The overhaul is the result of a comprehensive review of the agency's enforcement policies and practices. During the 14-month study, staff conducted an in-depth examination of investigation and enforcement functions.

Chairman Kathleen Hartnett White said the adopted recommendations are designed to strengthen the enforcement program and to target resources at environmental wrongdoings that can do the most damage.

"We need to harness our resources and focus our efforts on those violations that pose the highest risk for real harm to human health and the environment," White said.

Some of the revisions to the enforcement program took effect before the end of 2004, while others might take more than a year to implement as a result of public hearings and rulemaking. Additional recommendations were due to be considered by the commissioners in February.

Proposals pertaining to compliance history were left pending because the matter is expected to come up before the Legislature.

The major themes of the enforcement overhaul are:

Re-evaluation of resources. The agency will step up efforts to prevent and reduce risk to the public and the environment. This will be done by assigning a higher priority and additional agency inspection and enforcement resources to violations causing harm or having the potential to cause harm. Priorities will be based on a combination of strategies: risk to the environment, the facilities' past environmental performance, and inspection commitments established in the state appropriations process and federal grant agreements. Also, the agency will devote resources to identifying and investigating unauthorized facilities.

A stronger program. The enforcement process will become faster and more predictable. The use of standard penalties will expedite the processing of many cases and allow a shift of resources to more serious violations. A significant number of days will be eliminated in the overall enforcement process, allowing swifter corrective actions and penalty payments by environmental violators.

Field citations. Staff will develop a limited citation program to allow investigators to issue citations for violations discovered during inspections. This will include a schedule of penalties for specific types of violations. The entity can accept the citation or choose to go through the formal enforcement process.

Penalty policy. The commissioners will adopt a penalty policy by rulemaking. The rules will offer alternatives that result in tougher consequences for entities causing environmental harm.

Economic benefit. The agency will begin consulting with stakeholders to determine the best method to accurately calculate and implement a penalty formula that takes into consideration the economic benefit of noncompliance. If an entity profits by ignoring environmental laws, to what extent should that economic advantage be factored into the assessed penalty?

Collections. The agency has contracted with a collection agency to help recover unpaid fines of less than \$2,500. Delinquent accounts of \$2,500 or more continue to be referred to the Texas Attorney General. The TCEQ will not process applications--nor issue new, amended, or renewed permits or registrations--to any entity that has failed to pay a delinquent fee or penalty.

The TCEQ also will enhance staff training for handling environmental complaints, and will assist the public in better understanding complaint procedures.

More enforcement-related information is available on the agency Web site, and there is easier access to complaint procedures.

To see all the recommendations, visit the [TCEQ Enforcement Process Review Web page](#).

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