



## TCEQ REGULATORY GUIDANCE

Financial Administration Division

RG-368 (Revised)

September 2002

# Innocent Owner/Operator Program Fee

This document is for guidance only. It does not take the place of the official rules and regulations.

## **What Is This Fee?**

The Innocent Owner/Operator Program (IOP) fee covers costs of the Texas Commission on Environmental Quality (TCEQ) for oversight, review, and approval of site investigation reports. The IOP is used when a property becomes contaminated through no fault of the owner or operator by contamination that has migrated onto the property from off-site. After appropriate verification, the IOP provides innocent owner or operators with certification that:

- their property is contaminated as a result of a release or migration of contaminants from a source or sources not located on the property; and
- they did not cause or contribute to the source or sources of contamination.

Program costs include all direct, indirect, overhead, salaries, equipment, utilities, legal, management, and support costs fairly attributable to the IOP.

**Legal Authority.** The IOP was created through House Bill 2776 of the 75th Texas Legislature. Collection of the IOP fee is authorized by Chapter 361.753 of the Health and Safety Code, which went into effect September 1, 1997. The IOP rules can be found in the Texas Administrative Code (TAC), Chapter 333, Subchapter B.

## **How Is the Fee Assessed?**

The IOP applicant, also referred to as the “innocent party,” submits a \$1,000 fee with the application. After the initial \$1,000 is expended in review and oversight, the TCEQ will send an invoice on a monthly basis to the innocent party to cover state expenses. Because the amount of time required to provide oversight by TCEQ staff varies based on the complexity of the site, it is not possible to provide a specific total cost figure. The

TCEQ’s billing rates, which can change yearly, are published in the *Texas Register*.

## ***I Have a Credit Balance on My Account. What Does This Mean?***

The account will show a credit balance if the expenses charged to the project are less than the initial \$1,000 application fee. Subsequent expenses will further reduce this balance. If your statement shows a credit balance, it was sent for informational purposes only. Please do not submit payment for a credit balance. Any portion of the application fee not incurred or obligated in the review of the application must be refunded.

## ***What Is the Due Date of the Fees? Where Do I Send the Payment?***

The due date is 30 days after the “invoice date” shown on your billing statement; your payment must reach the TCEQ in time to be credited to your account by the due date. Return your payment with the payment coupon (the top portion of the billing statement) to the mailing address shown on the back of the coupon. Use the envelope provided for your convenience. Be sure to turn the coupon over so that TCEQ’s mailing address shows through the envelope’s window.

**Enforcement Provisions.** If the TCEQ does not receive your payment within 30 days of the invoice date, the agency may ask the state attorney general to take legal action “to recover the amount owed and reasonable legal expenses, including attorneys’ fees, witness costs, court costs, and deposition costs.”

## ***What If I Think the Billing Is Incorrect?***

If you want to dispute the amount of your fee, you must do so in writing. The TCEQ may not adjust the amount due if your request for adjustment is **received** more than one year after the date on which the fee was paid in full. You can telephone TCEQ offices to clarify

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questions you may have about your fee amount. (For phone numbers, see the heading “Where Do I Send Correspondence or Get More Information?”)

In the correspondence, please provide your account name, account number, and the description of the suspected error.

### **Why Do I Have to Return the Coupon with My Payment?**

The payment coupon (the top portion of your bill) contains an optical character reader (OCR) line. When we receive your payment, a computer reads your account number from that OCR line. Automated processing allows the agency to keep up with the large number of transactions handled. Without the original coupon, there will be a delay in processing your payment.

### **If I Have More Than One Account, May I Send One Check for the Total Amount?**

You may send all your payments in one envelope, but please enclose a separate check for each coupon. If the number of checks does not equal the number of coupons, we won't know which accounts to credit your payment to. We will not be able to process your transactions by the faster, automated process; instead, we will have to contact you by phone to find out how the payment should be credited.

### **Where Do I Send Correspondence or Get More Information?**

If you have *questions about the expenses charged to your project* or if you would like to inquire *about the work being done*, please call 512/239-5891 and ask for your IOP project manager.

Send *project information, address changes, and disputes* to:

Texas Commission Environmental Quality  
Innocent Owner/Operator Program, MC 221  
PO Box 13087  
Austin, TX 78711-3087  
512/239-5891

For *account balance information*, call:

Texas Commission Environmental Quality  
Financial Administration  
Revenues Section  
512/239-0343

**For TCEQ rules, publications, and other information:** You can find the official version of TCEQ rules in the Texas Administrative Code on the Secretary of State's Web site at [www.sos.state.tx.us](http://www.sos.state.tx.us).

Other ways to obtain a copy of the rules, and of TCEQ publications, include the following:

- Go to [www.tceq.state.tx.us](http://www.tceq.state.tx.us), and—under the “Site Navigation” bar—follow the links “Forms & Publications” and “Rules, Policy & Legislation.”
- You can also contact the TCEQ Publications Unit at 512/239-0028. Try to give rule, publication, or form *numbers* as well as the title; this information will help the TCEQ staff get the correct item to you as quickly as possible. You may also fax your order to 512/239-4488, or write to TCEQ Publications, MC 195; PO Box 13087; Austin, TX 78711-3087.

**TNRCC = TCEQ**

*Same Agency, New Name!*

*(from Sept. 1, 2002)*

Texas Natural Resource Conservation Commission  
Texas Commission on Environmental Quality