

VI. Guide to Agency Programs—Continued

A. Please complete the following chart.	
TNRCC Program Information — Fiscal Year 1999	
Name of Program	Compliance and Enforcement
Location/Division	Office of Compliance and Enforcement
Contact Name	Joe Vogel, Deputy Director, OCE
Number of Budgeted FTEs as of June 1, 1999	1032.38
Number of Actual FTEs as of June 1, 1999	996.38

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The Office of Compliance and Enforcement oversees agency compliance monitoring and enforcement activities and the operations of 16 regional offices across the state (see the attached Regional Offices directory which details the location of each office). It is made up of four divisions: Field Operations, Enforcement, Compliance Support and Monitoring Operations.

The Field Operations Division consists of 16 regional offices located throughout the state, and a central office located in Austin. Major regional office responsibilities include:

- Conducting site visits at facilities/operations across the state to determine compliance with applicable air, water, and waste rules and regulations.
- Investigating complaints at permitted and nonpermitted facilities/operations based on citizen requests for assistance.
- Developing enforcement actions for most types of air, water, and waste violations identified during inspections and/or complaint investigations.
- Ambient monitoring for local and statewide air quality, drinking water monitoring for the protection of the public water supplies in communities across the state, and surface water monitoring to ensure the continued quality of streams, lakes, rivers, and other water bodies located throughout the state.
- Overseeing and ensuring compliance with water rights and, when drought conditions exist, allocating the limited water resources in certain areas of the state.
- Approving pollution abatement plans to ensure protection of the underground water supplies (aquifers) in certain areas of the state.
- Responding to emergency spills statewide in a timely manner.
- Providing education and technical assistance to the community as needed.

The Compliance Support Division issues occupational licenses, certifications, and registrations for 17 environmental occupations such as water and wastewater operators and installers

of underground storage tank and landscape irrigation systems. There are currently more than 40,000 occupational certification licenses. The division provides training and instructor approval; examination development and administration; record keeping; and complaint investigation. The division also manages the agency's quality assurance and laboratory inspection programs.

TNRCC enforcement functions are conducted by the regional offices, the **Enforcement Division**, and the Litigation Division (Legal Services). Most violations discovered during inspections are quickly corrected in response to Notices of Violations. However, if serious and/or continuing violations are identified during an inspection, the regional office or the Enforcement Division will either initiate administrative enforcement action, potentially resulting in an administrative order with penalties; or refer the case to the Office of the Attorney General for enforcement through the courts, including potential civil penalties. Enforcement may also be initiated after record reviews indicate serious and/or continuing violations. Where possible, the TNRCC encourages expeditious settlement of enforcement actions by extending a settlement offer. If settlement does not occur within a short time, the Litigation Division will start the process that can lead to an administrative hearing. The commission has ultimate approval of all administrative enforcement orders.

The Enforcement Division is also responsible for development of the standard operating procedures and policies used by agency staff regarding the enforcement process. The development of these procedures and policies ensures that violations are handled consistently across the state.

The Monitoring Operations Division is responsible for monitoring air quality in the state and for reporting that information to the public. Division staff work together to examine and interpret the causes, nature, and behavior of air pollution in Texas. The division also provides laboratory analytical services for air, water and waste samples.

Additionally the Monitoring Operations Division conducts strategic planning of air monitoring resources to ensure network integrity and maximum use of resources. The division also evaluates and implements new technology, making Texas a national leader in air quality monitoring.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

OCE was created in July 1995 in order to integrate agency-wide enforcement activities with the Field Operations Division and the Compliance Support Division. All areas of enforcement within the agency were consolidated into a single Enforcement Division within the newly-created OCE, resulting in consolidation of approximately 143 FTEs from the water, waste and air enforcement programs. The Monitoring Operations Division was later transferred to OCE.

Table 1 lists the programs and statutory authorities for requirements for which the Office of Compliance and Enforcement are responsible. Enforcement statutory authorities are listed in Table 2 located in Section M.

Table 1 - Program Statutory Authority	
Function	Statutory Authority
Public Water Supply Inspections	Federal - Federal Safe Drinking Water Act §§ 3009-2 State - Texas Health & Safety Code, Chapter 341 and Texas Water Code Chapter 13
Wastewater Inspections	Federal - Federal Water Pollution Control Act, Clean Water Act, 33 USCA §§ 1311 & 1319 State - Texas Water Code Chapter 26 and Texas Health & Safety Code, §§ 341.011-341.018
Air Inspections	Federal - Federal Clean Air Act; 42 USCA §§ 7413, 4720, 7477, 7511d, 7524, 7572, and 7651m State - Texas Health & Safety Code Chapter 382
Petroleum Storage Tank Inspections (also including Stage II Vapor Recovery System inspections)	Federal - Federal Water Pollution Control Act, Clean Water Act, 42 USCA §§ 6991-6991i and Federal Clean Air Act, 42 USCA § 75116 State - Texas Water Code, Chapter 26, Subchapters I & K
Confined Animal Feeding Operation (CAFO) Inspections	Federal - Federal Water Pollution Control Act, Clean Water Act, 33 USCA §§ 1311, 1319, and 1342 State - Texas Water Code, §26.121; Texas Health & Safety Code, §§ 341.011-341.018 & 341.092
Industrial and Hazardous Waste Inspections (also including Underground Injection Control inspections)	Federal - Resource Conservation & Recovery Act; 42 USCA §§ 6921-6939e and Safe Drinking Water Act, §§ 300h, 300h-1, and 300h-2 State - Texas Health & Safety Code, Chapter 361 and Texas Water Code, Chapters 26 and 27
Municipal Solid Waste Inspections (also including Medical Waste Transporter, Used Oil & Filter and Waste Tire inspections)	Federal - Resource Conservation & Recovery Act; 42 USCA §§ 6941-6949a State - Texas Health & Safety Code, Chapters 361 and 371
On-Site Sewage Facility Inspections	State - Texas Health & Safety Code, Chapter 366
Surface Water Quality Monitoring	Federal - Federal Clean Water Act, Chapters 104, 106, 204, 205, 303-305, 314, 319 and 604 State - Texas Water Code, §§ 26.127- 26.128
Ambient Air Monitoring and Air Mobile Monitoring	Federal: Clean Air Act § 110 State - Texas Health & Safety Code, Chapter 382; Texas Clean Air Act

Table 1 - Program Statutory Authority	
Function	Statutory Authority
Water and Waste Analysis	<p>SWQM - Surface Water Quality Monitoring - Clean Water Act, §§ 104, 106, 204, 303, 304, 305, 314, 319 & 604; Texas Water Code, §§ 26.127-26.128</p> <p>NPDES - National Pollution Discharge Elimination System - Clean Water Act, §402</p> <p>CAFOS - Confined Animal Feeding Operations - 33 USCA §§ 1311, 1319 & 1342; Texas Water Code, Chapter 26, Subchapters I & K</p> <p>RCRA - Resource Conservation & Recovery Act - 42 USCA §§ 6941-6949a, Texas Health & Safety Code, Chapter 361 Subchapters C & I</p> <p>CERCLA - Comprehensive Environmental Response, Compensation, (and) Liability Act-42 USCA §§9604-9623; Texas Health & Safety Code, Chapter 361, Subchapter F</p> <p>PANTEX - Nuclear Weapons Facility 42 USCA §§ 6941-6949a</p> <p>PST - Petroleum Storage Tanks SWDA §§ 9004 and 9005; Texas Water Code, § 26.356</p>
Pre-Treatment Inspections	<p>Federal - Federal Clean Water Act, 33 USCA § 307</p> <p>State - Texas Water Code, § 26.1211</p>
Sludge Inspections	<p>Federal - Federal Clean Water Act, 33 USCA § 1345</p> <p>State - Texas Health & Safety Code, Chapter 361; Texas Water Code, Chapter 26</p>
Water Quality Data Management	<p>Federal - Federal Water Pollution Control Act, Clean Water Act, 33 U.S.C.A. §§ 1313 and 1315</p> <p>State - Texas Water Code, Chapter 26</p>
Edwards Aquifer Program	<p>Federal - Federal Clean Water Act Section, 33 USCA §§ 1311, 1319 and 1329</p> <p>State - Texas Water Code, Chapter 26</p>
Department of Defense Facility Inspections and Oversight	<p>Air: Texas Health & Safety Code §§ 382.0518 and 382.085; Fed. Clean Air Act, 42 USCA §§ 7413, 7420, 7477, 7511(d), 7524, 7572, and 7651(m)</p> <p>Water: Texas Water Code, Chapter 26; Federal Clean Water Act, 33 USCA §§ 1311, 1318, 1319, 1323 and 1342</p> <p>Waste: Texas Health & Safety Code Chapter 361, Subchapter I; 42 USCA §§ 6921-6939E; 42 USCA §§ 6941-6949a; 42 USCA §§ 6991-6991i</p>
Quality Assurance Program and Oversight	<p>40 Code of Federal Regulations, Parts 31 & 35; EPA Order 5360.1 CHG 1</p>

Table 1 - Program Statutory Authority	
Function	Statutory Authority
Occupational Licensing Program/ Enforcement	<p>OSSF -- Texas Health & Safety Code, § 366.055</p> <p>Underground Storage Tank (UST) -- Texas Water Code §§ 26.342-26.345 & 26.451-26.454</p> <p>Leaking Petroleum Storage Tank (LPST) – Texas Water Code, Chapter 26.3573(j)</p> <p>Stage II -- Texas Water Code, § 26.345</p> <p>Irrigators -- Texas Water Code, Chapter 34</p> <p>Residential Water Program – Title 109 Texas Plumbing Licensing Law, Article 6243-101</p> <p>Backflow Prevention Assembly Testers – Texas Health and Safety Code, § 341.033</p> <p>Municipal Solid Waste Technicians – Texas Health & Safety Code, § 361.027; Federal Safe Drinking Water Act Amendments of 1996, §§ 1419(A) & 1452</p> <p>Water Operators – Texas Health and Safety Code, § 341.034 Federal Safe Drinking Water Act Amendments of 1996, §§ 1419(A) & 1452</p> <p>Customer Service Inspectors – Texas Health and Safety Code, § 341.034</p> <p>Wastewater Operators – Texas Water Code, § 26.0301</p> <p>Visible Emissions Evaluators – Title 40 Code of Federal Regulations, Part 60(A), Method 9</p>
Municipal Utilities District Construction Inspections	Texas Water Code, § 54.024
Watermaster and Water Rights Programs	Texas Water Code, §§ 11.325, 11.326, 11.3261, and 11.329

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

Services and functions have been modified as new programs have been added to the TNRCC and as the agency has been delegated responsibility for additional federal programs, or to accommodate amendments to federal and state statutes or rules. The Office of Compliance and Enforcement will continue to be needed to meet the agency’s regulatory function.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

The Office of Compliance and Enforcement, through its compliance inspections, enforcement programs, compliance assistance activities, and monitoring operations, is the main avenue of access to the TNRCC for the public, as well as the regulated community. There are an estimated 220,000 regulated entities in the state covering large and small businesses, industries, governmental entities, public drinking water systems, wastewater treatment systems, solid waste treatment, storage, and disposal facilities, and individuals.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The program is administered as follows:

Field Operations Division

For the last several years many of the air, waste and water programs in Field Operations Division (FOD) have used targeting strategies to develop annual inspection plans. These targeting strategies are program-specific and risk-based. They allow FOD to identify, in a consistent manner statewide, facilities that will be inspected during a fiscal year. Programs that currently use inspection targeting strategies are: industrial and hazardous waste; municipal solid waste; petroleum storage tanks; Texas Pollution Discharge Elimination System wastewater, pretreatment and sludge; public water supply; combined animal feeding operations; and Air. Inspectors will review the findings of their inspections in exit interviews at each facility and describe any areas of non-compliance. See Section M for a description of procedures for handling non-compliance findings resulting from inspections.

The Edwards Aquifer Protection program, On-Site Sewage Facilities program, and Air Stack Test program are considered on-demand programs and the actual workload in these programs cannot be predicted annually. However, all applications and/or reports received must be acted upon in a timely manner. FOD is responsible for reviewing and approving plans, reports and applications. It issues permits for affected programs in addition to conducting initial construction and follow-up inspections on all proposed facilities.

The TNRCC has two watermaster programs: the Rio Grande which coordinates releases from the Amistad and Falcon reservoir system for irrigation, municipal, and industrial uses and the South Texas which serves the Nueces, San Antonio, and Guadalupe River Basins, as well as the adjacent coastal basins. The watermaster programs ensure compliance with water rights by monitoring streamflows, reservoir levels, and water use and by coordinating diversions in the basin. Watermasters and their staff protect water rights by reviewing notifications and authorizing appropriate diversions, stopping illegal diversions, providing real-time monitoring of area streamflows, and mediating conflicts and disputes among water users, thereby avoiding costly litigation. Watermasters provide technical assistance to water users as well, by helping new water right owners install streamflow markers, for example, or providing information about how many water rights are authorized along a stream. Because of their knowledge of water rights and uses, watermasters can also inform users and prospective users about water and water rights available for sale. In addition, since the watermasters constantly monitor streamflow, they can anticipate problems, thus enabling local users to develop regional responses before the effects of drought become apparent.

Compliance Support Division

Occupational licensing programs are administered in accordance with statutory requirements for each program. An essential element of occupational licensing is the identification of the necessary knowledge and skills for each license through a job analysis. The job analysis provides the basis for determining the necessary basic training, and development of the examination.

Generally, licensing involves the verification of requisite experience, completion of a basic training program and an examination. Examinations are administered periodically in Austin and in the Regional offices. Licensees pay application and/or examination fees. Most programs require renewal and completion of continuing education courses.

Staff also investigates complaints against licensees and initiate enforcement action when necessary. Enforcement action may be taken against licensees or non-licensees. Potential actions include suspension or revocation of the license and/or administrative penalties.

The agency quality assurance program is administered in accordance with the TNRCC Quality Management Plan: Environmental programs and projects are planned using systematic planning processes, and documented in project and work plans. They are implemented according to these plans, and monitored to ensure the achievement of project and program objectives. Similarly, environmental laboratory inspections are planned using risk and other criteria (contractual status, complaint history, results of prior inspections, and logistics) and conducted according to written procedures. Corrective actions resulting from inspections are monitored to verify implementation and effectiveness.

Enforcement Division

Enforcement encompasses a broad range of approaches which may be taken by government to encourage or compel compliance by the regulated community. The Enforcement Division is responsible for ensuring that serious and/or continuing violations receive an enforcement response that is fair, equitable and deters future violations. See Section M regarding the follow-up activities which occur when non-compliance is identified.

Once serious and/or continuing violations are identified, the TNRCC has several enforcement options available to the agency: 1) agreements, 2) contested case processing, 3) default orders, 4) referral to the Attorney General for lawsuit, 5) referral to the Environmental Protection Agency (EPA) for a federal enforcement action, and 6) criminal prosecution. Definitions of these options are included in the Enforcement Standard Operating Procedures (SOP) and specifics are described in Section M regarding Sanctions. The Enforcement Division is responsible for ensuring that the SOP is accurate and current. The enforcement process is also defined in the attached flowcharts. Once formal enforcement orders are issued, the Enforcement and Field Operations Divisions are responsible for tracking compliance with the terms of the Orders.

The Enforcement Division also receives and audits all self-reporting data for wastewater discharge permits. The analytical data is entered into a computerized system which then evaluates the data and determines whether significant noncompliances have occurred. Any significant noncompliances are handled through enforcement with penalties and/or sanctions.

Monitoring Operations Division

The Monitoring Operations Division deploys and maintains more than 120 air monitoring stations in Texas. These stations contain specialized instruments to measure a variety of air pollutants and meteorological conditions. The division validates and manages the air quality and meteorological data collected by the TNRCC as well as data collected by private and local government monitoring networks. The division also supports community anti-pollution efforts by conducting ozone pollution forecasting for several metropolitan areas of the state. The air laboratories perform organic and inorganic analysis of air samples collected from the TNRCC's air monitoring networks as well as from samples collected by or referred to the TNRCC and local air pollution control program investigators. The analytical laboratory in Houston provides continuous chemical, biological, bacteriological and physical testing of water, wastewater, soil, sediment, sludge, and tissue samples in support of various monitoring and enforcement activities of the agency.

G. If the program works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Inspections and Enforcement:

The TNRCC has an effective working relationship with the following city, county, and city/county local air pollution control programs: City of Dallas Department of Environmental and Health Services, El Paso City-County Health and Environmental District, City of Fort Worth Department of Environmental Management, Galveston County Health District, and City of Houston Bureau of Air Quality Control and City of Houston Department of Health and Human Services. These programs provide basic air pollution control services (enforcement/compliance investigations) within their jurisdictions through contracts with the TNRCC. The technical capabilities of the local programs are continually enhanced by training and mentoring provided by the TNRCC.

The TNRCC has primary jurisdiction over the On-Site Sewage Facility (OSSF) program; however, Texas Health and Safety Code Chapter 366 grants the TNRCC the ability to delegate its program authority to local governmental entities. Currently, there are more than 250 counties, municipalities, river authorities, and special districts statewide that have been designated as authorized agents (AAs) for the OSSF program. The TNRCC maintains oversight authority over AAs to ensure that state rules and regulations are administered appropriately. Funding for the local programs is fee-based and is dependent upon the level of OSSF system permitting activity experienced by the local authorities.

Ambient Air Monitoring and Ozone Forecasting and Action

The Monitoring Operations Division works with the same local government air pollution control programs listed in the paragraph above regarding inspections and enforcement. These local programs receive federal funding from EPA for ongoing air monitoring activities. TNRCC receives these pass-through funds from EPA and disburses them to the local agencies via interlocal contracts. In addition, the Monitoring Operations Division also uses a separate interlocal contract with each of these local programs to provide funds for the operation of specific PM_{2.5} monitors that are part of the TNRCC PM_{2.5} Monitoring Network.

TNRCC also contracts with the Laredo Department of Health for operation of a monitoring station in Laredo. A second station will be added in the next few months, and the Laredo Department of Health will also operate this station, under the same contract.

In addition, Monitoring Operations works with various local coalitions and organizations on Ozone Action Day Programs. TNRCC meteorologists provide ozone forecasting services and notify contacts for the local coalitions and organizations each time an Ozone Action Day has been declared for their area of the state. Following is a listing of the local coalitions/organizations that Monitoring Operations works with: Houston-Galveston Area Council of Governments, Harris County Pollution Control Department, Galveston County Pollution Control Department, South East Texas Regional Planning Commission, Corpus Christi Ozone Task Force, North Central Texas Clean Air Coalition, Paso del Norte Clean Cities Coalition, Alamo Area Council of Governments, Northeast Texas Air Care Group, and Central Texas Clean Air Force.

Compliance Support - Training

The Compliance Support Division works with the North Central Texas Council of Governments which sponsors water utility operator training.

H. Identify all funding sources and amounts for the program, 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).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Because of the large number of regulated entities, the TNRCC is unable to inspect all regulated facilities annually. Consequently, inspection activities are prioritized using annual inspection targeting strategies. These targeting strategies are program-specific and risk-based. The agency is currently reallocating resources to field operations to enhance its inspection efforts.

A significant portion of funding for the Office of Compliance and Enforcement is provided through federal grants from EPA. There is concern that the funding level for the various programs will not remain consistent. If federal funding is reallocated, the TNRCC will have to re-establish priorities.

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

Spill Response: Spill response is handled by the General Land Office (GLO) and the Railroad Commission (RRC) as well as the TNRCC. Each agency has jurisdiction over spills according to the source of the spill, the material spilled, the quantity spilled and/or the location. For example, GLO has jurisdiction over coastal oil spills greater than 240 barrels. The RRC has jurisdiction over all spills from

activities associated with the exploration, development, or production of oil, gas, and geothermal resources. This includes coastal spills of 240 barrels or less of crude oil. The TNRCC has jurisdiction over hazardous material, regardless of the location.

Occupational Licensing: The Texas Department of Licensing and Regulation and the Texas State Board of Plumbing Examiners also license individuals to perform certain occupations. The occupations regulated by these agencies are different from those regulated by TNRCC.

On-Site Sewage Facility Regulation: Certain governmental entities (e.g., counties, cities, river authorities, health districts, and water districts) are authorized by the TNRCC to regulate and manage OSSF programs in their jurisdictional areas. With the exception of licensing and administrative penalties, these entities perform the same functions as the TNRCC does in those areas which are not delegated. This is a voluntary program and TNRCC conducts periodic reviews to ensure that the entities are managing the program in accordance with current statutes and rules.

Ambient Air Monitoring: Local air pollution control programs in Dallas, El Paso, Fort Worth, Houston, and Galveston, conduct similar air monitoring activities under contract with the TNRCC. Funding for the local program monitoring is provided by EPA, with TNRCC receiving the funding and providing it to the local programs through the execution and administration of interlocal contracts. In addition, certain industries in the Houston/Beaumont/Port Arthur areas finance and conduct similar air monitoring activities.

Surface Water Monitoring: See Section VI.G. for the Water Quality Division.

Inspections and Enforcement, Federal Agencies: The Environmental Protection Agency is authorized to conduct inspections and perform enforcement at the same facilities that the TNRCC inspects and enforces against.

Inspections and Enforcement, Local Governments: Local governments have statutory authority to conduct inspections and take enforcement actions regarding environmental requirements. Inspections conducted by local governments regarding air are similar in nature. However, the TNRCC contracts with the local governments and does not duplicate the inspections that local governments have scheduled. Inspections conducted by local governments for wastewater are focused on the quality of the wastewater discharge and are not as comprehensive as the TNRCC inspections which also review treatment plant design, operation, maintenance, quality of laboratory analyses, sludge disposal, and record retention.

Inspections and Enforcement, Criminal Actions: The TNRCC participates with federal and local governmental agencies in a task force which evaluates evidence of environmental crimes and pursues prosecution for those crimes.

Inspections and Enforcement, Other State Agencies:

- **Texas Department of Agriculture (petroleum storage tanks):** The Texas Department of Agriculture conducts inspections for calibration and accuracy of gasoline delivery flow at the same gasoline service stations that TNRCC regulates for other requirements.

- **Texas Railroad Commission (hazardous waste and air):** The RRC has authority over hazardous waste regulation at oil and gas exploration and at production facilities, excluding refineries, where the TNRCC has sole jurisdiction. The TNRCC has authority over all other hazardous waste regulation in the State. The TNRCC and the RRC share jurisdiction for the Clean Air Act at oil and gas exploration and production facilities (with the exception noted above for oil refineries). TNRCC jurisdiction is triggered when air emissions exceed major source threshold amounts as defined in the federal Clean Air Act.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

Spill Response: MOUs among the agencies, as well as the State of Texas Oil and Hazardous Substances Spill Contingency Plan specify each agency's jurisdiction. When a spill occurs, each agency coordinates by phone or in the field regarding the specifics of the spill and decides who has jurisdiction. This coordination has worked well.

Occupational Licensing: Three different agencies are responsible for licensing individuals in different occupations so there is no overlap of jurisdiction.

On-Site Sewage Facility Regulation: For those local entities which regulate septic systems, the TNRCC relinquishes jurisdiction to them.

Ambient Air Monitoring: The Monitoring Operations Division administers and oversees the interlocal contracts and works closely with the local programs to ensure that their monitoring is conducted in compliance with TNRCC data quality objectives and that the monitoring supplements, rather than duplicates, TNRCC monitoring. Local program monitoring is conducted in areas where the TNRCC has not established its own monitoring sites. The division also maintains contact with the private monitoring network owners and routinely receives summaries of the data they collect. The industry-financed monitoring is not duplicative of the TNRCC monitoring, primarily because it is not designed to measure general air quality, it is not reported to EPA, it is not used for regulatory purposes, and it is not available to the public.

Surface Water Monitoring: See Section VI. G. for the Water Quality Division.

Inspections and Enforcement, Federal Agencies: The TNRCC and EPA have specific memoranda of agreement and understanding which define how the agencies will coordinate activities so that duplication of effort is minimized. The TNRCC also participates in a performance partnership grant with EPA which identifies the facilities that the TNRCC will inspect. There is some duplication of effort inherent in the federal oversight of the grant. However, the partnership minimizes the need for duplicate oversight inspections.

Inspections and Enforcement, Local Governments: For the most part, duplication of effort is minimized. However, some duplication of effort occurs in the drinking water and water quality cases as local governments pursue enforcement in local courts, while TNRCC may be pursuing similar cases administratively or through civil action. This occurs particularly with the City of Houston and Harris

County where multiple inspections may be conducted. The inspections are not exactly the same as the TNRCC inspections, as described in Section J above. There have been discussions with the local authorities about coordinating these activities, but no formal agreement has been reached.

Inspections and Enforcement, Criminal Actions: Since the task force includes federal, state, and local government agencies, communication and cooperation of each of the agencies is the key to avoid any duplication of effort or interference. Each agency is actively involved in the selection of cases to prosecute and many times the agencies work together to complete the investigation and prosecution of these crimes.

Inspections and Enforcement, Other State Agencies:

- **Texas Department of Agriculture (petroleum storage tanks):** The TNRCC and Texas Department of Agriculture are currently negotiating an MOA/MOU which will define how each agency will assist the other in verifying proper certifications of compliance and calibration. Due to the large number of service stations within the State, this process will allow both agencies to expand information about compliance rates.
- **Texas Railroad Commission (hazardous waste and air):** The statute defines the jurisdictional boundaries for hazardous waste regulation. However, the TNRCC and RRC also have a Memorandum of Agreement which outlines the duties of each agency. The TNRCC and RRC have less formal agreements regarding air complaint investigations and routine inspections. For complaints regarding hydrogen sulfide and sulfur odors the agencies have agreed that the RRC will be the lead.

L. Please provide any additional information needed to gain a preliminary understanding of the program.

Not Applicable

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- **Why the regulations are needed:**

Inspections are conducted to ensure compliance with state and federal rules, regulations and statutes. Enforcement is performed to ensure that documented violations are appropriately addressed, resolved, in a timely manner and to deter future violations.

Inspection/Enforcement

- **Public Water Supply Inspection/Enforcement:** Public water supply inspections are conducted to ensure the delivery of safe drinking water.

- **Wastewater Inspection/Enforcement:** Wastewater inspections are conducted to ensure the proper treatment and disposal of wastewater and to protect ground and surface waters.
- **Air Inspection/Enforcement:** Air inspections are conducted to ensure good, healthy, ambient air quality.
- **Petroleum Storage Tank (PST) Inspection/Enforcement:** PST inspections are conducted to ensure human safety and protection of the state's ground-water resources and to ensure appropriate installation of new underground storage tanks, appropriate removal or closure of old tanks, appropriate cleanup of leaking underground storage tanks and that leak detection systems are installed and operating adequately.
- **Stage II Inspections:** Stage II inspections are conducted to ensure that gasoline vapors are controlled or reduced during fuel dispensing into vehicles in areas of the state where compliance with the National Ambient Air Quality Standards has not been achieved.
- **Confined Animal Feeding Operations (CAFO) Inspection/Enforcement:** CAFO inspections are conducted to ensure that solid wastes and wastewater generated from the CAFOs are managed appropriately to protect ground and surface waters.
- **Industrial and Hazardous Waste (IHW) Inspection/Enforcement:** IHW inspections are conducted to ensure the safe handling and disposal of industrial and hazardous solid wastes, and protection of ground and surface water resources and air.
- **Municipal Solid Waste (MSW) Inspection/Enforcement:** MSW inspections are conducted to ensure the safe handling and/or disposal of municipal solid waste, as well as, used oil, and used oil filters, medical waste, and waste tires.
- **OSSF Inspection/Enforcement:** OSSF plan applications are reviewed, permits are issued, and inspections are performed to ensure the safe disposal of domestic wastewater through on-site septic systems and protection of surface and ground-water resources. In addition, compliance reviews are conducted to ensure that Authorized Agents manage local programs in accordance with the current statutes and rules.
- **Pre-Treatment Inspections:** Pre-treatment inspections are conducted to ensure that wastewater discharges by industrial user, that is destined for further treatment by publicly owned-treatment works (POTW), does not harm the ultimate receiving stream or the POTW.
- **Sludge Inspections:** Sludge inspections are conducted to ensure that solids resulting from wastewater treatment are adequately treated prior to application and/or disposal for protection of surface and ground-water resources.
- **Edwards Aquifer Program:** Edwards Aquifer Pollution abatement plans are reviewed and follow-up inspections are performed to ensure protection of the Edwards Aquifer.
- **Department of Defense:** Air, water and waste inspections are conducted to ensure that the unique aspects of federal facilities in Texas are handled appropriately.
- **Municipal Utility District (MUD) Construction:** MUD construction inspections are conducted

to ensure that construction, of wastewater treatment and drinking water supply facilities and flood control drainage conduits, is performed in accordance with approved plans and specifications.

- **Watermaster Program:** Watermaster pumping and diversion inspections are performed to ensure there is an adequate supply of water to meet the domestic, livestock, irrigation, and drinking water needs of the Rio Grande Valley and South Texas areas.

Monitoring

- **Surface Water Quality Monitoring:** Surface water quality monitoring is performed to ensure compliance with state and federal water standards, to gather information used in the triennial review of the water quality standards, and to provide data for use in the Total Maximum Daily Load (TMDL) project.
- **Ambient Air Monitoring:** Ambient monitoring is performed to ensure compliance with state and federal air standards.
- **Water and Waste Analysis:** Water and waste analyses are performed to determine compliance with permit limits of water discharged to water of the State and waste disposed of in the State.

Occupational Certification and Licensing

The commission licenses individuals engaged in environmental occupations, such as water utility operators, firms involved in petroleum storage tank and wastewater operations, and local governmental organizations that implement on-site sewage facility laws on behalf of the state. Certification and/or licensing is necessary to ensure safe and effective operations and to prevent adverse impacts to human health and the environment.

- **What is the scope of, and procedures for, inspections or audits of regulated entities?**

Each of the program areas for which inspections are conducted has a manual detailing inspection procedures and protocols. Inspection checklists assist with determining the scope of each inspection type. The following inspection checklists/protocols currently are in effect:

[Air Program Investigator's Manual](#)
[Ambient Monitoring Manual](#)
[Water Quality Inspection Manual](#)
[Surface Water Quality Monitoring Manual](#)
[On-Site Sewage Facility Program Manual](#)
[Public Water Supply Inspection Manual](#)
[Municipal Solid Waste Inspection Manual](#)
[Industrial & Hazardous Waste Inspection Manual](#)
[Petroleum Storage Tank Inspection Manual](#)
[Stage II Inspection Manual](#)

The Compliance Support Division inspects landscape irrigation and on-site sewage systems in response to complaints. All other inspections of occupational licensees are conducted by Field Operations Division personnel.

The Enforcement Division also audits all self-reporting data on wastewater discharges submitted pursuant to permitting requirements regarding the Texas Pollution Discharge Elimination System (TPDES) and National Pollution Discharge Elimination System (NPDES). The self-reported data is entered into a computerized system which is then used to determine whether there are delinquent reports, missing information, or significant non-compliances of permit requirements.

The Water Utilities Division audits self-reporting data submitted regarding public water supply systems. The self-reported data is entered into a computerized system which is then used to determine whether significant non-compliances have occurred.

Self-reported data in the air program are evaluated for significant non-compliances when initially submitted and are used in facility inspections.

- **What follow-up activities are conducted when non-compliance is identified:**

Non-compliances are primarily identified in five different ways: regional office-conducted routine inspections; regional office investigation of complaints; central office or regional office records or database review; disclosure of violations through the Texas Health, Safety, and Environmental Audit law; and central office determination during reviews of permit applications, registrations, or other documents. If the violation(s) is minor, the facility is given 14 days in which to correct it. If they do not correct it or the violation(s) is more serious, the next step is a Notice of Violation (NOV) letter sent to the facility allowing a certain amount of time to achieve compliance. The NOV will request that the facility submit a written schedule that shows when and how they plan to correct each of the alleged violations or the TNRCC will give them a written schedule that they must follow. The inspector tracks the response to the NOV to ensure that compliance is achieved, either through submittal of documentation to the agency or through a follow-up inspection on-site to verify compliance. If the violation(s) is serious, “formal enforcement” will be initiated immediately regardless of the facility’s ability to correct/resolve the alleged violation in a timely manner. The TNRCC’s “Criteria for Initiation of Formal Enforcement Action for Air, Water and Waste Violations” describes the process by which the TNRCC decides how to respond to violations.

In regard to the audits of self-reported data for TPDES and NPDES, warning letters are used for reports that have missing information or are delinquent. If the reports are not correctly submitted following a warning letter then the case is referred for enforcement sanctions. For cases in which significant violations are determined, the case is immediately referred for enforcement sanctions.

For the self-reporting data in the public water supply program, notices of violation are sent for violations which are not considered substantial. Significant violations are referred to the Enforcement Division for appropriate enforcement.

For the air self-reported data, if significant non-compliance is found, the region is notified and the facility is targeted for further investigation. If there are no obvious non-compliance findings, the reports are filed and evaluated in-depth during future inspections of the facilities.

- **Sanctions available to the agency to ensure compliance:**

The agency has several sanctions available to ensure compliance. TNRCC is authorized to issue administrative enforcement actions by Chapters 7, 11, 12, 13, 16, and 36 of the Texas Water Code and Chapters 341 and 371 of the Texas Health and Safety Code. This authorization extends to all programs administered by TNRCC. The commission may issue administrative orders that include administrative penalties by reaching agreements with respondents, by litigating the case through the State Office of Administrative Hearings (SOAH), or by default of the respondent. The Commission makes the final agency decisions regarding issuance of an order, however, respondents may appeal the order in district court. If the respondent does not comply with the terms and conditions of an order, then the commission may seek action by the courts through the Office of the Attorney General. Table 2 describes the administrative and civil penalties authorized by statute for each program. Procedures for determining appropriate penalty amounts are contained in the TNRCC’s Penalty Policy and the Enforcement SOP. The TNRCC may also seek enforcement in criminal courts through coordination with the Office of the Attorney General and local criminal prosecutors.

TABLE 2: STATUTORILY AUTHORIZED PENALTIES			
Program	Statute/ Chapter	Administrative penalties, per violation per day	Civil penalties, per violation per day
Air Quality	TWC/7	\$0-10,000	\$50-25,000
Industrial and Hazardous Waste	TWC/7	\$0-10,000	\$50-25,000
Land over MSW Landfills	TWC/7	\$0-10,000	\$50-25,000
Medical Waste	TWC/7	\$0-10,000	\$50-25,000
Municipal Solid Waste	TWC/7	\$0-10,000	\$50-25,000
Petroleum Storage Tank	TWC/7	\$0-10,000	\$50-25,000
Radioactive Substances	TWC/7	\$0-10,000	\$50-25,000
Subsurface Excavation	TWC/7	\$0-10,000	\$50-25,000
Toxic Chemical Release Reporting	TWC/7	\$0-10,000	\$50-25,000
Underground Injection Control	TWC/7	\$0-10,000	\$50-25,000
Underground Water	TWC/7	\$0-10,000	\$50-25,000
Waste Tires	TWC/7	\$0-10,000	\$50-25,000
Water Quality	TWC/7	\$0-10,000	\$50-25,000
On-Site Sewage Disposal	TWC/7	\$0-2,500	\$50-5,000
On-Site Sewage Installation	TWC/7	\$0-2,500	\$50-5,000
Used Oil	TWC/7	\$0-2,500	\$50-5,000

TABLE 2: STATUTORILY AUTHORIZED PENALTIES			
Program	Statute/ Chapter	Administrative penalties, per violation per day	Civil penalties, per violation per day
Used Oil Filters	TH&SC 371	\$0-2,500	\$100-500
Water Saving Performance Standards	TWC/7	\$0-2,500	\$50-5,000
Irrigators	TWC/7	\$0-2,500	\$50-5,000
Weather Modification	TWC/7	\$0-2,500	\$50-5,000
Water Rights	TWC/11	\$0-5,000	\$0-5,000
Dam Safety	TWC/12	N/A	\$0-5,000
Public Water Utilities	TWC/13	0-\$500	\$100-5,000
Levees	TWC/16	\$0-1,000	\$0-1,000
Public Water Supply	TH&SC/341	\$50-1,000	\$50-1,000

The commission has the authority to issue emergency orders, when appropriate, to require certain actions by a respondent. The commission may, after opportunity for hearing, revoke or suspend a permit, registration, certificate of convenience and necessity, or license. The entity would then no longer have the legal authority to continue their regulated activity. The commission is also authorized to order gasoline service station owners/operators to shut down fueling operations for certain types of violations.

The commission may seek enforcement in the civil courts through the Office of the Attorney General. Actions requested of the court include: temporary restraining orders, temporary injunctions, permanent injunctions, agreed judgments, court orders, and receiverships for public water supplies.

The commission may seek enforcement in criminal courts through the coordinated effort of several state, local, and federal units of government. Sanctions in criminal court for environmental crimes have included jail sentences, probation, home confinement, fines, community service, and restitution.

The TNRCC also has broad authority to impose specific technical or legal requirements in orders to correct the violations.

- **Procedures for handling consumer/public complaints against regulated entities:**

Complaint handling and response is one of the highest priorities of the TNRCC Field Operations Division. The division has 16 regional offices which respond to all environmental complaints in accordance with our Complaints Handling Procedures Manual. Upon receipt of a complaint, staff prioritize the complaint based on the potential impact to human health and/or the environment. The priority assigned determines the response time to conduct an investigation. The complaint is assigned a tracking number and entered into the Complaint Database. Current procedures require staff to contact the complainant (if available) prior to conducting an on-site investigation of the regulated entity to gather facts and obtain information. Procedures also dictate that staff report the investigation findings to the complainant. Depending upon the results of the investigation, a follow-up investigation may be conducted. Once the complaint investigation is conducted, a written report is completed and

appropriate action is taken until the complaint is resolved and the resolution is entered into the Complaint Database.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

**SUNSET REVIEW COMPLAINT AND INSPECTION DATA -
FIELD OPERATIONS DIVISION**

Water Utilities (Public Water Supply and Municipal Utility District Construction)	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	706	978	344
Total Number of Complaints Resolved	692	940	322
Number of Complaints Found to be Without Merit	36	19	9
Number of Complaints Resulting in Violations	162	284	66
Average Time Period for Resolution of a Complaint (in days)	31	22	24
Number of entities inspected or audited by the agency	4795	4963	2828
Total number of entities regulated ¹			6,738

Water Quality (includes wastewater, sludge transporters, surface water quality monitoring, and Edwards Aquifer)	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	402	416	193
Total Number of Complaints Resolved	383	400	177
Number of Complaints Found to be Without Merit	67	56	16
Number of Complaints Resulting in Violations	87	96	31
Average Time Period for Resolution of a Complaint (in days)	39	27	24
Number of entities inspected or audited by the agency	3430	3476	1784
Total number of entities regulated			3,083

Municipal Solid Waste (includes landfills and used oil/filters)	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	1342	1232	558
Total Number of Complaints Resolved	1295	1145	483

¹ The inspection number includes municipal utility construction inspections but there is no defined universe for these facilities.

Number of Complaints Found to be Without Merit	245	166	64
Number of Complaints Resulting in Violations	412	348	119
Average Time Period for Resolution of a Complaint (in days)	40	23	24
Number of entities inspected or audited by the agency	766	378	302
Total number of entities regulated			733

Industrial and Hazardous Waste and Emergency Response	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	674	604	247
Total Number of Complaints Resolved	616	542	192
Number of Complaints Found to be Without Merit	77	50	14
Number of Complaints Resulting in Violations	142	131	50
Average Time Period for Resolution of a Complaint (in days)	58	50	29
Number of entities inspected or audited by the agency	1189	1609	590
Total number of entities regulated			54,954

On-Site Sewage Facilities	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	770	729	296
Total Number of Complaints Resolved	713	622	213
Number of Complaints Found to be Without Merit	166	119	44
Number of Complaints Resulting in Violations	301	282	59
Average Time Period for Resolution of a Complaint (in days)	60	44	28
Number of entities inspected or audited by the agency	1617	1753	843
Total number of entities regulated ²			

Water Rights (includes watermaster program)	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	95	97	44
Total Number of Complaints Resolved	89	95	35
Number of Complaints Found to be Without Merit	38	12	8
Number of Complaints Resulting in Violations	11	16	3

² There is no defined universe for on-site sewage facilities.

Average Time Period for Resolution of a Complaint (in days)	36	41	31
Number of entities inspected or audited by the agency	28,315	30,109	17,259
Total number of entities regulated ³			

Petroleum Storage Tank (also includes Stage II vapor recovery system inspections)	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	275	214	143
Total Number of Complaints Resolved	228	166	80
Number of Complaints Found to be Without Merit	18	16	4
Number of Complaints Resulting in Violations	110	91	59
Average Time Period for Resolution of a Complaint (in days)	77	43	33
Number of entities inspected or audited by the agency	6308	7882	3922
Total number of entities regulated (tank owners)			44,059

Tire Recycling	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	31	29	13
Total Number of Complaints Resolved	30	27	5
Number of Complaints Found to be Without Merit	2	1	1
Number of Complaints Resulting in Violations	12	6	1
Average Time Period for Resolution of a Complaint (in days)	59	27	26
Number of entities inspected or audited by the agency	227	527	256
Total number of entities regulated			12,964

Air	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	4646	4529	2069
Total Number of Complaints Resolved	4579	4429	1949
Number of Complaints Found to be Without Merit	256	187	88
Number of Complaints Resulting in Violations	724	786	302
Average Time Period for Resolution of a Complaint (in days)	13	13	11
Number of entities inspected or audited by the agency	7,728	10,457	4,160
Total number of entities regulated			47,353

³ There is no defined universe for water rights.

Agriculture (Water Program only)	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	177	145	75
Total Number of Complaints Resolved	174	140	68
Number of Complaints Found to be Without Merit	5	3	2
Number of Complaints Resulting in Violations	63	45	32
Average Time Period for Resolution of a Complaint (in days)	38	37	22
Number of entities inspected or audited by the agency	449	438	274
Total number of entities regulated			3,039

SUNSET REVIEW COMPLAINT DATA COMPLIANCE SUPPORT DIVISION

Occupational Certification⁴	FY 97⁵	FY 98	FY 99 thru Feb
New Complaints Received	329	334	123
Total Number of Complaints Resolved	105	153	79
Number of Complaints Found to Be Without Merit (dropped)	21	22 ⁶	10 ⁷
Number of Sanctions Taken Regarding Complaints	145	65	22
Average Time Period for Resolution of a Complaint Irrigators: Operators: On-Site:	<560 days <100 days	< 560 days 45 days 225 days	< 560 days 45 days 225 days
Number of entities inspected or audited by the agency	99	225	99
Total number of entities regulated	45,697	49,076	48,665

⁴ Programs represented: Irrigator Program, all Operator Certification Section programs (FY 1998 only) and On-Site Sewage Facility Program. Programs excluded: Underground Storage Tanks, Leaking Petroleum Storage Tanks and Stage II Vapor Recovery.

⁵ Individual programs in the Operator Certification Section were not tracking any numbers regarding complaints for FY97, therefore, there is no data available.

⁶ Number does not include complaints found to be without merit for the Irrigator Program. This program does not track these complaints separately, but includes them in the ATotal Number of Complaints Resolved. @

⁷ Same as 6 above

**SUNSET REVIEW COMPLAINT DATA
REMEDIATION DIVISION**

Superfund Hotline Complaints (Superfund hotline complaint information was not tracked in FY97 or FY98)	FY 97	FY 98	FY 99 thru Feb
New Complaints Received			5
Total Number of Complaints Resolved			3
Number of Complaints Found to be Without Merit			0
Number of Complaints Resulting in Violations			0
Average Time Period for Resolution of a Complaint			
Number of entities inspected or audited by the agency	41	34	30
Total number of entities regulated ⁸	77	76	77

**SUNSET REVIEW COMPLAINT DATA
WATER UTILITIES DIVISION**

Water Utilities Division	FY 97	FY 98	FY 99 thru Feb
New Complaints Received	303	195	78
Total Number of Complaints Resolved	345	165	104
Number of Complaints Found to be Without Merit	0	0	0
Number of Complaints Resulting in Violations	39	9	4
Number of entities inspected or audited by the agency ⁹			
Total number of entities regulated	6,900	6,900	6,900

⁸ The number of entities regulated for Superfund is the universe of current state and federal Superfund sites.

⁹ The Water Utilities Division audits every facility who is required to submit self monitoring reports.



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

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REGIONAL OFFICES

1 – AMARILLO	2 – LUBBOCK	3 – ABILENE
Regional Director - Brad Jones 3918 Canyon Dr. Amarillo, TX 79109-4933 806/353-9251 FAX: 806/358-9545 <hr/> Perryton Office 511 South Main, Perryton, TX 79070 806/435-8059 FAX: 806/434-8443	Regional Director - Jim Estes 4630 50th St., Ste. 600 Lubbock, TX 79414-3520 806/796-7092 FAX: 806/796-7107	Regional Director - Winona Henry 1977 Industrial Blvd. Abilene, TX 79602-7833 915/698-9674 FAX: 915/692-5869
4 – ARLINGTON	5 – TYLER	6 – EL PASO
Regional Director - Vacant 1101 East Arkansas Lane Arlington, TX 76010-6499 817/469-6750 FAX: 817/795-2519 <hr/> Stephenville (Confined Animal Feeding Operations) 222 East College, Stephenville, TX 76401 254/965-5624 or 800/687-7078	Regional Director - Leroy Biggers 2916 Teague Dr. Tyler, TX 75701-3756 903/535-5100 FAX: 903/595-1562	Regional Director - Frank Espino 7500 Viscount Blvd., Ste. 147 El Paso, TX 79925-5633 915/778-9634 FAX: 915/778-4576
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Regional Director - Jed Barker 3300 North A St., Bldg. 4, Ste. 107 Midland, TX 79705-5404 915/570-1359 FAX: 915/570-4795	Regional Director - Vacant 622 S. Oakes, Ste. K San Angelo, TX 76903-7013 915/655-9479 FAX: 915/659-6716	Regional Director - Zoe Rascoe 6801 Sanger Ave., Ste. 2500 Waco, TX 76710-7826 254/751-0335 FAX: 254/772-9241
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TNRCC REGIONS

(including counties in each region)

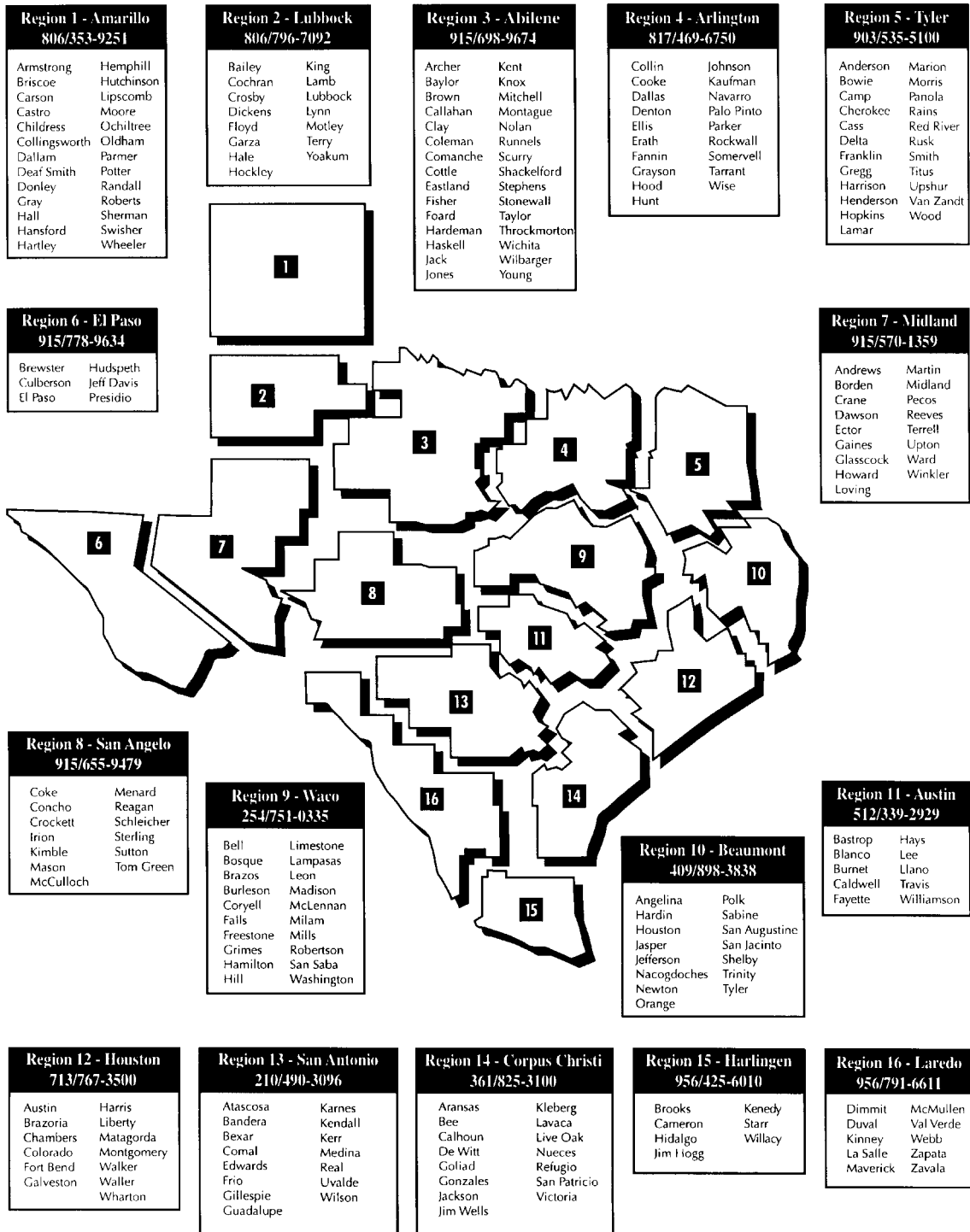


Figure 20
Enforcement Process Flowchart

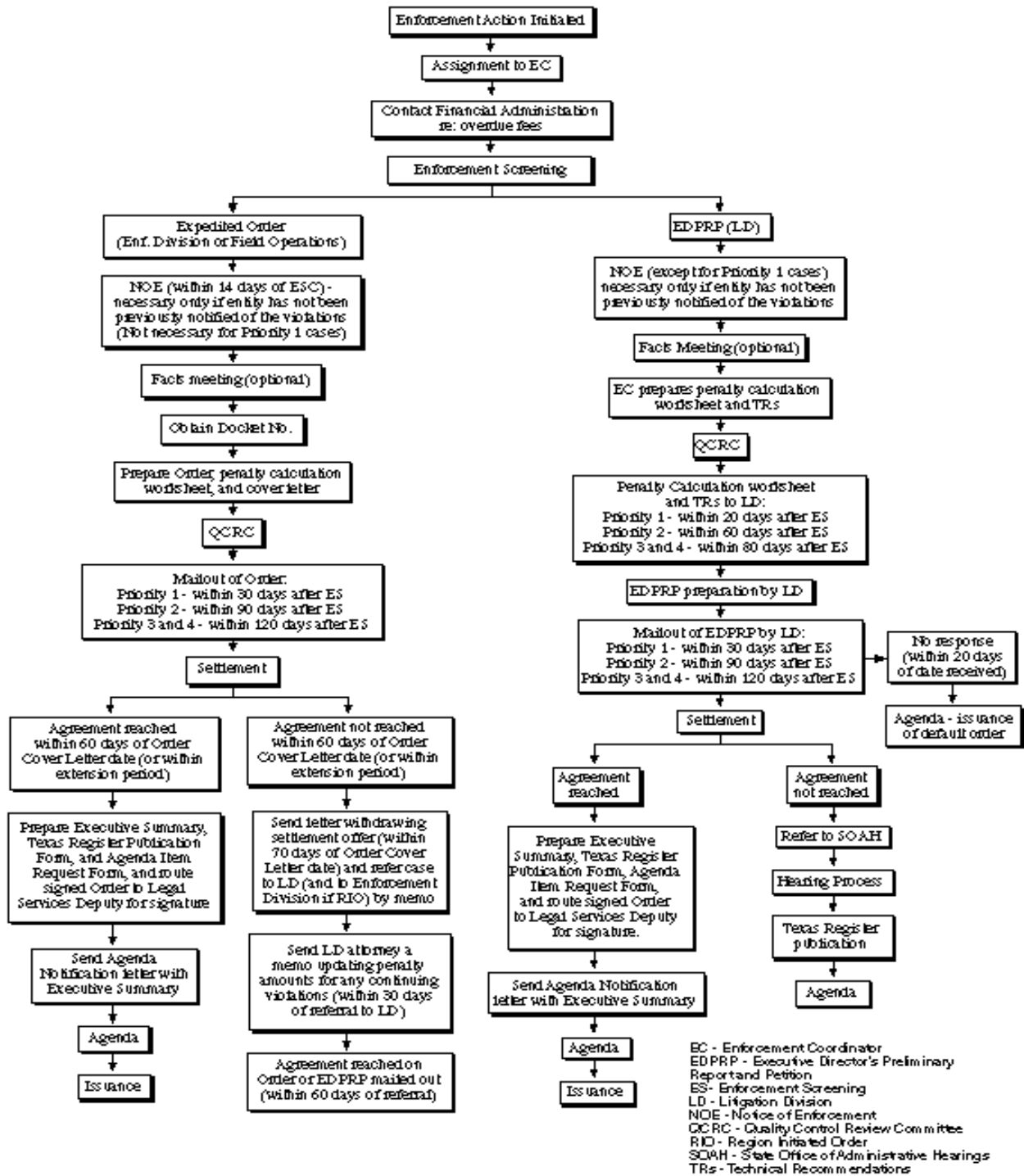
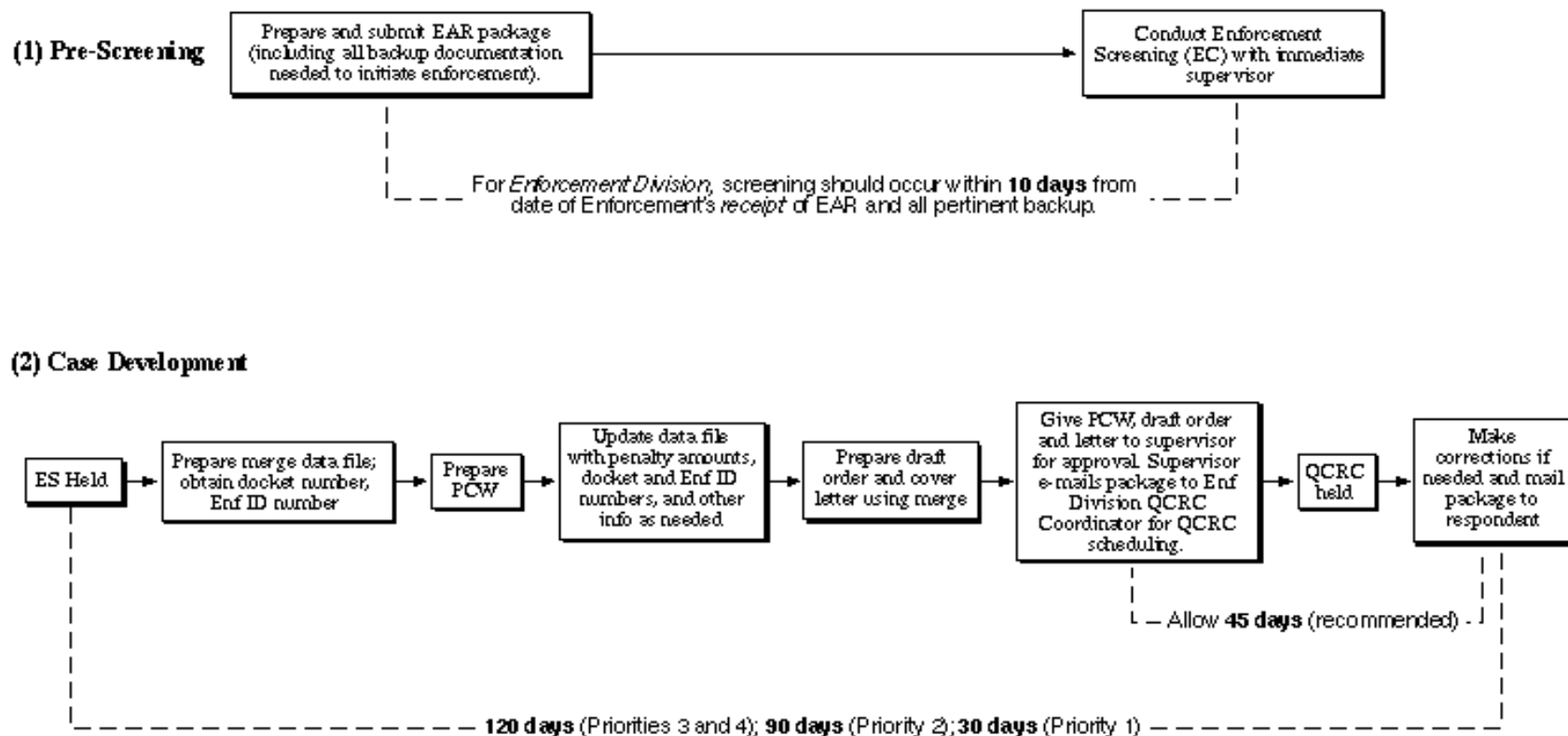


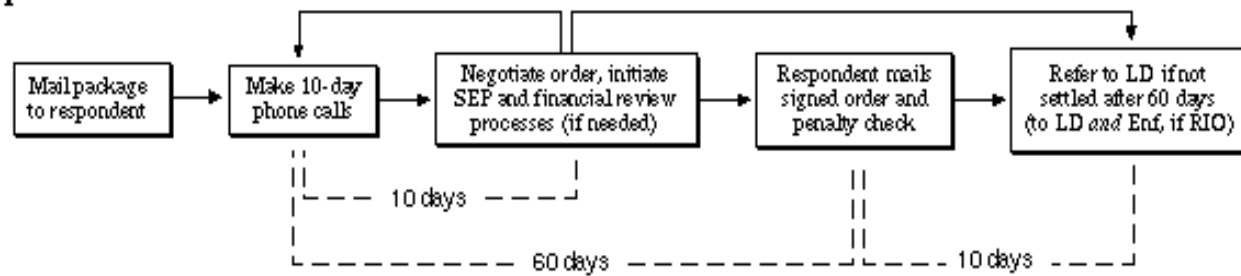
Figure 21
Major Events and Timelines in the Enforcement Process
 (Revised January 4, 1999)



EAR - Enforcement Action Referral
 PCW - Penalty Calculation Worksheet
 QCRC - Quality Control Review Committee
 SEP - Supplemental Environmental Project
 LD - Litigation Division
 RIO - Region Initiated Order
 CO - Central Office

Figure 21
Major Events and Timelines in the Enforcement Process—Continued
 (Revised January 4, 1999)

(3) Proposal and Settlement



(4) Post-Settlement, Agenda

