

FIELD OPERATIONS DIVISION STANDARD OPERATING PROCEDURES

INVESTIGATION GUIDANCE

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Investigation Guidance

1. Introduction

Investigations are the systematic evaluation of a Regulated Entity (RE) in accordance with established protocols. Most investigations have common tasks, conducted during three distinct phases: pre-investigation, investigation and post investigation. The on-site portion of the investigation should normally be completed within 14 calendar days from the first day on-site.

The three categories or phases of investigations are Compliance, Agent Evaluation, and Site Assessment.

1.1 Compliance

A compliance investigation is a category of investigation with the primary purpose of evaluating compliance with established standards at a specific site. The investigation can be conducted by TCEQ staff or Principal. This category of investigation can result in enforcement actions.

1.2 Agent Evaluation

An agent evaluation investigation is a category of investigation with the primary purpose of reviewing the performance of an RE delegated to administer a program over which the TCEQ has jurisdiction. This category of investigation can result in enforcement actions by the TCEQ.

Examples of Agent Evaluation Investigations include:

- Reviews of Local Air Program.
- Reviews of OSSF Authorized Agents (AA).

1.3 Site Assessment

A site assessment investigation is a category of investigation with the primary purpose of characterizing site conditions related to an authorization approval; characterizing a site in relation to an established standard; or aiding in the establishment of a standard. The investigation can be conducted on-site or consist of a review of plans, specification, and applications. With the exception of an Edwards Aquifer Protection Program (EAPP) Site Assessment, this category of investigation does not result in enforcement actions. Observations made during a site assessment, however, may result in the need for a compliance investigation to be conducted.

Examples of site assessment investigations include:

Ambient Condition Assessments:

- Surface Water Quality Monitoring (SWQM).
- Continuous Air Monitoring Stations (CAMS and, also Ambient Monitoring).

Authorization-related Assessments:

- Permit Request for Comments;
- Emissions Evaluator (EE) Pre-test Meeting;
- Review of EAPP Applications;
- Site Evaluation for a Water Quality Permit or Registration;
- Receiving Water Assessment (RWA);
- Review of Dam Safety Construction Plans;
- Review of Tire Facility Registrations;
- Review of IHW Closure Plans;
- Review of On Site Sewage Facilities (OSSF) Applications; and
- Review of Temporary Water Rights applications.

1.4 Multi-Media Investigations

A multi-media investigation is a type of planned/scheduled investigation consisting of a single site visit or a series of visits, during a period not to exceed 14 days, conducted by one or more investigators in order to assess an RE for compliance with TCEQ regulations in two or more of the regulatory programs listed below. If two or more investigations are conducted at a single regulated entity within 14 days but the investigations are not planned or scheduled as a multimedia investigation, then separate investigation reports and Enforcement Initiation Criteria (EIC) determinations shall be completed. When a planned/scheduled multimedia investigation is conducted, one investigation report is created, and a single EIC determination is made for all the investigation findings.

- Water Quality (WQ) - including municipal and industrial wastewater, pre-treatment, stormwater, EAPP, biosolids, and OSSF;
- Animal Feeding Operations (AFOs) - all species, fur, fin, or feather. This includes Concentrated Animal Feeding Operations (CAFOs);
- Public Water Supply (PWS);
- Municipal Solid Waste (MSW)- including registered and permitted MSW disposal, transfer, and transporter facilities, medical waste, waste tires, used oil and batteries, chicken litter, dry cleaner, and unregistered/unpermitted MSW activities;
- Industrial and Hazardous Waste (IHW) - including industrial solid waste, hazardous waste, and combustion facilities for Resource Conservation & Recovery Act (RCRA) requirements;
- Underground Injection Control (UIC) - including all classes of wells;

- Petroleum Storage Tank (PST) - including above ground and underground tank systems, and Stage II requirements;
- Water Rights/Watermaster; and
- Air - including investigations performed by contracted agent.

Staff should review the program investigator's manual to ensure proper data entry requirements and report documentation requirements are met.

1.5 Multi-media Goal and Strategy for FOD

It is the goal of FOD management that all activities in compliance and problem solving will be undertaken with an awareness that many of our activities and those of the RE's may be affected by more than one set of TCEQ programs

The strategy for Field Operations Division (FOD) is to conduct multi-media investigations where these investigations offer an opportunity for increased efficiency. Examples are:

- where a city is scheduled for investigations of both PWS and wastewater treatment facilities;
- an industry has facilities regulated under several programs, thereby reducing the number of site visits by TCEQ staff; or
- reported problems having a high likelihood of multiple regulatory conflicts such as a high benzene levels in ambient air monitoring near facilities generating hazardous waste or wastewater containing benzene.

Complaint investigations may contribute to a multi-media investigation only if the investigator(s) completes applicable programmatic investigation reports.

1.6 Focused Investigations

Focused Investigations are performance and risk-based investigations that emphasize sample collection and the use of monitoring equipment, utilize technical assistance and outreach, or streamline the investigation process.

The use of abbreviated investigations at regulated entities with good compliance records allow the regions more time to focus on regulated entities with a history of non-compliance, or other risk factors. If problems or concerns are identified during an abbreviated investigation, a more intensive effort may be initiated by utilizing additional developed Focus Investigations checklists, by continuing with an in-depth traditional comprehensive compliance investigation, or by returning to the facility at a later date to conduct the CSI.

Utilizing a Focused Investigation strategy, sampling data may be collected that will indicate whether or not facilities are having a negative impact on the environment. Data collection provides supporting evidence for violations as well as guidance in determining the need for

additional investigative activities.

Focused investigations are conducted to assess compliance with specific regulations or permit conditions, and may be used as an additional screening and planning tool in the RBIS process. They will also provide evidence for compliance status.

Focus Investigations are conducted:

- By investigators who have completed at least the Basic Professional Development Plan (PDP) for the program being investigated or at management's discretion;
- With 24 hour notification to the RE (additional time up to 48 hours may be given with management approval) unless other agency protocols are applicable as in complaints investigations;
- Using existing CCEDS checklists as much as possible.

After a facility is ranked according to the Risk Based Investigation Strategy (RBIS), the region may consider focused investigations at the following facility types or under situations described below:

- New facilities which are owned and operated by companies/entities that have an established average or high compliance history with the TCEQ;
- Facilities with established average or high compliance histories which had not violations during the last comprehensive investigation (which must have been within the last three years), assuming there are not other risk factors which put the facility on the investigation schedule.
- Facilities that have an established compliance history over the last five years with EIC Category B or C violations which were timely and appropriately resolved with no repeat incidents;
- Agency knowledge of compliance issues at a particular facility indicates that a focused investigation type can address issues of concern;
- Information from the RE indicates potential compliance issues.
- Facilities which are allegedly the source of repeat complaints received by the TCEQ. This should apply only if a focused investigation type can look at the issues which have come to the agency's attention as a result of the complaints;
- Notification for an RE indicating that a new waste, water, or air management or control unit has been put into service.

2. Pre-Investigation

A properly conducted Pre-Investigation ensures the investigation will be focused and conducted smoothly, effectively, and in a timely manner. Pre-investigation includes:

- Comprehensive Compliance and Enforcement Database System (CCEDS) preparation;
- Scheduling the investigation;
- Determining applicable regulatory requirements;
- Researching related RE information;
- Gathering all relevant checklists and publications;
- Determining Sampling Requirements;
- Determining On-Site Safety Requirements;
- Gathering and preparing or checking equipment; and
- Reserving a vehicle.

Additionally, the investigator should review specific program policy and investigation techniques identified in program investigator manuals.

2.1 CCEDS Preparation

For scheduled compliance investigations, CCEDS input will usually begin during the pre-investigation preparation. Region management may elect to do the pre-investigation input once the work plan is developed and leave the investigation pending in CCEDS until it is scheduled later in the fiscal year or allow the investigator to set-up the investigation in CCEDS. In either event, some pre-investigation input is required. A good time to conduct the CCEDS preparation is prior to initiating the standard business process flow of the pre-investigation. Investigators should refer to the CCEDS Online User Guide to research RE information and begin CCEDS investigation input.

2.2 Scheduling the Investigation

Compliance, Agent Evaluation, and some Site Assessment Investigations may require scheduling or coordination with a RE. Prior to scheduling an investigation, a determination must be made regarding whether or not advance notification is appropriate. Advance notification of routine compliance investigations ensures proper RE personnel and records will be available at the time of the investigation.

Focused investigations generally require 24 to 48 hours notification with the exception of those for RE's with a "Poor" Compliance History Status. An additional exception to this criterion may occur when a complaint is filed with the agency and is associated with a component of the facility that is eligible for a focused investigation, in which case, no notification is necessary.

Exceptions to advance notification include:

- All investigations on REs with a "Poor" Compliance History Status (to determine compliance history, check with the TCEQ Compliance History website);

- Where there is evidence or reason to believe the site is intentionally violating laws or regulations;
- The RE is alleged to be a repeat offender;
- Enforcement follow-up investigations;
- Complaint investigations (unless to expedite prompt access);
- Investigations of used car lots for pollution control equipment;
- Emergency Response (ER) incidents when delay will affect the response time; and
- Other investigations determined by region management.

In cases where advance notification is appropriate, the investigator should generally provide between 1 and 14 days advance notice to the RE prior to conducting the scheduled investigation. Situations where the notice will exceed 14 days should be discussed with the investigator's supervisor.

The investigator generally should contact the RE by telephone; however, other methods may be used. At the time of contact, the investigator should set the date, time, and location of the investigation. The investigator should also discuss the following:

- Nature of the investigation;
- Records or personnel that should be readily available;
- Discrepancies or pertinent questions to be considered during the investigation;
- Directions to the site;
- Site-specific safety and/or sampling requirements; and
- Any unresolved violations from previous investigations.

2.3 Determine Applicable Regulatory Requirements

The investigator should identify the applicable compliance parameters based on regulatory requirements for the type of investigation to be conducted (Federal and State statutes, TCEQ rules, regulations, authorization, policy, and guidance, etc.). This information will also help determine which checklists to associate with the investigation as described in the CCEDS Online User Guide.

2.4 Research Related Regulated Entity Information

The investigator should determine applicable site-specific requirements and history based on current authorizations (permits, registrations, contracts, licenses, delegations, etc.) and compliance history. This includes identifying specific requirements for processes, operations, and record keeping for known site activities.

Review of available information about the RE is essential to planning and conducting an investigation. This information may include:

- When previous investigations were conducted, and the results of those investigations;
- Violations since the last investigation;
- Site location, process diagrams, photographs, and maps;
- Site environmental and technical contacts;
- Site-specific record keeping requirements or operating parameters;
- Self-reporting documents (annual reports, discharge reports, etc.);
- Previous investigation reports;
- Site Authorizations (permits, registrations, certifications, etc.);
- Technical documentation and background for the type of RE;
- Documentation to support noncompliance issues;
- Information from other TCEQ programs or divisions;
- Commission Orders, EPA Orders, and EPA Consent Decrees; and
- Permit Applications.

2.5 Gather all relevant checklists and publications

Checklists may be found in CCEDS, in the program specific Investigator Manuals, and on the program specific webpage on FODWEB. Each region maintains a supply of publications which become part of the investigation and outreach. This information will be useful in developing the General Facility, Process Information, and Background headers required in the body of the CCEDS Report to be completed during Post Investigation phase of the Investigation.

When appropriate, the investigator should try to coordinate investigations with other programs in the region. This will contribute to the TCEQ's ongoing initiative to promote multi-media investigations. In addition, other region staff may have concerns about the site. When multi-media investigations are conducted, refer to the CCEDS Online User Guide to associate appropriate activity types and checklists. All requirements for Multi-media investigations must be met.

Examples of Publications which may be distributed are:

- RG 344 "The TCEQ Has Inspected Your Business"
- GI 278 "Do You Want to Make an Environmental Complaint?"
- GI 032 "Obtaining TCEQ Rules"
- GI 355 "E Services"
- RG 456 "I Received a Field Citation. What Happens Next?"
- M-013 "Site Assistance Visit Plus Program"
- PWS
 - RG-195 Rules and Regs for PWS Chapter 290 D
 - RG-346 Drinking Water Standards for PWS Chapter 290 F
- AIR
 - RG-049 Guide to Outdoor Burning in Texas
 - RG-432 Environmental Guide to Auto Body Shops

- MSW/IHW
 - RG-022 Guidelines for the Coding and Classification of Industrial and Hazardous Waste
 - RG-234 IHW: Rules and Regulations for Small Quantity Generators and Conditionally Exempt SQG
 - RG-308 Environmental Guide to Auto Repair Shops
- WW/WQ
 - RG-448 Due Dates and Monitoring Tip Sheet For TPDES Domestic WW...
 - Information on SSOs

2.6 Personal Data Assistants (PDA's)

IICS, the Investigation Information Collection System, is a handheld computer software program designed to enable field investigators to take the information from CCEDS into the field and capture investigation data while in the field. Once back in the office, the investigator can quickly and easily upload the data to CCEDS. The handheld device with the IICS application saves investigators time and increases data quality in CCEDS.

There are two primary functions of the IICS application:

- The Investigation component provides the ability to collect data regarding the regulated entity's compliance by completing checklist items and electronic communication information about contacts.
- The Synchronization component provides the ability to download data from CCEDS to the handheld and upload data from the handheld to CCEDS.

When using the handheld there are multiple functions available to the investigator:

- **IICS** provides a way to collect data about the regulated entity by answering checklist items that have been downloaded; thereby, determining compliant and non-compliant issues
- **IICS** provides a way to collect and have available information about customers with electronic communication information such as phone numbers and e-mail addresses.
- **IICS** provides a way to print the Exit Interview Form instead of completing the form by hand.
- **Calc98** provides a scientific calculator for the investigators use.
- **The Unit Converter** application provides the investigator a way to convert various units of measurement from one form to another, i.e. feet to meters, etc.
- **Bluetooth and Wireless** capabilities provide ways to communicate with other electronic devices and to access the Internet.
- **Other functionality** on the handheld includes PDA "pocket" versions of Microsoft's Pocket Excel and Pocket Word.

There is a DVD of the training in each region along with a printed manual.

2.7 Determine Sampling Requirements

Under normal circumstances, it is known prior to the investigation whether sampling will be conducted. However, occasionally it will become evident that sampling is necessary once the investigation has started. Sampling determined after the investigation begins is discussed in the Conduct Investigation section.

Sampling is conducted in accordance with established protocols, which can include a media- or site- or permit-specific Quality Assurance Project Plan (QAPP). Failure to follow proper sampling protocols may compromise sample validity. For more information about sampling protocols, refer to the program investigator manuals.

Once sampling requirements have been determined, the investigator should gather appropriate sampling equipment, and make transportation and lab analysis arrangements.

2.8 Determine On-Site Safety Requirements

The FOD is committed to providing safe working conditions for the staff. This objective is accomplished by providing personal protective equipment, training, and annual health monitoring.

Investigators cannot anticipate every safety hazard that may be encountered during an investigation, so precautions must be taken to prevent illness or injury to self, other workers, and the public. Prior to an investigation, investigators should review any unique hazards associated with the site(s). Program investigator manuals identify many unique hazards associated with specific types of investigations.

All RE and TCEQ safety requirements should be observed. RE ID cards (usually obtained at the site) and safety equipment such as hard hats and safety goggles should be gathered and used as required. Circumstances may require the use of special clothing and/or respirators. In conjunction with the investigator's supervisor and the RE, the investigator should determine whether such additional safety measures are warranted and allowed by TCEQ policy.

Investigators should be able to recognize potential safety hazards. No investigation should be performed unless the investigator has the proper safety equipment, and necessary training to use the equipment. Although the investigator's supervisor is responsible for ensuring proper training in safety procedures and the use of equipment, the responsibility for the investigator's safety is ultimately his/her own.

The FOD policy currently requires [Occupational Safety and Health Administration \(OSHA\), 29 Code of Federal Regulations \(CFR\) Section 1910.120](#) 40-hour certification and current 8-hour Refresher training for some program investigators. Refer to the FOD program specific PDP, for additional information.

With the exception of authorized ER personnel who remain current on training and perform duties requiring Level A/B protection, field investigators are issued Level C/D protective equipment. If Level A/B is required, the investigator should contact region management for additional guidance.

2.9 Assign Equipment

The investigator should obtain equipment to complete the investigation:

- Gather required safety equipment. Inspect the equipment for proper condition or operation. If required, schedule/sign out equipment for use;
- Gather other support equipment (for example, cameras, video, binoculars, measuring tape, Global Positioning System (GPS) equipment, etc.). If required, schedule/sign out equipment for use;
- Gather sampling equipment. If required, schedule/sign out equipment for use;
- Calibrate field sampling equipment prior to use and review/update calibration logs; and
- Inspect the vehicle(s) for proper condition or operation. If required, schedule/sign out the vehicle(s) for use.

Training and documentation of worker proficiency are required before the use of FOD equipment is allowed. For more information regarding training for equipment, refer to Section entitled "Supported Equipment Training Plan" in this FOD SOP guidance.

2.10 Equipment Maintenance and Calibration

Equipment users are responsible for cleaning, calibration, and preventive maintenance of equipment. These services will be conducted in accordance with the manufacturer's specified recommendations and written SOPs.

Field equipment such as pH meters, dissolved oxygen (DO) meters, explosimeters, Photoionization Detector (PID), Flame Ionization Detectors (FID), and other field sampling equipment will be calibrated prior to and/or after use or as directed by sampling guidance documents. Only approved standards or equipment will be used. Documentation of the standard's certification, lot number, or other method of traceability will be maintained by the investigator.

Calibration methods for measuring different media can be found in:

- Air: Monitoring Operations (MOPs) SOP, equipment-specific calibration manuals;
- Water: Most current editions of: *Standard Methods for the Examination of Water and Wastewater*, *Methods for Chemical Analysis of Water and Wastes*, *Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents*, or other approved methods or equipment-specific calibration manuals; and
- Waste: *Environmental Protection Agency (EPA) SW-846*, EPA approved methods or equipment-specific calibration manuals.

2.11 Reserving a Vehicle

Each region has established processes for reserving and managing their vehicles. However, documentation of vehicle and equipment usage is required. Some of the methods of documentation include:

- Vehicle use logs, including daily mileage, fuel usage, passenger logs, etc;
- Equipment calibration logs;
- Service and repair records; and
- Continual calibration/usage logs for long-term on-site activities.

Records of calibration, repair, or replacement will be filed and maintained in each region office.

3. Investigation

General guidelines for conducting investigations are:

- Be alert to potential problems;
- Be aware of other environmental problems that may require subsequent investigation by other staff;
- Ask questions or investigate any area of the site which is significant to the investigation purpose;
- Do not allow the RE to direct the pace of investigation, or prevent investigator contact with operators and technicians. Investigate areas of interest (for example, drainage pathways, diversion ditches, creeks, etc.) even if the RE attempts to take other routes;
- Check site map, if available, in order to stay properly oriented; and
- Comply with site safety requirements.

Specific technical procedures associated with investigations are provided in each of the program investigator manuals.

3.1 Investigator Observations

The investigator should not feel limited to the initial scope of an investigation. Site conditions may warrant an expansion of scope. Prior to expanding the scope of an investigation, the investigator should discuss those conditions with his/her supervisor. Any area of concern or alleged non-compliance should be documented at the time of investigation.

A physical “walk around” of a site is required as part of an investigation. The investigator should discuss any areas of concern and/or potential violations when they are noted, giving the RE the opportunity to pose questions, ask for technical guidance, or begin to resolve the issue.

3.2 Answering Questions

The investigator should only answer questions that are within their ability and authority. If unable to answer questions, the investigator should refer questions to other TCEQ staff, provide program contacts, or find the answer and contact the RE after returning to the office. If a referral to other staff is made, it is important to contact that staff to provide them with the name of the RE, and a summary of the problem.

3.3 Checklists and Worksheets

When available, these documents provide guidance to ensure pertinent areas are covered. The investigator should not be limited to questions on these documents, but should use them as a guide to evaluate site operations and compliance. See program investigator manuals for program specific guidance.

3.4 Arrival at the site

Investigations should be conducted at reasonable times, usually defined by TCEQ or RE operating hours. Investigations that cannot be completed before the normal close of business may be continued with the consent of region management and the RE.

The investigator should arrive at the site at the scheduled time, present TCEQ identification card (ID), allow site representatives to review the identification, and then state the purpose of the investigation. In some cases, additional identification may be issued prior to or at the time of arrival (examples are: Visitor Passes, Site Safety Cards, etc.). Entry into the site should be documented with date, time, and name of the site personnel encountered.

Some REs may provide a signature sheet or a visitor’s log which can be signed by the investigator, provided that the document does not compromise the investigation or limit the RE’s

environmental liability. It is FOD policy that liability waivers, general confidentiality agreements, or statements of non-disclosure are never signed, unless adequately modified. The investigator may sign such documents only after modifying a statement by either crossing out the waiver on the sheet, or by writing “no liability waiver” next to his or her signature. This action must be discussed with the RE. Should a conflict result from the refusal to sign, the investigator should contact region management for additional guidance.

Refer to program investigator manuals for some specific pre-entrance activities, such as “perimeter site surveillance.”

3.5 Obtain Access To Investigate The Site

The primary authority to conduct investigations is contained in the [Texas Water Code Section 26.014](#) for water and waste programs, and in the [Texas Health and Safety Code § 382.015](#) for waste and air programs.

These sections grant authority to an investigator to enter a site at any reasonable time for the purpose of investigating conditions relating to compliance with state and federal rules as well as access to records. The statutes have some exclusions to general authority (for example, the Texas Health and Safety Code § 382.015 excludes entering private residences).

In most cases, site entry will not be a problem, and the RE will give consent to investigate the site. The investigator should be aware that consent may be withdrawn at any time. Any segment of the investigation completed before the withdrawal of consent remains valid. Withdrawal of consent is equivalent to a “denial of entry”. The investigator should never attempt to make any forceful entry into a site. Keep in mind that consent to site entry is not required for an investigator to observe or report on activities in plain view.

If an investigator is denied entry into a site the following steps should be followed:

- Maintain a professional, courteous, and cooperative attitude;
- Ask for the reason for denial of entry;
- Re-explain the purpose of the investigation and describe the statutory provisions authorizing entry to the site (summarized on the back of the TCEQ ID card); and
- Under no circumstances discuss potential penalties or do anything which may be interpreted as threatening.

If entry continues to be denied:

- Leave the site;
- Document observations made pertaining to the denial, including date, time, and names of site personnel encountered, and the reason for denial;
- Document potential violations, if observed; and
- Contact region management for further guidance.

At this point, the region management team should contact the Litigation Division to determine appropriate course of action. Under most circumstances, the Litigation Division will contact the RE and again discuss legal authority. If access is still denied, then the region office will process the appropriate administrative search warrant documentation in coordination with the Litigation Division.

3.6 Conduct Entrance Interview

An entrance interview is conducted prior to conducting an investigation in order to discuss the purpose, scope, and authority of investigation, and is conducted as soon as possible after obtaining access to the site. An entrance interview is not required at abandoned, inactive, or unmanned sites, or, may be conducted by other means.

The entrance interview may cover the following steps:

- Outline investigation objectives. This will inform site officials of the purpose and scope of the investigation, and may help avoid misunderstandings. The investigator should explain if the investigation is being limited to a focused investigation, including that a focused investigation may develop into additional focused investigations or into an in depth traditional comprehensive compliance investigation upon review and evaluation of the information obtained at the time of the investigation.
- Provide RE personnel with information about applicable Federal and State rules or regulations, including new issues which might affect the site.
- Set the order and duration of investigation. Individual tasks will vary depending on factors such as the type and size of the site, reason for investigation, alleged violations, meeting schedules (exit interview), etc. Determining the appropriate order and detail of the investigation comes from experience and pre-investigation preparation.
- Arrange for site personnel to accompany the investigator. During investigations it may be necessary for a site representative to accompany the investigator to explain operations and answer questions.
- Inform the RE of the right to split samples, if requested. If the RE inquires about obtaining copies of sample results, inform the RE they may be obtained upon request.
- Discuss any RE site policies on photography and other documentation.
- Review safety and personal protective equipment requirements. If safety orientation is required, it should be completed at this time. Additionally, the investigator should ask the RE to identify any high hazard areas, emergency escape routes, or emergency signals.
- If necessary, obtain visitor or safety badges, or equipment passes that may be required during the investigation.
- The investigator must not sign confidentiality agreements, statements of non-disclosure, or general liability waivers unless they are adequately modified as discussed previously.

3.7 Sampling

Sampling is performed to determine compliance with regulatory, permit, or authorization limitations, site performance, site characteristics, or operations, and for enforcement case development. Some examples include:

- Routine wastewater effluent sampling for comparison with permit limits.
- Stream sampling when the investigator believes that a discharge may affect surface water quality.
- In order to determine whether a material is a product or a waste.
- To determine the waste classification of a material.
- To document source of contamination (for example, tape lift samples from painting operations).
- When required as part of an investigation (for example, groundwater investigations).
- Continued sampling as part of an enforcement action.

Sampling is conducted in accordance with an established protocol, which can include a media- or site-specific QAPP. Failure to follow proper sampling protocols may compromise sample validity. For more information, refer to the specific program sampling protocols.

3.8 Chain of Custody

If samples are collected during an investigation, they must be handled in accordance with approved handling and Chain of Custody (COC) procedures. See program investigator manuals for additional COC information.

The sample containers must be properly sealed, labeled, and accompanied by COC form(s) according to the program investigator manuals. COC documentation provides a permanent record of sample handling and shipping. COC procedures must be used to ensure that sample data is legally and technically defensible. If multiple investigators are involved, one member of the team may be designated to ensure COC procedures are followed. Samples should be kept in or within view, or with limited-access locked storage, until transfer of custody is complete.

3.9 Review of Site Records

Site records are required to be reviewed during most Compliance Investigations. Investigators should review site records to ensure compliance with all federal and state requirements. Investigators should take special care to compare information maintained at the site to the documentation reviewed during the pre-investigation. The investigator should discuss any areas

of concern and/or potential violations when they are noted, giving the RE the opportunity to pose questions, ask for technical guidance, or begin to resolve the issue. Copies of records should be obtained, when appropriate to document possible non-compliance. Specific guidance on records review requirements can be found in the program investigator manuals.

3.10 Conduct Exit Interview

An exit interview will be conducted at the close of any investigation, whether on-site or in-house if/when issues are identified.

Historically companies expressed concern that information about potential violations was not adequately communicated to them by the agency prior to their being identified in an NOV or NOE and were thus at a disadvantage to discuss the merits of the potential violations prior to the regional office notification. This affects on-site investigations of any type and in-house investigations performed on emission events, record reviews, or other types of investigations performed in the regional office.

3.10.1 On-Site Investigations with an Exit Interview

Identify all issues that have been discovered during the investigation up to the exit interview and complete the form entitled, *“TCEQ Exit Interview Form: Potential Violations and/or Records Request”*.

If no issues were discovered during the investigation up to the point of the exit interview and there were no outstanding records requests resulting from the investigation, no form is required to be completed.

Any issues, violations, and/or record requests discovered after the date of the exit interview must be communicated to the RE following the process for in-house investigations discussed below.

Discuss the issues described on the completed form with the RE's representatives and obtain a signature which acknowledges receipt only of the form. If the representative refuses to sign the form explain that the signature only acknowledges receipt of the form and not agreement with the issues. If the representative still refuses to sign the form, then write “Representative Refused to Sign” in the space provided for the signature. Give the original form, signed and unsigned, to the RE's representative. Clearly state that the opportunity exists for the RE to request a meeting at the regional office to discuss the contents of the exit interview form if the RE so desires. Include the copy of the form as an attachment to the final investigation report.

3.10.2 In-House Investigations with an Exit Interview

Identify all issues, violations, and/or record requests that were discovered during the investigation conducted in the regional office and complete the form entitled, *“TCEQ Exit Interview Form: Potential Violations and/or Records Request”*.

Contact the RE's representative by telephone and discuss the issues, violations, and/or records requested and document everything discussed on the above form. Inform the representative that a copy of the completed form will be faxed or e-mailed to ensure that the issues were communicated clearly. Explain that if there are questions about the information contained on the form the representative should contact the investigator as soon as possible. Clearly state that the opportunity exists for the RE to request a meeting at the regional office to discuss the contents of the exit interview form if the RE so desires. Include the copy of the form as an attachment to the final investigation report.

3.10.3 Customer Service Surveys

Following the exit interview, the investigator should provide the RE's representative with a Customer Service Survey form and ask that it be completed and returned to the address provided on the form. Following is proposed language to be used by the investigator when handing out the Customer Service Survey form. It is not expected that this language be delivered verbatim, but that the ideas contained in it be communicated.

At TCEQ, we are constantly evaluating how we do our job in an effort to be as effective and efficient as possible. Feedback from those that interact with the agency is an important part of this evaluation. We are distributing customer surveys in an effort to seek information and suggestions, and strongly encourage you to complete the survey and send it in. Thanks for your participation.

3.11 Field Citations

Preparation for a possible field citation is described in detail in the Field Citation SOP. Refer to the FODWEB, Field Citation webpage for complete information

3.12 In-House Investigations

There are numerous investigations conducted in the various program areas which do not include a site visit. These investigations include, but are not limited to, review of compliance documentation submitted to the agency, follow-up to enforcement actions, and review of other regulatory-required reports, and may include any of the relevant tasks described in the Pre-Investigation and Investigation sections of this document. No travel time is required for in-house investigations.

4. Post Investigation

The Post Investigation is a series of events that begin immediately after an investigator has physically left a site after a Compliance Investigation, or conducted a Site Assessment Agent Evaluation Investigation. These events can lead to continuation of an existing investigation, initiation of one or more new investigations, and/or termination of an investigation through the completion of documentation and archival of records.

4.1 Return/Restore Equipment

After leaving a site, all equipment including vehicles, sampling devices, and reference materials should be returned, stored in the proper location, and logged in/out as appropriate. Equipment should be regularly inspected for serviceability and repairs arranged, if necessary. Personal protective equipment should be cleaned, serviced, and stored. Trash, rubbish, and disposable items should be collected prior to leaving a site and disposed of properly.

4.2 Evaluate Findings

The investigator should evaluate information and observations gathered for applicability and completeness. If additional information is required, it should be requested verbally or in writing. When requesting records or information, be clear about expectations related to content and deadlines. Gathering additional information may be a repetitive process, and may include multiple RE contacts, some of which might include additional site visits. All contacts should be entered in the CCEDS as described in the CCEDS Online User Guide.

If compliance appears to be questionable, the investigator should resolve the uncertainty. Resolution efforts may include conducting an additional investigation, routing issues for rule interpretation or other such interpretation, or consulting with region management on additional alternatives.

If the investigator finds that the RE is compliant with the established regulatory requirement, the investigator should continue with the post investigation process to finalize the investigation.

If the investigator finds that the RE is not compliant with established standards, the investigator should refer to the FOD Enforcement guidance. Additionally, if the investigator finds violations that were not discussed during the Exit Interview, he/she should notify the RE prior to issuance of the NOV/NOE. The investigator must document this contact in the investigation report and as directed in the CCEDS Online User Guide. If adequate compliance documentation is not obtained, the alleged violation must be included in a written NOV as an outstanding alleged violation as described in the FOD Enforcement Process.

4.3 Documentation

In addition to the CCEDS investigation documentation, the investigator should draft any required letters. For scheduled compliance investigations, standard letter formats are available. These standard letters include:

- General Compliance (GC) Letter (no alleged violations with or without Areas of Concern).
- NOV Letter (outstanding alleged violations that do not warrant formal enforcement with or without Areas of Concern).
- NOE Letter (outstanding alleged violations for which formal enforcement is being initiated).

These letters should not be issued until the investigation package has been through the “Conduct Quality Review” and “Finalize Investigation” procedures.

Generally, the Investigation Package includes the following information:

- CCEDS Investigation Report;
- Enforcement Action Request;
- Interagency Correspondence;
- any letters generated (and listed above);
- Documentation Supporting Investigation Findings (checklists, correspondence, sample results, photographs/video, historically important information, field notes).

4.4 Field Notes – Uses, Maintenance, and Retention

A 2003 review of the FOD by the State Auditor's Office identified the necessity to retain Field Notes as supporting documentation for investigative reports. FOD policy issued January 30, 2004, regarding Field Notes Retention states that "while relevant information from field notes should certainly be incorporated into final reports, the credibility of objective notes is recognized as an additional form of documentation".

Field Notes are notes taken by the investigator at or near the time of the investigation that describe the investigator's observations, events and experiences in the field and are used as the foundation for preparing the inspection report; and to assist the inspector in constructing a more detailed final report. Field notes must contain only facts and observations and the language in them should be objective, factual, and free of personal feeling and subjective conclusions or any other inappropriate terminology.

Field Notes do not include copies of forms and tables, rule text, decision flow-sheets, previous inspection reports, meeting notes or records of telephone calls. These documents are reference tools that may be useful to the inspector in conducting an investigation.

Any information important enough to retain should be included in the investigation report. Field notes should be maintained in the regional office in a logical manner. The mechanisms for maintaining field notes are up to each region to determine, but field notes must be retrievable for reference or supportive documentation as needed within agency guidelines for records retention.

Field Notes are public record and subject to Open Records Requests. Prior to agency directed disposal, Field Notes should be submitted in response to any related Open Records Request. As with any other report, proprietary information will be screened out by directive from the Office of Legal Services.

The current TCEQ records retention schedule for Field Notes is "After Completion plus five years (AC+5), after which **they must be purged**. Special consideration for additional retention must be approved by consultation with supervision and the Office of Legal Services.

Once the investigator completes the written documentation and drafts the required letter(s), the investigator should assemble the Investigation Package and submit it to the appropriate Region staff member for the "Conduct Quality Review" procedure, if required. Appropriate staff members can include the RD, Section Manager, Team Leader, or delegated investigation staff member.

The investigator should compile and enter the required information in CCEDS as directed in the CCEDS Online User Guide. The program specific documentation for each investigation can be found in the program investigator manuals.

4.5 Conduct Quality Review

Quality review is more than just a check for administrative completeness. The review is also a "double check" on the investigator's interpretation of technical and/or regulatory issues and to ensure that the Investigation Package can stand alone. Specific guidance on when quality review should be completed is available in the program investigator manuals.

The appropriate Region staff should review the completed package to assure that the written documentation, drafted letter(s), and/or required forms have been completed according to proper protocols. The reviewing staff should complete the appropriate Quality Review Checklist in CCEDS.

If the Investigation Package meets the minimum standards according to the Quality Review Checklist, the investigation may be finalized and the date entered in the Quality Review Checklist. If the package does not meet the minimum standards according to the Quality Review Checklist, it should be given back to the investigator for correction. This can include something as simple as typographical errors or as complex as re-evaluation of compliance issues. Ensure comments about required corrections are made in the Quality Review Checklist.

While there is no specific time requirement for the Quality Review process, it is recommended that it be started at least 14 days prior to the deadline for finalizing the investigation. Program

investigator manuals may designate alternate time frames. The following chart identifies Investigation Packages which require a Quality Review. If Quality Review is not required, follow the CCEDS Online User Guide.

Investigation Packages Requiring Quality Review:

- 100% of Enforcement actions (report package + NOV or NOE and EAR).
- 100% of Newly Initiated Programs (up to 6 months).
- 100% of State-Funded Incidents.
- 100% of Investigations conducted by New Staff (staff <1 year in program).
- 10% of Total Investigations not mentioned above.

NOTE: All enforcement-related correspondence must be signed by the RD or designee.

4.6 Finalize Investigation

Once the Investigation Package has met Quality Review requirements, it is ready to be signed, approved, copied, and distributed. All reports are routed directly to Central Records unless special provisions have been made to forward to another Division.

The Investigation Package is subject to a completion deadline. The deadline “clock” starts on the last day of investigation, and ends with the date of manager approval. Investigation data must be entered into CCEDS as soon as practicable, but no later than 60 calendar days from the last day of an on-site investigation, unless revised deadlines or extenuating circumstances dictate additional time. No single investigation should exceed more than 14 days unless extenuating circumstances dictate additional time.

The times given below are maximums, but some program investigation types may have shorter deadlines as identified in the program investigator manuals.

- **Compliance Investigations:** 60 calendar days. Exceptions:
 - High Priority Violation (Air): 90 calendar days if additional information is requested.
- **Site Assessments:** 60 calendar days. Exceptions:
 - Ambient Monitoring: set by the CAMS manual.
 - PWS Comprehensive Performance Evaluation: No deadline.
 - Risk Assessment: No deadline.
 - DoD/DoE (Department of Defense/Department of Energy) Report Reviews: No deadline.
 - SWQM: Data is reported at the end of the quarter the sampling event occurred (for routine samples). For Biological Habitat and Special Studies, data is submitted by the end of the second quarter of the FY following the FY the sample was taken.

- **Agent Evaluation:** 60 calendar days. Exceptions:
 - Local Program Reviews: 90 calendar days from exit interview.

4.7 File Confidentiality

Some Investigation Package information is confidential information and should not be placed in public files. Examples include:

- The Enforcement Order, Order Cover Letter and Penalty Calculation Worksheet (PCW) are confidential until all those documents are mailed to the respondent.
- Confidential business information as determined by the Office of Legal Services.
- Complaint forms or attachment containing complainant information.

5.0 Additional Investigator Guidance

5.1 Mentoring

Mentoring occurs when a senior or “more experienced” investigator (may be either Primary Investigator or Associate Investigator) provides guidance to another investigator during any part or all of an investigation. When entering times into CCEDS, mentoring time does not include the time normally needed for the investigation.

5.2 Work Ethics and Responsibilities of the Investigator

Investigators are skilled field professionals who represent the TCEQ dealing with industry and the public. Investigators are responsible for conducting RE investigations in a professional manner that reflects favorably on them and the TCEQ. Their primary responsibility is to determine the RE’s compliance with TCEQ regulatory requirements.

Investigators are expected to be thoroughly familiar with the legal basis for their actions. Investigators must be knowledgeable with respect to TCEQ Rules and the Code of Federal Regulations. In addition, an investigator should be familiar with other laws relating to environmental regulation, such as the Federal Water Pollution Control Act, the Clean Water Act, the Toxic Substances Control Act, the Clean Air Act, the Safe Drinking Water Act, and the Texas Water Code.

Investigations must be conducted in a prescribed manner, which is described in the FOD Investigations guidance and includes the following:

As a representative of the TCEQ, the investigator is often the initial or only contact between the TCEQ and the regulated industries. When dealing with industry representatives and employees, investigators must be dignified, tactful, courteous, and diplomatic. A firm but responsive attitude helps to establish an atmosphere of cooperation and to initiate good working relations.

Investigators are expected to perform their duties in a professional and responsible manner by:

- Developing and reporting the facts of an investigation completely, accurately, and objectively.
- Avoiding, in the course of an investigation, any act or failure to act that could be considered motivated by reason of personal or private gain.
- Making a continued effort to improve their professional knowledge and technical skill in conducting investigations.

5.3 Dealing with Bribes and Gifts

Investigators may receive offers of varying amounts of money from persons whose activities are being investigated. An investigator may not solicit or accept anything of monetary value (for example, gifts, gratuities, or loans) from any person or group that has a contractual or financial relationship with EPA, the TCEQ, or the local TCEQ. Investigators may accept food or refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting, or during an investigation tour, but should use this exemption only when absolutely necessary. The safest policy is to accept nothing.

5.4 Dealing with Conflicts of Interest

A conflict of interest may exist whenever an investigator has a personal or private interest in a matter related to official duties and responsibilities. Investigators must avoid even the appearance of a conflict of interest because such appearance damages the integrity of the TCEQ and its employees in the eyes of the public. Therefore, all employees must be constantly aware of situations that represent, or appear to represent conflicts of interest. The investigator should consult with the RD and may request to be removed from that situation.

5.5 Handling Public/Media Relations

It is important for investigators to obtain the cooperation of the public and to develop a good working relationship. This relationship can be established best through diplomacy, tact, and persuasion. Even a hostile person should be treated with courtesy and respect. Staff should not offer opinions concerning any person, other regulatory agency, Service Company, consultant, manufacturer, or an industrial product. All information acquired in the course of duty is for official use only.

5.6 Disclosure of Information

All records, except those labeled confidential, are available for use by TCEQ staff and the public in compliance with the Texas Open Records Act. Only employees of the TCEQ may remove a file from the Central Records file room or the Regional Offices.

5.7 Processing Confidential Information

All Regions should maintain separate, locked storage areas for all documents which are considered confidential. There are two different procedures for processing confidential information:

- **Enforcement Actions:** According to the TCEQ's OPP, relating to General Information, information "relating to litigation" or "to an administrative action filed with the Commission" is considered confidential while under development. Once the enforcement documents are mailed to the respondent, the documents are public information. Also, "Requests to view confidential materials by individuals who are not employed by the Agency will be referred... to the General Counsel or the Legal Division for a decision."

Since the region staff will not always know in advance whether or not their enforcement referrals will eventually result in litigation or administrative action, it should be assumed that the file is confidential as soon as an Enforcement package is completed. Whenever staff receive a request from someone who is not a TCEQ employee to view file information regarding an entity which has been referred for enforcement action, the request should be referred to the staff attorney who has been assigned the case. If an attorney has not been assigned, the referral should be to the Legal Division. Then the region representative should offer to call the appropriate CO staff member, who will then contact the person making the request for file information.

Requests received by region staff members for meetings with representatives of entities which have been referred for enforcement action should be referred to the assigned EC.

Additionally, the EC should be notified as far in advance as possible concerning any scheduled investigations at entities which have been referred for enforcement action. This does not include responses to emergency situations, or investigations of citizen complaints, which could be adversely impeded by the delay to contact the EC; however, the EC should be notified of such incidents as soon as practicable.

- **Other Confidential Material:** When a Regional Office receives material with a request for confidentiality, the material should be submitted to the FOD Director as soon as practicable. The Division Director, with assistance from Legal and other divisions, will determine if the materials can be designated confidential.

5.8 Providing Lists of Registered Professionals

It is common that we are asked by representatives of REs to provide names of contractors, suppliers, and other professionals who might provide services or products to assist with compliance issues. Because of the perception of favoritism, TCEQ endorsement, kickbacks, or other unethical behavior, it is imperative that we do not recommend or “suggest” any person, company, or product. It is appropriate to provide current lists of licensed professionals where the TCEQ is the licensing agency. In cases where lists are maintained by other divisions within the TCEQ, they may be provided if they clearly show the name of the division maintaining the list, have a contact and phone number, are dated and have a disclaimer that the TCEQ in no way recommends or approves the companies and/or individuals named. The primary concern with informal lists is that they are often incomplete since there is no “official” database from which they are compiled. Referring requesters to the local telephone directory is another alternative.

5.9 Participation on Advisory Committees

TCEQ region offices have been asked to identify a staff member to participate in the activities of the Solid Waste Advisory Committee (SWAC) formed by the Councils of Governments (COGs) as part of the region solid waste grants provided to the COGs by the TCEQ. As part of this participation, TCEQ region office staff are often asked for information and advice regarding technical MSW issues, and they may also be involved in grant-related matters including grant selection process. It is important, therefore, that the role of the region office staff regarding such issues is clearly defined. The general guidelines for TCEQ region staff who either have been designated to sit on COG SWAC or may otherwise attend committee meetings are as follows:

Participation of TCEQ Staff: As part of their grant requirement to maintain a SWAC, each COG is requested to appoint a representative from the TCEQ region office as an ex-officio member of its SWAC. Members of the committees, including TCEQ’s region representatives, are requested to attend the SWAC meetings as often as possible and participate in other appropriate activities of the COG.

Technical Assistance: It is appropriate for TCEQ staff to provide input on applicable regulations and laws, solid waste management technologies and practices, field observations and experiences, and reported data. It may also be appropriate for TCEQ staff to provide personal observations or opinions as long as they are presented as such and not overly stated. Important, however, TCEQ staff should be careful to not speak on behalf of the TCEQ unless they are sure of the established TCEQ policy or position concerning the issue in question.

Decision Making: The TCEQ representative to the COG SWAC will serve as a non-voting member. It is not appropriate for the TCEQ staff to participate in SWAC voting, final grant selection, and other similar final decision-making activities. This is not to say that TCEQ

staff should not provide input on related topics such as local enforcement to deal with illegal dumping problems or education about open burning laws, etc., based on specific field-related knowledge.

Regional Planning: - Each COG has developed and may update or revise a region solid waste management plan with its own goals and objectives and its own prioritization of issues and funding needs. It is appropriate for TCEQ to take part in open discussion of these matters, but such participation should be advisory in nature.

5.10 Basic Evidence Collection

All information pertinent to field activities including sampling must be recorded in a log or field books, checklists, photographs, maps, and/or drawings. Proper documentation and document control are crucial to enforcement actions since the government's case in a formal hearing or criminal prosecution often hinges on evidence gathered by others. Therefore, each investigator must keep detailed records of investigations, investigations, photographs taken, and thoroughly review all notes before leaving the site.

The purpose of document control is to assure that all documents for a specific project are accounted for when the project is completed. Accountable documents include items such as log books, field data records, correspondence, sample tags, graphs, chain-of-custody records, analytical records, and photographs. Each document should bear a serial number and should be listed, with the number, in a project document inventory assembled at the project's completion.

TCEQ checklists/worksheets may be used in conjunction with field notes. These checklists/worksheets ensure that all necessary areas of concern are reviewed during the investigation. These checklists should be used as tools for ensuring a comprehensive review, but they should not be used as substitutes for narrative comment and other documentation.

Schematic maps, drawings, charts, and other graphic records can be useful in supporting violation documentation. They can provide graphic clarification of a particular site relative to the overall RE; spill or contamination parameters relative to height or size of objects; and other information that, in combination with other documentation, can produce an accurate and complete evidence package.

Maps and drawings should be simple and free of extraneous details. Basic measurements should be included to provide a scale for interpretation, and compass points should be included.

As mentioned earlier, the investigator should have maps provided either by the RE or in TCEQ files, and should prepare a small map with all areas of interest located on it. In situations when these are not available (for example, illegal disposal site), a sketch map is needed. A sketch map should include the following features:

- Name of site visited.
- Location in relation to major transportation routes.
- Permanent landmarks (for example, roads, power lines, streams, homes).
- An approximate scale to measure size and distances.
- An arrow indicating north-locations of areas of interest.
- Locations of important features.
- Locations where photographs were taken.
- Directions of water drainage.
- The date and preparer's name.
- Minor observations should also be noted. For example, a small patch of dead vegetation could mark the location of a contaminated groundwater plume.

Typically, field sketches are crudely drawn and redrawing the map provides investigators with a good opportunity to review the visit and clarify technical details. If a later visit is needed for sampling, note locations on or near the site that would be useful sampling stations. Such locations might include private wells belonging to nearby residents, waste piles, groundwater seeps, adjacent surface waters, and leachate streams. Note these sampling possibilities on the sketch map.

5.11 Photographic and Digital Records

Although the camera is not a substitute for good field notes, photographs are the most accurate record of the field investigator's observations. They can be significant during future investigations, informal meetings, and hearings. Documentation of a photograph is crucial to its validity as a representation of an existing situation.

Good photos convey information which might otherwise be missed during the site visit; poor photographs contribute little. Consequently, investigators should:

- Before entering the site, load the camera with film appropriate for light conditions. Take a flash, but be cognizant that it could be a source of ignition in a flammable atmosphere.
- Be sure the film advances properly after each photo.
- Do not try to get too much into each picture.
- Stand close to the feature being photographed to ensure maximum resolution.
- Frame the picture in the view finder to avoid having to crop photos later.
- Be sure to account for special conditions which might affect light metering, such as especially cold weather or highly reflective surfaces (for example, snow, sand, stainless steel pipes).
- Use a camera-lens system with a perspective similar to that afforded by the naked eye (telephoto or wide-angle shots may be contested in enforcement proceedings).
- Take too many rather than too few photos; however, use good judgment.
- Include in a photo identifiable landmarks, such as a corner of a building.
- Develop the film as soon as possible after the investigation.

After taking each picture, record the feature being photographed on a site sketch map. For each photo, note the numbers of the film roll and the exposure, the weather, and the direction from which the photo was taken. Once the film is developed, record this information and a brief introduction of the picture on the back of prints or on a separate piece of paper for slides. Always date and initial each photo. To ensure that the negatives are easily retrievable in case additional prints are needed, it is recommended that the negatives be included in the region's RE file.

A photograph must be documented if it is to be a valid representation of an existing situation. Therefore, for each photograph taken, several items should be recorded in the field log book.

- Day, date, and time.
- Signature of photographer.
- Name and identification of site.
- General direction faced and description of the subject.
- Location on site.
- Sequential number of the photograph.

Special care needs to be taken around explosive hazards. As a precaution, don't get any closer than necessary to take a good photo and don't use a flash or strobe. Fortunately, some organic chemicals will create an extremely uncomfortable breathing environment at their lower explosive limit (>10, 000 ppm). But this will not always be the case. Some of the more dangerous organics include natural methane (found in landfills and sewers) and hydrogen (from acids, cylinders, and electrolysis).

5.12 Citizen Collected Evidence (CCE)

Citizens may collect and submit to the region offices evidence that may (or may not) be used in enforcement actions. Respond to the citizen using the letter ***Your Submission of information to TCEQ*** to explain the process of accepting and possibly utilizing Citizen Collected Evidence (CCE) to pursue enforcement action. Document the receipt of this evidence in CCEDS using the programmatic Complaint Incident Checklist.

Evaluate the evidence using the same protocols as you would to evaluate any evidence collected by a TCEQ investigator. Complete the **Affidavit of Citizen's Name** after you have decided to pursue an enforcement case, including issuing an NOV. It is important that the form is completely filled out and that the specific protocols used by the Citizen are explained. Request the Litigation Division to review your draft affidavit, and upon their concurrence with the information provided, ask the Citizen to sign the affidavit. Attach the signed affidavit to all documents submitted by the Citizen.

If the Citizen is a public official, contact the Litigation Division to discuss whether the affidavit is appropriate.

If the information submitted will not be used as evidence to support a violation, it should be returned to the citizen with the Final Notice to the complainant of the result of the agency's investigation. If the evidence was submitted anonymously, it should be destroyed, and a memo should be sent to the file describing what the evidence was and why it was not used.

If the information is used in an enforcement case, it should be forwarded to TCEQ Central Records in Austin after the enforcement case has been completed, as part of the associated case file and in accordance with agency filing procedures.

5.13 Pollution Prevention and Waste Minimization

The effort to minimize hazardous waste, excessive emissions, or possible discharge requires cooperation between regulatory agencies and the facilities that need to accomplish hazardous waste minimization and pollution prevention. The investigator, as a TCEQ representative, can be a valuable resource to the RE seeking to minimize waste or prevent pollution within a complex regulatory framework. Pollution Prevention and Waste Minimization are important aspects of the TCEQ's mission. The investigator will find information about [Pollution Prevention and Waste Minimization](#) on the TCEQ's website.

5.14 Supported Equipment Training Plan

The division strategic equipment plan calls for the creation of a comprehensive FOD equipment training plan. The goal of the training plan is to develop and maintain a trained workforce capable of collecting defensible environmental data. The plan will ensure an ongoing consistent approach to training with the division's supported monitoring equipment. The supported equipment SOPs may be found on FODWEB under the Programs/Equipment/Equipment SOPs tab.

Training and documentation of worker proficiency are required before the use of equipment is allowed. The primary method of documentation is the Individual Demonstration of Analytical Capability (IDAC) process. There are five general steps to IDAC process:

- The trainee reads the SOP
- The trainee observes a person who has an IDAC (trainer) demonstrate the use of the equipment
- The trainee performs the procedure while the trainer observes the trainee performing the procedure
- Data generated by the trainee is compared to the data quality objectives contained in the SOP

- If the data meets the quality objectives then the trainee is granted IDAC status
- IDAC status is recorded in the Monitoring Equipment Database

A completed hard copy of the IDAC form is signed and retained in region records.