

Compliance SEP Process

Only a Local Government may perform a Compliance SEP.

Purpose

A Local Government performs a compliance SEP is necessary to:

1. bring the Local Government into compliance with environmental laws; or
2. remediate environmental harm caused by the Local Government's alleged violation.

Qualification as a Local Government

A Local Government is defined as a school district, county, municipality, junior college district, river authority, water district or other special district, or other political subdivision created under the constitution or a statute of the state.

Requirements

1. Local Government has not previously committed the same violation with the same underlying cause at the same site in the last 5 years.
IF Local Government has previously committed the same violation with the same underlying cause at the same site in the last 5 **years**, they must undergo a financial inability to pay analysis; and
2. Local Government has not entered into an agreement with a governmental agency to perform proposed project.

Restrictions

- Local Government will not earn SEP credit for inventory items purchased prior to the date of the violation.
- Local Government will not earn SEP credit for compliance to correct violations caused by human error.
- Local Government will not earn SEP credit for using its own labor or equipment.
- Local Government will not earn SEP credit for administrative costs.

Apply

Complete and submit the Compliance SEP application on or by the date instructed in the Agreed Order cover letter. The application will be reviewed for consideration by the SEP Program. SEP management and regional staff will evaluate the proposal's expected implementation and effect on Local Government's return to compliance. Once a SEP proposal is agreed upon, the project will be incorporated into the Agreed Order and sent to Local Government. It must be signed and returned to the agency within the time frame established by the TCEQ cover letter. Upon receipt of the signed Agreed Order, the agency will schedule presentation to the TCEQ commissioners or executive director for approval. The agency will notify Local Government when the Agreed Order has been approved.

If the estimated cost is less than the penalty amount, Local Government may apply to contribute to a 3rd Party SEP prior to signing the Agreed Order or pay the Texas General Revenue Fund. The cost of implementing the SEP may exceed the penalty amount. If the expenses are less than the estimated amount after the SEP is implemented, the remaining penalty will be paid to the Texas General Revenue Fund.

Implement & Execute

Local Government may commence implementing the SEP before or after receiving approval by the commission. However, if Local Government performs compliance actions prior to receiving approval by the commission, SEP credit will only be received for those actions taken if they are subsequently included within a SEP that has been approved by the commission. Local Government performs SEP according to the Attachment A of the Agreed Order.

Report

Local Government may commence implementing the SEP before or after receiving approval by the commission. However, if Local Government performs compliance actions prior to receiving approval by the commission, SEP credit will only be received for those actions taken if they are subsequently included within a SEP that has been approved by the commission. Local Government performs SEP according to the Attachment A of the Agreed Order.

Local Government is required to provide documentation to the TCEQ to verify completion of the SEP. Local Government is required to provide progress reports, documentation, and a final report of completion within specified deadlines as required with in the final Agreed Order. Required documents may include:

- Itemized list of expenditures
- Copies of invoices or receipts corresponding to the itemized list of expenditures
- Copies of cleared checks or payment records corresponding to the itemized list of expenditures
- Copies of proof of advertisement or publication (which must include a statement that the SEP was performed as a result of a TCEQ enforcement action)
- Dated photographs of SEP progress
- A certified/notarized statement of SEP completion
- Detailed map showing specific location of the project site(s)
- Copies of engineering plans
- A count of collected items (if applicable)
- A manifest showing proof of disposal and/or recycling of materials (if applicable)
- Equipment logs (if applicable)

Completion

The SEP Team will review Local Government's reports. Upon confirmation that all required documents have been received and the SEP is complete, the SEP Team will issue a letter confirming the SEP completion. SEP completion does not address any other obligations required by the Agreed Order.