A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	New Source Review Permits Division
Location/Division	Office of Permitting
Contact Name	Victoria Hsu, P.E., Division Director
Number of Budgeted FTEs, as of June 1, 1999	116
Number of Actual FTEs as of June 1, 1999	112

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

The key function of the New Source Review Permits Division (NSRP) is to minimize air pollution from new or modified facilities and to ensure protection of public health. The division processes preconstruction permit applications and exemption registrations for new and modified air emissions sources including preconstruction reviews for "major" sources as required under Title I and Title III of the Federal Clean Air Act. The division also performs air emission reviews in support of solid and hazardous waste permitting including the Resource Conservation and Recovery Act (RCRA) Combustion Strategy. The Emission Reduction Credit Banking and Trading Program which includes certification and transfer of emission credits is also managed under the NSRP. The NSRP performs air dispersion modeling to support permit evaluation and other specific projects.

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

The New Source Review Permits (NSRP) Division was created in 1969 to satisfy Section 110 of the Federal Clean Air Act (FCAA) which requires each state to have, in its State Implementation Plan (SIP), regulations governing the modification and construction of any stationary source that affects attainment with national ambient air quality standards (NAAQS).

<u>NSRP</u>
State Statute – Texas Health and Safety Code Chapter 382, Subchapter C
Federal Statute – FCAA Section 110
State Rules – 30 TAC Chapters 106 and 116
Strategy: 01-01-01 Air Quality Permitting

<u>Review of Air Emissions from RCRA Permitted Facilities and Hazardous Waste Combustion</u>
State Statute – Texas Health and Safety Code Chapter 361.011(d)(1) and 30 TAC 335, Subchapter L
Federal Rules – 40 CFR 264, 266, and 270

Emission Reduction Credit Program
State Statute – Texas Health and Safety Code Chapter 384
State Rules – 30 TAC 101.29
Federal Rules – 40 CFR 51.490

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?

Several changes have been made to the NSRP program to allow more flexibility while achieving the original intent of insuring application of Best Available Control Technology (BACT) and protecting public health and welfare.

1995 The 74th Legislature allowed the commission to issue flexible permits (site-wide emission caps based upon BACT) and standard permits (for numerous similar facilities).

1997 The 75th Legislature reduced the scope of permit renewal review and allowed the commission to implement procedures to make it easier to make changes at well-controlled facilities.

1999 The 76th Legislature provided the commission with mechanisms for: voluntary permitting of grandfathered facilities, mandatory permitting of grandfathered electric utilities, emission caps across multiple plant sites, easier creation of standard permits, and defining de minimis facilities for which no preconstruction authorization is necessary; and divided the existing category of exemptions from permitting into permits by rule for new, insignificant facilities while retaining exemptions from permitting for changes at insignificant facilities.

The mission of the NSRP is ongoing and necessary for the protection of public health and welfare.

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

NSRP serves the regulated community by conducting an analysis, including the determination of the appropriate emission controls, prior to the construction or modification of any facility that may emit air contaminants. Potentially, any new or modified facility that emits air contaminants may be regulated and can range from an oil refinery or chemical plant to a dry cleaning facility or grain elevator. NSRP also serves the general public by conducting an air quality analysis of the proposed emissions from those new or modified facilities to ensure public health and welfare. NSRP has processed about 40,000 preconstruction authorizations as of fiscal year 1998 with thousands more authorized through exemptions from permitting for which no registration is required. Qualification or eligibility requirements for receiving services is the application/registration to the agency.

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

The NSRP authorizes construction and modification of facilities that emit air contaminants through permits, exemptions from permitting (permits by rule), standard permits, and flexible permits (plant emission caps). For permitting, the basic functions of the NSRP are to review applications for proposed new or modified facilities to ensure application of Best Available Control Technology (BACT) and to determine that the public health and welfare will be protected. Regional offices provide compliance inspections and complaint investigations. (See Chapter VI submittal for the Office of Compliance and Enforcement.)

As a result of the recommendations in the Business Process Review, the TNRCC is in the process of implementing a standardized five-tier approach to permitting across all agency permitting programs. A given permit application will be processed through one of five paths depending upon the significance and complexity of the subject application. The attachments at the end of Chapter VI reflect the modified generic permit processes 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.

Permit applications and requests for comments on all preconstruction permits are sent to the local governments involved with air quality in that area. For example, in Houston that would include the City of Houston and the Harris County Pollution Control Department. The Emission Reduction Credit and Trading Program also works closely with the local Area Emission Reduction Credit Organizations to coordinate emission credit trades.

Other potential areas of participation with local governments include the multiparty (TNRCC/EPA/COG/Companies) Flexible Attainment Region (FAR) MOA for the Corpus Christi area dated July 26, 1996 and the Multiparty (TNRCC/COG/Companies) Flexible Attainment Region (FAR) MOA for the Longview Tyler area (commonly referred to as the Northeast Texas FAR). The purpose is to enter into an agreement designed to limit emissions and improve air quality in order to avoid designation as a nonattainment area.

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.

Current and future funding resources are appropriate to achieve program mission, goals, objectives, and performance targets.

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

No known external program in Texas duplicates preconstruction authorization of new or modified facilities that emit air contaminants for the purpose of applying BACT and protecting public health and welfare. Internal to the agency, regulated entities receive similar services from various permit divisions based on differing regulatory requirements and environmental impacts.

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.

The agency recently completed a Business Process Review which is aimed at improving coordination in permit areas within the agency. An ongoing agency workgroup is creating standard permit processes, standardizing administrative completeness reviews and instituting multi-media approaches to agency permitting.

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 regulation is needed:**

Permitting of sources of air emissions is needed to ensure protection of public health and welfare.

For the following questions please refer to the Chapter VI submittal for the Office of Compliance and Enforcement.

- **the scope of, and procedures for, inspections or audits of regulated entities:**

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

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

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

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.

Please refer to the Chapter VI submittal for the Office of Compliance and Enforcement for the program specific complaint information.

A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	Operating Permits Division
Location/Division	Office of Permitting
Contact Name	Karen Olson, P.E., Division Director
Number of Budgeted FTEs, as of June 1, 1999	101
Number of Actual FTEs as of June 1, 1999	92

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

The Operating Permits Division, (OPD) is responsible for the review of operating permit applications, which identify applicable requirements of all major sources of regulated air pollutants and the implementation plans of the new federal hazardous air pollutants requirements. The division develops and implements the permitting aspects of Title III (Air Toxics), Title IV (Acid Rain), and Title V (Operating Permits) of the Federal Clean Air Act Amendments of 1990.

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

Title V of the Federal Clean Air Act (FCAA) and Title 40, Code of Federal Regulations Part 70 (40 CFR 70) required states to establish a state Operating Permit Program. Chapter 382, Subchapter C of the Texas Health and Safety Code authorizes the TNRCC to develop rules to implement the operating permit program required by 40 CFR 70. The U.S. Environmental Protection Agency (EPA) granted interim approval of the Texas Operating Permit Program effective July 25, 1996.

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?

Title V of the Federal Clean Air Act imposed a shift in the regulatory approach to environmental compliance with air regulations by requiring an operating permit which codifies applicable federal requirements and places clearer responsibility on the regulated community to report compliance status for those requirements. The operating permit comes with the obligations for responsible official certification of all representations and data, six month reporting of environmental data, annual compliance certification, additional emission monitoring and provides an enforcement tool for the agency. The mission of the Operating Permits Division is ongoing.

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

All sites that have major amounts of air emissions are required to obtain an operating permit. Some sites with minor amounts of emissions that are subject to certain regulations are also required to obtain operating permits because EPA specifically identified that those sites must be permitted. Approximately 1800 to 2000 sites will be required to obtain a permit. The program serves the general public by clarifying obligations of regulated entities.

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

The TNRCC is required by the FCAA and the operating permit program approval, to review and issue permit applications over a five year period beginning July of 1996. A permit review schedule by Standard Industrial Classification Codes has been established. The permit review process includes timelines for public notice, an EPA objection period, and a citizen petition period. The program is being implemented as a partnership between the Operating Permits Division and the Field Operations Division through integration of field inspections into the permit review process.

As a result of the recommendations in the Business Process Review, the TNRCC is in the process of implementing a standardized five-tier approach to permitting across the all agency permitting programs. A given permit application will be processed through one of five paths depending upon the significance and complexity of the subject application. The attachments at the end of Chapter VI reflect the modified generic permit processes 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.

Since the Operating Permits Division works in complete partnership with Field Operations any agreements or MOUs concerning operating permits implementation would be addressed by Field Operations. The Operating Permits Division may interact with local government units when local government activities are subject to regulation.

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).

The operating permit program is required by the FCAAA to be funded through an annual emissions fee maintained in the 152 Clean Air Fund.

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

Yes.

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

There are no other programs that provide the service of the operating permit. Operating permits do, however, codify requirements in authorizations issued by other TNRCC programs and, in some cases, EPA permits.

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.

The agency recently completed a Business Process Review which is aimed at improving coordination in permit areas within the agency. An ongoing agency workgroup is creating standard permit processes, standardizing administrative completeness reviews and instituting multi-media approaches to agency permitting.

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 regulation is needed:** Title V of the 1990 Federal Clean Air Act Amendments required states to establish a state Operating Permit Program. Texas developed rules contained in 30 TAC Chapter 122 in order to satisfy the minimum elements of an operating permit program contained in Title 40, Code of Federal Regulations Part 70 (40 CFR 70). The U.S. Environmental Protection Agency (EPA) granted approval of the Texas Operating Permit Program effective July 25, 1996. If Texas had not submitted an acceptable operating permit program, EPA would have implemented the federal operating permit program contained in 40 CFR 71 and could impose sanctions including the loss of federal highway funds.

For the following questions please refer to the Chapter VI submittal for the Office of Compliance and Enforcement.

- **the scope of, and procedures for, inspections or audits of regulated entities:**
- **follow-up activities conducted when non-compliance is identified:**
- **sanctions available to the agency to ensure compliance:**
- **procedures for handling consumer/public complaints against regulated entities:**

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.

Please refer to the Chapter VI submittal for the Office of Compliance and Enforcement for the program specific complaint information.

A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	Waste Management Permits Division
Location/Division	Office of Permitting
Contact Name	Dale Burnett, Division Director
Number of Budgeted FTEs as of June 1, 1999	110.4
Number of Actual FTEs as of June 1, 1999	105

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

The key services and functions of this division are as follows:

The Industrial and Hazardous Waste (IHW) Permits Section is responsible for managing and administering waste-related programs and requirements for the permitting of hazardous waste treatment, storage and disposal facilities and off-site industrial nonhazardous waste storage and treatment facilities. The permitting requirements include design and operational requirements as well as closure and post-closure care, financial assurance, and groundwater monitoring.

The Municipal Solid Waste (MSW) Permits Section is responsible for managing and administering waste related programs and requirements for the permitting and registration of municipal solid waste facilities and activities such as: landfills; liquid waste processing facilities (processes wastewater, grease and grit trap wastes); incinerators; transfer stations; material recovery facilities; medical waste treatment facilities; and composting facilities. The MSW Permits Section is also responsible for the permitting of commercial industrial nonhazardous waste landfills.

The Underground Injection Control and Radioactive Waste (URW) Section is responsible for the Underground Injection Control (UIC) well permitting program for Class I and III wells, licensing of on-site buried radioactive waste sites, and licensing of commercial low-level radioactive waste disposal sites. The URW Section regulates the operation, design and maintenance of Class I wells which inject hazardous and nonhazardous waste, and Class III wells which inject fluids for extraction of minerals, (solution mining of uranium, sodium sulfate, and sulfur). The URW Section also inspects UIC Class I and Class III underground injection wells to ensure that the facilities operating such wells are in compliance with applicable rules and regulations governing mechanical integrity of the well and other operational factors such as injection pressure and volume. In addition, groundwater is monitored at Class III mining sites to ensure that groundwater quality is not degraded. The URW Section is also responsible for inspection of buried radioactive waste sites as well as any commercial low-level radioactive waste disposal site licensed in the future. Currently, there are no commercial disposal license applications pending at the agency.

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

Both the industrial and municipal waste programs were created as a result of the passage of the Texas Solid Waste Disposal Act (currently Chapter 361 of the Texas Health and Safety Code) in 1969 to address the management of solid waste within the State of Texas. The programs were modified as a result of the passage of federal legislation and regulations addressing hazardous and municipal waste.

IHW
State Statutes - Texas Health and Safety Code Chapter 361
Federal Statutes - Resource Conservation and Recovery Act (RCRA) of 1976, Subtitle C, Solid Waste Disposal Act Sections 3005 and 3006
State Rules - 30 TAC Chapters 281, 305 and 335
Federal Rules - 40 CFR Parts 260-272
Strategy: 01-01-03 Waste Management and Permitting

MSW
State Statute: Texas Health and Safety Code Chapter 361
Federal Statute: RCRA Subtitle D
State Rules: 30 TAC Chapters 281, 305, and 330
Federal Rules: 40 CFR Part 257 and 258
Strategy: 01-01-03 Waste Management and Permitting

The Underground Injection Control program was created in 1961 by the passage of the Injection Well Control Act (currently Chapter 27 of the Texas Water Code) by the Texas Legislature to establish regulatory controls over the subsurface injection of fluids. The program was modified as a result of federal legislation and regulations.

UIC
State Statute - Texas Water Code Chapter 27
Federal Statute - Safe Drinking Water Act, Sections 300h, 300h-1, and 300h-2
Federal Regulations - 40 CFR Parts 144-148
State Regulations - 30 TAC Chapters 281, 305, and 331
Strategy: 01-01-03 Waste Management and Permitting

The Radioactive Waste Disposal program was created on March 1, 1992 through legislation which transferred jurisdiction for disposal of radioactive substances to the Texas Water Commission and subsequently to the TNRCC upon its formation on September 1, 1993. Radioactive waste disposal is under an agreement state status with the federal Nuclear Regulatory Commission (NRC). Jurisdiction is divided between the TNRCC and the Texas Department of Health, specifically the Bureau of Radiation Control (BRC). The TNRCC has jurisdiction over disposal of radioactive waste and the Department of Health has jurisdiction over transportation, recycling, storage and handling. TNRCC has jurisdiction over the low-level radioactive waste sites with buried radioactive waste. These sites are licensed rather than permitted.

Buried Radioactive Waste Sites
State Statute: Texas Health and Safety Code Chapter 401
Federal Statute: Atomic Energy Act of 1954 as amended, Section 2021
State Rules: 30 TAC Chapter 336
Federal Rules: 10 CFR Parts 20, 40, 61
Strategy: 01-01-03 Waste Management and Permitting

Commercial Low-Level Radioactive Waste Disposal Sites
State Statute: Texas Health and Safety Code Chapters 401, 402, and 403
Federal Statute: Atomic Energy Act of 1954 as amended, Section 2021
State Rules: 30 TAC Chapter 336
Federal Rules: 10 CFR Parts 20, 40, and 61
Strategy: 01-01-03 Waste Management and Permitting

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?

IHW

1969	Texas Solid Waste Disposal Act was enacted.
1976	The federal Resource Conservation and Recovery Act (RCRA) was enacted. Subtitle C of the Act regulates the generation, transportation, storage, processing and disposal of hazardous waste.
1984	Hazardous and Solid Waste Amendments (HSWA) to RCRA were enacted to address contamination in all environmental media from RCRA regulated waste management units and solid waste management units.
1990	Final authorization to administer the Federal RCRA program was received by the State of Texas.

As hazardous waste continues to be generated in Texas, the issuance of permits will be necessary since they provide a mechanism for ensuring that waste management will proceed in a manner which is protective of human health and the environment.

MSW

1976	The Resource Conservation and Recovery Act (RCRA) was enacted. Subtitle D of the Act requires EPA to report on the adequacy of existing solid waste disposal facility criteria and gather detailed data on the characteristics and quantities of nonhazardous waste.
1979	The EPA promulgated criteria to designate conditions under which solid waste disposal facilities and practices would not pose adverse effects to human health and the environment.
1991	To address environmental and health concerns, EPA promulgated revised minimum federal criteria for municipal solid waste.
1993	Texas authorized to implement the RCRA Subtitle D program.

As municipal waste continues to be generated in Texas, the issuance of permits will be necessary since they provide a mechanism for ensuring that waste management will proceed in a manner which is protective of human health and the environment.

UIC

1961	The first Class I injection well permit was issued by a predecessor of the TNRCC. Underground injection was regulated for a number of years in Texas under the authority of the Injection Well Act, before the development of the federal UIC Program under the Safe Drinking Water Act. Federal UIC regulations were modeled largely after existing injection well regulations of Texas and several other states with significant numbers of injection wells.
1982	The Texas Department of Water Resources (a predecessor to the TNRCC) received authorization from EPA to administer the federal UIC Program for injection wells including all Class I wells, most Class III and Class V wells, and all Class IV wells.

Use of injection wells and the need for their regulation through permitting and compliance monitoring (inspection) is expected to continue in the future in numbers and frequencies comparable to that of the present.

Buried Radioactive Waste

1992	Jurisdiction for disposal of radioactive substances was transferred to Texas Water Commission and later to the TNRCC (upon its formation on September 1, 1993).
1998	TNRCC adopted revised rules for licensing of alternative methods of disposal of radioactive material (Subchapter F of 30 TAC Chapter 336) and new rules for decommissioning standards (Subchapter G of 30 TAC Chapter 336).
2000	The regulatory deadline for applying for licenses for decommissioning decontamination of all sites that contain buried radioactive material.

Commercial Low-Level Radioactive Waste Disposal

1992	Jurisdiction for disposal of radioactive substances was transferred to Texas Water Commission and later to the TNRCC (upon its formation on September 1, 1993).
1992	Application for a Low Level Radioactive Waste (LLW) disposal site was received by the Texas Water Commission from the Texas Low-Level Radioactive Waste Disposal Authority (TLLRWDA).
1998	TNRCC commissioners denied the license for the proposed LLW disposal facility.
1999	Passage of House Bill 2954 transferred authority from the Texas Low Level Radioactive Waste Disposal Authority functions to the TNRCC.

Licensing and compliance monitoring (inspection) is expected to be needed as long as disposal of low-level radioactive waste continues in order to prevent public exposure to excessive doses of radiation.

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

In general, all of the programs serve the public and all facilities which store, process, or dispose of solid waste in a manner requiring a permit or which dispose or have buried low-level radioactive waste. Application/registration to the agency is the only requirement for receiving services.

More specifically, the IHW program processes applications primarily from large industries and commercial hazardous waste management companies. There are currently 208 permitted facilities, 20 hazardous waste facilities operating under interim status with applications pending, and 5 applications for proposed facilities that are not yet constructed. In addition, the IHW program processes applications for off-site industrial non-hazardous waste storage and treatment.

The MSW program serves entities managing non-hazardous waste including municipalities and commercial waste management companies, including those with non-hazardous landfill applications. Numbers of permitted or registered MSW facilities are as follows: Landfills (Type I-IV and commercial industrial nonhazardous waste) - 230; liquid waste processors - 45; incinerators - 53; transfer stations - 43 permitted, 75 registered; material recovery facilities - 5; composting sites - 42; and medical waste facilities - 17.

The UIC program serves industries including chemical manufacturing, petroleum and metals refining, beef packing, commercial waste management, and solution mining of uranium, sodium sulfate, and sulfur. Presently, there are 110 active Class I injection wells operating at 51 facilities, and approximately 10,000 active Class III injection wells at 12 facilities in the State.

The Buried Radioactive Waste program currently serves four licensed sites where radioactive material is buried, one active (burial is ongoing) and three inactive sites. In addition, the program has identified approximately a dozen more sites where radioactive material was buried on-site under authorization of previous licenses. The only eligibility requirement to fall under the program is the presence of on-site buried radioactive material that has not been formally decontaminated or decommissioned to decontamination standards specified in the current rules.

The Commercial Low-Level Radioactive Waste Disposal program provides for licensing to construct, operate, and close out commercial facilities for disposal of low-level radioactive waste (LLW) generated in the three states that form the Texas Compact, (Maine, Vermont, and Texas). A license application for a Texas LLW disposal facility was formally denied by TNRCC commissioners in October 1998.

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

The Office of Compliance and Enforcement has regional field offices which provide compliance inspections and complaint investigation services.

As a result of the recommendations in the Business Process Review, the TNRCC is in the process of implementing a standardized five-tier approach to permitting across the all agency permitting programs. A given permit application will be processed through one of five paths depending upon the significance and complexity of the subject application. The attachments at the end of Chapter VI reflect the modified generic permit processes 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.

The Permits Division interacts with local units of government when local government activities are subject to regulation.

During the application phase for a municipal solid waste permit, COGs are afforded an opportunity to comment regarding conformance with the regional solid waste management plan.

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.

Funding resources will be adequate for each area provided funding sources continue and workload does not unexpectedly increase.

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

Regulated entities receive similar services from various permit divisions within the agency. For example, one entity could have separate permits covering air emissions, wastewater discharges, and hazardous waste treatment/storage/or disposal, based on differing requirements and environmental impacts. No program internal or external to the TNRCC provides functions or services that are identical for the same types of facilities and environmental impacts**.**

<u>UIC</u>
The Railroad Commission (RRC) maintains a UIC permitting program for Class II injection wells (for injection related to oil and gas production) and Class III brine production wells in parallel to the TNRCC's UIC program. The RRC's UIC program includes many more wells than those regulated by TNRCC.

Buried Radioactive Waste and Commercial Low-Level Radioactive Waste Disposal
The TDH requires cleanup of radiologically contaminated sites, where such contamination results from activities authorized through licenses issued by the TDH. The TDH has statutory authority for receipt, possession, use and transfer of radioactive material and disposal of uranium mill tailings.

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.

The agency recently completed a Business Process Review which is aimed at improving coordination in permitting areas within the agency. Ongoing agency activities are creating standard permit processes, standardizing administrative completeness reviews and instituting multi-media approaches to agency permitting.

UIC
The Injection Well Act (Texas Water Code, Chapter 27) defines the division of responsibilities between TNRCC and the RRC for regulating underground injection. Permit applications pending before either agency are required to have letters from the sister agency advising of the effects of the proposed injection on environmental and economic matters under the jurisdiction of the other agency. Further, staff of the two agencies confer during permit application review regarding any technical concerns posed by a permit application. Staff of the two agencies also work together in development of MOUs to more clearly define jurisdictional lines and to provide for cooperation between agencies. Staff of the two agencies may also coordinate in making formal revisions to each agency's program authorization by EPA.

Buried Radioactive Waste and Commercial Low-Level Radioactive Waste Disposal
A memorandum of understanding (MOU) exists between the TNRCC and the TDH (30 TAC Section 336.11), and the periodic meetings between radiation program staff of the two agencies, assures that any duplication is avoided. For example, under the MOU it has been agreed that any processing and storage of LLW that is required *incidental to* disposal would be addressed by the TNRCC although the jurisdiction for those activities lies with the TDH.

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 regulation is needed:**

IHW, MSW and UIC
Permitting of hazardous and municipal waste treatment, storage and disposal facilities and off-site nonhazardous industrial waste facilities is needed to ensure that facilities which manage these wastes are designed and operated to prevent mismanagement of waste and to provide protection of human health

and the environment. Permitting provides broad protection by ensuring that standards are met regarding closure and post-closure care, financial assurance, groundwater monitoring and corrective action.

Buried Radioactive Waste

The TNRCC licenses the decommissioning or long-term care of non-commercial sites which have buried low-level radioactive waste on-site, to ensure that workers at the site, the public, and the environment are protected from excess doses of radiation. Sites must either remove the waste to a safe level or apply to the agency for a license to leave waste in place by January 1, 2000.

Commercial Low-Level Radioactive Waste Disposal

The TNRCC licenses low-level radioactive waste disposal sites which commercially dispose of low-level waste from non-federal generators such as medical facilities, scientific research facilities, and nuclear electric power plants. The agency reviews applications to ensure that a site engaging in this activity protects human health and the environment from excess doses of radiation. At this time, no license application is pending at the agency.

- **the scope of, and procedures for, inspections or audits of regulated entities:**

Inspections and audits for the IHW and MSW programs are conducted by the TNRCC's Office of Compliance and Enforcement (OCE). Please refer to the OCE part of this Chapter**.**

The Underground Injection Control and Radioactive Waste Section (URW) performs inspections at UIC facilities in addition to those conducted by OCE and at radioactive waste disposal sites. A manual is maintained detailing procedures and protocols for inspections performed by the URW section. The table below summarizes the inspections performed by the URW section during FY 98.

	FY 1998 Inspections by URW Section	
Inspection Type	**# Facilities Inspected**	**% Regulated Universe**
Class I Well MITs, plugging, and construction	76	66%
Class I Uranium	13	100%
Class III	20	100%
Licensed Buried Radioactive Waste Sites	4	100%

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

For IHW and MSW programs, please refer to the OCE part of this Chapter.

The URW section procedures for follow-up when non-compliance is identified are similar to those used by the TNRCC's Field Operations Division:

Non-compliance is routinely identified through inspection activity. The inspector reviews the findings in an exit interview at the facility and describes any non-compliance documented during the inspection. If a

violation(s) is minor, the violation(s) is noted, and a Notice of Violation (NOV) is sent to the facility, allowing a certain amount of time to achieve compliance. The NOV requests that the facility submit a written schedule that shows when and how it will correct each of the alleged violations; alternatively, the TNRCC may give the company a similar schedule which the company must follow. The inspector tracks the response to the NOV to ensure that compliance is achieved, either through the company's submitted documentation, or through a follow-up inspection. If the violation(s) is serious or remains unresolved, the case is referred to the TNRCC's Enforcement Division for formal enforcement action.

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

Please refer to the OCE part of this Chapter.

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

Please refer to the OCE part of this Chapter.

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.

Please refer to the Chapter VI submittal for the Office of Compliance and Enforcement for the program-specific complaint information.

A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	Waste Registration and Evaluation Division
Location/Division	Office of Permitting
Contact Name	Grace Montgomery Faulkner, Division Director
Number of Budgeted FTEs as of June 1, 1999	93
Number of Actual FTEs as of June 1, 1999	88

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

The Registration and Evaluation Division currently has three sections:

Petroleum Storage Tank Reimbursement Section
The Petroleum Storage Tank (PST) Reimbursement Section reviews and processes eligible owner/operator applications for reimbursements for leaking petroleum storage tank corrective action expenses.

PST Technical Services Section
PST Technical Services Section maintains registration and construction information for underground and aboveground petroleum storage tanks, provides technical assistance and outreach for tank owners and operators, and oversees Stage II vapor recovery activities in ozone nonattainment areas.

Waste Evaluation Section
The Waste Evaluation Section is responsible for managing industrial solid waste characterization and classification; registration of handlers of hazardous and industrial solid waste, and medical waste transporters; processing industrial solid waste recycling notices; and tracking of used oil, used oil filters, and scrap tires.

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

PST Reimbursement and Technical Services Sections
The PST program was created in response to federal laws enacted in 1984 creating regulations governing underground tanks. Statutes and regulations governing this activity allow the agency to maintain and protect the quality of groundwater and surface water resources in the state from petroleum storage tank releases. The state created a fund to reimburse the cost of cleanup of sites where releases have occurred from PSTs resulting in impacts to soil and groundwater.

State Statute: Texas Water Code Chapter 26 , Subchapter I
State Rules: 30 TAC Chapter 334
Federal Statute: 42 USC 6991b (RCRA), Subtitle I
Federal Rules: 40 CFR Parts 280 and 281
Strategy: 03-01-01 Storage Tank Administration
03-01-02 Storage Tank Cleanup

Industrial and Hazardous Waste

Registration and tracking of facilities and waste characterization and classification are required by the Texas Solid Waste Disposal Act (currently Chapter 361 of the Texas Health and Safety Code) which was passed in 1969 to address the management of solid waste within the State of Texas.

State Statute - Texas Health and Safety Code Chapter 361
Federal Statute - Resource Conservation and Recovery Act (RCRA) of 1976, Subtitle C,
Solid Waste Disposal Act Sections 3005 and 3006 (hazardous wastes)
State Rules - 30 TAC Chapter 335
Federal Rules - 40 CFR Parts 260-272 (hazardous waste) and 40 CFR Part 257
Strategy: 01-01-03 Waste Management and Permitting

Medical Waste Transporter Program

The program was created with with the promulgation of Texas Department of Health regulations in 1989 under the authority of the Texas Solid Waste Disposal Act of 1969. The regulations and statutes outline general procedures and requirements for persons who generate, collect, store, process, treat or dispose of special waste from health care-related facilities.

State Statute: Texas Health and Safety Code Section 361.011
State Rules: 30 TAC Chapter 330 Subchapter Y
Federal Statute: N/A
Federal Rules: N/A
Strategy: 01-01-06 Waste Management Assessment and Planning

Waste Tire Program

The waste tire program was created in 1991. Regulations require transporters, processors, and storage sites to register with the TNRCC. The rules also require the use of a manifest system which provides a paper trail tracking tires from “cradle to grave”.

State Statute: Texas Health and Safety Code, Chapter 361
State Rules: 30 TAC Chapter 330, Subchapter R
Federal Statute: N/A
Federal Rules: N/A
Strategy: 01-01-08 Automotive Waste Management and Recycling

Used Oil and Used Oil Filter Program

The used oil program was mandated by federal legislation in1992 amending RCRA. The used oil filter program was created in 1994 through TNRCC regulations. Statutes and regulations allow the TNRCC the ability to ensure the recycling, reuse, treatment and proper disposal of used oil and used oil filters.

State Statute: Texas Health and Safety Code Chapter 361 and 371
State Rules: 30 TAC Chapter 324 and 330
Federal Statute: 42 USC Section 6901 et seq
Federal Rules: 40 CFR Part 279
Strategy: 01-01-07 Pollution Prevention and Recycling

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?

PST Reimbursement and Technical Services

1984	Congress amends RCRA authorizing a national underground storage tank regulatory program.
1986	The Texas Water Commission is designated to receive and process Texas underground storage tank registrations.
1987	Senate Bill 779 authorizes the Water Commission to develop and administer a comprehensive underground storage tank regulatory program.
1989	House Bill 1588 provides authorization for limited regulation of aboveground storage tanks; financial assistance to owners/operators of leaking petroleum storage tanks; and the collection of a bulk delivery fee to finance the program; and authorizes the Water Commission to establish a registration program for contractors who would perform the corrective action and the leaking sites.
1995	Texas receives EPA's state program approval which allowed the state program to operate in lieu of the federal regulatory program.

While there are sunset dates for the collection of the delivery fee of March 1, 2002 and for the reimbursement program of September 1, 2003, the program will need to respond to future releases and to direct appropriate clean-up measures for protection of human health and safety.

Industrial and Hazardous Waste

1969	Texas Solid Waste Disposal Act was enacted.
1976	The federal Resource Conservation and Recovery Act (RCRA) was enacted. Subtitle C of the Act regulates the generation, transportation, storage, processing and disposal of hazardous waste.
1984	Hazardous and Solid Waste Amendments (HSWA) to RCRA were enacted to address contamination in all environmental media from RCRA regulated waste management units and solid waste management units.
1990	Final authorization to administer the Federal RCRA program was received by the State.

As industrial and hazardous waste continues to be generated, the registration of waste handlers and the tracking of waste management activities will be necessary to ensure waste is not mismanaged.

Medical Waste Transporter Program

1969	Texas Solid Waste Disposal Act enacted.
1989	Texas Department of Health promulgates medical waste regulations.
1992	Municipal solid waste program transferred from Texas Department of Health to Texas Water Commission.

There will be a continuing need for the registration of medical waste transporters, along with permitting of medical waste management facilities, to ensure medical waste is not mismanaged.

Waste Tire Program

1991	The Waste Tire Recycling Program began with the enactment of Senate Bill 1340 which contained a mandate to develop and implement a waste tire recycling program and created the Priority Enforcement List.
1995	Senate Bill 776 terminated the tire program effective December 31, 1997 (the Waste Tire Recycling Fund was terminated and the Waste Tire Program changed from a reimbursement program to more of a regulatory and customer service oriented program.)
1997	The Priority Enforcement List was finalized. The List named sites of special concern to the state due to the threat to human health and/or the environment which would be cleaned up by state funds.
1999	Funding for Priority Enforcement List sites will cease.

When the recycling market for tire shreds or used tires is sufficient to handle the amount of tires generated per year, no tire program will be necessary; however, Texas has not reached this point.

Used Oil and Used Oil Filters

1994	Used oil filters were banned from landfill disposal by TNRCC rule; the statutory ban was added to the Texas Health and Safety Code in 1995.
1997	The TNRCC received used oil program delegation from EPA. The program has remained largely unchanged, except that the focus of the program has shifted from an emphasis on education to a program that is more regulatory driven.
1999	TNRCC authority regarding used oil filters is clarified in House Bill 2619.

As used oil and used oil filters continue to be generated, regulation of handlers and used oil collection facilities will likewise continue to be necessary to provide for the responsible management. Registration of used oil filter collection facilities will not be necessary due to legislation passed during the 76th Legislative Session.

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

PST Reimbursement and Technical Services

The programs serve the general public and facilities which store regulated petroleum products. The petroleum storage tank (PST) program serves 44,059 tank owners who have registered 160,765 underground tanks and 21,670 above ground tanks with the TNRCC. Generally, application/registration to the program is the only requirement for receiving services.

Industrial and Hazardous Waste

The industrial and hazardous waste registration and waste characterization program serves all entities, public and private, that desire to manage hazardous waste, whether permitted or exempt. There are approximately 6,000 total registered facilities. Application/registration to the agency is the only requirement for receiving services.

Medical Waste Transporter Program

The program serves persons or companies who transport regulated medical waste from homes or offices to disposal facilities. There are 7 regulated on-site treaters of medical waste in mobile vehicles, 9 medical waste self-transporters and 36 medical waste transporters served by this program. Application/registration to the agency is the only requirement for receiving services.

Waste Tire Program

The program serves persons or companies who transport, store, process and dispose of regulated amounts of tires. There are approximately 414 transporters, 31 waste tire processing facilities and 18 storage sites regulated by this program. Application/registration to the agency is the only requirement for receiving services.

Used Oil and Used Oil Filter Program

The program serves persons or companies who collect, process and dispose of regulated used oil and used oil filters. There are approximately 250 used oil handlers and 130 used oil filter handlers; 2,332 used oil collection centers; and 1,098 used oil filter collection centers which are regulated and served by this program. There will be fewer regulated entities as the result of new legislation which exempts used oil filter collection centers from regulation in the future. Application/registration to the agency is the only requirement for receiving services.

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

The Office of Compliance and Enforcement has regional field offices which provide compliance inspections and complaint investigation services.

PST Reimbursement and Technical Services

This program is administered in two sections: Reimbursement Section and Technical Services Section. The Reimbursement Section reviews and processes claims for reimbursement for clean-up of Leaking PST sites. The Technical Services Section houses four basic programs: Stage II Vapor Recovery, construction notification, technical assistance, and registration. The Stage II Vapor Recovery program requires vapor recovery equipment to be added to regulated petroleum storage tanks if the tanks are located in an area of the state that does not meet the federal ozone standard. Construction notification is required for any new tank being placed in service, as well as upgrades and repairs. All tanks must be registered with the TNRCC. Finally, technical assistance is provided to the regulated community to ensure that appropriate control technology is used on PSTs.

Industrial and Hazardous Waste/Medical Waste Transporter Program/Waste Tire Program/Used Oil and Used Oil Filter Program

For each of the programs listed above, a registration form is received, the form is reviewed for administrative completeness, a registration number is assigned and a notice of registration is prepared which lists all waste management units and wastes generated. In addition, for industrial and hazardous waste, random waste classification audits are conducted.

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.

The Registration and Evaluation Division interacts with local units of government when local government activities are subject to regulation.

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.

Current funding is appropriate to achieve the current program mission, goals, objectives and performance targets.

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

The EPA has similar authorities for PST technical services and for hazardous waste notification and waste classification, however, TNRCC implements those programs in Texas.

The Texas Department of Health, and county or city departments of health inspect the medical waste transporters which the TNRCC registers.

Some local (city and county) programs may also have regulations for used oil and used oil filters.

The Texas Department of Insurance has regulations for above-ground storage tanks dealing with compliance for insurance requirements.

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.

Activities administered by the state, as delegated by the EPA (for hazardous wastes and petroleum storage tanks) are outlined in a Performance Partnership Agreement to minimize duplication.

Programs at the Texas Department of Health and/or county or city departments of health inspect medical waste transporters which we register, however, TNRCC does not inspect the transporters, thereby eliminating any duplication.

The TNRCC currently inspects above ground storage tanks for compliance with insurance regulations.

Coordination on used oil and used oil filters is accomplished through participation with the Recycling Coalition of Texas and corporate recycling councils which include members from state and local governments and school districts.

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

No additional information needed.

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 regulation is needed:**

PST
The PST program protects water and air resources by establishing technical requirements for storage tanks and vapor recovery equipment to prevent releases of petroleum and hazardous substances. The program includes a reimbursement fund to assist tank owners and operators pay for corrective action at sites with confirmed releases.

Industrial and Hazardous Waste
Registration and tracking of industrial and hazardous waste management facilities is needed to ensure that wastes are not mismanaged.

Medical Waste Transporter Program
Regulation of medical waste transportation is needed to establish standards for the transportation and handling of special waste from health care related facilities.

Waste Tire Program
Waste tire rules and registration control the storage, transportation, treatment, and disposal of used tires, scrap tires or tire pieces to prevent illegal dumping. Large piles of tires attract disease carrying pests and could also catch fire.

Used Oil/Used Oil Filter Program

The used oil/used oil filter recycling program was created to ensure that used oil and used oil filters are managed properly through reuse, recycling, or disposal. The program also provides educational information on recycling used oil and used oil filters.

For the following questions, please refer to Chapter VI for the Office of Compliance and Enforcement.

- **the scope of, and procedures for, inspections or audits of regulated entities:**
- **follow-up activities conducted when non-compliance is identified:**
- **sanctions available to the agency to ensure compliance:**
- **procedures for handling consumer/public complaints against regulated entities:**

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.

Please refer to Chapter VI for the Office of Compliance and Enforcement for the program specific complaint information.

A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	Remediation Division
Location/Division	Office of Permitting
Contact Name	Ronald Pedde, Division Director
Number of Budgeted FTEs as of June 1, 1999	199
Number of Actual FTEs as of June 1, 1999	179

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

The key functions of the programs are as follows:

Corrective Action
The Corrective Action program remediates sites with soil and groundwater contamination at active industrial facilities. The program performs this function to assure that the public is not exposed to hazardous levels of chemicals by requiring removal or mitigation of the contamination to levels protective of human health and the environment.

Petroleum Storage Tanks
The Petroleum Storage Tanks program offers protection of water resources by providing direction on the cleanup of sites and on improved management of storage tanks to prevent releases of petroleum and hazardous substances. The program includes a reimbursement fund and also includes requirements on preventative equipment.

Natural Resource Trustee Program
The TNRCC is one of three agencies designated by the Governor under the federal Superfund law as a state Natural Resource Trustee, the other two agencies are the Texas Parks and Wildlife Department and the General Land Office. The state acts on behalf of the public to seek compensatory restoration for injuries to natural resources from releases of oil and hazardous substances.

Superfund
The federal Superfund law provides broad authority to respond directly to releases by cleaning up abandoned or uncontrolled hazardous waste sites which may endanger public health or the environment. In 1985 the Texas legislature created the State Superfund program to address sites which did not qualify for the federal Superfund list. Regulations governing federal and State Superfund sites provide protection to the public by holding responsible parties liable for contamination and cleanup and providing for the use of public funds for cleanup when responsible parties are unwilling or unable to pay.

Voluntary Cleanup Program
The Voluntary Cleanup Program provides incentives to participants for investigation, cleanup and redevelopment of properties with contamination. In return, future lenders and landowners, local governments, public and private lending institutions, developers and other stakeholders gain statutory protection that limits their liability to the state regarding past contamination at a site.

The Innocent Owner/Operator Program (IOP) provides an opportunity for applicants to be considered an innocent owner/operator if the property became contaminated as a result of a release from sources not located on the property. The agency issues a certification to the applicant which ensures protection from liability for further investigation, monitoring, or remediation of the site.

Brownfields are abandoned, idled or under-used industrial and commercial facilities where expansion or redevelopment is complicated by environmental contamination. The goal of the Brownfields program is to assist local governments and non-profit organizations with revitalization and reutilization of contaminated property.

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

Corrective Action
The Corrective Action program was created through federal statutory changes to RCRA under the Hazardous and Solid Waste Amendments of 1984. Statutes and regulations governing Corrective Action are designed to ensure that the public is not exposed to hazardous levels of chemicals by requiring removal or mitigation of the contamination to levels protective of human health.

State Statute: Texas Health and Safety Code Chapter 361, Texas Water Code Chapter 26
State Rules: 30 TAC Chapter 335
Federal Statute: RCRA, Subtitle C, Solid Waste Disposal Act Sections 3005 and 3006
Federal Rules: 40 CFR Parts 260-272
Strategy: 03-01-03

Petroleum Storage Tanks
The Petroleum Storage Tank program was created through federal statutory changes to RCRA in November of 1984. Authorities governing this activity allow the agency to maintain and protect the quality of groundwater and surface water resources in the state from petroleum storage tank releases.

State Statute: Texas Water Code Chapter 26 , Subchapter I
State Rules: 30 TAC Chapter 334
Federal Statute: 42 USC 6991b (RCRA), Subtitle I
Federal Rules: 40 CFR Parts 280 and 281
Strategy: 03-01-01 Storage Tank Administration
03-01-02 Storage Tank Cleanup

Natural Resource Trustee Program
The TNRCC is one of three agencies designated by the Governor in 1988 as a state Natural Resource Trustee. The statutes governing this program require the State to act on behalf of the public as trustee of natural resources to recover damages for an injury to, destruction of, or loss of natural resources.

State Statute: Texas Natural Resources Code Chapter 40.107
State Rules: 30 TAC Chapter 327
Federal Statute: 42 U.S.C. Chapter 9607; 33 U.S.C. Chapters 1321 and 2706
Federal Rules: 40 CFR Part 300
Strategy: 03-01-03 Hazardous Materials Cleanup

Superfund

The federal Superfund program was created in 1980 as a result of the passage of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In 1985, the Texas legislature created the State Superfund program to address sites which did not qualify for the federal Superfund list. Authorities governing Superfund establish prohibitions and requirements concerning closed and abandoned sites, provide for liability of persons responsible for releases of hazardous substances and establish a trust fund to provide for cleanup when no responsible party can be identified.

State Statute: Texas Health and Safety Code Chapter 361
State Rules: 30 TAC Chapter 335
Federal Statute: 42 USC 9601 et. seq.
Federal Rules: 40 CFR Part 300
Strategy: 03-01-03 Hazardous Materials Cleanup

Voluntary Cleanup Program

Legislative changes to of the Texas Health and Safety Code effective in September of 1995 established the voluntary cleanup program which grants the TNRCC the ability to provide incentives to remediate property by removing the potential future liability of non-responsible parties.

Legislative changes to Chapter 361 of the Texas Health and Safety Code effective in September of 1997 established the Innocent Owner/Operator Program. This program created procedures and conditions to allow owners or operators of property to receive a certification stating they are not liable for response actions for contamination at a site.

In 1995, the TNRCC entered into a cooperative agreement with EPA on brownfield initiatives. The program was created to provide assistance to local governments and non-profit organizations with redevelopment of contaminated property.

State Statute: Texas Health and Safety Code Chapter 361
State Rules: 30 TAC Chapter 333
Federal Statute: None
Federal Rules: None
Strategy: 03-01-03 Hazardous Materials Cleanup

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?

Corrective Action

1976 The federal Resource Conservation and Recovery Act (RCRA) is enacted. The Act regulates the generation, transportation, storage, processing and disposal of hazardous waste.

1984 The Hazardous and Solid Waste Amendments (HSWA) to RCRA are enacted to address contamination in all environmental media from RCRA regulated waste management units and solid waste management units.

1990 Final authorization to administer the Federal RCRA program is received by the State of Texas.

Provided that soil and groundwater contamination continues to result from chemical releases, there will be a continuing need for the program.

Petroleum Storage Tanks

1984 Congress amends RCRA authorizing a national underground storage tank regulatory program.

1986 The Texas Water Commission is designated to receive and process underground storage tank registrations.

1987 Senate Bill 779 authorizes the Texas Water Commission to develop and administer a comprehensive underground storage tank regulatory program.

1989 House Bill 1588 authorizes limited regulation of aboveground storage tanks; establishes the Petroleum Storage Tank Remediation Fund providing financial assistance to owners/operators of leaking petroleum storage tanks; provides for a bulk delivery fee to finance the program; and establishes a registration program for contractors who perform corrective action.

1995 Texas receives EPA's state program approval which allowed the state program to operate in lieu of the federal regulatory program.

While there are sunset dates for the collection of the delivery fee of March 1, 2002 and for the reimbursement program of September 1, 2003, the program will need to respond to future releases and to direct the appropriate cleanup measures that protect human health and safety.

Natural Resource Trustee Program

1988 The Texas Water Commission is designated as lead trustee agency for natural resources of the State of Texas.

1990 The Oil Pollution Act of 1990 designates the Texas Water Commission as trustee for natural resources affected by discharges of oil.

1991 The Oil Spill Prevention and Response Act (OSPRA) identifies the Texas Water Commission as trustee responsible for assessing damages for harm to natural resources of the State.

The need for this program will remain as long as there are continued discharges of oil and releases of hazardous materials to the environment.

Superfund

1980 Congress passes the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the federal Superfund law.

1982 The Texas Department of Water Resources is designated as the state's lead agency for federal Superfund.
1985 The Solid Waste Disposal Act is amended to create the State Superfund program.

The need for the program will remain as long as there are abandoned or bankrupt sites requiring cleanup.

Voluntary Cleanup Program
1995 Legislature establishes the Voluntary Cleanup Program and EPA awards TNRCC a cooperative agreement to help develop EPA's National Brownfields Pilot Program.
1996 The TNRCC enters into a Memorandum of Agreement with the EPA regarding voluntary cleanup.
1997 The Texas innocent/owner operator statute becomes effective.

The need for the program will continue as long as soil and groundwater contamination results from chemical releases.

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

Corrective Action
The Corrective Action program serves owners and operators with contaminated sites. There are approximately 1400 affected sites undergoing corrective action. Application/notification to the agency is the only requirement for receiving services.

Petroleum Storage Tanks
The Petroleum Storage Tank program serves 44,059 tank owners who have registered 160,765 underground tanks and 21,670 above ground tanks with the agency. Application/registration to the agency is the only requirement for receiving services.

Natural Resource Trustee Program
The Natural Resource Trustee Program is currently involved in 44 cases. The program applies to any release of hazardous materials or oil resulting in a significant impact to the State's natural resources. The agency focuses on sites with damage to aquatic and other sensitive environments and which merit compensation.

Superfund
There are currently 33 sites on the federal Superfund list and 41 on the state Superfund list. To qualify for the federal program a site must be inactive and have a Hazard Ranking Score of greater than 28.5. Sites scoring between 5.0 and 28.5 qualify for the state program. Present and former owners and operators of sites as well as generators and transporters of waste can be held liable for releases of hazardous substances.

Voluntary Cleanup Program
Applicants to the VCP include property owners, lenders, developers, tenants and anyone else interested in the sale or purchase of contaminated property. The Innocent Owner/Operator Program is open to sites that do not qualify for the VCP due to pollution from off-site sources. Texas by practice restricts

participation in its Brownfields program to local governments and non-profit organizations who lack the resources to move sites through the VCP toward redevelopment.

The VCP has 883 sites, with an average of 16 new sites entering the program each month.
Sixty sites entered the Innocent Owner/Operator Program, and five have received certificates of completion.
The agency has participated in 27 Brownfields initiatives.

Application/notification to the agency is the only requirement for receiving services.

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

Please see the attached flowcharts at the end of this Chapter.

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.

The Remediation Division works with the following local entities primarily on a case-by-case basis as need arises, but may also interact with these entities from a general regulatory standpoint.

Local Governmental Agencies

City governments- through their relationship with EPA, the TNRCC Voluntary Cleanup Program provides technical advice, education and project partnering, including partnering with other federal and state agencies, for certain brownfield redevelopment projects. If a brownfield is owned by a local government, free review and oversight of investigation and remedial activities is also available.

Local Health Departments- the agency coordinates with these departments in conjunction with residential cleanups in neighborhoods, primarily where soil contamination may pose a risk to human health. Through this coordination impacted residents receive comprehensive public health services such as blood lead level screening and lead abatement in homes, in addition to cleanup of the soil contamination.

Local Authorities

Fire Marshals- the TNRCC provides information to local fire marshals when requested concerning aboveground petroleum storage tank installations, and notifies and coordinates mitigation when there are vapor impacts from gasoline leaks at facilities with petroleum storage tanks.

Subsidence Districts- the TNRCC coordinates the selection and implementation of Superfund remedies in areas where the withdrawal and treatment of ground water has the potential to impact the local subsidence.

Local Flood Control Districts- the TNRCC coordinates the selection and implementation of Superfund remedies where remedial activities might impact the characteristics of the flood plain or would discharge to flood control structures.

Port Authorities- for brownfields initiatives under the Voluntary Cleanup Program, the agency provides technical assistance and site assessments. This assistance includes technical advice, education and project partnering for redevelopment projects.

Military Base Closure Redevelopment Authorities- at Base Realignment and Closure (BRAC) military installations, the agency works in partnership with redevelopment authorities, the Department of Defense and the U.S. Environmental Protection Agency to achieve effective cleanups and maximize productive reuse of former military properties. The goal of this cooperative effort is to save taxpayer dollars, revitalize local economies, create jobs, and enhance local communities.

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.

Current funding resources are sufficient to achieve program mission, goals and objectives for all programs in the Remediation Division with the following exceptions:

Petroleum Storage Tanks
Current funding is appropriate to achieve the current program mission, goals, objectives and performance targets. Current funding provides monies for privatizing the program. With the sunset date for funding, the future program mission will have to be redefined after March 1, 2002

Superfund
Predicting the cost of cleaning up a particular Superfund site is difficult due to variation in size and complexity of the site, whether cleanup is funded by potentially responsible parties rather than the state, and whether sites will be funded by the federal Superfund (where the state pays 10%) or under the state program at 100%. In the long term, fee revenues may not be adequate to support cleanup of all sites.

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

Regulated entities may receive similar remediation services from various cleanup sections within the agency. One entity could have separate cleanups governed by different statutory authorities. For example, a site could have cleanups of both a hazardous waste landfill and leaking petroleum storage tanks underway at the same facility. Except as described below, no program internal or external to the division provides functions or services that are identical for the same types of facilities and environmental impacts.

Superfund
The Environmental Protection Agency has similar authorities over superfund cleanup activities.

Natural Resource Trustee Program
There are two additional state agencies (Texas Parks & Wildlife Department and Texas General Land Office) designated by the Governor of Texas to serve as co-trustees for natural resources in Texas. There are also two federal agencies (U.S. Department of the Interior and Department of Commerce) that are designated by the President. Each of these trustee agencies is responsible for natural resources under their respective jurisdiction.

Brownfields
A similar external Brownfields Program is administered by EPA, Region 6 which provides grants to local governments and states to develop local approaches to solve their Brownfields problems.

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.

Superfund
The agency has a contract with EPA to determine which sites on the Federal registry will be handled by the State. There is no duplication for State listed sites since they do not meet the federal criteria for ranking.

Natural Resource Trustee Program
The trustee agencies have entered in an Memorandum of Understanding that defines the cooperation and coordination between agencies in the performance of a natural resource assessment.

Brownfields
The EPA and the TNRCC coordinate on all projects to avoid duplication of efforts.

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 regulation is needed:**

Corrective Action
The TNRCC remediates sites with soil and groundwater contamination. The agency performs this function to assure that the public is not exposed to hazardous levels of chemicals by requiring removal or mitigation of the contamination to levels protective of human health.

Petroleum Storage Tank
The petroleum storage tank program protects water resources by providing requirements for the cleanup of sites with contamination and prevention of releases of petroleum and hazardous substances.

Superfund
The Superfund program has broad authority to respond to releases of hazardous substances that may endanger public health or the environment. Regulations governing federal and state superfund sites provide protection to the public by holding responsible parties liable for contamination and cleanup.

Voluntary Cleanup Program
The Texas Voluntary Cleanup Program provides incentives to participants for investigation, cleanup and redevelopment of properties with contamination. In return lenders, local governments, developers, landowners, and other stakeholders gain statutory protection that limits their liability regarding past contamination at a site.

The Texas Innocent Owner/Operator Program (IOP) provides an opportunity for applicants to be considered an innocent owner/operator if the property became contaminated as a result of a release from sources not located on the property. The issuance of a certificate provided to the applicant ensures protection from liability from further investigation, monitoring, or remediation of the site thus providing an economic redevelopment incentive.

For the following questions, please refer to the Chapter VI submittal for the Office of Compliance and Enforcement.

- **the scope of, and procedures for, inspections or audits of regulated entities:**
- **follow-up activities conducted when non-compliance is identified:**
- **sanctions available to the agency to ensure compliance:**
- **procedures for handling consumer/public complaints against regulated entities:**

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.

Please refer to the Chapter VI submittal for the Office of Compliance and Enforcement for the program specific complaint information.

Figure 3

Corrective Action Remediation Process

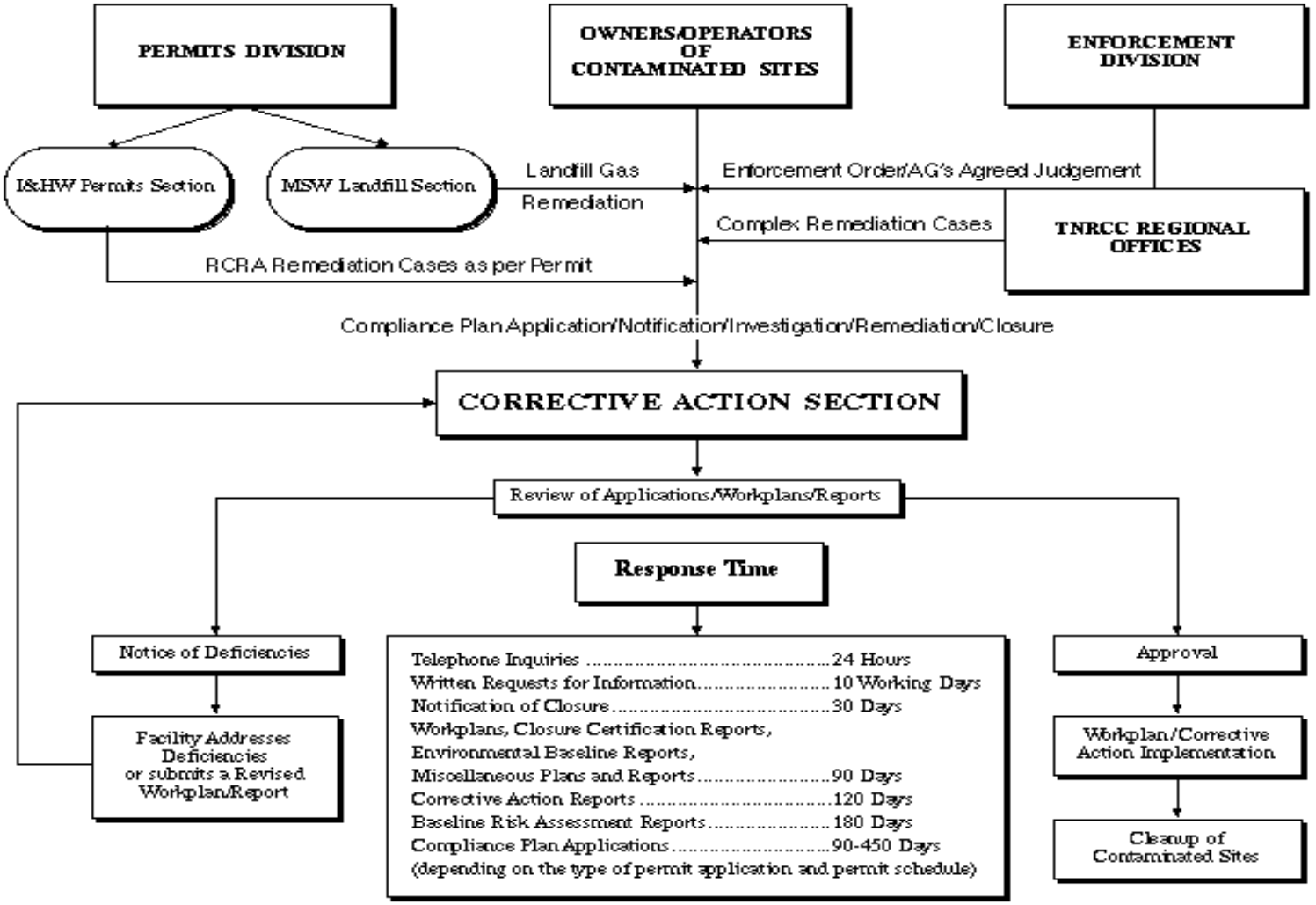


Figure 4

Petroleum Storage Tank (PST) Remediation Process

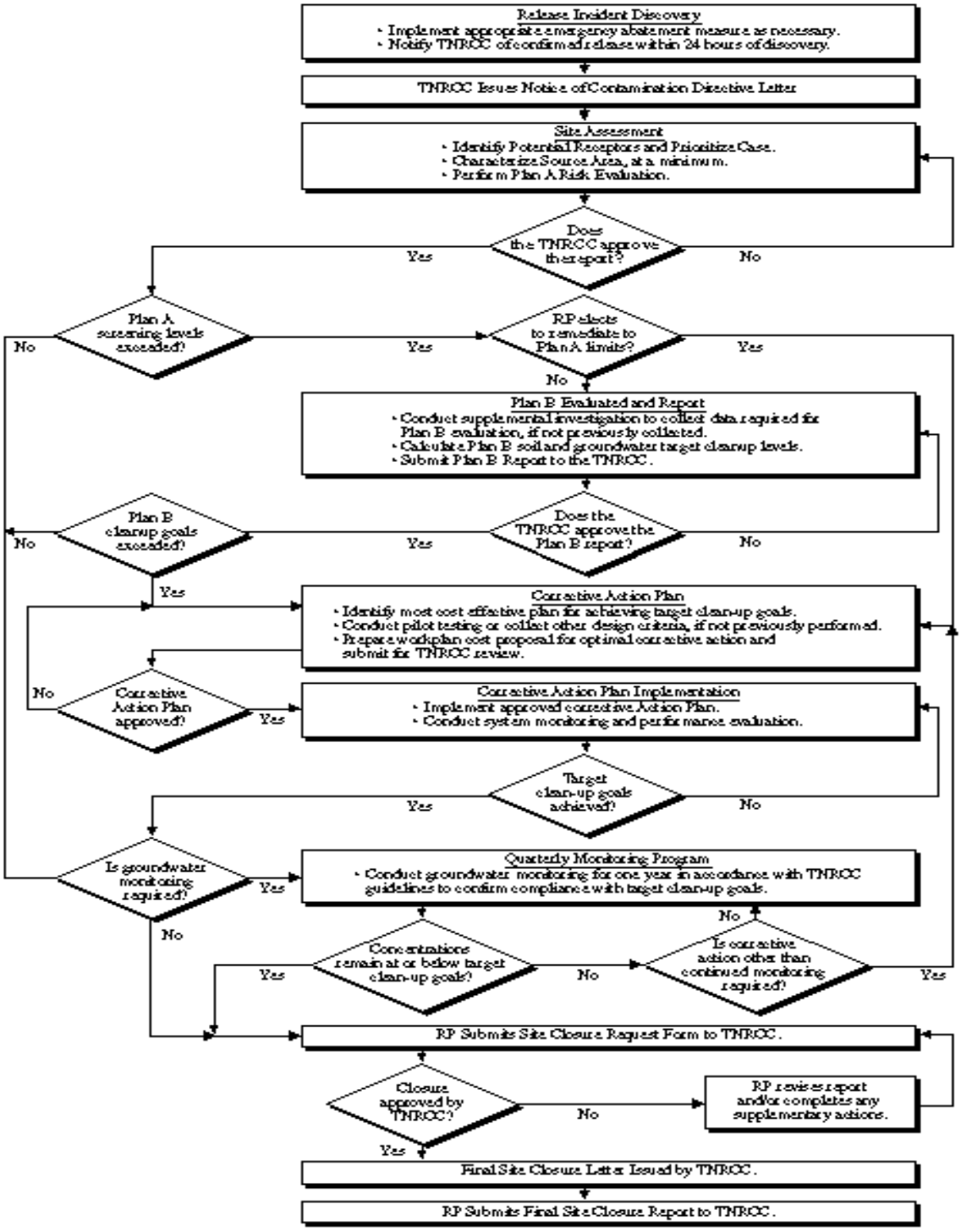


Figure 5

Natural Resource Trustee Program (NRTP) Process

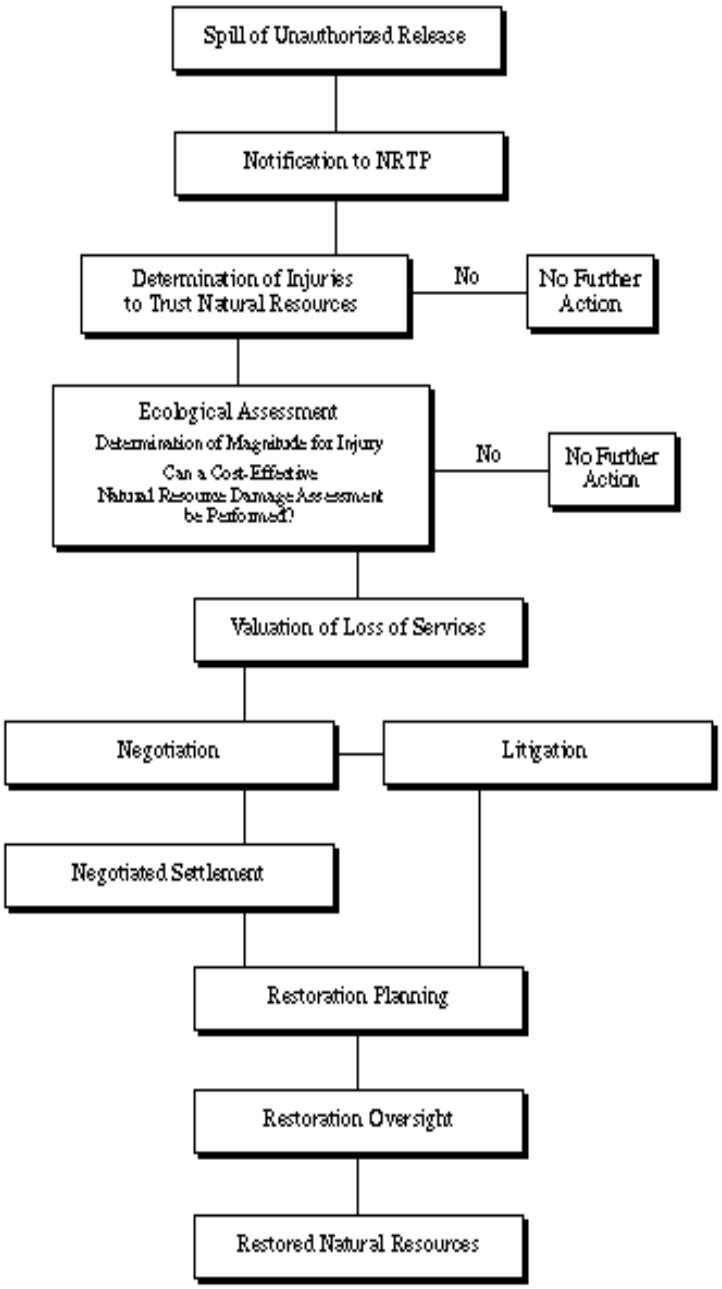


Figure 6

The Superfund Cleanup Process

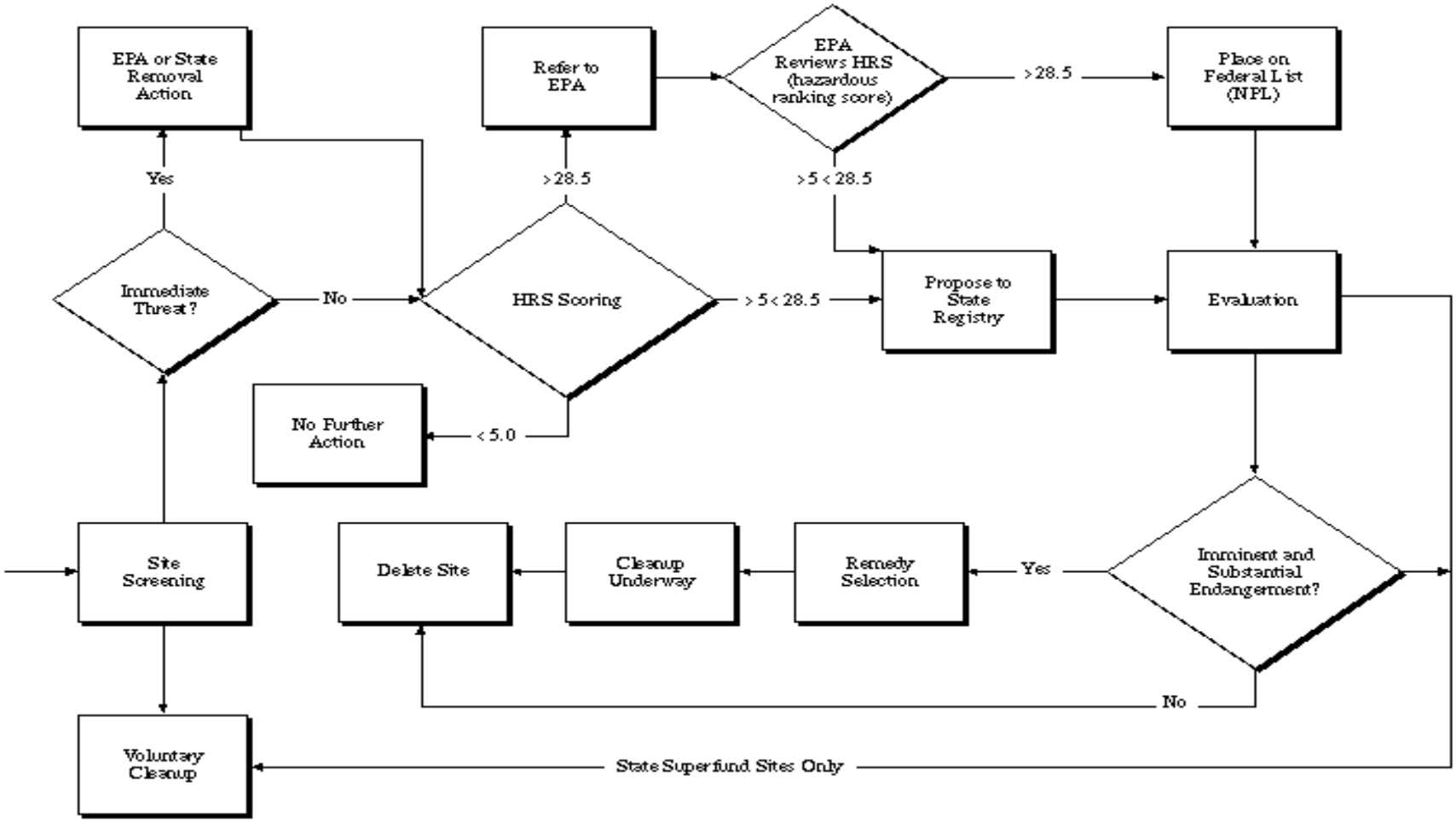


Figure 7

Voluntary Cleanup Program
Work Flow Process Flow Chart

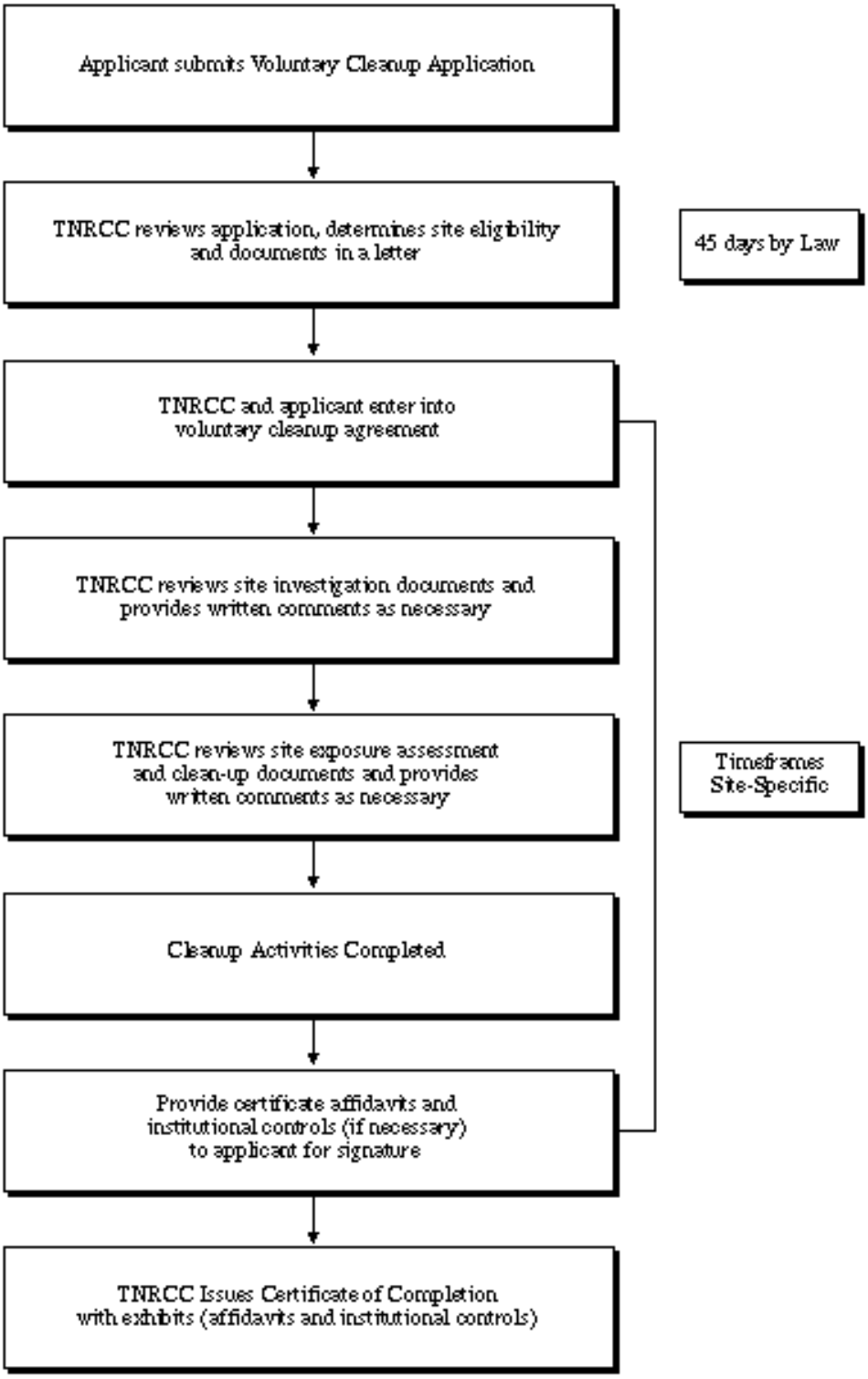


Figure 8

Innocent Owner/Operator Program
Work Flow Process Flow Chart

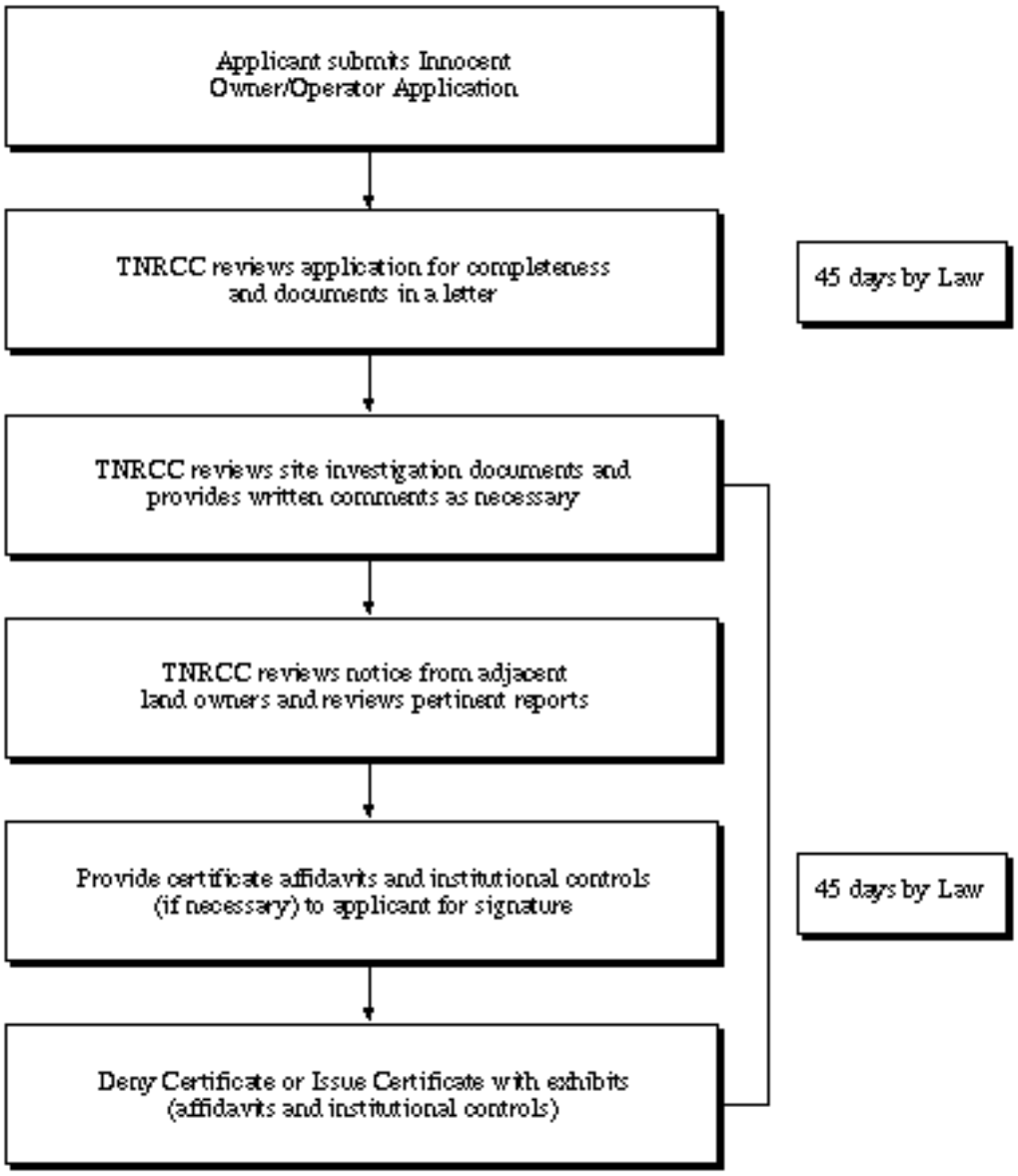
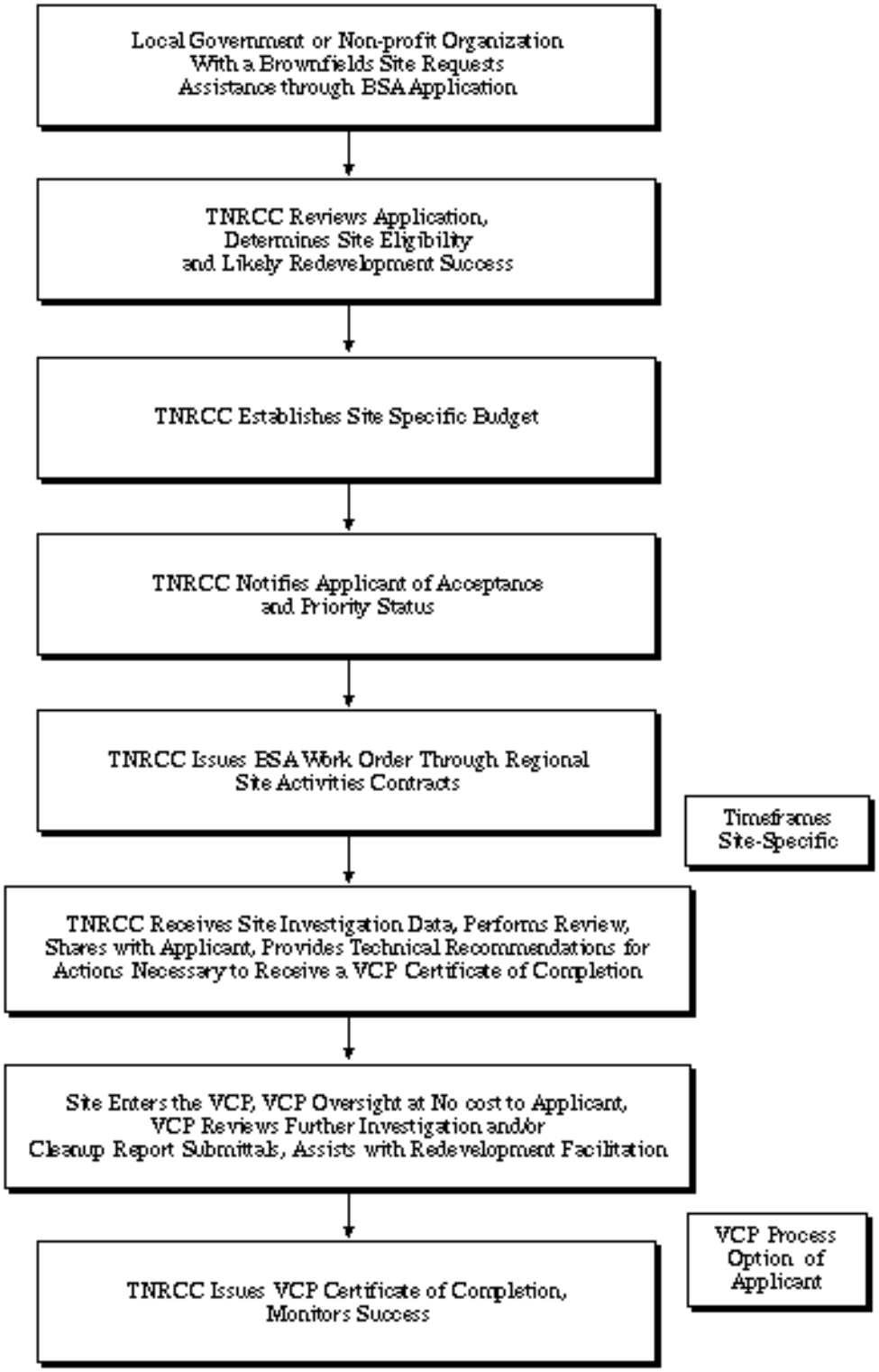


Figure 9

Brownfields Site Assessment (BSA)
Work Flow Process Flow Chart



A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	Water Quality Division
Location/Division	Office of Permitting
Contact Name	Sally Gutierrez, Division Director
Number of Budgeted FTEs as of June 1, 1999	168
Number of Actual FTEs as of June 1, 1999	161

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

1. TPDES: Implements the Texas Pollutant Discharge Elimination System (TPDES) Program to issue and administer permits for wastewater treatment, agriculture operations including confined animal feeding operations (CAFOs), stormwater runoff, and other wastewater treatment facilities. About 4000 permits exist and about 2800 applications for new permits, amendments, and renewals are processed each year.

2. Sludge Permitting and Registration: Regulates the use, transport and disposal of sludge from water and sewage treatment through registration and permitting activities.

3. Water Quality Planning: Develops the Water Quality Management Plan used to support issuance of wastewater permits by the TNRCC and issuance of loans from the Texas Water Development Board. Develops and administers the Texas Nonpoint Source Pollution program including the pass-through of non-point source grants to local entities.

4. Surface Water Quality Monitoring: Collects water quality samples, maintains a database of surface water quality data for the TNRCC's 700 plus monitoring sites located in streams, lakes and bays and estuaries, develops quality assurance/quality control procedures for all agencies and local entities involved in the collection of surface water quality data, and coordinates the participation and education of citizen volunteers involved in the collection of water quality data through the Texas Watch program. The surface water quality data are the basis for the development and revision to water quality standards for surface water bodies, the technical justification of wastewater permit limits, the assessment of water quality conditions, and the identification of impaired and threatened surface water bodies (the 303(d) list).

5. Water Quality Standards: Develops the chemical, biological, and other standards for surface water bodies in the State to protect recreational, aquatic life, drinking water and other uses of these water bodies.

6. Clean Rivers Program: Administers the Texas Clean Rivers Program which provides for basin-wide water quality assessment and planning and which also collects supplemental surface water quality data.

7. 401 Certification: Certifies U.S. Corps of Engineer 404 permits that authorize dredge and fill projects to insure that such projects will protect the water quality of streams, rivers, lakes and coastal water bodies.

8. National Estuary Programs: Coordinates the activities of the Coastal Bend Bays Estuary Program and the Galveston Bay Estuary Program.

9. Groundwater Quality Assessment: Supports the Texas Groundwater Protection Committee, conducts groundwater assessments that are used in wastewater permitting, nonpoint source pollution studies, and oil and gas drilling activities, processes Underground Injection Control (UIC) permits, and designates areas with critical groundwater supply problems.

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

1. TPDES:

The State's wastewater permitting program dates to 1953 with the creation of the Texas Water Pollution Advisory Council. The State of Texas' water quality program was a precursor to the national wastewater permitting program established in 1972 with Congressional adoption of the Clean Water Act. Prior to 1998, the U.S. EPA and the State of Texas maintained dual wastewater permitting programs, both intended to protect the same surface water quality standards. On September 14, 1998, the EPA approved delegation of the federal wastewater program under the Clean Water Act thus establishing the TPDES program.

Unauthorized discharge of contaminants into or adjacent to waters of the state, including groundwater, is prohibited under Chapter 26 of the Texas Water Code §§26.027, 26.047, and 26.121. TPDES permits are issued under the authority of Federal Clean Water Act §402

State Statutes -	Texas Water Code Chapter 26
Federal Statutes -	Clean Water Act
State Rules -	30 TAC Chapters 281, 305, 321
Federal Rules -	Federal rules governing wastewater permits: Title 40 of the Code of Federal Regulations (40 CFR), Parts 122 (NPDES program), 123 (state program requirements, e.g., TPDES), 124 (NPDES decision making procedures), 125 (criteria and standards for NPDES), 129 (toxic pollutant effluent standards), 130 (water quality management plan), 131 (water quality standards), 133 (secondary treatment), 401-471 (effluent guidelines and standards, including 403 -pretreatment), 501 and 503 (sewage sludge).
Agency Strategy:	01-01-02

2. Sludge Permitting and Registration

On March 1, 1992, the existing state sludge program transferred from the Texas Department of Health to the Texas Water Commission (TNRCC's predecessor agency). In February 1993, the U.S. EPA established a regulatory program regarding sludge use and disposal through the promulgation of EPA rules. In 1993, the TNRCC adopted 30 TAC Chapter 312 to implement the federal standards and assumed primacy from EPA on September 14, 1998, one of the first States in the nation to do so.

The regulations for land application under 30 TAC Chapter 312 serve several purposes. The regulation of the land application of domestic sewage sludge, water treatment sludge and domestic septage is needed to protect the public health and environment from pathogens and heavy metal pollutants. The regulation of the land application allows this recycling program to occur while avoiding the potential for adverse impacts to public health and the environment.

The regulation of the transporters of domestic sewage sludge, water treatment sludge, domestic septage, grit trap wastes, grease trap wastes and chemical toilet wastes are needed to ensure proper oversight of such activities to avoid potential adverse impacts. The above potential impacts include contamination of soils, surface waters and groundwater, the possibility for the epidemic spread of certain contagious diseases (including cholera, typhus, hepatitis A, etc.), and nuisance conditions.

State Statutes - Health and Safety Code Chapter 361 (Solid Waste Disposal Act)
Federal Statutes - Clean Water Act
State Rules - 30 TAC Chapter 312
Federal Rules - Title 40, Code of Federal Regulations, Parts 122, 123, 501, 503 and 257
Agency Strategy: 01-01-02

3., 4., and 5., Water Quality Planning, Surface Water Quality Monitoring, and Water Quality Standards:

Since 1953, the State of Texas has engaged in issuance of wastewater permits when the Texas State Water Pollution Advisory Council was established. Standards for water bodies were first adopted in 1969 for the Houston Ship Channel. The water quality planning, surface water quality monitoring, and water quality standards programs were significantly expanded in 1972 with the passage of the federal Clean Water Act and then again in 1987 with the reauthorization of that Act.

State Statutes - Chapter 26, Texas Water Code
Federal Statutes - Clean Water Act
State Rules - 30 TAC Chapter 307
Federal Rules - 40 Code of Federal Regulations (CFR) Parts 123, 130, and 131.
Agency Strategy - 01-01-05

6. Clean Rivers Program

This State program was established in 1991.

State Statutes - Chapter 26, Texas Water Code
Federal Statutes - None

State Rules - 30 TAC Chapter 220
Federal Rules - None
Agency Strategy - 01-01-05

7. 401 Certification

In 1995, the TNRCC modified its rules (30 TAC Chapter 279) to substantially implement 401 Certification. The 401 Certification is the states' right to approve, condition, or deny federal permits (404 permits) issued by the Corps of Engineers to insure compliance with state water quality standards.

State Statutes - General water quality authority under Texas Water Code Chapter 26
Federal Statutes - Clean Water Act
State Rules - 30 TAC Chapter 279
Federal Rules - 40 CFR Parts 121 and 230
Agency Strategy: 01-01-02

8. National Estuary Programs

The federal National Estuary Program was established in 1987 under amendments to the Clean Water Act and was modeled after regional efforts like the Cheasepeake Bay Program.

State Statutes - None
Federal Statutes - Clean Water Act
State Rules - None
Federal Rules - 40 CFR § 35.9000
Agency Strategy - 01-01-05

9. Underground Injection Control (UIC) Class V Injection Well Program

The Underground Injection Control Program is delegated by the USEPA to the State of Texas and TNRCC, under the federal Safe Drinking Water Act. A shallow well through which non-hazardous wastes are discharged or injected into or above useable quality groundwater, is considered a "Class V" injection well and is regulated by the federal Safe Drinking Water Act. This regulation is necessary to insure that this activity does not degrade groundwater with respect to use, and insures that this activity is not harmful to human health and the environment. Further, the program helps to insure that there are no unauthorized discharges into or adjacent to waters of the state.

State Statutes - Chapter 27, Texas Water Code
Federal Statutes - Safe Drinking Water Act
State Rules - 30 TAC Chapters 281 and 331
Federal Rules - 40 CFR Parts 144 and 145
Agency Strategy: 01-01-02

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?

Although the state's water quality has seen remarkable improvements in the past 20 years, there continues to be a need for some level of monitoring, assessment, and regulation. Only 86% of the State's water bodies meet established water quality standards (the federal Clean Water Act goal is 100%). The objectives of the agency's water quality programs are ongoing and necessary for the protection of public welfare and aquatic ecosystems.

TPDES

The TNRCC now has primary regulatory authority over discharges of pollutants to Texas surface water, with the exception of discharges associated with oil, gas, and geothermal exploration and development activities, which are regulated by the Railroad Commission of Texas. The TNRCC TPDES program covers all permitting, surveillance/inspection, public assistance, and enforcement regulatory processes associated with the following:

(1) Discharges of waste from industry and municipal treatment works, including publicly owned treatment works (POTWs)
(2) Disposal of wastewaters from concentrated animal feeding operations (CAFOs)
(3) Discharges of storm water associated with industrial activities, including construction sites
(4) Discharges of storm water associated with city storm sewers, known formally in the regulations as municipal separate storm sewer systems
(5) Oversight of municipal pretreatment programs operated by publicly owned treatment works
(6) Disposal and use of sewage sludge

The EPA is temporarily maintaining permitting, surveillance, and enforcement jurisdiction over select individual and general federally issued wastewater permits. These select permits are those proposed for public comment but not yet final as of Sept. 14, 1998. The EPA is also retaining administration over large and medium municipal stormwater permits issued prior to Texas program assumption and over EPA-issued construction and multi-sector industrial storm water general permits until the existing permits expire. After Phase II storm water regulations are adopted by the EPA, the TNRCC will be responsible for implementing the Phase II program in Texas.

Through assumption of this program, the TNRCC will now have to increase its focus on the regulation of storm water and consider impacts to endangered species.

Nonpoint Source

Because of the improvements made in controlling point sources of pollution, and due to increases in population, nonpoint source pollution has now become a leading cause of water pollution in Texas and throughout the country. The reauthorization of the Clean Water Act in 1987 called for states to prepare management programs for the control and abatement of nonpoint source (NPS) pollution, and provided federal funds, under Section 319(h) of the Act, for supporting implementation projects that further those management programs. The TNRCC implemented its most recent management plan for Nonpoint Source Pollution in 1990.

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 Water Quality Division serves the general public and facilities which treat, process, or otherwise handle domestic or industrial wastewater.

TPDES Permits and Other Authorizations:

2345	domestic wastewater permits
913	industrial wastewater permits
9	sludge processing permits
198	sludge registrations
547	Confined Animal Feeding Operation authorizations

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

The Water Quality Division is administered through the following seven sections: (1) Agriculture Section, (2) Data Collection Section, (3) Groundwater Assessment Section, (4) Standards and Assessment Section, (5) Wastewater Permits Section, (6) Galveston Bay Estuary Program, and (7) Corpus Christi Bay Estuary Program.

The Agriculture Section regulates the management of waste from dairies, feedlots and poultry facilities in Texas. All concentrated animal feeding operations (CAFOs) operators are required to collect, store and utilize waste and wastewater and control dust and odor in a manner to conform with good agricultural management practices.

The Data Collection Section manages the Texas Clean Rivers Program (CRP), develops the Water Quality Management Plan (WQMP) under Section 604(b) of the Clean Water Act, administers the state nonpoint source (NPS) pollution program under Section 319 and the Clean Lakes Program under Section 314 of the Clean Water Act, maintains and update the Continuing Planning Process (CPP), conducts surface water quality monitoring, and administers Texas Watch Volunteer Water Quality Monitoring.

The Groundwater Assessment Section conducts groundwater protection programs that emphasize both remediation and prevention through the use of best management practices, provides technical assistance related to groundwater quality and quantity issues for all divisions within the Office of Water Resource Management, coordinates and develop the state's Comprehensive Groundwater Protection Program, and supports coordinated groundwater quality activities conducted by all state agencies through the Texas Groundwater Protection Committee.

The Standards and Assessment Section develops and implements water quality standards, reviews and recommends effluent limits for state wastewater permits, and ensures inclusion of toxic limits in wastewater permits.

The Wastewater Permits Section administers the permitting aspect of the TNRCC's Texas Pollutant Discharge Elimination System (TPDES) program which includes the following:
(1) discharges of waste from industry and municipal treatment works, including publicly owned treatment works (POTWs); (2) discharges and land application of waste from concentrated animal feeding operations (CAFOs); (3) discharges of storm water associated with industrial activities, including construction sites; (4) discharges of storm water associated with city storm sewers, known formally in the regulations as municipal separate storm sewer systems (MS4s); (5) oversight of municipal pretreatment programs operated by publicly owned treatment works; and (6) disposal and use of sewage sludge.

The Estuary Programs are a continuation of the National Estuary Program (NEP) established for Galveston Bay and Corpus Christi Bay to develop Comprehensive Conservation and Management Plans (CCMPs) for estuaries of national significance that are threatened by pollution, development or overuse. With the completion of the plans, the estuary programs transitioned from planning (Clean Water Act Section 320 funds under the NEP) to implementation (primarily a state and local effort augmented by federal demonstration grant funds).

As a result of the recommendations in the Business Process Review, the TNRCC is in the process of implementing a standardized five-tier approach to permitting across the all agency permitting programs. A given permit application will be processed through one of five paths depending upon the significance and complexity of the subject application. The attachments at the end of Chapter VI reflect the modified generic permit processes 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.

The Water Quality Program interacts with river authorities, councils of government, cities and counties, and other special units of local government.

All local governments, except for COGs, may apply to the TNRCC for TPDES permits. Those applications are reviewed to determine the appropriate water-quality based effluent limitations needed. In addition, local governments can be parties in the opposition to the issuance of permits.

The Water Quality Division contracts with river authorities, councils of government and one special district to implement the Texas Clean Rivers Programs to conduct regional water quality assessments for the river and coastal basins throughout the state. Staff set guidelines and standards for the development and approval of quality assurance plans for data collection and process invoices for these contracts. In those basins, each existing contractor is identified as the lead entity with primary responsibility for the river basin assessment. Steering Committees are established for each river basin in order to provide for local citizen, government and interest group participation.

The Division also contracts with river authorities, councils of government, counties, cities and special districts for implementation of nonpoint source pollution control activities. Additionally, the division contracts with select councils of government for support of the state water quality management plan.

The Groundwater Assessment Section within the Water Quality Division works with county governments, municipal governments, regional water planning groups, adjacent groundwater conservation districts, river authorities, water districts, entities that supply public drinking water (including holders of TNRCC issued CCNs), and irrigation districts to establish Priority Groundwater Management Areas.

Both the estuary programs (Galveston Bay and the Coastal Bend Bays) work extensively with local governments to develop and implement comprehensive management plans for the two estuaries. Additionally, local coordination councils have been established to assist with coordination and implementation of the comprehensive management plans.

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.

Funding is adequate for all areas except those additional activities related to surface water quality monitoring. Additional surface water quality monitoring is needed in order to support water quality assessments under the Total Maximum Daily Load (TMDL) Program (in the Office of Environmental Policy, Analysis, and Assessment).

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

Certain cities maintain a registration program for sludge transporters similar to that of TNRCC. However, cities only require registrations for sludge transporters transporting sludge into their city and they are only interested in tracking the sludge while it is in the city, whereas the TNRCC registrations keep track of the sludge statewide.

There are several other state agencies that also conduct activities related to groundwater protection. The activities include ambient monitoring, site specific monitoring, special studies, assessment, and public education. The activities vary depending on the agency. (See Section K.)

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.

The Texas Groundwater Protection Committee serves to bridge the gap between state groundwater programs and optimize groundwater quality protection by improving coordination among agencies

involved in groundwater protection activities. Created by the Texas Legislature in 1989, the Committee is composed of representatives from the following agencies:

TNRCC(Committee Chair)	Texas Water Development Board
Railroad Commission of Texas	Texas Department of Health
Texas Department of Agriculture	Texas State Soil and Water Conservation Board
Texas Agricultural Experiment Station	Texas Alliance of Groundwater Districts
Bureau of Economic Geology	

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

The TNRCC relies upon the watershed management approach to implement its water quality programs. Watershed management, a resource-centered approach, is not a new regulatory program. It is a way to coordinate operations of existing water resource programs to better achieve water resource management goals and objectives. The term "watershed," in this context, is broadly defined as the geographic delineation of an entire river basin or sub-basins and the land that drains into it. The primary mechanisms for watershed management are (1) renewing wastewater permits in batch for river basins as a whole, and (2) administering the Clean Rivers Program.

Management by watershed is both logical and necessary. All surface water within a basin that is not consumed, contained, or evaporated eventually reaches the major rivers of that basin. Consequently, all human and natural activities upstream have the potential to affect water quality and quantity downstream. The results of all industrial, municipal, agricultural, and other activities are interrelated within a watershed.

The TNRCC adopted rules in 1995 that provide for permits to be renewed on a basin schedule over the 5-year cycle.

The Clean Rivers Program provides a vehicle for local, regional, and statewide interests to examine water quality issues on a watershed basis. The water quality assessments performed under the Clean Rivers Program focus on the cumulative effects of a variety of potential pollutant sources within the context of the natural setting of a particular watershed. The Program gives local interests the ability to identify their concerns and propose regional-specific solutions to problems that may be outside the jurisdiction of the TNRCC.

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 regulation is needed:**

TPDES

The federal Clean Water Act of 1972 established a goal that 100% of surface water bodies will meet specific water quality standards to be "fishable and swimmable". Permitting of wastewater collection, treatment and disposal activities is the primary strategy for meeting this objective.
.
The Texas Pollution Discharge Elimination System (TPDES), and its concomitant activities of water quality planning, surface water quality monitoring, and development of stream standards, is the State program for insuring compliance with the federal Clean Water Act.

TPDES permits are issued to facilities that directly discharge to waters in the state. The municipal pretreatment programs are developed in accordance with federal requirements and implemented to control industrial discharges to publically-owned treatment works. The stormwater program ensures that stormwater runoff from facilities associated with industrial activity (including construction) is permitted in accordance with state and federal requirements. The stormwater program also permits municipal separate storm sewer systems in Texas to ensure that they are compliant with state and federal water quality requirements. Inspections of, and complaints regarding, permitted entities are conducted by the Field Operations Division of the TNRCC.

Sludge

The regulations for land application under 30 TAC Chapter 312 are needed to serve several purposes. The regulation of the land application of domestic sewage sludge, water treatment sludge and domestic septage is needed to protect the public health and environment from pathogens and heavy metal pollutants. The regulation of the land application is needed to allow this recycling program to occur while avoiding the potential for adverse impacts to public health and the environment.

The regulation of the transporters of domestic sewage sludge, water treatment sludge, domestic septage, grit trap wastes, grease trap wastes and chemical toilet wastes are needed to ensure proper oversight of such activities to avoid potential adverse impacts. The above potential impacts include contamination of soils, surface waters and groundwater, the possibility for the epidemic spread of certain contagious diseases (including cholera, typhus, hepatitis A, etc.), and nuisance conditions.

Groundwater: Underground Injection Control (UIC) Class V Injection Well Permitting

A shallow well through which non-hazardous wastes are discharged or injected into or above useable quality groundwater, is considered a "Class V" injection well and is regulated under the Underground Injection Control Program of the federal Safe Drinking Water Act. The Underground Injection Control Program has been delegated to the State of Texas, and TNRCC, by EPA. This regulation is necessary to insure that this activity does not degrade groundwater with respect to use, and insures that this activity is not harmful to human health and the environment. Further, the program helps to insure that there are no unauthorized discharges into or adjacent to waters of the state.

For the following questions please refer to the Chapter VI submittal for the Office of Compliance and Enforcement.

- **the scope of, and procedures for, inspections or audits of regulated entities:**
- **follow-up activities conducted when non-compliance is identified:**
- **sanctions available to the agency to ensure compliance:**
- **procedures for handling consumer/public complaints against regulated entities**

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.

Please refer to the Chapter VI submittal for the Office of Compliance and Enforcement for the program specific complaint information.

A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	Water Quantity Division
Location/Division	Office of Permitting
Contact Name	Don Neal, Division Director
Number of Budgeted FTEs, as of June 1, 1999	45.75
Number of Actual FTEs as of June 1, 1999	41.75

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

1. Water Rights Regulation: The TNRCC regulates the use of surface water, primarily through the issuance of and amendments to surface water right permits. There are about 6500 water right permits in the State. About 750 applications, ownership changes and contracts need to be processed annually; of these about 400 are water right applications. Hydrologic and environmental analysis of water right applications and interstate deliveries of waters (supporting the Interstate Compact Commissions) are conducted to quantify water available for water rights, instream uses and bays and estuaries.

2. Dam Safety Regulation - Through the Dam Safety Program, the TNRCC sets standards for the construction, maintei repair of dams in Texas. There are 7200 inventoried dams in the State, the largest number of any state. The program dam safety function by: (a) Reviewing and approving engineering designs and construction plans of new dams and fo modification of existing dams; (b) Conducting on-site inspections of dams; (c) Assisting dam owners in the preparatio implementation of emergency action plans, and reviewing those plans; (d) Providing technical assistance to dam owne maintaining an inventory of over 7200 dams in Texas.

3. Floodplain Management Regulation - The TNRCC coordinates local, state and federal programs related to floodplain management by assisting communities in developing local floodplain management programs and by auditing communities' actual floodplain management programs to insure compliance with federal standards. When a community develops a floodplain management program that meets federal standards, homeowners and businesses are then eligible to obtain flood insurance from the Federal Emergency Management Agency at a reasonable cost (about $300 per year). Agency staff also respond to disasters to assist communities with flood insurance issues and the permitting of structures damaged by the disasters. Other functions of this program include permitting levees and other construction works along rivers and streams.

4. Weather Modification Permitting and Technical Assistance - The TNRCC issues permits and licenses for weather modification projects. Additionally, the TNRCC administers a grant program to help fund rain enhancement programs. The state provides up to 50% of a project's funding to local political

subdivisions, with the remaining funding provided by local interests. Currently there are 7 projects permitted and funded and 3 more are being organized. The TNRCC was appropriated $4.7 million for Fiscal Years 97 and 98-99 to fund weather modification projects, as follows:

$550,000 Emergency Appropriation	FY97
$1,648,869	FY98
$2,548,870	FY99

To date, the TNRCC provides 50% of the funding for the following seven projects:

a. Colorado River Municipal Water District, based in Big Spring, covering 2.4 million acres;
b. West Texas Weather Modification Association, in San Angelo, 6.43 million acres;
c. High Plains Underground Water Conservation District, in Lubbock, covering 6.87 million acres;
d. South Texas Weather Modification Association, in Jourdantown, covers 4.4 million acres;
e. Texas Border Weather Modification Association, 3.79 million acres from Big Bend to Laredo;
f. Edwards Aquifer Authority, covering 6.2 million acres in the counties over the Edwards Aquifer; and
g. Southwest Texas Weather Modification Association, in Carrizo Springs and covering 4.9 million acres in South Texas.

Three additional projects are expected to be initiated in Fiscal Year 2000, potentially in the northern panhandle, west Central Texas and the Lower Rio Grande Valley.

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

Water Rights: Regulation of surface water in Texas first occurred with the Irrigation Act of 1889. A surface water rights permitting system was created in 1913. Also in 1913, the State of Texas Board of Water Engineers was established to regulate surface water rights.

State Statutes -	Texas Water Code Chapter 11 and Chapters 41-47 (Interstate Compacts)
Federal Statutes -	None
State Rules -	30 TAC Chapters 281, 288, 295, and 297
Federal Rules-	None
Agency Strategies -	01-01-02 and 01-01-05

Dam Safety: Since 1913 the State has provided technical assistance for dam construction and maintenance. A Dam Safety Regulatory Program was created by statute in 1973, and in 1986 the Texas Water Commission adopted rules promulgating specific safety standards for dams.

State Statutes -	Texas Water Code Sections 11.126, 11.144, and 12.052
Federal Statutes -	None
State Rules -	30 TAC Chapter 299
Federal Rules-	None
Agency Strategy -	01-01-02

Floodplain Management: Like the water rights permitting and dam safety programs, floodplain management in Texas dates to 1913.

State Statutes -	Texas Water Code Sections 16.316, 16.318 and Chapters 57 and 66
Federal Statutes -	Public Laws 90-448, 93-234, and 103-325
State Rules -	30 TAC Chapter 301
Federal Rules-	44 Code of Federal Regulations, Parts 49-76, Subchapter B
Agency Strategy -	01-01-02

Weather Modification: The State has regulated Weather Modification projects through the issuance of licenses and permits since 1967. The oldest weather modification program was implemented by the Colorado River Municipal Water District near San Angelo twenty-five years ago. In 1997 the Legislature created a state grant program for rain enhancement projects; the grant program is administered by the TNRCC's Water Quantity Division.

State Statutes -	Texas Water Code Chapter 18
Federal Statutes -	None
State Rules -	30 TAC Chapter 289
Federal Rules-	None
Agency Strategy -	01-01-02

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?

Water Rights: Senate Bill 1, 75th Legislative Session, appropriated to the TNRCC $2.64 million for FY98-99 for development of a water availability modeling (WAM) system. An additional $500,000 was appropriated for development of a water related database. The Bill required that 6 of the State's 23 river basins be modeled by December 1999 and all others, but the Rio Grande Basin, by December 2001. The new WAM system is necessary to replace outdated data and software programs used to calculate available water and to support water plannning. The new system will include documentation and other standards that allow access by other state agencies and regional planning interests. Modeling of the first 6 river basins is on schedule and within budget. The 76th Legislature appropriated an additional $6.27 million for FY2000-2001 to complete the WAM project. Senate Bill 76 of the 76th Session requires the TNRCC to develop a model of the Rio Grande Basin in FY2002-2003, contingent on an appropriation next session. Since there were already existing modeling efforts underway for that basin, TNRCC implementaion of Senate Bill 76 during FY2000-2001 will involve detailed scoping and analysis of what stakeholders really need in terms of modeling the Rio Grande.

Dam Safety/Floodplain Management - In 1998 the TNRCC sponsored an Executive Director's Task Force on Dam Safety; the Task Force included state agency staff and representatives of specific interest groups including the Texas Water Conservation Association and the Texas Municipal League. The Task force spent a year examining dam safety issues and developed recommendations regarding the operations of the Dam Safety Program. The Task Force then assisted the 76th Legislature's Interim Subcommittee on Dam

Safety to identify any needed legislative actions. The Interim Committee recommended that the TNRCC perform more dam safety inspections to be able to reach a 5 year inspection cycle for high hazard dams. The Interim Subcommittee also recommended that the Legislature provide more resources for dam safety, by adding more dam safety inspectors (15) or providing $1.2 million for outsourcing of dam safety inspections. The Interim Subcommittee also recommended that the Legislature require all communities in floodprone areas to participate in the National Flood Insurance Program, so that cost-effective flood insurance would be available to any resident in these areas. The Legislature enacted House Bill 1018, which requires all communities to enact ordinances or court orders to qualify for the National Flood Insurance Program.

House Bill 1018 specifically requires cities and counties to adopt an ordinance or court order as necessary to join the National Flood Insurance Program no later that January 1, 2001. This increases the number of regulated entities from 964 to 1351 and requires the TNRCC to provide assistance to those additional communities.

The 76th Legislature also adopted Senate Concurrent Resolution 68 creating a blue ribbon committee to examine ways to improve coordination among the Texas Department of Transportation, TNRCC, Texas Water Development Board, Small Business Administration, volunteer organizations, Division of Emergency Management, and General Land Office in mitigating flood damages. The committee is to be chaired by the Department of Emergency Management and is to deliver a report to the 77th Legislature with recommendations regarding flooding issues.

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

Water Rights - There are about 6500 water right permits in the State. Any private individual, business, government agency or local jurisdiction may obtain from the State or purchase a water right from another entity.

Dam Safety - Any dam above 6 feet must comply with TNRCC rules at 30 TAC Chapter 299 regarding dam safety. Dams are owned by private individuals, businesses, government agencies and water suppliers. The Texas Inventory , maintained by the TNRCC, lists about 7200 dams; however, several hundred other dams, not in the Inventory, are subject to TNRCC jurisdiction. These dams were typically built in the 1940s and 1960s for livestock use or for soil erosion purposes under the auspices of the federal Soil Conservation Service.

Floodplain Management - There are 1351 counties and cities that must comply with House Bill 1018. When a county or city develops a floodplain management program that meets federal standards, its local businesses and homeowners are then eligible to obtain affordable flood insurance (about $300 per year). Additionally, such participation provides eligibility to communities for federal disaster assistance and grants in the event of major flooding events. Texas maintains over $38 billion in coverage in the National Flood Insurance Program.

Weather Modification - There are 7 current rain enhancement projects (listed in B. above). Any person or organization who has persons with 1) a degree in meteorology with one year experience in weather modification or 2) a degree in physical science or engineering with 5 years experience in meteorology or 3)

other training and experience that the TNRCC accepts as indicative of sufficient competence in the field of meteorology may obtain a licence to engage in weather modification activities provided a permit is granted.

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

Water Rights - Applications for water right permits are logged into and tracked in a stand-alone database. Once declared administratively complete, up to four technical reviews are conducted regarding the merits of the application. If applicable, notice of the application is provided to water right holders and the public during the technical review phase of the application. The technical reviews are: (a) hydrology, (b) assessment of potential impacts to instream uses such as water quality, aquatic habitat, recreation and inflows into bays and estuaries, (c) review of a water conservation and drought plan, and (d) review of the engineering plans of any dam. The staff of the Executive Director develop a recommendation regarding denial or issuance and may condition the permit depending on the conclusions of the technical review; such special conditions protect other water right holders and/or riverine habitat, water quality, and inflows into bays and estuaries. If uncontested, the Executive Director will issue the permit upon staff recommendation. If contested, the application goes before the Commission for consideration. Other activities include processing ownership changes and reviewing contracts for the sale of water to insure consistency with the underlying water right permit. Hydrologic analysis of water right applications, analysis of bays and estuaries and determination of the instream needs of bays and estuaries support the water rights program. Additionally, hydrologic analysis and technical advice is provided to each of the 5 Interstate Compact Commissions to insure that Texas receives its share of water in interstate streams (the Sabine, Red, Canadian, Pecos and Rio Grande rivers).

Dam Safety - The program is implemented through: 1) Reviewing and approving engineering designs and construction plans of new dams, and for repair and modification of existing dams; 2) Conducting inspections of dams under construction; 3) Inspecting existing dams for proper maintenance & repair, and changes in downstream conditions; 4) Assisting dam owners in the preparation and implementation of emergency action plans, and reviewing those plans; 5) Providing technical assistance to dam owners; 6) Compiling and maintaining a detailed inventory of over 7200 dams in Texas.

Floodplain Management - The three primary activities in this program are (1) on-site visits to local communities to determine if their floodplain management programs comply with federal standards, (2) technical assistance to local communities to help them develop floodplain management programs, and (3) authorization of levees and other flood control structures. Technical assistance includes workshops and providing examples of local ordinances. To meet the federal standards for a floodplain management program, a community must implement local ordinance and a building permit system that address construction activities in floodplains.

Weather Modification - The TNRCC is responsible for licensing and permitting weather modification projects and administering a state grant fund to help pay for the cost of rain enhancement projects.

As a result of the recommendations in the Business Process Review, the TNRCC is in the process of implementing a standardized five-tier approach to permitting across the all agency permitting programs. A given permit application will be processed through one of five paths depending upon the significance and complexity of the subject application. The attachments at the end of Chapter VI reflect the modified generic permit processes 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.

Water Rights Permitting - This Program does not work through local government agencies, councils, or agencies. Rather these entities may be regulated by the TNRCC as water right holders or may obtain information from the TNRCC for water planning purposes. Since Fiscal Year 97 the Program has provided federal funds to local agencies through contracts. The funds are supporting biological assessment of the Guadalupe River to determine the instream flow needs for the River. The resulting data from these studies are needed to adequately determine water availability pursuant to Senate Bill 1, 75th Legislative Session and Section 11.147 Texas Water Code. Other studies for other rivers are expected to be initiated in Fiscal Years 1999 and 2000. Funding is provided by the U.S. EPA and local entities provide the 40% match.

Floodplain Management - Through the Federal Emergency Management Agency's Community Assistance Program Grant, the TNRCC has contracted with the Houston-Galveston Area Council and the Lower Rio Grande Valley Development Council to conduct a two-year pilot program to monitor and train communities in their regions in floodplain management practices, strategies, and policy.

In FY2000, pursuant to Senate Concurrent Resolution 68, the TNRCC will participate in an inter-agency committee to examine ways to improve coordination among the Texas Department of Transportation, TNRCC, Texas Water Development Board, Small Business Administration, volunteer organizations, Division of Emergency Management, and General Land Office in mitigating flood damages. The committee is to be chaired by the Department of Emergency Management and is to deliver a report to the 77th Legislature with recommendations regarding flooding issues.

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.

Yes.

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

The Texas Water Development Board coordinates the state water planning process which the TNRCC supports through its water availability modeling program. There are also several other state agencies with drought related responsibilities including water conservation, drought monitoring, drought planning, and technical assistance.

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.

The TNRCC has coordinated with the Texas Water Development Board regarding the development of the Water Availability Modeling System (pursuant to Senate Bill 1, 75th Legislative Session) which will also support the Board's regional and state water planning needs as well as water rights permitting. The TNRCC accomplished this by creating an inter-agency project management team which included staff of the Board and Texas Parks and Wildlife Department.

The TNRCC coordinates with other state agencies on drought related issues through its participation on the Drought Response and Monitoring Committee. HB 2660 passed in the 76th Legislative Session made some statutory changes related to this committee including changing the name to the drought preparedness council, establishing a state drought manager, reporting to the legislature, the development of a state drought preparedness plan, and the addition of new members to the council. The following agencies are to participate on the council:

(1) the Division of Emergency Management of the office of the governor;
(2) the board;
(3) the commission;
(4) the Parks and Wildlife Department;
(5) the Department of Agriculture;
(6) the Texas Agricultural Extension Service; [and]
(7) the State Soil and Water Conservation Board;
(8) the Texas Department of Housing and Community Affairs;
(9) the Texas Forest Service;
(10) the Texas Department of Transportation;
(11) the Texas Department of Economic Development; and
(12) a representative of groundwater management interests who is appointed by the governor.

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

When flood disasters occur, such as those that occurred in October 1998, the agency works closely with community officials to assure that damaged structures are rebuilt in compliance with the Federal Emergency Management Program's regulations. Agency staff are members of the State Hazard Mitigation Team, chaired by the Department of Public Safety's Division of Emergency Management.

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 regulation is needed:**

Water Rights: The State of Texas hold title to surface water in trust for the public welfare. Through the TNRCC and its predecessor agencies the state confers on individuals and organizations the right to use

water through the issuance of water right permits, thus effecting an allocation system for surface water. These permits are conditioned to protect other water right holders, water quality, aquatic habitat, and inflows into bays and estuaries. Additionally, in all river basins but the Rio Grande, water rights are structured so that priority of water allocations is established and determined by the date of the right, with the oldest right being the most senior. This priority system provides a well-known system for allocating water during droughts. In the Rio Grande, municipal water rights held in the Falcon-Amistad Reservoirs are always senior to irrigation rights held in those reservoirs. Without a permitting system that identifies seniority between users, users would attempt to withdraw more water than is available in the rivers and lakes, leading to severe conflict. Such conflict occurred throughout Texas in the 1960s, prior to the 1967 Adjudication Act which set forth procedures for clarifying all claims and rights on surface water. Texas has adjudicated all river basins except the Upper Rio Grande near El Paso. Inspections of water right permit facilities are conducted by the TNRCC's Watermaster Programs, in the Field Office Division. The Watermaster Programs currently cover the Rio Grande, Nueces, Guadalupe, San Antonio, and Lavaca River Basins. More information regarding the Watermaster operations can be found in the description of the Field Office Division program.

Dam Safety and Floodplain Management: Texas, like many other western states, is experiencing an aging of its dams, most having been built in the 1950s and 1960s. Engineering standards for dams protect human lives and minimize the risk of flood damages in the event that a dam fails. Flood damages from intense rainfall events in Texas range from $60 to $200 million each year. The TNRCC Floodplain Management Program is necessary in order to insure that local communities comply with federal standards regarding floodplain management. This then allows citizens and businesses within those communities to qualify for affordable flood insurance from the government (Federal Emergency Management Agency). Additionally, eligible communities can qualify for disaster relief.

All complaints regarding the safety of dams and flooding impacts are handled directly by the Austin office. Enforcement cases regarding agency standards for dams, in TNRCC rule Chapter 299, can be referred to the Attorney General's Office.

For the following questions please refer to the Chapter VI submittal for the Office of Compliance and Enforcement.

- **the scope of, and procedures for, inspections or audits of regulated entities:**
- **follow-up activities conducted when non-compliance is identified:**
- **sanctions available to the agency to ensure compliance:**
- **procedures for handling consumer/public complaints against regulated entities:**

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.

Except as noted below, please refer to the Chapter VI submittal for the Office of Compliance and Enforcement for the program specific complaint information.

TNRCC Dam Safety Regulation and Floodplain Management Technical Assistance Complaints Against Regulated Entities – Fiscal Years 1997 and 1998		
	FY 1997	**FY 1998**
Number of complaints received	7	77
Number of complaints resolved	4	21
Number of complaints dropped/found to be without merit	0	50
Number of sanctions	0	0
Number of complaints pending from prior years	0	6
Average time period for resolution of a complaint	90 days	90 days
Number of entities inspected or audited by the agency	Dam Safety: 74 inspections Floodplain: 30	Dam Safety: 100 Floodplain: 30
Total number of entities regulated by the agency	Dam Safety : 7200 dams Floodplain: 964	Dam Safety: 7300 dams Floodplain: 964

(Notes: (1) These statistics exclude non-jurisdictional complaints handled over the telephone. (2) 964 entities are regulated under Floodplain Management -- prior to Fiscal Year 2000. The 76th Legislature adopted HB1018 which expands the number of regulated entities to 1351 communities beginning in Fiscal Year 2000.)

A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	Water Utilities Division
Location/Division	Office of Permitting
Contact Name	Steve Walden, Division Director
Number of Budgeted FTEs June 1, 1999	115
Number of Actual FTEs as of June 1, 1999	113

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

The Public Drinking Water Section administers the requirements of the federal Safe Drinking Water Act to assure that the approximately 6,700 public water systems in Texas provide safe water to their customers. The 6,700 systems serve approximately 97% of the state population. This program is accomplished through the review and approval of plans and specifications for construction, continuous monitoring for compliance with drinking water standards, implementation of the Source Water Assessment and Protection Program, and technical support to public water systems. Additionally, the agency protects groundwater quality by reviewing well construction methods and recommending standards for wells used to dispose of wastes.

The District Administration Section is responsible for the review of the issuance and use of bond proceeds by water districts in the state of Texas. This section reviews applications for the creation of water districts, provides educational assistance through a newsletter, reviews annual audit and other financial reports of districts, responds to complaints and customer inquiries, and maintains a database on each of the over 1,300 water districts registered with the TNRCC.

The Utility Rates and Services Section monitors the financial activities and customer service policies of approximately 2000 political subdivisions (municipalities, water districts and counties), 850 water supply corporations (WSCs), and 900 investor-owned utilities (IOUs) to assure that customers receive adequate water and wastewater services at reasonable costs. This is accomplished through the approval of service areas of WSCs and IOUs, the review of certain water and wastewater rate changes, technical support, and resolution of consumer complaints.

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

Public Drinking Water Section

1915 The Legislature creates the first state drinking water program due to major cholera and typhoid outbreaks at the time.
1917 A mandatory operator certification program was instituted.
1945 Mandatory surface water treatment was required.
1970 Across the board chlorination was required for all public drinking water systems.
1974 The federal Safe Drinking Water Act was enacted to set national drinking water standards for public water systems.
1996 Amendments to the federal Safe Drinking Water Act require States to strengthen and enhance their drinking water programs and authorizes funding for the administration of a drinking water state revolving fund. In response, the TNRCC has (1) developed a capacity development program to improve the long-term management, financial, and technical capabilities of each public water system, and (2) developed a comprehensive source water protection program and supporting information technology to conduct assessment.

State Statutes:	Chapter 341, Health & Safety Code; Texas Water Code: Chapter 27.0511
Federal Statutes:	Safe Drinking Water Act (Public Law 104-182)
State Rules:	30 Texas Administrative Code Chapter 290; Texas Administrative Code: Title 16. Part I. Chapter 3.5, 3.9, 3.13, 3.14, 3.46, 3.77, 3.95, 3.96, 3.97, 3.99, 3.100
Federal Rules:	40 CFR Parts 141-143
Agency Strategy:	01-02-01

District Administration Section

The District Administration program was created in 1971 by the Legislature to provide general supervision over those water districts created pursuant to Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution. The TNRCC has the authority to create water districts and to review bond use and other financial aspects over most of these districts.

State Statutes:	Texas Water Code Section 12.081, Texas Water Code Section 49.181, Local Government Code Sections 375.023-026 and Section 395.080; Texas Water Code Chapters 36, 54, 55, 58, 59, 65 & 66.Review of financial reports - Texas Water Code Section 49.195
Federal Statutes:	None
State Rules:	30 Texas Administrative Code Chapter 292 and 293
Federal Rules:	None
Agency Strategy:	01-02-02

Utility Rates and Services Section

The utility rates program was created in the early 1970s as part of the Public Utility Commission; that Commission was created under the Public Utility Regulatory Act. In September 1985, regulation of water utility rates and services was transferred to the Texas Water Commission, the TNRCC's predecessor agency.

State Statutes:	Texas Water Code, Chapters 5, 11, 12, 13
Federal Statutes:	None
State Rules:	Texas Administrative Code, Chapters 35, 37, 50, 70, 80, and primarily Chapter 291
Federal Rules:	None
Agency Strategy:	01-02-02

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?

The purpose of regulatory oversight of public drinking water systems has always been to protect public health. The regulatory approach has evolved from addressing acute short-term impacts such as microbiological constituents to also addressing chronic, long-term impacts such as cancer causing constituents and the overall management capability of each drinking water system. The need for regulatory oversight, including technical support and response to consumer complaints, is ongoing and necessary for the protection of public health and the economic development of the State.

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

Public Drinking Water Section:	6,700 public water systems. Public water systems can be created by any qualified person or entity.
District Administration:	1,300 water districts. A water district may be created by the Legislature, the TNRCC or a county commissioners court.
Utility Rates and Services:	Approximately 2000 political subdivisions. 850 water supply or sewer service corporations (nonprofit) 1,200 investor-owned utilities (for profit).

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

The objective of regulation of water utilities is to ensure that Texans receive safe and adequate quantities of drinking water at a fair and reasonable cost. The strategic objective is to insure that 95% of Texans are served by public drinking water systems that meet federal and state standards (TNRCC Objective 01-02).

To achieve this objective, the Water Utilities Division is organized into three sections: Public Drinking Water, District Administration, and Utility Rates and Services. The foundation of these programs is to ensure that public water systems have adequate financial, managerial, and technical capabilities. The strategies include:

U.S. EPA has granted Texas primacy to administer the Safe Drinking Water Act. The key condition of the primacy agreement is the adoption and enforcement by TNRCC of all federal drinking water regulations in a form that is no less stringent than the national standards. If Texas (the TNRCC) fails to adhere to the primacy agreement, EPA would revoke primacy and directly regulate the State's 6900 drinking water systems. TNRCC administration of the Safe Drinking Water Act consists of several elements. The major elements include: (a) establishing and enforcing drinking water quality standards, (b) engineering review of system facilities, c) collection of water samples to analyze over 80 chemicals and microbiological characteristics on a regular basis, (d) implementation of the Vulnerability Assessment Program to minimize the cost of collecting water samples, (e) implementation of the Texas Optimization Program to improve the performance of existing surface water treatment plants with the necessity of major capital improvements, (f) implementation of the Source Water Assessment Program and (g) implementation of the Capacity Development Program.

The Safe Drinking Water Act, EPA rules and TNRCC rules set specific standards for microbiological and chemical constituents; these constituents include coliform bacteria, lead, copper and over 80 other inorganic and organic chemicals. To minimize sampling costs to public water systems, the Vulnerability Assessment Program will grant waivers to sampling if the local geology and other watershed characteristics indicate that there is a low-risk of water supplies being contaminated. Between 1993 and 1997, sampling waivers saved Texas water systems over $90 million. The Source Water Assessment Program is a nationally recognized exemplary program to provide the general public easy access to information on: (a) the source of their water, (b) the potential for contamination, and c) identification of local strategies to protect and/or improve water quality.

Oversight of water and sewer utility financial operations includes the specific review of rates (approximately 100 cases each year), the processing of applications to create districts (approximately 425 each year), and the approval of Certificates of Convenience and Necessity (approximately 225) each year to establish the service areas of certain utilities.

As a result of the recommendations in the Business Process Review, the TNRCC is in the process of implementing a standardized five-tier approach to permitting across the all agency permitting programs. A given permit application will be processed through one of five paths depending upon the significance and complexity of the subject application. The attachments at the end of Chapter VI reflect the modified generic permit processes 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.

The Water Utilities Division directly regulates entities. Accordingly there is no pass through of funding or shared work load with local governments.

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.

In 1998, the Congressional appropriation of State Revolving Funds under the Safe Drinking Water to Texas was $54 million, of which $4.8 was set aside for the TNRCC to administer the Safe Drinking Water Act. The 1999 total State Revolving Funds to Texas is $56.6 million, of which $4.5 was provided to the TNRCC. Current and near term funding are adequate particularly due to the Congressional appropriation of these Funds.

However, longer term funding, especially after 2003, is uncertain because the 1996 Safe Drinking Water Act amendments only authorize the State Revolving Funds through 2003.

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

The Water Utilities Division's Source Water Assessment and Protection program and Total Maximum Daily Load (TMDL) program in the Office of Environmental Policy, Analysis, and Assessment seek to attain similar, but not identical, objectives. The Source Water Assessment and Protection Program provides assessment and protection of the raw water supplies of public water systems; the TMDL program provides assessments of surface water bodies that do not meet their stream standards under the federal Clean Water Act. Both Programs address protection of water supplies for drinking water purposes; however, the TMDL program is broader in that it also addresses protection of water quality in order to also protect recreational uses of and aquatic ecosystems in Texas' rivers, lakes, and bays and estuaries. Thus, the TNRCC has begun to integrate two different but related federal requirements under the Safe Drinking Water Act and the Clean Water Act.

Externally, there are also several other state agencies with drought related responsibilities including water conservation, drought monitoring, drought planning, and technical assistance.

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.

The TNRCC has successfully integrated and reduced potential duplication of effort co-planning implementation between the SDWA's Source Water Assessment and Protection Program and the CWA's Total Maximum Daily Load program by coordinating on the development of both programs.

The TNRCC coordinates with other state agencies on drought related issues through its participation on the Drought Response and Monitoring Committee. HB 2660 passed in the 76th Legislative Session made some statutory changes related to this committee including changing the name to the drought preparedness council, establishing a state drought manager, reporting to the legislature, the development of a state drought preparedness plan, and the addition of new members to the council. The following agencies are to participate on the council:

(1) the Division of Emergency Management of the office of the governor;
(2) the board;
(3) the commission;
(4) the Parks and Wildlife Department;
(5) the Department of Agriculture;
(6) the Texas Agricultural Extension Service; [and]
(7) the State Soil and Water Conservation Board;
(8) the Texas Department of Housing and Community Affairs;
(9) the Texas Forest Service;
(10) the Texas Department of Transportation;
(11) the Texas Department of Economic Development; and
(12) a representative of groundwater management interests who is appointed by the governor.

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 regulation is needed:**

Public Drinking Water Regulation

Administration of the federal Drinking Water Act provides a mechanism to implement national standards which are designed to protect the public health from acute or chronic illnesses, and to ensure that acceptable quantities of water are available at the tap. Without a viable state regulatory oversight program, the primary responsibility for federal standards would not be maintained, thus subjecting public water systems to EPA oversight instead of that provided by TNRCC.

Additionally, the Railroad Commission of Texas and the petroleum industry depend on the TNRCC's surface casing recommendations to determine at what depths fresh, usable-quality and saline ground waters are present beneath a drill site. This information is critical for protecting groundwater potentially affected by oil and gas wells, salt water disposal wells, injection wells, cathodic protection wells, core holes and seismic shot holes.

District Administration Section

The district administration program was created in 1971 in response to the Water District Reform Laws of 1971 to provide general supervision over water districts. The 1,300 existing districts existing have approximately $6.5 billion in bonds outstanding and serve approximately 1.6 million people retail water and/or wastewater service. TNRCC has approved an average of $224,456,000 of tax free bonds for districts per annum over the last three years. Without this oversight of districts, including review of financial reports, the State may experience a repeat of the district malfeasance as occurred in the 1970's. If districts abuse the use of their funds, districts will begin to have operational and management problems which are conditions that lead to poor service and complaints by citizens. The only recourse for these citizens would be the legal system.

Utility Rates and Services Section

The Utility Rates & Services Section provide oversight for retail public water and sewer utilities. Retail public water and sewer utilities, which are water and sewer service providers who charge a fee for retail service, are natural monopolies in the areas that they serve. Because of the high capital cost per dollar generated in revenue, competition would be very costly to utilities and in the long run more costly to customers. It could also result in interruption of an essential service when competing lines are laid potentially damaging existing lines. Regulation ensures that customers receive continuous and adequate service at just and reasonable rates.

Regulation involves a permitting process for designating service areas which are identified in the statutes as Certificates of Convenience and Necessity (CCNs). Designated service areas allow utilities to confidently invest the typically high capital cost in facilities necessary to serve their designated CCN area without fear of competition. Varying degrees of customer rate regulation currently in statute which are based on the opportunity customers have for input and influence in the rate setting process ensure that rates are sufficient for the utility to recover its reasonable expenses while protecting the customer from paying rates which are not related to the actual cost of providing service.

For the following questions please refer to the Chapter VI submittal for the Office of Compliance and Enforcement.

the scope of, and procedures for, inspections or audits of regulated entities:

- **follow-up activities conducted when non-compliance is identified:**
- **sanctions available to the agency to ensure compliance:**
- **procedures for handling consumer/public complaints against regulated entities**

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.

Please refer to the Chapter VI submittal for the Office of Compliance and Enforcement for the program specific complaint information.

Figure 10

Proposed Five-Path Permitting Process

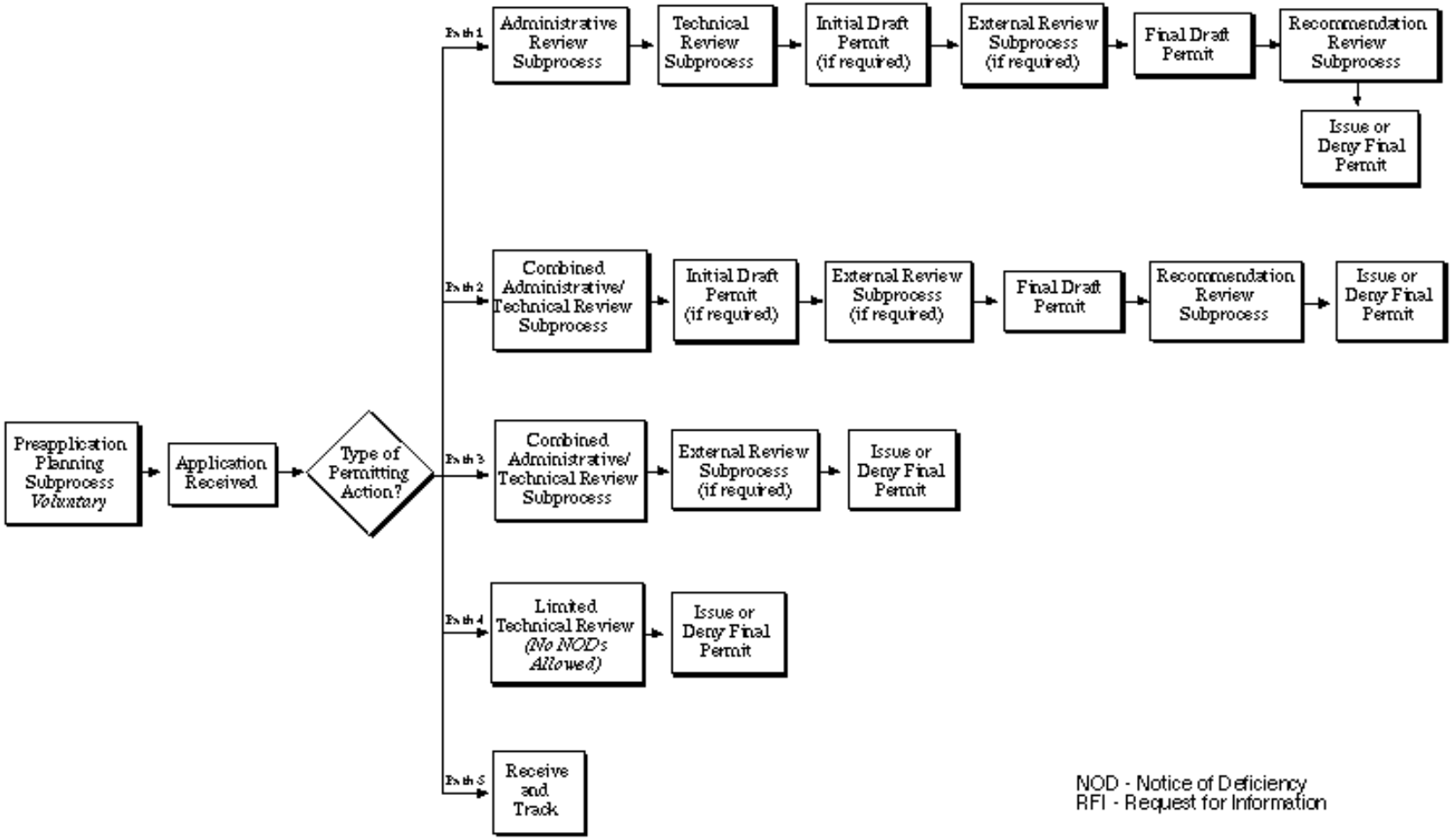


Figure 11

Detail of TNRCC Permitting Path 1

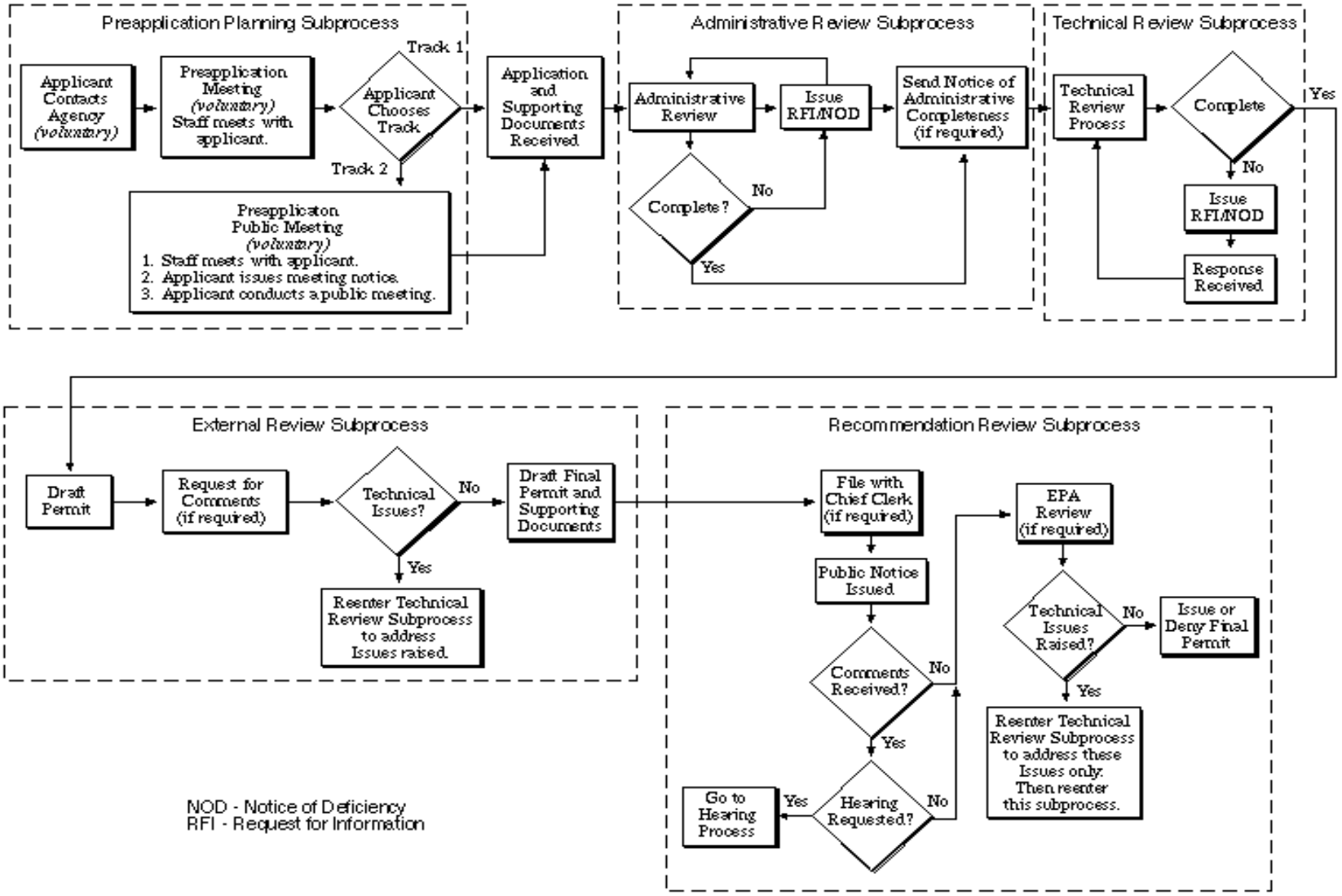


Figure 12

Detail of TNRCC Permitting Path 2

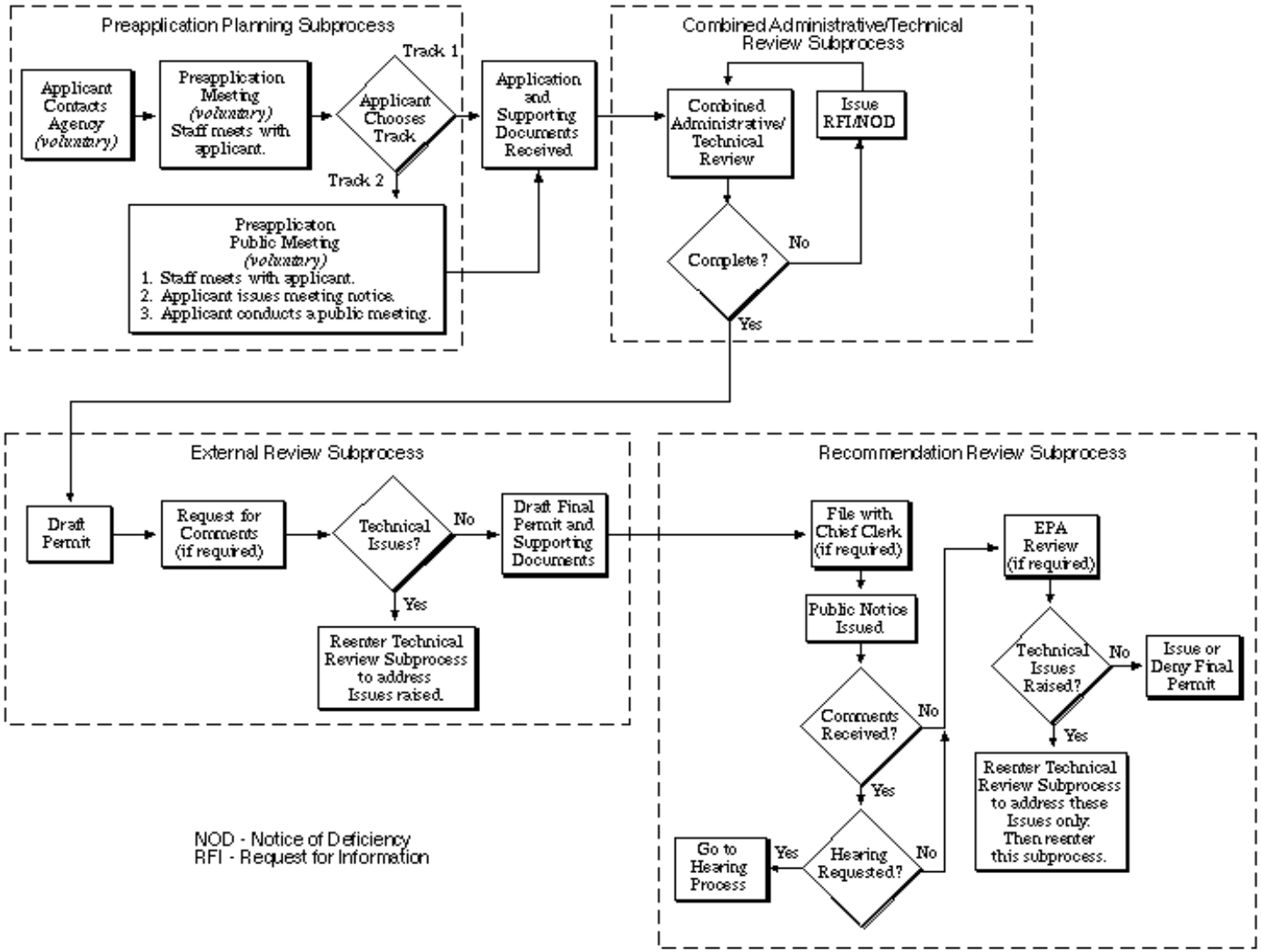
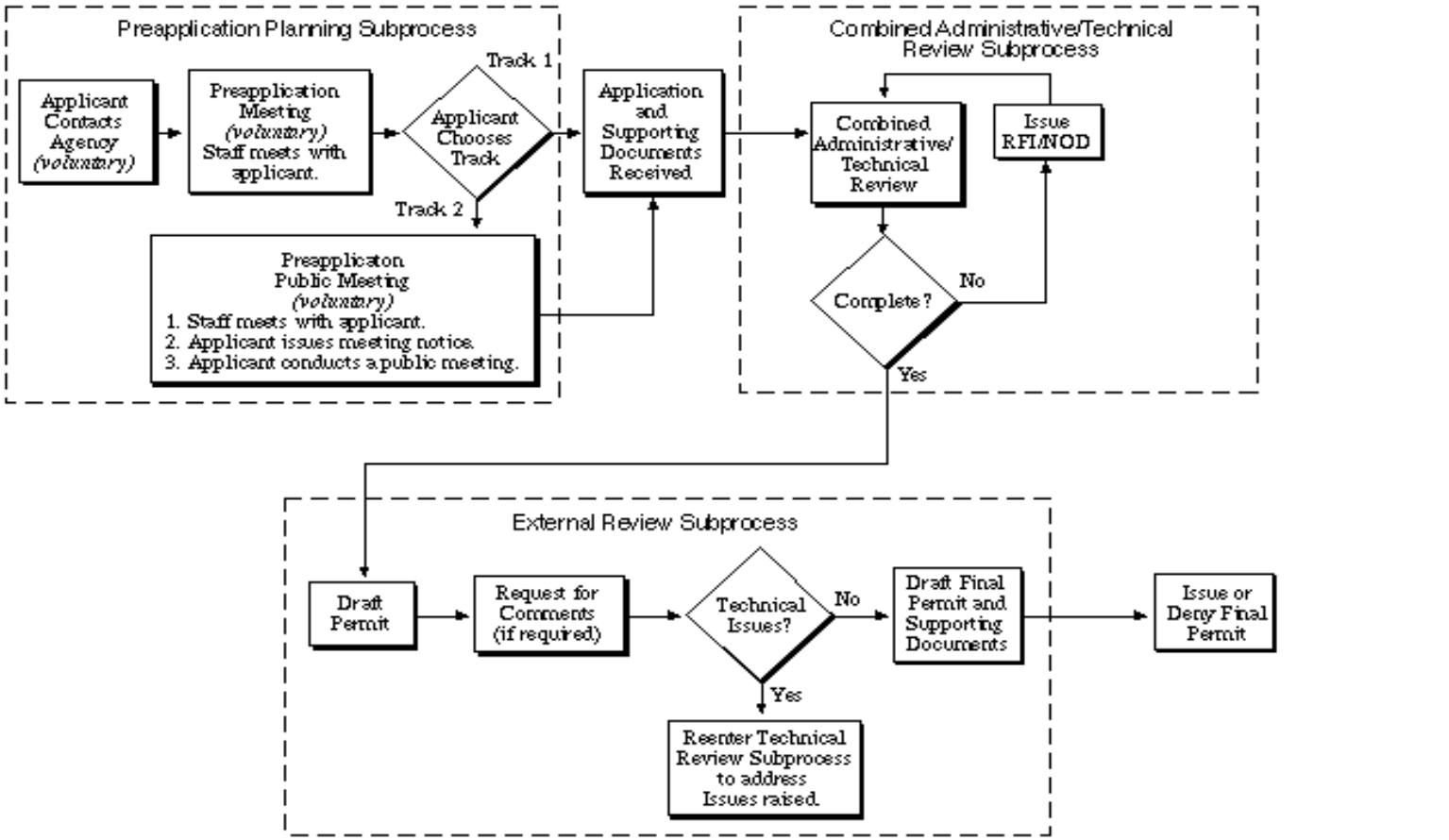


Figure 13

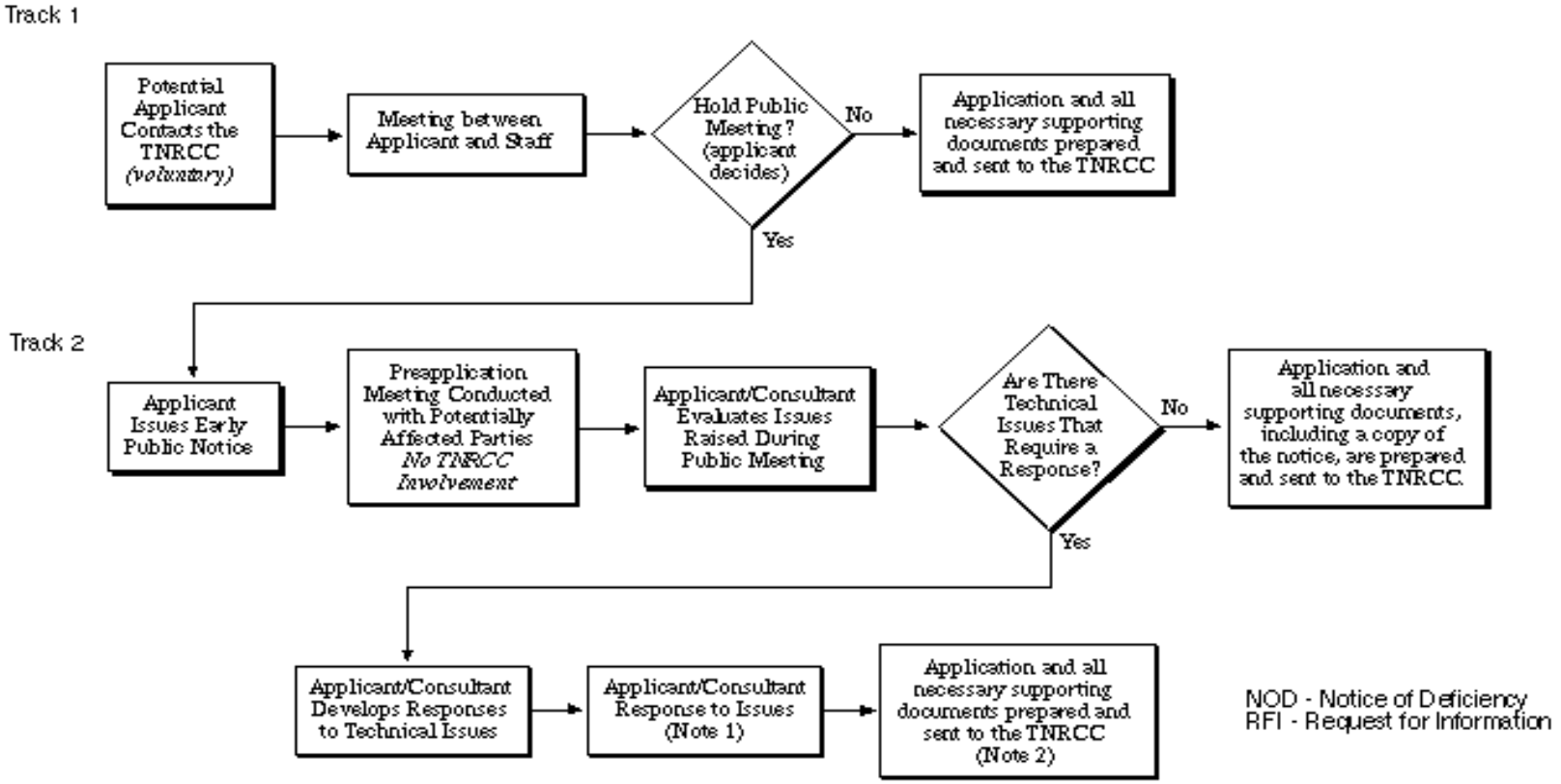
Detail of TNRCC Permitting Path 3



NOD - Notice of Deficiency
RFI - Request for Information

Figure 14

Voluntary Preapplication Planning



Note 1. This can be done by conducting a public meeting or by contacting the person who raised the issue.
Note 2. Supporting documents include an affidavit demonstrating compliance with early notice and public meeting requirements, as well as documents identifying issues raised and applicant's response to the issues.

Figure 15

Administrative Review Subprocess

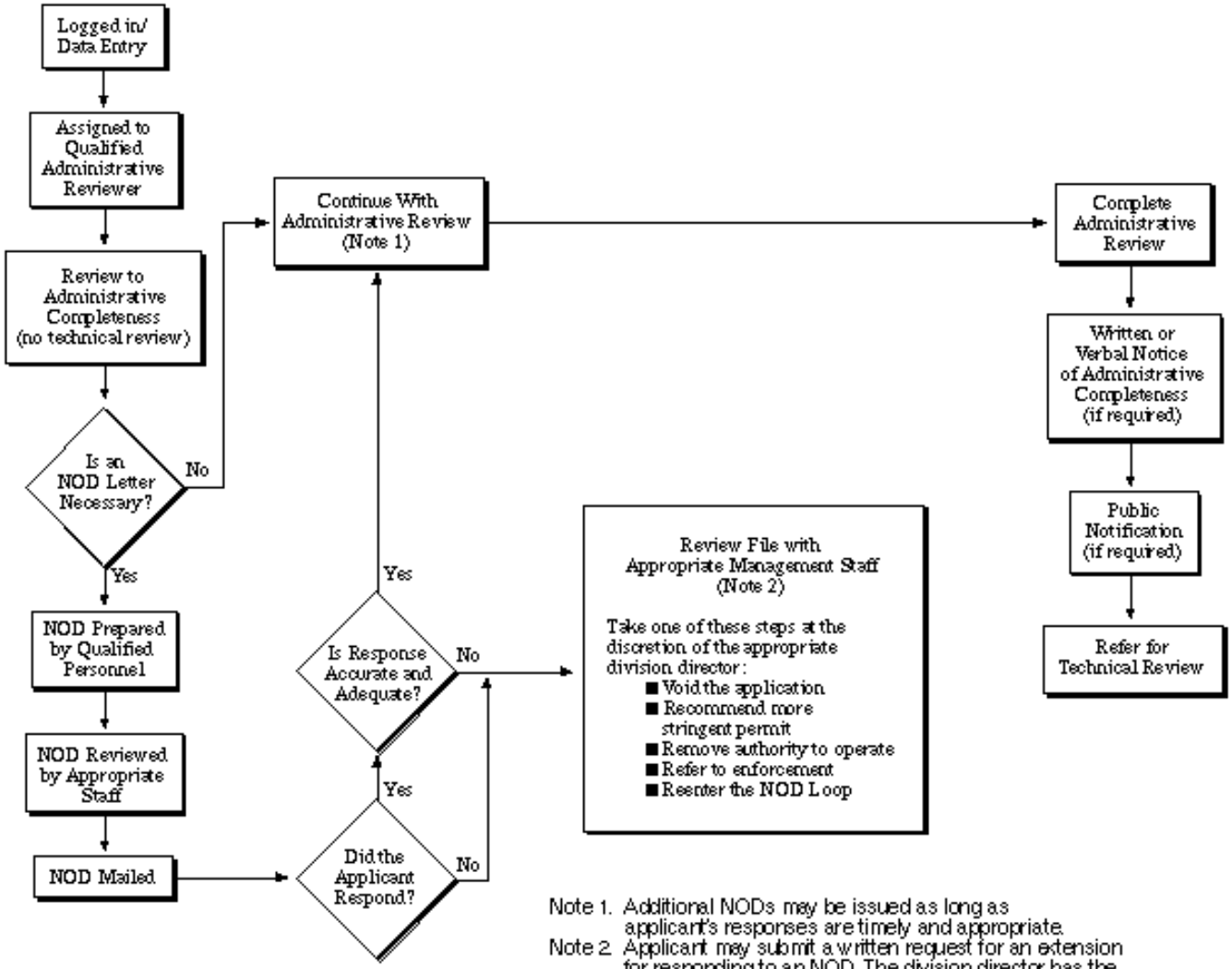
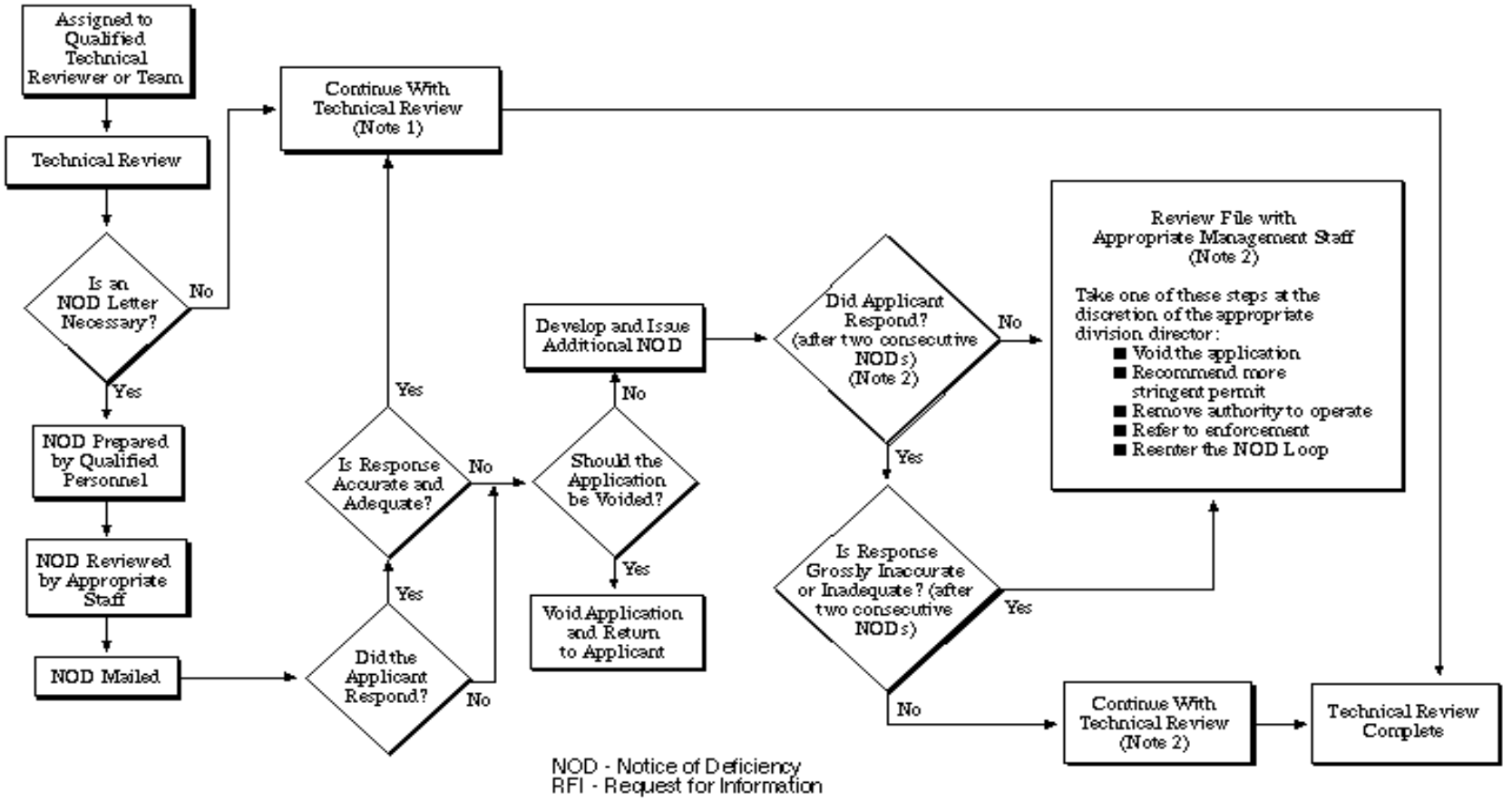


Figure 16

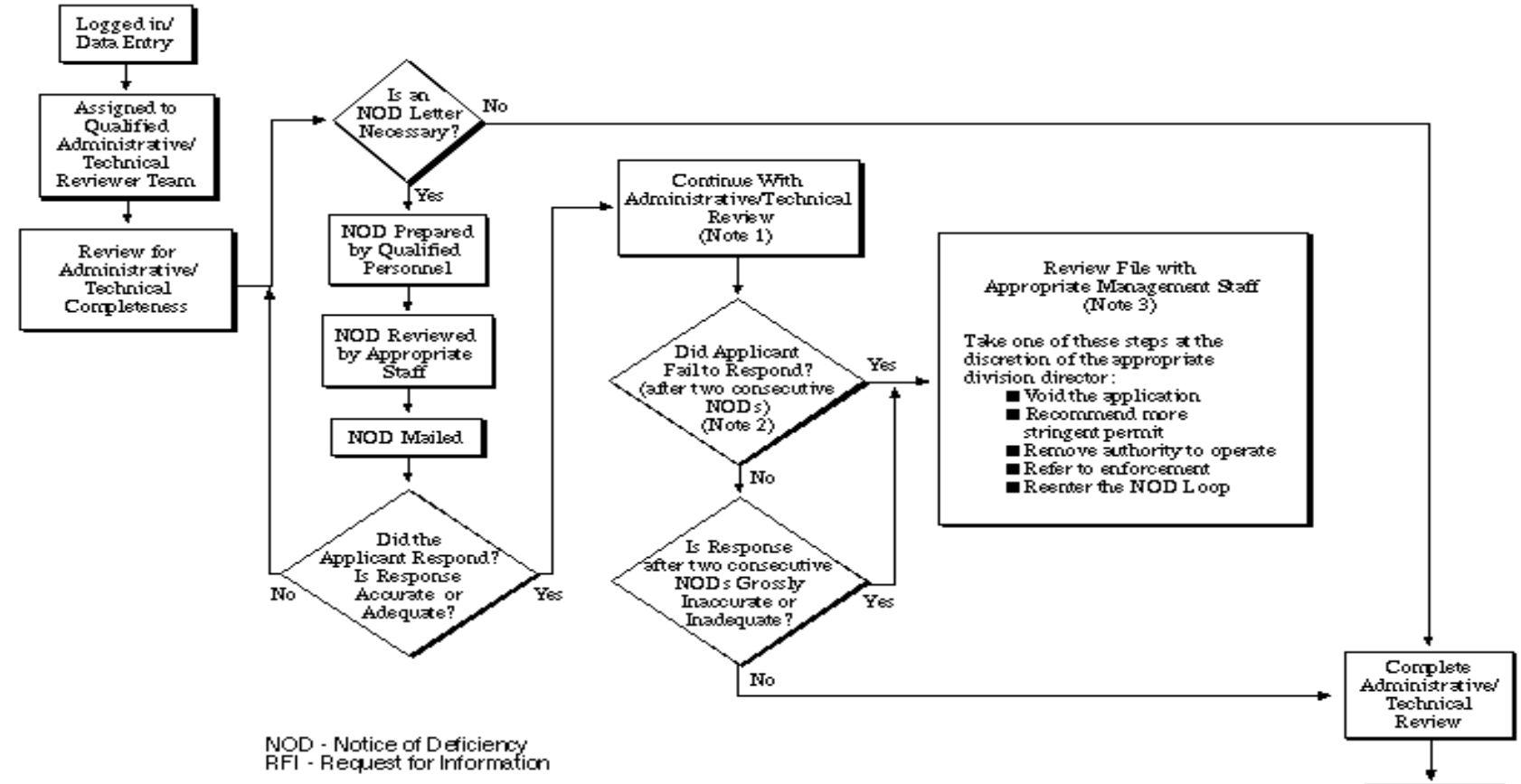
Technical Review Subprocess



Note 1. Additional NODs may be issued as long as applicant's responses are timely and appropriate.
Note 2. An additional NOD letter, covering issues raised in response to a Request for Comments, may be sent to the applicant.
Note 3. Applicant may submit a written request for an extension for responding to an NOD. The division director has the discretion to approve this extension. This should occur in rare instances and should be the exception rather than the rule.

Figure 17

Combined Administrative/Technical Review Subprocess

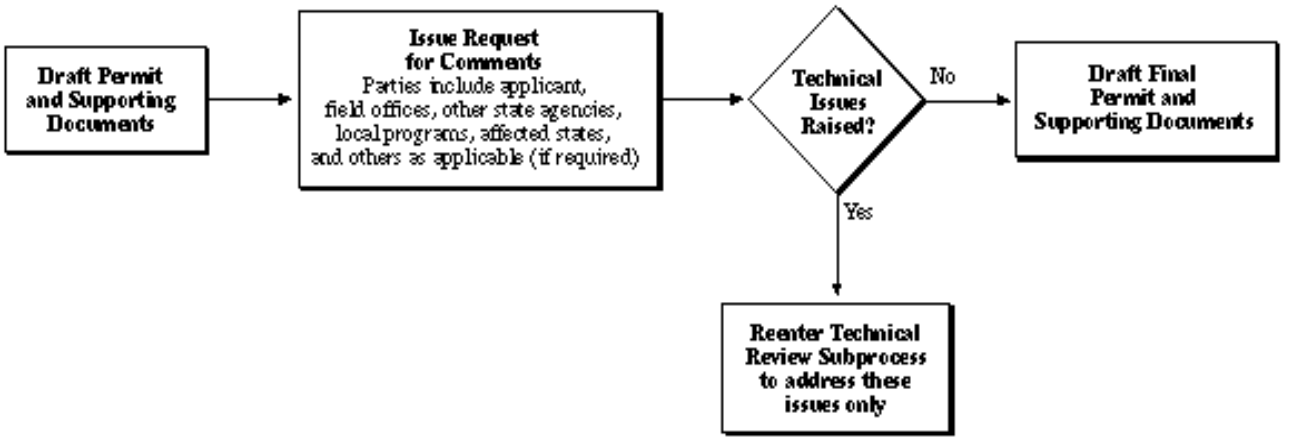


NOD - Notice of Deficiency
RFI - Request for Information

Note 1. Additional NODs may be issued as long as applicant's responses are timely and appropriate.
Note 2. No more than two NODs are sent to applicants who submit grossly inaccurate information or applicants who are unresponsive. This does not apply to applicants who submit timely and appropriate responses.
Note 3. Applicant may submit a written request for an extension for responding to an NOD. The division director has the discretion to approve this extension. This should occur in rare instances and should be the exception rather than the rule.

Figure 18

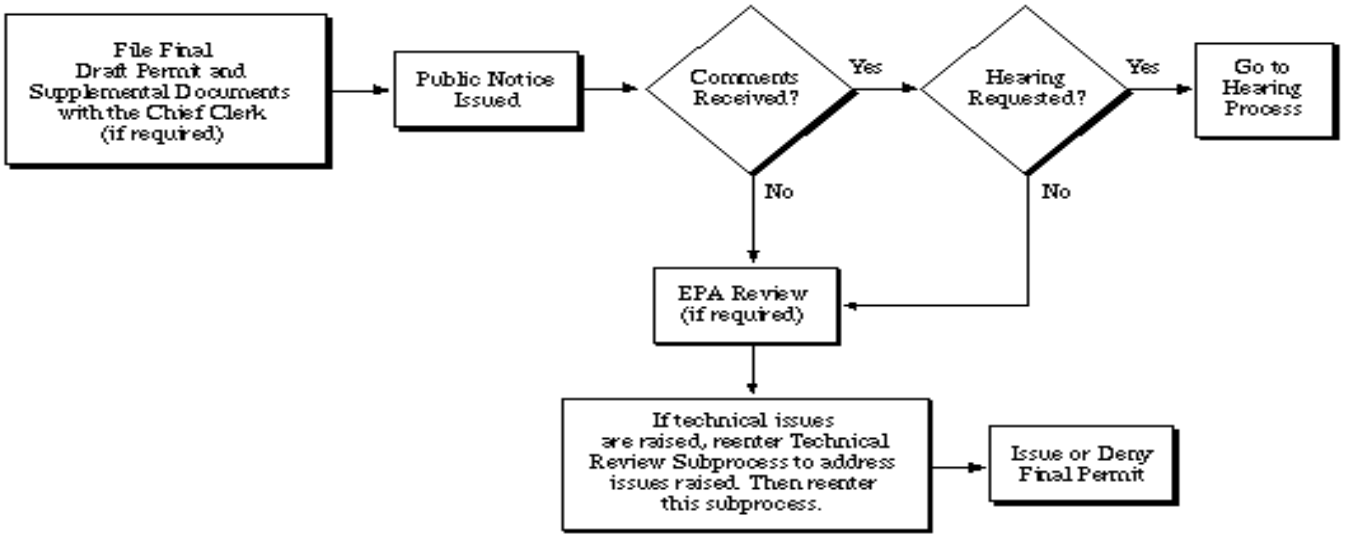
External Review Subprocess



NOD - Notice of Deficiency
RFI - Request for Information

Figure 19

Recommendation Review Subprocess



NOD - Notice of Deficiency
RFI - Request for Information