
Texas Commission on Environmental Quality



Water Study: Review of the Water Resource Management Account Fund 0153

December 2016

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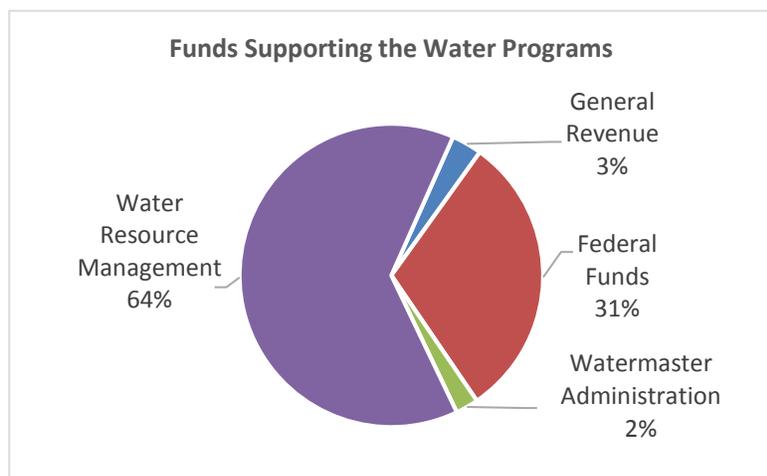
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Executive Summary

Background

In accordance with the 2016-17 General Appropriations Act (GAA), Article IX, Section 18.01(c), the Texas Commission on Environmental Quality (TCEQ) conducted a study to determine the level of agency workload related to each fee payer group and the relative benefit each fee payer group receives from agency water quality permitting, water quality regulation and safe drinking water programs. As noted by the Legislative Budget Board (LBB) in its 2015 Government Effectiveness and Efficiency Report (GEER), the Water Resource Management Account (WRM Account or Fund 153) “provides the vast majority of state funding for the TCEQ Water Programs.” The LBB further stated that “[t]he account balance has been reduced due to expenditures exceeding revenues in recent years. This trend is expected to continue absent a fee increase or an appropriations reduction for TCEQ water programs.”

The agency Water Programs cost approximately \$111.7 million in Fiscal Year (FY) 2016. This includes \$70.9 million from the Water Resource Management (WRM) Account; \$4.1 million from General Revenue; \$2.7 million in Watermaster Administration; and, \$34 million from Federal Funds. Consistent with the LBB’s observations in the 2015 GEER, the WRM Account has been insufficient to support the



Texas Commission Environmental Quality water programs. In FY 2016, the TCEQ collected approximately \$71.4 million in revenue while managing fund obligations of approximately \$71 million.

This revenue shortfall, which has been trending since FY 2006, has resulted in the TCEQ increasing fees, including in the current fiscal year, consistent with Section 18.01(a). Section 18.01(a) provides that “[i]n the event that available funds in the [WRM] Account No. 153 are insufficient to meet appropriations in this Act and related benefit costs, the TCEQ shall increase rates for fees deposited to the [WRM] Account No. 153 for which it has rulemaking authority, including the Water Quality Fee established in Water Code, Chapter 26 and the Public Health Service Fee established in Health and Safety Code, Section 341.041, at a level to ensure that sufficient balances and revenues are available.”

The Consolidated Water Quality (CWQ) fee was raised in FYs 2016 and 2017 to address the revenue shortage. For the Public Health Service Fee (PHS Fee), rulemaking was required to increase the fee. On May 18, 2016, the Commission adopted the rule containing the PHS fee increase, which assists the agency in meeting its funding needs in FY 2017 and provides the agency flexibility to adjust these rates to meet future water funding needs.

The agency performed the Section 18.01(c) study by creating a work group with representatives from the Office of Water, the Office of Compliance and Enforcement, the Office of Legal Services, and the Office of Administrative Services. Staff compiled the costs associated with the

water programs and the number of FTEs supporting each program. Using this data, the workgroup allocated the fees to the appropriate programs to determine which programs have insufficient revenue to support their costs. As noted, the study required a review of the agency's workload in relation to the revenue generated by the associated fee payers and the benefit to the fee payers. Using this analysis, the agency was directed to develop a methodology to determine the appropriate level of fee rates that would generate revenue in proportion to the agency's workload and the fee payer's benefit within the current statutory provisions. The findings of the study identified several fee rates set at their statutory limit which are insufficient to support the workload of the programs.

Although the agency was not directed to produce a report, the agency is providing the results of the analysis. Without changes to the TCEQ's statutory fee authority, the CWQ Fee and PHS Fee will necessarily continue to increase in order to provide sufficient revenue for the water programs, particularly as recent events, such as the drought and increased focus and attention arising from the contamination of Flint Michigan's drinking water, have strained programmatic and compliance resources.

The analysis completed by the agency is summarized in three categories: 1) the agency's workload compared to the revenue generated; 2) programs without a dedicated fee; and 3) inequities among fee payers.

1) Program Costs versus Revenue Collections

Staff's review of the agency workload relative to the revenue generated by the following specific fee payers revealed the following:

1. Application Fees

- Relative to the workload, the water permitting programs are significantly underfunded by the application fees.
- The rates for application fees are set as low as \$100 and capped at \$2,000 by statute. These rates generate \$1,048,560 in annual revenue.
- The Wastewater Permitting Program costs \$19.1 million; the Water Districts Program costs \$2.6 million; and the Water Rights Permitting Program costs \$6.2 million. The total cost for these water programs is approximately \$27.9 million per year.
- The application fees include Water Use Permits; Individual Water Quality Permits; Water District Creation; Miscellaneous Water District; Temporary or Emergency Water Use Permits; Municipal Waste Permits¹, and Injection Wells².

¹ Municipal Waste Permits - There are several municipal solid waste facilities (e.g., landfills) that need authorization to discharge leachate and other landfill related wastewaters. These applications are processed, reviewed, and administered through the *Wastewater Permitting* activity.

² Injection Well Fee - This fee generates revenue from the permitting of underground injection wells, referred to as the Underground Injection Control (UIC) Program. The UIC program was established to protect underground sources of drinking water. Texas was granted primacy in 1982. In addition to the permitting fee, the UIC program (Class 1) has revenue deposited to the Waste Management Account Fund 0549. This revenue is associated with a monthly fee on the amount and type of solid waste generated at a facility and an annual fee on the types of solid waste management units.

2. *Aggregate Production Operations (APO) Fees*

- The APO fees are likewise insufficient to support the program costs associated with the APO program.
- The fee ranges from \$300 to \$950 and generates approximately \$462,988 in revenue.
- The total cost of the program is \$1.2 million.
- The APO is a relatively new program with rules adopted in 2012 to collect the fee.

3. *Wastewater Treatment Inspection Fee and the Wastewater Treatment Research Council Fees*

- The fees are insufficient to support the cost of the TCEQ's Onsite Sewage Facilities Program (OSSF). Note: Under Texas Health and Safety Code Chapter 366, a county may administer the OSSF Program as an Authorized Agent, including the assessment of fees.
- The Wastewater Treatment Inspection Fee for facilities inspected by the TCEQ ranges from \$200 - \$400. This is less than the average fee charged by Authorized Agents who inspect the majority of OSSFs in Texas; the average fee range for local programs is \$600-\$800.
- The TCEQ Inspection Fee generates \$225,905 annually in revenue.
- The Wastewater Treatment Research Council Fee is a \$10 fee for every permit issued for an onsite wastewater treatment system. The fee generates approximately \$341,188 annually in revenue. Current law limits the use of the fee to funding research grants.
- The total cost of the TCEQ OSSF Program is \$2.2 million.

2) Programs without a Dedicated Fee

The WRM Account also supports water programs that do not have a dedicated fee. These programs were originally funded by General Revenue (GR). The 79th Texas Legislature shifted funding for the programs from GR to the WRM Account. These programs include the Dam Safety Program which costs \$3 million; the Total Maximum Daily Load Program which costs \$2.5 million; the National Bays and Estuaries Program which costs \$1.8 million; and the agency's outreach programs, consisting of the Pollution Prevention and Innovative Program and the Small Business and Local Government Assistance Program, which costs \$1.3 million. Of the programs without a dedicated fee, the Dam Safety program was the only program where a potential fee payer could be identified.

Dam Safety Program

- The Dam Safety Program monitors and regulates approximately 4,000 non-exempt private and public dams in Texas.
- The Dam Safety Program does not have a direct, dedicated fee.
- The WRM Account provides \$3 million in funds to support the costs of the program.

3) Inequities among Fee Payers

In both the 2007 and the 2015 Government Effectiveness and Efficiency Reports (GEER), the Legislative Budget Board discussed concerns with the inequities that may exist among fee payer groups. While there are approximately 23 different fees that comprise Fund 153, three fees account for 80 percent of the fund: the CWQ Fee, the PHS Fee and the Water Utility Regulatory Assessment Fee. In addition, with the transfer of jurisdiction over utility rates and Certificate of Convenience and Necessity (CCN) to the Public Utility Commission (PUC) in 2013, the TCEQ assesses the Water Utility Regulatory Assessment Fee but transmits \$3.1 million to the PUC and \$0.5 million to the Office of Public Utility Counsel (OPUC). The TCEQ retained its authority to regulate district creations and drinking water.

In addition to these fees identified in the GEER report, staff identified a potential inequity with the Water Use Assessment Fee. These fees are discussed below.

1. Consolidated Water Quality (CWQ) Fee

- The CWQ has a statutory cap at \$100,000 with an adjustment for consumer price index (CPI) up to a maximum cap of \$150,000³. When the fee is increased by the multiplier, the amount paid by entities at the cap does not increase. However, the entities below the cap generate the additional revenue. Sixty-four entities are currently at the cap. Removing the cap for these entities would generate twice as much revenue, from \$27 million to \$55 million.

2. Water Utility Regulatory Assessment (RAF) Fee

- Public Utilities are charged 1% for retail water or sewer service.
- Water Districts and Water Supply Corporations are assessed at a rate of .5% of the charge for retail water or sewer service.
- As noted, with the transfer of the water utility rate regulation function, this fee supports appropriations to the PUC and the OPUC. Accordingly, this fee supports PUC-regulated activities as well as TCEQ's water district and public water system supervision programs.

3. Water Use Assessment Fee (WUF)

- Surface water right holders are assessed a water use fee (WUF) based on the amount of acre-feet authorized in their water right. The WUF fee currently generates approximately \$1.2 million per year from 218 entities.
- The comparison of fees paid by the different groups of fee-payers reveals an inequity in the amount of fees paid by each group. Wholesale water providers typically do not pay a substantial CWQ fee and are exempt from paying the WUF for state water they sell to CWQ fee-payers. In addition, irrigation use is exempt from the fee. Of the 6000+ water right holders, only 218 pay this fee for a portion of the permitted water use.

³ Texas Water Code §26.0291

Used Oil Recycling Account

Lastly, as part of its review, staff discussed expanding the purpose of the Used Oil Recycling Fee and moving the fund balance to Fund 153. One of the original findings of the legislation, creating the used oil program and fee, recognized that without available collection centers for used oil, it was often disposed of on land or in landfills, sewers, drainage systems, septic tanks, surface waters or groundwater, water courses, or marine waters, and, further that, improper disposal of used oil is a significant environmental problem. As discussed in the Administrator's Statement of the TCEQ's FY 2018-19 Legislative Appropriations Request, the TCEQ noted that the purpose of Used Oil Recycling Account 146 -- to prevent pollution of water resources -- would continue to support programs that protect the water resources of the state while stabilizing funding for TCEQ's current Water Programs.

Used Oil Recycling Account – The transfer of the fund balance and future collections of the fee to the WRM Account would stabilize the account. The following information provides the current status of the Used Oil Recycling Account.

- The fee is one cent per quart or four cents per gallon of oil.
- The fee generates approximately \$2.4 million per year, however, because only \$0.5 million is appropriated, the fund balance increases by \$1.9 million annually.
- The current fund balance is \$17.8 million.
- The purpose of the fee is to prevent the pollution of water from the dumping of used oil. The fee would continue to support registration of used oil collectors, transporters, marketers and recyclers at current appropriation levels.
- Transferring the existing Used Oil Recycling Account balance and future collections of the fee to WRM Account for the protection of state water resources would provide water account balance support and stabilize funding for TCEQ's current water programs.

Conclusion

The WRM Account has not been able to maintain sufficient revenue over the last several biennia, requiring the agency to increase the CWQ and PHS Fees. The agency reviewed the current revenue and funding obligations to the WRM Account to determine deficiencies. The agency will not only need to adjust revenue sources to support current obligations but will also need to generate a sufficient cash flow to support the Agency's Water Programs in the future.

As the state's population grows, we can expect to experience a higher demand for water resources and an increase in the burden on agency programs that protect and manage those resources. TCEQ's FY 2018/19 Legislative Appropriations Request includes Exceptional Items that would require an additional \$7 million a year from the WRM Account

The following table provides a list of the water programs, their associated fees, and the benefits to the fee payers. The table illustrates the difference funded by the CWQ and PHS fees, since the funding sources are insufficient to support the total costs.

Program	FY 16 Program Cost	FY 16 Program Fee Collections	Difference ¹	Program Fee Sources	Benefits to the Fee Payer
Bays and Estuaries	1,752,367	0	(1,752,367)	No dedicated fee	The bay and estuary programs focus on conserving the sustainable use of bays and estuaries and strive to balance the economic and human needs of the region. These efforts benefit the regulated community and public by helping to develop and implement plans to protect and restore water quality in coastal areas so that aquatic life, recreation, fish consumption, and drinking water uses are maintained.
Total Maximum Daily Load	2,457,850	0	(2,457,850)	No dedicated fee	This activity benefits regulated community and public by developing plans that quantify pollutant reductions and outline measures to restore the quality of surface waters to meet their designated uses, such as: public water supply, recreational water, aquatic life, and fish consumption.
Develop Water Quality Standards	504,730	0	(504,730)	No dedicated fee	Establishing water quality standards for surface waters benefits regulated community and public by ensuring that the appropriate instream goals for water bodies are set to protect human health and aquatic life. The standards provide the basis for all water quality management decisions including permits and authorizations.
Water Assessment and Monitoring	7,639,007	0	(7,639,007)	No dedicated fee	The monitoring and assessment efforts benefit regulated community and public by collecting and evaluating the data used to inform actions designed to maintain the quality of surface waters so they meet their designated uses, such as: public water supply, recreation, aquatic life, and fish consumption.
Nonpoint Source Program	659,710	0	(659,710)	No dedicated fee	Nonpoint source pollution prevention projects benefit regulated community and public by developing and implementing plans to protect and improve water quality so that streams and lakes meet their designated uses, such as: public water supply, recreation, aquatic life, and fish consumption.
Clean Rivers Program ²	7,156,163	1,232,179	(5,923,984)	Water Use Assessment - \$1,232,179	The monitoring and stakeholder participation efforts benefit the fee payers by providing information needed to inform actions designed to restore and maintain the quality of surface waters to meet their designated uses, such as: public water supply, recreation, aquatic life, and fish consumption. The CRP Steering Committee provides fee payers with water quality information and the opportunity to provide input on water quality monitoring priorities, assessments of water quality, and associated activities. The Steering Committee prioritizes the resources of the program and therefore, all fee payers and stakeholders are able to help establish how funds collected through these fees should be utilized.

Program	FY 16 Program Cost	FY 16 Program Fee Collections	Difference ¹	Program Fee Sources	Benefits to the Fee Payer
Wastewater Permitting	19,098,641	5,646,066	(13,452,575)	General Permits Notice of Intent - \$4,877,151 Water Quality Permit Application - \$763,315 Municipal Waste Permit Application - \$5,600 ³ Total \$5,646,066	<p>Permit holders benefit from transparent procedures for implementing Texas Surface Water Quality Standards in wastewater permitting and from the opportunity to participate in the development of those procedures. Permit holders also benefit from appropriately assigned uses and water quality criteria to water bodies receiving treated wastewater, which results in permits that are protective of human health and aquatic life.</p> <p>Permit holders benefit by obtaining one consolidated state and federal permit rather than obtaining separate authorizations from TCEQ and EPA. For some types of proposed activities, general permits are developed by the TCEQ which allow permittees to get coverage under a permit by registering and implementing the best management practices required by the permit.</p> <p>The general public benefits because the permit conditions are designed to ensure waters are of sufficient quality to support recreational, public drinking water, fish consumption, and aquatic life uses.</p>
Aggregate Production Operations	1,190,105	462,988	(727,117)	Aggregate Operations Application - \$462,988	The TCEQ is responsible for conducting annual surveys to identify APOs and for conducting inspections of active registered APOs on a three-year cycle. Conducting these surveys and investigations ensures that facilities are on a level playing field with respect to compliance with environmental regulations.
Public Water System Supervision	8,981,993	5,968,768	(3,013,225)	Water Utility Regulatory Assessment - \$5,968,768 ⁴	The Public Drinking Water System Supervision program benefits the fee payers by providing oversight and assistance for approximately 7,000 public drinking water systems in Texas. The oversight and assistance provided to the systems helps ensure systems are operating in accordance with state and federal regulations, and helps supply sufficient, safe drinking water for the citizens of the state. The assistance provided to systems enables them to provide water more efficiently and at a potentially lower cost to both the utility and the utility's customers. In addition, the work done through this program ensures compliance with the Capacity Development Plan for Texas which is required for Texas to get funding under Drinking Water State Revolving Fund (DWSRF) grants. DWSRF grant funding provides low and no-cost loans to public water systems and supports state compliance activities.

Program	FY 16 Program Cost	FY 16 Program Fee Collections	Difference ¹	Program Fee Sources	Benefits to the Fee Payer
Water District	2,623,670	3,679,375	1,055,705	Water District Bond Application - \$125,700 Water District Bond Proceeds - \$3,519,175 Misc. Water District Application - \$19,700 Water District Creation Application - \$14,800 Total \$3,679,375	<p>The fees associated with creation of certain water districts benefits fee payers by providing the applicant/fee payer with a TCEQ approved political subdivision of the state, which represents the initial stage for the development of infrastructure to serve future residents/customers. The fees also support the agency's review of bonds to ensure the financial viability of a proposed infrastructure need. This provides the required assurance so that districts can finance and maintain the development of infrastructure to serve current and future residents/customers. Additionally, the fees support the financial and managerial feasibility of public water systems as part of the Capacity Development Plan of Texas. Programs which support the Capacity Development Plan are a requirement for Texas to receive full funding under the Drinking Water State Revolving Fund (DWSRF) grants. DWSRF grant funding provides low and no-cost infrastructure loans to PWS and supports state compliance activities.</p>
Water Rights Permitting	6,169,237	119,445	(6,049,792)	Temporary or Emergency Water Use Permit Application - \$28,917 Water Use Permit Application - \$90,528 Water Use Permit - Construction Delay - \$0 Total \$119,445	<p>The water rights permitting program benefits fee-payers by providing a service to acquire water rights to use state water for several beneficial uses. Each water right application is evaluated to ensure water is available under specified conditions and to protect the ability of existing water rights to use state surface water per their water right. In areas where water is available on a short-term basis, the agency can provide authorization to utilize small amounts of surface water for temporary projects.</p> <p>The fee payer also benefits from surface water management activities and the agency's response to complaints. Where water is being used without authorization, the agency provides a mechanism to halt illegal diversions and enforce agency rules to obtain compliance.</p> <p>The program benefits fee payers by ensuring accurate and updated records of water rights ownership so that water rights are assigned to the rightful owners. This also allows the agency to be more effective in conducting investigations and when contacting water right holders, either to notify them of impending water right requests near them, or in the case of an emergency.</p> <p>The program also benefits fee payers by maintaining data on the annual reporting of water use, which helps support accurate determinations of water availability so that water rights are protected. This information is also important to analyze during an emergency when evaluating water rights for possible curtailment.</p>

Program	FY 16 Program Cost	FY 16 Program Fee Collections	Difference ¹	Program Fee Sources	Benefits to the Fee Payer
Groundwater Protection and Compliance	642,615	0	(642,615)	No dedicated fee	The program benefits the regulated community and public by supporting the evaluation of groundwater quality and quantity, and providing oversight of groundwater conservation districts to ensure they are following applicable rules. In addition, the agency maintains and updates the state water well report database which provides information on the location and type of water wells throughout Texas. These activities help to support adequate groundwater quality and quantity planning so that fee-payers have the information needed to make decisions that will ensure adequate supplies of high quality groundwater for drinking water purposes. Note: The TCEQ does not regulate the withdrawal of groundwater.
Edwards Aquifer Protection Program	1,915,550	2,317,062	401,512	Edwards Aquifer Application - \$2,371,062	The Edwards Aquifer, a karst aquifer, is a primary source of drinking water for the City of San Antonio and surrounding central Texas communities. TCEQ conducts technical reviews of Edwards Aquifer Protection Plans which provides a benefit to fee payers when plans are approved that are protective of groundwater and Texas Surface Water Quality Standards in areas that impact the Edwards Aquifer during and post-development activities.
On-Site Sewage Facilities	2,244,315	225,905	(2,018,410)	On-Site Sewage Facility Application - \$225,905 On-Site Wastewater Charge-back Permit - \$0 – Assessed only when state takes back program from county Total \$225,905 Wastewater Treatment Research Council Fee - \$341,188 – only for Research program	The program benefits the regulated community and public by establishing the proper methods for treatment and disposal of wastewater from septic systems which improves and protects both groundwater and surface water quality so that the waters of the state meet their designated uses, such as public water supply, recreation, and aquatic life.
Clean Water Certification	8,356	37,307	28,951	Boat Sewage Disposal - \$37,307	The program benefits the regulated community and public by reducing sewage discharges into navigable water which improves and protects surface water quality so that the waters of the state meet their designated uses, such as public water supply, recreation, and aquatic life.

Program	FY 16 Program Cost	FY 16 Program Fee Collections	Difference ¹	Program Fee Sources	Benefits to the Fee Payer
Dam Safety Program	3,054,820	0	(3,054,820)	No dedicated fee	These activities benefit regulated community and public by ensuring a reliable supply of clean water is available to meet their designated use as private or public water supply and recreation activities while protecting the safety of downstream development and infrastructure.
Pollution Prevention and Innovative Programs	475,243	0	(475,243)	No dedicated fee	These activities benefit the fee payers by reducing pollution at the source and encouraging recycling to minimize its adverse impact on the environment, including groundwater and waters of the state.
Small Business and Local Government Assistance	779,776	0	(779,776)	No dedicated fee	These activities benefit the fee payers by assisting entities to be in compliance with the required regulation which helps protect and improve the water quality so that groundwater and waters of the state meet their designated uses, such as public water supply, recreation, aquatic life, and fish consumption.
Total	67,354,148⁴	19,689,095	(47,665,053)		

1. The balance in the Difference column is funded with the revenue generated by the Consolidated Water Quality Fee (\$26.8 million) and the Public Health Service Fee (\$20.9 million). The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.
2. The Program Fee Sources for the Clean Rivers program include the Water Use Assessment Fee and the CWQ fee, which are statutorily required to support the Clean Rivers Program. The CWQ fee was created in 2001 by combining the Waste Treatment Inspection Fee and the Water Quality Assessment Fee.
3. Municipal Waste Permits - There are several municipal solid waste facilities (e.g., landfills) that need authorization to discharge leachate and other landfill related wastewaters. These applications are processed, reviewed, and administered through the *Wastewater Permitting* activity. Injection Well Fee - This fee generates revenue from the permitting of underground injection wells, referred to as the Underground Injection Control (UIC) Program. The UIC program was established to protect underground sources of drinking water. Texas was granted primacy in 1982. In addition to the permitting fee, the UIC program (Class 1) has revenue deposited to the Waste Management Account Fund 0549. This revenue is associated with a monthly fee on the amount and type of solid waste generated at a facility and an annual fee on the types of solid waste management units.
4. Water Utility Regulatory Assessment generated \$9,536,592 in fee revenue which includes the transfer to PUC and OPUC in the amount of \$3,567,824. The remaining funds of \$6 million supports the Public Water Systems Supervision Program. The total cost to the WRM Account is \$70.9 million, including the FY 16 Program Costs of \$67,354,148 plus the transfer to the PUC and OPUC of \$3,567,824.

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Water Study Findings

Application Fees

Background: For its water programs, the agency currently assesses application fees under the authority granted by Chapters 5 and 11 of the Water Code. The amount per application ranges from \$100⁴ to 2,000⁵, and generates approximately \$1.1 million per year. The TCEQ total costs associated with water permitting is approximately \$27.9 million per year. The majority of these costs are supported by revenue from other fees such as the CWQ and PHS fees.

Fee	Revenue
Water Use Permit Application	\$90,528
Water Quality Permit Application	\$763,315
Temp or Emergency Water Use Permit Application	\$28,917
Water District Creation Application	\$14,800
Miscellaneous Water District Application	\$19,700
Municipal Waste Permit Application ⁶	\$5,600
Water District Bond Application	\$125,700
General Permit Notices of Intent	\$4,877,151
Water District Bond Proceeds	\$3,519,175
Total Revenue	\$9,444,886
Program	Costs
Wastewater Permitting	\$19,098,641
Water Rights Permitting	\$6,169,237
Water Districts	\$2,623,670
Total Costs	\$27,891,548
Difference: Revenue less Costs	(\$18,446,662)

The fee rates for water permit applications were set in 1985. The statutory fee amount has not been adjusted for inflation or population growth. The water permit application rates are significantly lower than air and waste permit application fees even though the time required to review a water permit application is proportionate. The staff time for certain water permit applications can exceed 1,000 hours. This is roughly half of a full-time equivalent being allocated to the permit application of a single water permit fee payer paying less than \$2,000. The current level of assessment does not provide for an allocation of the agency's costs of administering the program to the correct revenue source.

⁴ Water Code 5.701(b)

⁵ 2016-2016 General Appropriation Act Art. 6 Rider 19, VI-21

⁶ Municipal Waste Permits- There are several municipal solid waste facilities (e.g., landfills) that require authorization to discharge leachate and other landfill related wastewaters. These applications are processed, reviewed, and administered through the *Wastewater Permitting* activity.

Aggregate Production Operations

Background: In 2011, the 82nd Texas Legislature passed House Bill (HB) 571 which created the Aggregate Production Operations (APO) Program and the related fee as a means to ensure through proper registration with TCEQ that APOs are following appropriate environmental regulations. By statute, an APO is defined as a site from which certain aggregates are being removed or have been removed or extracted from the earth. The term aggregates is defined as “any commonly recognized construction material originating from an APO from which the operator extracts dimension stone, crushed and broken limestone, crushed and broken granite, crushed and broken stone not elsewhere classified, construction sand and gravel, industrial sand, dirt, soil, or caliche.”⁷

Implementation of the program required TCEQ to conduct annual surveys to identify all active APOs in the state. Based on the surveys and the number of registrations received since program inception, the number of APOs is far more than originally projected. In the bill analysis for HB 571, the agency estimated that there were approximately 600 active APOs which would require the agency to conduct an additional 200 site inspections per year. In FY15, the agency conducted 993 onsite surveys and 3,455 in-house surveys of APO sites. Conducting these surveys is vital to identification of facilities subject to APO regulations. Identification and inspection of regulated facilities ensures that facilities are on a level playing field with respect to compliance with environmental rules and regulations.

The Texas Legislature appropriated \$227,019 per year which directly funds the expenses associated with four investigators. The TCEQ collects approximately \$463,000 per year in revenue from the APO fee. The APO fee ranges from \$300 to \$950⁸. In FY15, the agency allocated additional resources to the APO Program in order to meet the increased workload resulting in approximately \$1.2 million in actual expenses, which is approximately \$727,000 more than the current revenue generated by the fee.

Program	FY 16 Revenue	Costs	Difference
APO	\$462,988	\$1,190,105	(\$727,117)

With the existing statutory cap of \$1,000⁹, the agency is not able to generate sufficient revenue to cover the program costs. The agency is utilizing revenue from other fee sources to support the program.

⁷ TWC, Chapter 28A

⁸ 30 TAC 342.26 (Subsection B)

⁹ Water Code 28A.101(b)

Wastewater Treatment Inspection Fee and Wastewater Treatment Research Council Fee

Background: The agency's On-Site Sewage Facility (OSSF) Program costs \$2.2 million. The OSSF program is supported by the Wastewater Treatment Inspection (WTI) Fee, which generates approximately \$226,000 annually in revenue. In addition to the WTI, TCEQ collects the Water Treatment Research (WTR) fee which is a \$10 fee for every OSSF permit application, including those permits issued by Authorized Agents. This fee originally funded the Texas On-site Wastewater Treatment Research Council (TOWTRC) to provide research grants, however, the TOWTRC was sunset in 2011 and requirements for fee collection were not removed from statute nor were the revenues appropriated to the TCEQ.

Program	FY 16 Revenue	Costs	Difference
OSSF	\$225,905	\$2,244,315	(\$2,018,410)

The OSSF program is designed to eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems, in accordance with Texas Health & Safety Code § 366.001. The OSSF Program accomplishes these goals by the creation and enforcement of a minimum state code for design, construction, installation, operation and maintenance of OSSFs, as delineated in 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and 30 TAC Chapter 285. The TCEQ has established a permitting process for the installation of new or replacement OSSFs with fees ranging from \$200 for single family dwellings to \$400 for other systems.

The TCEQ also has statutory authority to delegate the program to local governmental entities. However, the agency maintains oversight authority to conduct periodic reviews and evaluations of delegated programs to ensure state rules and regulations are appropriately administered. The TCEQ has delegated OSSF regulatory authority to 341 local governmental entities which account for 97% of the approximately 34,000 OSSF permits issued each calendar year. These Authorized Agents fund the delegated programs with fee structures based upon the level of OSSF permitting activity experienced by their local programs.

While TCEQ only issues 3% of the 34,000 OSSF permits issued statewide each year, the agency also provides complaint response. Additionally, TCEQ provides technical assistance and support to local governmental entities, licensees, the OSSF manufacturing community and the regulated public, who design, construct, install, maintain and use OSSFs throughout the state.

Dam Safety Program

Background: The TCEQ Dam Safety Program monitors and regulates approximately 4,000 non-exempt private and public dams in Texas. The Program conducts inspections on a five-year basis on nearly 1,700 of these dams that are classified as either high or significant hazard. High or significant hazard dams are those structures that could result in loss of life if the dam were to fail. The Dam Safety Program provides recommendations and reports to the dam owners to ensure that these facilities are constructed, maintained, repaired, and removed safely. A significant portion of these dams are privately owned by individuals, property owner associations, home owner associations, or clubs, or are owned by soil and water conservation districts. Although not inspected on a regular basis, Program staff also address complaints concerning low hazard dams, when appropriate. Dams designed by, constructed under the supervision of, and owned and maintained by federal agencies, such as the United States Corps of Engineers, are statutorily excluded from state regulation. Currently, there are no fees generated by the Dam Safety Program. Fees deposited in the WRM Account, such as the PHS or the CWQ, support \$3 million of the program costs.

Consolidated Water Quality (CWQ) Fee

Background: The CWQ fee is assessed annually for each permit authorizing the treatment and/or discharge of wastewater. The wastewater permit is evaluated on the basis of pollutant potential and permitted limits for flow volume, traditional pollutants, toxicity, stormwater authorization, and major/minor facility status. The CWQ fee is calculated by applying a multiplier to the base fee. The multiplier is adjusted as needed to generate a sufficient amount of revenue to support fund obligations.

The CWQ fee has a statutory cap set at \$100,000 with an adjustment for consumer price index (CPI) up to a maximum cap of \$150,000¹⁰. In FY 16, the maximum cap was \$115,000 with sixty-four entities paying the maximum under the cap. The fee generates approximately \$27 million. The GEER published by the Legislative Budget Board in FY 2015 expressed concern that an inequity exists among fee payers, since adjustments to the multiplier only impact entities below the cap. The agency has increased the multiplier every year since 2012 to address the revenue shortage. Fee payers at the cap have not experienced a fee increase to the same extent as those below the cap.

¹⁰ Texas Water Code §26.0291

Water Utility Regulatory Assessment (RAF) Fee

Background: By statute, Public Utility customers are charged 1 percent and Water District and Water Supply Corporation customers are assessed at a rate of one half percent of the charge for retail water or sewer service.

The revenue from this fee is intended to pay for the costs and expenses incurred by the state in the regulation of districts, water supply or sewer service corporations, and public utilities¹¹. This includes, but is not limited to: review of bond application to evaluate the financial and engineering feasibility of a project, management of water systems, rate setting, and compliance monitoring, which are additional services provided by the Commission to these entities above what is required for a public water system. Since TCEQ experiences no significant difference in the amount of workload and resources needed, there is no justification for the difference in assessment percentage of the two fee paying types.

The entities required to pay the RAF fee are not under the jurisdiction of either a city council or county commission. The Public Utility Commission has appellate jurisdiction over the rates of these systems. The RAF fee is intended to fund the cost of the additional oversight associated with these systems.

The TCEQ, the Public Utility Commission and the Office of Public Utility Counsel receive appropriations from the WRM Account. In the GEER, the LBB expressed the concern that if funds in the WRM Account were insufficient to cover appropriations, “it is unclear which agency(ies) would bear the consequences”. One solution proposed in the GEER report is the equalization of the RAF for all fee payers.

¹¹ Texas Water Code §5.701 (n-1)

Water Use Assessment Fee

Background

Two fees, the Water Use Assessment Fee (WUF) assessed on water rights and the Water Quality Assessment fee assessed on wastewater discharges set forth in TWC 26.0291, were established to support the Clean Rivers Program (TWC 26.0135) created in 1991. The Clean Rivers Program (CRP) was designed to provide a comprehensive assessment of water quality across the state. The WUF was assessed on water rights because the program provided a service for evaluating in-stream water quality and helping to ensure the water diverted was of sufficient quality. The Water Quality Assessment fee was assessed on wastewater permits because the program provides a service of targeted water quality data collection where site-specific permit conditions would ensure effluent limits were appropriate.

In 2001, as part of the TCEQ Sunset Review, HB 2912 consolidated the Water Quality Assessment fee with the Waste Treatment Inspection fee under TWC 26.0291. The resulting combined fee became known as the Consolidated Water Quality fee or CWQ. As part of this fee consolidation, an exemption was created for WUF fee-payers who were also paying the CWQ. Because of this exemption, no WUF is assessed on that portion of a municipal or industrial water right directly associated with a facility paying the CWQ. Although the purposes for the original fees remained intact, the creation of this exemption had the effect of exempting entities that previously paid a fee for water rights. The legislation also removed language specifying that the fees shall recover no more than \$5 million annually. With this legislation, the fees making up the new CWQ would now be deposited into the general Water Resource Management Account, along with the WUF. The legislation consolidated the original purposes for each of the fees, placed them under the consolidated fee section, and added new language providing that the fee may be used for any water resource management program related to the activities of the persons required to pay a fee under the section.

Today, surface water right holders are assessed a water use fee (WUF) based on the amount of acre-feet authorized in their water right. There are several exemptions from the fee including: water rights with less than 250 acre-feet (AF) of water; irrigation use; and "...the portion of a municipal or industrial water right directly associated with a facility or operation for which a fee is assessed..." for a wastewater permit. Agency rules (30 TAC Chapter 21) set the fees at \$0.385/AF for consumptive uses (e.g., municipal, industrial, mining) and \$0.021/AF for non-consumptive uses (e.g., hydroelectric). The fee generates approximately \$1.2 million per year.

Exemption for Associated Wastewater Permit: Through the process of evaluating the equitable assessment of fees under the WUF, TCEQ examined whether the "directly associated" exemption is appropriately assessed to ensure equity amongst water and wastewater fee-payers. The exemption for a "directly associated" wastewater facility is applied in two ways:

- (1) An entity is exempted from the WUF for the portion of the water right that is assigned to municipal and/or industrial use and is associated with its own municipal or industrial wastewater facility that is assessed the CWQ fee; and
- (2) In accordance with the agency's practice, an entity is exempted from the WUF for the portion of the water right that is assigned to municipal and/or industrial use and is sold (contracted) to an organization that pays the CWQ fee.

Below are the results of an evaluation of the WUF exemption and actual CWQ fees paid for three different groups of fee-payers:

- Municipal (small, medium, and large) - Currently, the WUF is \$0 for the small and medium sized communities, and \$13,283 for the large community, while the CWQ fee is \$15,989, \$115,000, and \$1,651,174, respectively.
- Wholesale Water Providers (river authorities, water districts) - Currently, the WUF is \$0, \$62,390, and \$115,577 for 3 example organizations, while the CWQ fees they actually paid were \$1,250, \$9,900, and \$6,417 respectively.
- Industrial (power generators, industry) - Currently, the WUF is \$0 for two and \$193 for one of three example organizations, while the CWQ fees were \$115,000, \$175,090, and \$346,692, respectively.

The comparison of fees paid by the different groups of fee-payers reveals an inequity in the amount of fees paid by each group. Wholesale water providers typically do not pay a substantial CWQ fee and are exempt from paying the WUF for state water they sell to CWQ fee-payers.

Irrigation Exemption: The exemption for irrigation use in water rights was put in place to minimize the effect on farmers. When the only consumptive use is irrigation/agriculture, then the water right is wholly exempt from paying the WUF. If the water right has multiple consumptive uses assigned to a single amount of water, then the amount of water (e.g. municipal, industrial, and irrigation) is divided by the number of consumptive uses, and the irrigation/agriculture portion is exempt from the WUF. In summary, these exemptions result in \$1 million per year in wholesale contract context and \$1.5 million for the irrigation exemption.

Used Oil Recycling Account

Background: The Used Oil Recycling Account 146 was created in 1991 by the 72nd Texas Legislature and was established for public education, grants, and registration of used oil collectors, transporters, marketers, and recyclers. One of the original findings of the legislation, creating the used oil program and fee, recognized that without available collection centers for used oil, it was often disposed of on land or in landfills, sewers, drainage systems, septic tanks, surface waters or groundwater, water courses, or marine waters, and, further that, improper disposal of used oil is a significant environmental problem. The purpose was to prevent pollution of water resources from the dumping of used oil.

An oil manufacturer or importer who makes a first sale of automotive oil in the state is required to remit a fee of one cent per quart or four cents per gallon of oil. A first sale of oil does not include the sale of oil to a manufacturer or distributor or the sale of oil to a subsequent purchaser who maintains a used oil collection center. The fund balance as of August 31, 2015 was \$17.8 million. The fee generates approximately \$2 million per year and only \$0.5 million is appropriated to the TCEQ, so the fund balance is projected to grow by \$1.5 million annually.

Transferring the existing Used Oil Recycling Account balance and future collections of the fee to WRM Account would provide water account balance support and stabilize funding for TCEQ's water programs.¹² Also, the purpose of the automotive oil sales fee would continue to support programs that protect the water resources of the state. Further, there is no new fee, as the fee is already being assessed. This is beneficial to individual, existing TCEQ WRM Account fee payers as well as the general public. As Texas' population grows, it is imperative to achieve revenue reliability to ensure the protection of Texas' water resources. The fee would also continue to support registration of used oil collectors, transporters, marketers and recyclers at current appropriation levels.

The table below reflects the transfer of the fee and fund balance from the Used Oil Recycling Account to the Water Resource Management Account. FY 18 reflects the increase in fund balance and the addition of the fee from the Used Oil Recycling Account.

Water Resources Management Account 0153						
	Actual	Budget	Budget	Budget	Budget	Budget
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Beginning Fund Balance	(730,230)	(507,001)	230,270	20,445,783	21,148,833	21,236,035
Revenue	66,730,323	71,418,028	70,736,000	73,076,000	73,164,000	73,164,000
Fund Obligations	66,507,095	70,680,757	71,910,778	72,372,950	73,076,798	73,076,798
Ending Fund Balance	(507,001)	230,270	(944,508)	21,148,833	21,236,035	21,323,237

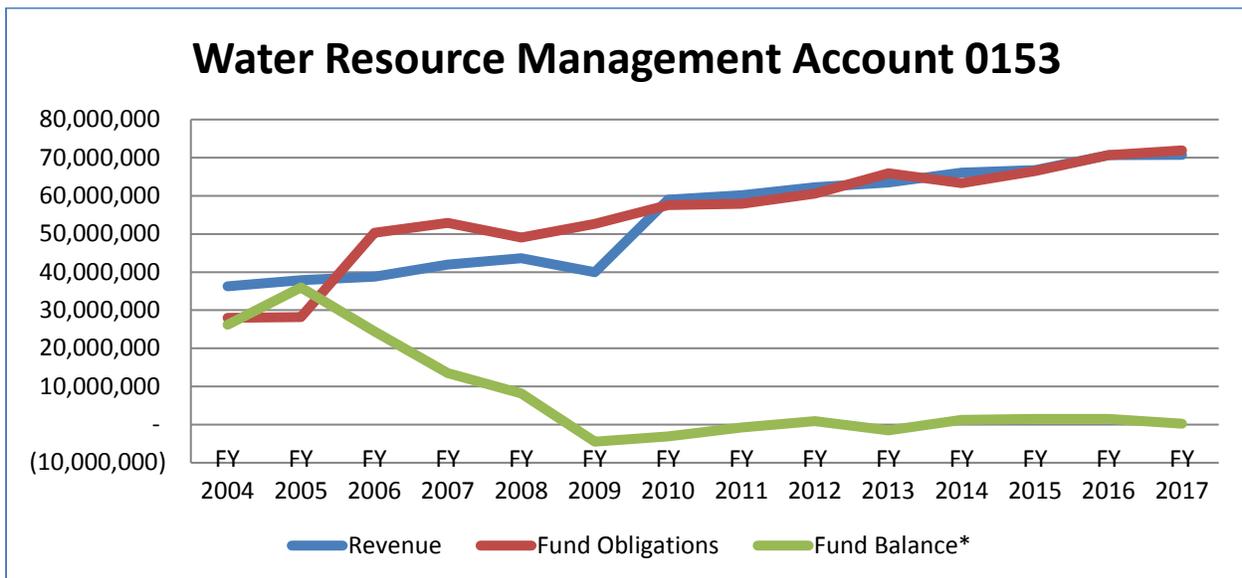
¹² The Commission has identified this item as a legislative recommendation for the 85th Legislative Session.

History of WRM Account

The account was originally created in 1961 as the Water Quality Fund. HB 3231 from the 75th legislature changed the name to the Water Resources Management Account to address the consolidation of agencies and programs that created the Texas Natural Resource Conservation Commission (TNRCC). The Sunset Advisory Commission has made recommendations over the years to address various issues related to the account. HB 2912, 77th Legislature, implemented Sunset Commission recommendations and created new Texas Water Code (TWC) Section 5.701 by transferring provisions from TWC Section 5.235 and adding subsections (p) and (q). Those subsections, along with language added to TWC Section 5.701(e) broadened the use of water related fees by allowing fees appropriated under certain statutes to be used to protect water resources in the state.

The Sunset Staff Report from May 2000 identified Issue 10 as “TNRCC’s Funding Structure Does Not Appropriately Support the Agency’s Activities.” One of the key findings under that Issue was that “TNRCC’s funding structure lacks flexibility to expand innovative services that benefit the regulated community, stability to adequately fund required regulatory programs, and the ability to provide equity in fee costs among all fee payers.” In further describing the shortcomings of the agency’s fee structure, the Report concludes that “without a revenue stream to pay for initiatives that fall outside the narrow scope of most fees, the agency misses the opportunity to address vital agency needs.”

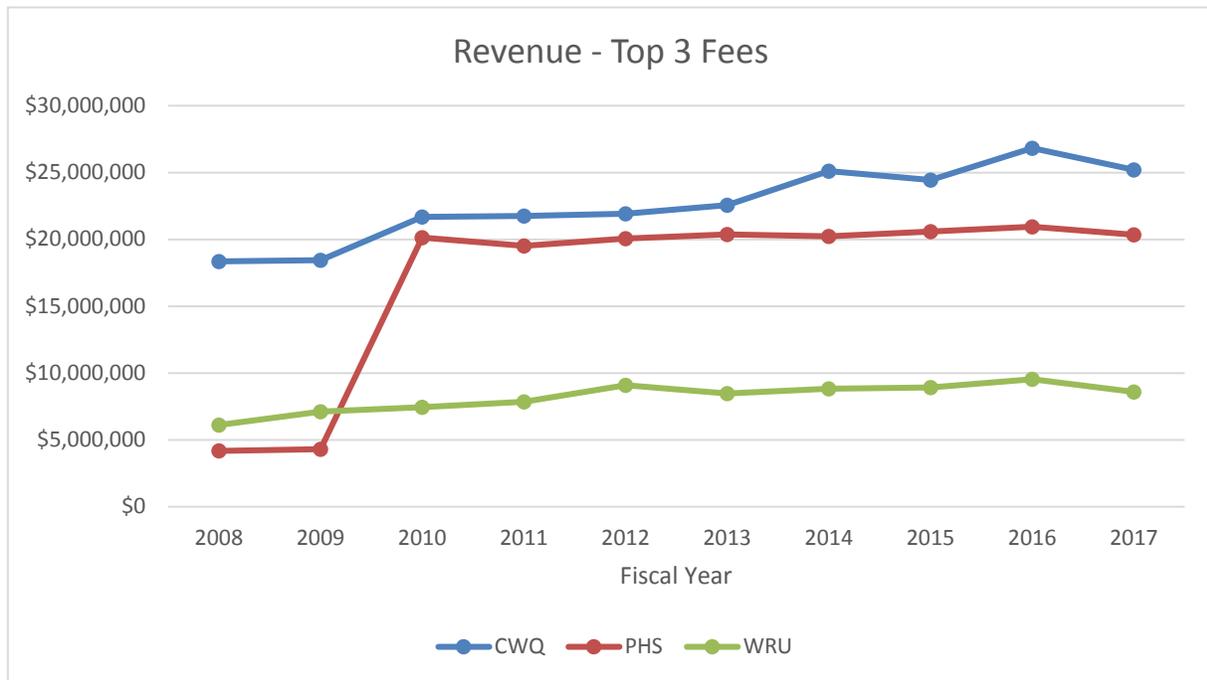
In fiscal year 2005, the Water Resource Management Account 0153 had a fund balance of \$41 million. As a result of the large fund balance, the 79th Legislature transferred water programs funded with General Revenue to the Water Resource Management Account. Prior to the transfer, the agency received approximately \$23.4 million from General Revenue to support water programs, along with \$25.5 million from account 0153. During fiscal year 2006, the appropriation from General Revenue was cut by \$19.3 million to \$4.1 million, while account 153 absorbed the difference. Since that time, the fund balance has dropped essentially to zero. The water programs have been supported by a series of fee increases.



*In FY 2005 to FY 2009, the Legislature shifted funding for the water programs from General Revenue to the Water Resource Management Account, utilizing the available fund balance.

*In FY 2009 and forward, the revenue was not able to sustain the fund obligations, requiring increases to the CWQ and PHS fees.

By the 2010-11 biennium, the WRM account was facing a \$32.5 million shortfall. The TCEQ addressed this shortfall by adopting a fee rate increase to the Consolidated Water Quality (CWQ) Fee, Public Health Service (PHS) Fee, and Water Use Assessment (WUF) Fee. The fees were selected because they are within the agency’s direct authority to adjust without statutory changes; they generate a significant percentage of the revenue deposited to Account 153; their revenue stream is generally constant; and their payers constitute a broad segment of the state’s population, including industry, large and small municipalities, public and private utilities, and the public, indirectly, through monthly utility bills.



Rules adopted in July of 2009 increased fee rates and minimum fees for the primary water fees, Consolidated Water Quality, Public Health Service, and Water Use Assessment (CWQ, PHS, and WUF) to generate sufficient revenue to support the agency's appropriations from Account 153. Changes to the fee rates and the revenue generated is described below for each of the fees.

HB 1433 from the 81st Legislature (2009) increased the statutory cap for the Water Use Assessment Fee and the CWQ fee from \$75,000 to \$100,000, and allowed for annual adjustments to the CWQ fee based on the consumer price index up to a maximum amount of \$150,000. The CWQ fee rule adopted to implement the statute allowed for an increasing multiplier for the fee from 1.00 to a maximum of 1.75. The rule changes enable the ability to increase CWQ fees over time by \$15 million above the 2009 collected amount. The CWQ fee collected \$18.3 million in revenue in fiscal year 2009, and approximately \$21.7 million in 2010.

The annual fee adopted by rule for PHS was set at up to \$2.15 per connection for water systems with over 161 connections, and the flat rate for entities with less than 161 connections increased by \$25 per year. The PHS fee brought in \$4.2 million in revenue in fiscal year 2009, and approximately \$19 million in 2010 following the fee increase by rule.

Adopted rules for the WUF fee increased fee rates to \$.385 per acre-foot for consumptive use and .021 per acre-foot for non-consumptive use. Revenues from the WUF were \$430,000 in fiscal year 2009, and due to the fee increase by rule, \$920,000 in 2010. Entities paying the CWQ fee are exempt from the WUF fee under Texas Water Code 26.0291, if the use under the water right is directly associated with an entity paying the CWQ fee. Agricultural use and hydroelectric facilities with less than 2-megawatt capacity are exempt from this fee.

In January 2015, the Legislative Budget Board (LBB) issued a Government Effectiveness and Efficiency Report (GEER) entitled *Revenue Enhancement Options for the Water Resource Management Account*. The LBB made the following recommendations:

1. Include a rider specifying that appropriations to TCEQ, PUC, and OPUC are contingent on balances and available revenues to the Water Resource Management Account being sufficient to cover appropriations from the account for the 2016-2017 biennium. The rider also would direct TCEQ to increase fee rates based on an evaluation that TCEQ would conduct pursuant to Recommendation 3, if that recommendation is implemented.
2. Amend statute to redirect some of the fee revenues from the WURA [Water Utility Regulatory Assessment fee] to the General Revenue Fund in an amount necessary to cover appropriations and related employee benefits costs at the PUC and OPUC.
3. Direct TCEQ to conduct a study to determine the level of agency workload related to each group of fee payers and the relative benefit each fee payer group receives from agency water-related activities. Using this analysis, the agency should develop a methodology to determine the appropriate fee rates for water-related fees, which would generate revenue in proportion to agency workload and fee payer benefits.

Recommendations 1 and 3 became the basis for a rider in Article IX, Sec. 18.01 in the General Appropriations Act. This rider provided the direction for TCEQ to conduct the water study.

Used Oil Account

The Used Oil Recycling Account 146 was created under the Used Oil Collection, Management and Recycling Act of the 72nd Legislature, SB 1340. One of the main findings in the legislation was that private citizens did not have access to collection and recycling systems for used oil. The used oil was disposed in landfills, sewers, drainage systems, surface waters, etc. The program was originally created to provide education, grants, registration requirements and fees for public used oil collection centers, transporters, marketers and recyclers. The purpose was to prevent pollution of water resources from the dumping of used oil.

The account currently generates approximately \$2 million per year in revenue and spends approximately \$0.5 million to process registrations and provide compliance assistance. The difference between the revenue and the costs remains in the account, resulting in an increase to the fund balance. The fund balance as of August 31, 2015 was \$17.8 million.

Program

The Office of Waste Used Oil Registration program processes notifications from the regulated community to register and report their used oil collection center and handler (includes transporters, marketers, and recyclers) activities. Program staff provides assistance and guidance on registration and reporting requirements. Assistance includes helping to review and understand all applicable rules, associated forms, and reports. The total volume of used oil diverted from landfills is reported to the Legislative Budget Board quarterly while used oil handler information is conveyed to the Environmental Protection Agency. In Fiscal Year 2016, the Used Oil Registration program responded to 741 phone calls providing assistance with used oil management requirements. Used Oil Registration staff processed registrations for the 2860 used oil collection centers and 463 used oil handlers in Texas. The amount of used oil diverted from landfills reported to the Legislative Budget Board for Fiscal Year 2016 is 63 million quarts.

The Small Business and Local Government Assistance program provides free, confidential compliance assistance to regulated entities around the state. Program staff can provide one-on-one educational assistance via a toll-free hotline, or in-person at the regulated entity's place of business. Assistance includes helping to review and understand all applicable rules, fees, and associated forms. Compliance assistance would be available to used oil collection centers, transporters, marketers, and recyclers upon their request. In Fiscal Year 2016, the program responded to 92 requests for assistance with used oil management requirements.

Fees

Health and Safety Code 371.024 Collection Facilities

(e) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering do-it-yourselfer used oil collection centers and used oil collection centers. A private entity that serves voluntarily as a do-it-yourselfer used oil collection center or a used oil collection center is exempt from the registration fee.

Health and Safety Code 371.026 Registration and Reporting Requirements of Used Oil Handlers other than Generators

(c) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering used oil handlers other than generators.

Health and Safety Code 371.062 Fee on the Sale of Automotive Oil

(j) The fee imposed under this section is one cent per quart or four cents per gallon of automotive oil.

Fees are not assessed under Health and Safety Code 371.024 and 371.026. A fee is assessed on the sale of automotive oil under Health and Safety Code 371.062. An oil manufacturer or importer who makes a first sale of automotive oil in the state is required to remit a fee of one cent per quart or four cents per gallon of oil. A first sale of oil does not include the sale of oil to a manufacturer or distributor or the sale of oil to a subsequent purchaser who maintains a used oil collection center.

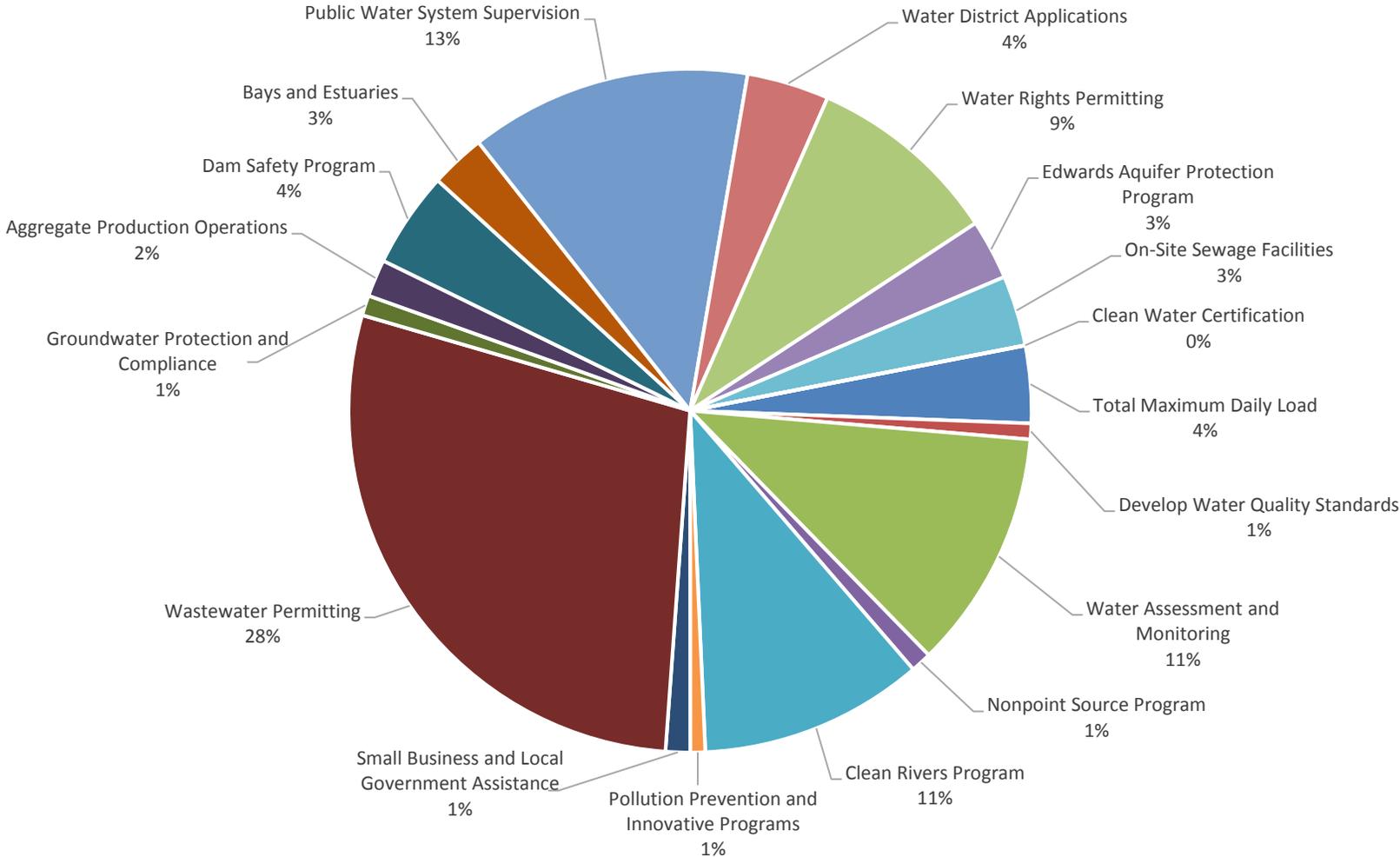
History of Collections

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$3,953,978	\$2,088,252	\$2,258,191	\$2,320,760	\$2,391,801	\$2,200,000
Payers	Collected by the Comptroller					

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Water Programs

Programs Funded by the WRM Account



Aggregate Production Operations

Program Description

Active aggregate production operations (APOs) in Texas must register annually with the TCEQ. The TCEQ is responsible for conducting annual surveys to identify APOs and for conducting inspections of active registered APOs on a three-year cycle. The statute also requires the TCEQ to report the results of the annual survey, the number and general location of the registered APOs, the number of investigators trained in multiple areas related to the investigations, the number of investigations conducted, and the results of the investigations. This information is reported in the agency's Annual Enforcement Report.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$1,190,105	\$0	\$0	\$1,190,105
FTEs	17.08	0	0	17.08

This program is supported by the Aggregate Operations Application fee.

Background

In 2011, the 82nd Texas Legislature passed House Bill 571 which created the APO Program and the related fee as a means to ensure APOs are following appropriate environmental regulations by properly registering with the TCEQ. By statute, an APO is defined as a site from which certain aggregates are being removed or have been removed or extracted from the earth. The term aggregates is defined as "any commonly recognized construction material originating from an APO from which the operator extracts dimension stone, crushed and broken limestone, crushed and broken granite, crushed and broken stone not elsewhere classified, construction sand and gravel, industrial sand, dirt, soil, or caliche."

Workload

Office of Compliance and Enforcement

Implementation of the program required TCEQ to conduct annual surveys to identify all active APOs in the state. During initial analysis of HB 571, the agency estimated that there were approximately 600 active APOs which would require the agency to conduct an additional 200 site inspections per year. Four FTE resources were allocated to the TCEQ for the APO program based on this estimate. Based on the surveys and the number of registrations received since program inception, the number of APOs is far more than originally projected. In FY15, the agency conducted a total of 4,448 APO surveys with 993 conducted onsite and 3,455 conducted in-house. Additionally, 76 investigations were conducted at APO sites. As a result of investigations, 136 Notices of Violation and 73 Notices of Enforcement were issued. In addition, 26 formal enforcement actions were processed.

Program Activities

Office of Compliance and Enforcement

- Conducts in-house and onsite annual surveys to identify active APOs.
- Promotes compliance with environmental laws and regulations by conducting routine scheduled investigations and complaint investigations of APOs.
- Develops processes to oversee enforcement activities and prepares proposed enforcement actions that include appropriate penalties and order provisions for the commission's consideration and approval.
- Receives and reviews Notices of Audit submitted by APOs conducting a self-audit under the Texas Environmental, Health, and Safety Audit Privilege Act.
- Prepares statutorily required metrics for the APO Program to be reported in the

TCEQ's Annual Enforcement Report.

Office of Legal Services

- Ensures that authorizations and enforcement orders are within the agency's authority to issue and are enforceable.
- Represents the TCEQ's Executive Director in enforcement actions before the State Office of Administrative Hearings.
- Provides legal support on permit application reviews and rulemaking.

Benefit of Activity to Fee Payers

The TCEQ is responsible for conducting annual surveys to identify APOs and for conducting inspections of active registered APOs on a three-year cycle. Conducting these surveys and investigations ensures that facilities are on a level playing field with respect to compliance with environmental regulations.

Bays and Estuaries

Program Description

The Bays and Estuaries programs includes two National Estuary Programs which are non-regulatory and implement federally-approved Comprehensive Conservation Management Plans under Section 320 of the Clean Water Act. The plans are developed to protect and/or restore the health/productivity of Galveston Bay and the Coastal Bend Bays and Estuaries while supporting continued economic growth and public use. Implementation is achieved through local partnerships and stakeholder involvement.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$1,752,367	\$598,674	\$600,008	\$2,951,049
FTEs	11.09	0	3.50	14.59

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees deposited to the Water Resource Management Account to be used to protect the water resources in the state.

Background:

Authority for this program is provided under Federal Clean Water Act (CWA) Section 320 and Texas Water Code Section 5.604. The National Estuary Program (NEP) was established by Congress in 1987. The Galveston Bay Estuary Program (GBEP) was established in 1989 and the Coastal Bend Bays and Estuaries Program (CBBEP) was established in 1994. There are a total of 28 NEPs in the United States. The CBBEP originally started as a federal and state agency effort during the planning phase. However, participants wanted to localize and take ownership of the Program moving forward into the Bays Plan implementation which led to the creation of a non-profit organization led by a local Board of Directors. GBEP is administered directly and staffed by TCEQ. TCEQ secures participation in projects by other private and public organizations, thus leveraging state funds on an approximate 6:1 basis.

Workload

Office of Water

The National Estuary Programs and their partners actively support efforts to improve water quality, restore wetlands, protect unique habitats, and educate the public. Staff coordinates over 25 activities per year and attends over 90 public meetings to plan projects, provide information, and conduct educational activities.

- Since 2000, GBEP and its partners created, protected, and enhanced 27,169 acres of important coastal habitats, leveraging approximately \$80 million in local, industry, state, and federal contributions. For example:
 - The North Deer Island shoreline restoration project works to conserve three priority bird species—the Brown Pelican and the threatened Reddish Egret and White-faced Ibis—and 16 other bird species on this bird island sanctuary. This project also restored eight acres of intertidal marsh which provides critical nursery habitat for commercially and recreationally important fishery species.
 - The Brays Bayou project created an urban wetland complex to treat storm water from a local neighborhood along Brays Bayou. The marshy ponds help to filter out sediments, oil, and other pollutants from the surrounding neighborhoods' runoff after a rainfall event—protecting water quality and collecting discarded trash. It also provides for public use: the walking trails make it a pleasant place to visit, while the educational signs offer a learning opportunity for Houston's underserved Eastside community.

- Both programs have highly active education initiatives. For example, in FY 2016, CBBEP's environmental education program, Delta Discovery, held educational events for almost 10,000 formal students, 600 teachers, and over 1,000 others.
- CBBEP supports and actively engages in numerous other programs such as:
 - The Coastal Bird Program which works in coordination with other state and federal agencies to track and protect migratory bird species.
 - The Nueces Bay Marsh Restoration project, funded by several federal and state agencies, enhances a 160-acre site to incorporate volunteer marsh plantings and public access improvements, including an observation deck and interpretive signage.
 - The Nueces Delta Preserve. CBBEP recently purchased 1,970 acres in the Nueces River Delta, the final piece in a multi-year effort to acquire the entire 4,737 acres of old ranch property, which nearly doubles the size of the Nueces Delta Preserve and creates more than 10,000 acres of contiguous conserved estuarine habitat for endangered and threatened wildlife species, protecting the fresh water flowing into Nueces and Corpus Christi Bays, and expanding environmental educational opportunities offered by CBBEP.
 - Indian Point Park shoreline erosion conservation project to protect the 55 acre park so that visitors can continue to fish and enjoy nature watching.
 - Caring for our Coast supports efforts to promote environmental conservation and restoration through a series of volunteer and educational efforts.
 - The Texas Gulf Region Cooperative Weed Management Area which was formed to prevent the spread and movement of the invasive Brazilian peppertree by advocating for cooperative control amongst willing landowners and managers from Port O'Connor to Packery Channel.
 - Tracking water quality activities in the area, such as the recent study of nitrogen concentrations in Baffin Bay in relation to brown tide. These studies provide the data needed so that good management decisions can be made.

Program Activities

Office of Water

The National Estuary Programs of the Bays and Estuaries programs seek to:

- Acquire, manage, and disburse funds to implement specific actions;
- Provide for coordination and communication among state and federal resource agencies for the many cross jurisdictional issues;
- Coordinate, monitor, and track implementation activities;
- Identify and communicate bay improvements to agencies and stakeholders; and
- Conduct public outreach and education to increase awareness of the bays.

Benefit of Activity to Fee Payers

These efforts benefit the regulated community and public by helping to identify and outline plans to protect and restore water quality in coastal areas so that aquatic life, recreation, fish consumption, and drinking water uses are maintained. The bay and estuary programs focus on conserving the sustainable use of bays and estuaries and strive to balance the economic and human needs of the region.

Clean Rivers Program

Program Description

The Clean Rivers Program (CRP) administers and implements a statewide monitoring, assessment, and stakeholder participation framework which is set out in Texas Water Code Section 26.0135. The program works with 15 regional partners (river authorities and other local water agencies) to collect water quality samples, provide quality-assured data, evaluate water quality issues, and provide a public forum for prioritizing water quality issues in each Texas river basin. This program provides data that is used for numerous water resource decisions, including: revising water quality criteria; identifying the status of water quality; and supporting the development of water quality improvement projects.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$7,156,163	\$0	\$0	\$7,156,163
FTEs	19.50	0	0	19.50

This program is supported by the Water Use Assessment and Consolidated Water Quality fees.

Background

The Clean Rivers Program (CRP) was established by the Texas Legislature in 1991, to address regional water quality management by watershed. Historically, water quality issues were addressed by individual agencies or program areas depending on their responsibilities. Today, the CRP provides the opportunity to approach water quality issues within a watershed or river basin through coordinated efforts among diverse agencies and various programs. The CRP has given the state a mechanism for individuals and agencies to reach a consensus about the means to achieve the goal to protect the state's valuable water resources.

Initially, the program had two fees set in statute to support the program, with a limit of \$5 million available for appropriation. The two fees were assessed on wastewater permit holders and water rights permit holders. In 2001 the legislature amended the statute to consolidate the fees and remove the cap on the appropriation amount. The fees assessed on wastewater permit holders were consolidated with other wastewater permit fees into the Consolidated Water Quality fee, and all fees were to be deposited to the larger Water Resource Management Account where they would be available to support all water resource management activities of the agency.

Workload

Office of Water

The Clean Rivers Program provides 60-70 percent of the data available in the state's surface water quality database used for water resource decisions including: revising water quality criteria; identifying the status of water quality; and supporting the development of water quality improvement projects. This translates to over 1,200 sampling sites monitored at least quarterly each year by CRP partners, and an average of 15 surface water assessments. The program partners host over 40 public meetings to discuss water quality and plan future activities.

Program Activities

Office of Water

The program accomplishes many of its actions through contracts with regional water agencies. The program's objectives include:

- Provide quality-assured data to the TCEQ for use in decision-making
- Identify and evaluate water quality issues

- Promote cooperative watershed planning
- Recommend management strategies
- Inform and engage stakeholders
- Maintain efficient use of public funds

Benefit of Activity to Fee Payers

The monitoring and stakeholder participation efforts benefit the fee payers by providing information needed to inform actions designed to restore and maintain the quality of surface waters to meet their designated uses, such as: public water supply, recreation, aquatic life, and fish consumption. The CRP Steering Committee provides fee payers with water quality information and the opportunity to provide input on water quality monitoring priorities, assessments of water quality, and associated activities. The Steering Committee prioritizes the resources of the program and therefore, all fee payers and stakeholders are able to help establish how funds collected through these fees should be utilized.

Clean Water Certification

Program Description

Designed to reduce sewage discharges into waters in the state by implementing certification program for marine sanitation devices (MSDs) on certain boats and certification of pump-out facilities. Coordinates with Texas Parks & Wildlife Department and other marine-related organizations to implement education programs for the public in an effort to enforce the program regulations.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$8,356	\$11,489	\$0	\$19,845
FTEs	0.12	0.20	0	0.32

This program is supported by the Boat Sewage Disposal fee.

Background

In 2009, the 81st Texas Legislature passed Senate Bill (SB) 2445, which amended TWC, Section 26.044, related to the disposal of sewage from boats and boat pump-out stations. These changes included:

- Adding definitions for “boat pump-out station”, “shoreside, mobile, or floating installation”, and “surface water in the state”.
- Changing the frequency for renewal of certifications for boat pump-out stations from annual to biennial.
- Providing consistency with federal regulations.
- Establishing enforcement of the statute by game wardens or peace officers.

TCEQ rules for this program are in 30 TAC Chapter 321. The Clean Water Certification Program is not federally required; however, the program is required by Texas statute (Texas Water Code Section 26.044)

Workload

Office of Compliance and Enforcement

Approximately 3,000 boats and 35 pump-out stations are certified on a two-year recurring basis.

Program Activities

Office of Compliance and Enforcement

- Receives and processes applications for certification of MSDs and pump-out facilities.
- Provides registration renewal reminders to registered entities.
- Develops and encourages public awareness projects to increase public understanding and support of the Program.
- Develops technical assistance materials for the TCEQ’s administration of Program.
- Develops technical assistance materials, seminars, and guidelines to improve compliance with the Program.
- Conducts rulemaking, as needed.

Benefit of Activity to Fee Payers

The program benefits the regulated community and public by reducing sewage discharges into navigable water which improves and protects surface water quality so that the waters of the state meet their designated uses, such as public water supply, recreation, and aquatic life.

Dam Safety Program

Program Description

The Dam Safety Program monitors and regulates approximately 4,000 both non-exempt private and public dams in Texas. The Program inspects dams that are classified as high or significant hazard on a five-year rotation and provides recommendations and reports to responsible parties (owners) to help them maintain safe facilities. A significant hazard dam is one that may cause significant damage to infrastructure and possible loss of life if the dam should fail. A high hazard dam is one that is expected to cause loss of life or serious damage to homes and infrastructure if the dam should fail. The goals of the Texas Dam Safety program are:

- To protect the lives, safety, and health of the public from dam failure or improper operation.
- To preserve the beneficial uses of dams and reservoirs.
- To reduce risks by fostering an understanding of the limitations placed by technical, economic, political, and social concerns.

The Dam Safety Program accomplishes these objectives by:

- Ensuring that new and existing dams are safe through the development of technologically and economically feasible programs and procedures for national dam safety hazard reduction.
- Encouraging acceptable engineering policies and procedures to be used for dam site investigation, design, construction, operation and maintenance, and emergency preparedness.
- Encouraging the establishment and implementation of an effective dam safety programs.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$3,054,820	\$0	\$571,257	\$3,626,077
FTEs	34.54	0	0	34.54

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.

Background

The statutory authority for the Dam Safety Program is found in TWC Sections 5.013(a)(5) and 12.052. Commission rules are found in 30 TAC Chapter 299. The 82nd Texas Legislature amended TWC Chapter 12 to provide additional specificity to the responsibilities of the commission in regulating dams while also providing exemptions from regulation for certain dams. During the 83rd Texas Legislative Session, TWC Chapter 12 was further amended to expand the regulatory exemptions.

Workload

Office of Compliance and Enforcement

There are a total of 7,232 dams in TCEQ's dam inventory. This total inventory includes both the state exempt and non-exempt dams, but does not include 89 federal dams over which TCEQ does not have jurisdiction. Of this total, there are 3,976 non-exempt dams over which TCEQ has full regulatory authority. Of the 3,976 non-exempt dams, only the 1,682 high and significant hazard dams are required to have routine dam safety inspections conducted every five years. The remaining 2,294 low hazard dams may be inspected when a complaint is received. A dam is classified as low hazard when its failure poses a potential to cause damage to farm buildings (excluding residences), agricultural land, or county or minor roads. In addition to conducting

approximately 330 dam inspections each year, the Dam Safety Program annually conducts an average of 470 additional dam safety assessment activities. These activities range from hydrologic and hydraulic reviews, review of Emergency Action Plans, review of construction plans and specifications for new dams and for dam repairs, review of dam owner inspection reports, district creation reviews, and providing technical assistance for dam owners and operators. Additionally, the Dam Safety Program conducts workshops each year to provide information and assistance to dam owners to increase local knowledge of state regulations and maintenance requirements for dams.

Program Activities

Office of Compliance and Enforcement

- Reviews plans and specifications for construction of new dams and modification of existing dams.
- Reviews water right applications involving dams.
- Performs hydrologic and hydraulic reviews of dams.
- Develops and encourages public awareness projects to increase public understanding and support of the Program.
- Develops technical assistance materials for the TCEQ's administration of the Program.
- Develops mechanisms with which to provide technical assistance for dam safety.
- Develops technical assistance materials, seminars, and guidelines to improve security for dams in Texas
- Inspects existing dams, which includes monitoring contracts for inspections by consulting engineers and the Natural Resources Conservation Service.
- Inspects dams under construction, as well as, modifications to existing dams and dam security.
- Reviews inspection reports provided by owners of dams.
- Conducts rulemaking, as needed.
- Conducts workshops for dam owners.
- Reviews Emergency Action Plans.
- Reviews requests for creation of districts for issues regarding dams.

Office of Legal Services

- Assists staff in responding to Public Information Requests (PIR) and security issues related to dams
- Ensures compliance with TCEQ rules and regulations.
- Represents the TCEQ's Executive Director in enforcement cases before the State Office of Administrative Hearings.

Benefit of Activity to Fee Payers

These activities benefit the regulated community and public by ensuring that a reliable supply of clean water is available to meet their designated use as private or public water supply and recreation activities while protecting the safety of downstream development and infrastructure.

Develop Water Quality Standards

Program Description

The Water Quality Standards Development program implements Section 303 of the federal Clean Water Act by periodically updating water quality standards that are set to provide water quality goals for the state's surface waters. The standards establish uses, such as public drinking water supply, recreation, and fish consumption, and the associated numeric and narrative criteria for water quality constituents. The standards and their associated criteria set the targets for water quality management efforts and provide the basis for water quality assessment and restoration efforts. In addition, the standards are the basis for the calculation of allowable pollutant loads for wastewater permit limits to ensure wastewater effluent meets the designated uses and criteria for a water body.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$504,730	\$0	\$881,857	\$1,386,587
FTEs	6.74	0	2.36	9.10

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the use of fees deposited in the Water Resource Management Account to protect the water resources in the state.

Background

Primary state statutory authority for establishing and implementing water quality standards is provided by Sections 26.023-.026, 26.027(a), 26.121, and 26.1211 of the Texas Water Code (TWC). Federal authority and the requirement for states to develop water quality standards are from the federal Clean Water Act, Section 303.

Workload

Office of Water

The Standards Development Program conducts approximately seven special studies each year to evaluate water quality criteria, and determine appropriate criteria to meet designated uses of a water body. These studies can be complex and require substantial staff resources. Based on these studies, the program conducts extensive data analysis to develop over 13 site-specific water quality standards.

Throughout the process of developing updates to the water quality standards every three years, the program attends approximately 20 public meetings to ensure stakeholders are informed and participate in the development process.

Program Activities

Office of Water

- TCEQ develops and periodically revises the Texas Surface Water Quality Standards which establish beneficial uses and "in stream" criteria to evaluate water quality for state waters. These standards provide a framework for water quality management through the National Pollutant Discharge Elimination System (NPDES) permits.
- The program conducts targeted water quality monitoring of streams, lakes, and estuaries to evaluate existing water quality standards to ensure the appropriate criteria and uses are set.
- Collects, stores, analyzes, and manages information related to site-specific standards changes, which provides a measure of success for the water quality standards program.

Benefit of Activity to Fee Payers

Establishing water quality standards for surface waters benefits the regulated community and public by ensuring that the appropriate instream goals for water bodies are set to protect human health and aquatic life. The standards provide the basis for all water quality management decisions including permits and authorizations.

Edwards Aquifer Protection Program

Program Description

The Edwards Aquifer Protection Program (EAPP) regulates certain activities that have the potential to pollute the Edwards Aquifer and hydrologically-connected surface water which provide a significant volume of water to the Edwards Aquifer. The EAPP regulates activities in portions of eight counties, consisting of the Edwards Aquifer recharge zone, certain activities within the Edwards Aquifer transition and contributing zones, and wastewater discharges within the aquifer's contributing watersheds and their recharge zones.

The TCEQ's EAPP rules include:

- Water quality standards and measures to prevent stormwater related pollution from leaving the site of a regulated activity;
- Specific design requirements for temporary and permanent best management practices (BMPs); and
- Provisions for the maintenance of permanent BMPs in the regulated areas.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$1,915,550	\$0	\$98,347	\$2,013,897
FTEs	21.78	0	1.42	23.20

This program is supported by the Edwards Aquifer Application fees.

Background

Authority for the Edwards Aquifer Protection Program is provided under TWC, Sections 5.013(a)(3) and (a)(12), 5.102(a), 5.103, 26.011, 26.046, 26.0461(d), and 26.128. The rules outlining the specific requirements of the EAPP are found in 30 TAC, Chapter 213.

Workload

Office of Compliance and Enforcement

The Austin and San Antonio regional offices issue more than 700 water pollution abatement plans per year on average with the total over 800 in FY16. In addition, an average of 500 investigations are conducted at regulated sites each year, with about 25 of these investigations conducted as a result of complaints received. As a result of investigations, approximately 50 Notices of Violation are issued each year.

Program Activities

Office of Compliance and Enforcement

- Receives and reviews all water pollution abatement plans submitted for approval under the EAPP. As a part of the approval process, site assessments are conducted by field investigators to ensure that proposed plans are in compliance with the EAPP rules.
- Investigates sites during construction and post construction to determine whether the temporary and permanent BMPs are in compliance with approved plans.
- Investigates complaints of unauthorized or noncompliant construction in the recharge, transition, and contributing zones.
- Conducts compliance investigations at established sites to ensure that proper maintenance is conducted for permanent BMPs.

- Conducts rulemaking, as needed.
- Develops processes to oversee enforcement activities and prepares proposed enforcement actions that include appropriate penalties and ordering provisions for the commission's consideration and approval.

Office of Legal Services

- Ensures that authorizations and their applications have the proper documentation and conform to applicable agency regulations.
- Assists with responding to comments that have been received on pending water pollution abatement plans.
- Represents TCEQ's Executive Director at agenda if a plan comes before the Commission.
- Provides legal support through research and the development of policy.
- Ensures legal compliance with TCEQ rules and regulations.
- Represents the TCEQ's Executive Director in addressing enforcement issues, pending enforcement cases before the State Office of Administrative Hearings, and cases referred to the Office of the Attorney General.

Benefit of Activity to Fee Payers

The Edwards Aquifer, a karst aquifer, is a primary source of drinking water for the City of San Antonio and surrounding central Texas communities. TCEQ conducts technical reviews of Edwards Aquifer Protection Plans which provides a benefit to fee payers when plans are approved that are protective of groundwater and Texas Surface Water Quality Standards in areas that impact the Edwards Aquifer during and post-development activities.

Groundwater Protection and Compliance

Program Description

The Groundwater Protection and Compliance program implements groundwater protection, coordination, and communication functions. This involves supporting groundwater planning functions, conducting assessments of groundwater quality, evaluating priority groundwater management areas, reviewing and tracking groundwater conservation district performance, public education and outreach, and maintaining state water well report data.

The groundwater program provides support and coordination for the development and implementation of the following state initiatives:

- Groundwater Protection Strategy;
- State Pesticide Management Plan; and
- Interagency Texas Groundwater Protection Committee.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$642,615	\$0	\$676,073	\$1,318,688
FTEs	8.65	0	5.31	13.96

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.

Background

Subchapter J, Chapter 26, Water Code requires the development of a groundwater protection strategy, TCEQ support for the Committee, and assessment of groundwater contamination. 26.401

Workload

Office of Water

The program conducts completes 54 groundwater assessments each year.

Program Activities

Office of Water

- Chair the Texas Groundwater Protection Committee which coordinates efforts between several state agencies to protect groundwater quality. This involves:
 - coordinating groundwater protection activities of the agencies represented on the committee;
 - developing and updating a comprehensive groundwater protection strategy for the state that provides guidelines for the prevention of contamination and for the conservation of groundwater;
 - studying and recommending to the legislature groundwater protection programs for each area where groundwater is not protected by current regulation; and
 - publishing the joint groundwater monitoring and contamination report;
- Provide technical and managerial support of the program's activities. This includes:
 - coordinating quarterly meetings of the state's Groundwater Protection Committee,
 - preparing the TCEQ's portion of the Groundwater Protection Strategy, and
 - updating the State Pesticide Management Plan;
- Perform numerous groundwater assessments including groundwater quality assessments, regional groundwater assessments, groundwater management program assessments, and pesticides in groundwater assessments;

- Develop plans for the protection and enhancement of water quality pursuant to federal statute, regulation, or policy, including management plans for the prevention of water pollution by agricultural chemicals and agents;
- Maintain information on all documented cases of groundwater contamination that are reasonably suspected of having been caused by activities regulated by the agency;

Office of Legal Services

- Assists with responding to inquiries.
- Provides general legal advice to the program.

Benefit of Activity to Fee Payers

The program benefits the regulated community and public by supporting the evaluation of groundwater quality and quantity, and providing oversight of groundwater conservation districts to ensure they adopt required plans. In addition, the agency maintains and updates the state water well report database which provides information on the location and type of water wells throughout Texas. These activities help to support adequate groundwater quality and quantity planning so that fee-payers have the information needed to make decisions that will ensure adequate supplies of high quality groundwater for drinking water purposes. Note: The TCEQ does not regulate the withdrawal of groundwater.

Nonpoint Source Program

Program Description

The Nonpoint Source (NPS) program administers and implements the NPS Management Program under Section 319 of the federal Clean Water Act. The NPS program establishes long and short-term goals to protect and restore waters across the state of Texas impacted by nonpoint source pollution. This is accomplished through pollution prevention projects that are targeted to areas where water quality standards are not being met, and implementation of management measures outlined in watershed-based plans such as NPS watershed protection plans and TMDL implementation plans. The program awards federal grant money through contracts with governmental entities and nonprofit organizations to voluntarily implement actions to preserve and restore water bodies impacted by nonpoint source pollution. The TCEQ shares responsibility with the Texas State Soil and Water Conservation Board for control of nonpoint sources of pollution. The Soil Board provides funding for planning, assessment, and reporting of nonpoint source pollution in rural agricultural and forestry areas.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$659,710	\$0	\$3,879,514	\$4,539,224
FTEs	7.63	0	4.41	12.04

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.

Background

Authority for this program is provided under Federal Clean Water Act (CWA) Section 319 and Texas Water Code Section 26.0136. The Nonpoint Source Program secures participation in projects by other private and public organizations, thus leveraging state funds on an approximate 60:40 basis.

Workload

Office of Water

The program manages and oversees approximately 38 non-point source projects each year. This involves over 100 meetings to discuss project plans and water quality.

Program Activities

Office of Water

- Acquiring, managing, and disbursing federal funds to implement specific water quality improvement projects such as:
 - Watershed Protection Plans,
 - Green infrastructure implementation and demonstration,
 - Actions identified in TMDL Implementation Plans, and
 - Public outreach and education;
- Coordinating, monitoring, and tracking implementation activities.

Benefit of Activity to Fee Payers

Nonpoint source pollution prevention projects benefit the regulated community and public by protecting and improving the water quality so that streams and lakes meet their designated uses, such as public water supply, recreation, aquatic life, and fish consumption.

On-Site Sewage Facilities

Program Description

The On-Site Sewage Facilities (OSSF) Program is designed to eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems, in accordance with Texas statutes. The OSSF Program accomplishes these goals by regulating the review, permitting, construction, use and enforcement of most septic systems which have flows of less than 5,000 gallons per day in the State of Texas. These usually encompass residences, but can include small businesses, schools, apartment complexes and some manufacturing- related facilities. Facilities with wastewater flows greater than 5,000 gallons per day require a TPDES permit to treat and dispose of waste.

The commission has also delegated its authority to permit, inspect and enforce OSSF systems to 341 local entities such as counties, municipalities and river authorities. Delegated authorities typically seek enforcement thru their local Justice of the Peace courts and occasionally refer cases to TCEQ for enforcement.

In areas where the Program has not been delegated to a local authority, the TCEQ issues OSSF permits, investigates violations of applicable state environmental laws and takes corrective action. Formal enforcement cases are developed in accordance with state statutes, agency rules and consistent with the agency's enforcement philosophy. Enforcement orders include appropriate penalties and ordering provisions.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$2,244,315	\$662,251	\$455,303	\$3,361,869
FTEs	20.46	7.06	5.59	33.11

This program is supported by the On-Site Sewage Facility Application fee.

Background

Created by the Texas Legislature in 1987, the authority for program development, rulemaking, permitting, authorization, inspecting and delegation of authority to local Authorized Agents is provided under Chapter 366 of the Texas Health and Safety Code. Authority for enforcing OSSFs is provided under TWC, Chapter 7. TCEQ rules for this Program are in 30 Texas Administrative Code (TAC) Chapter 285. Additionally, TCEQ regulates the licensee/registration of OSSF installers, apprentices, maintenance providers and maintenance technicians under 30 TAC Chapter 30.

Workload

Office of Compliance and Enforcement

TCEQ has delegated OSSF regulatory authority to 341 local governmental entities that issue over 28,000 permits per year. In the areas of the state where TCEQ retains regulatory authority, the agency issues an average of 900 permits per year. As a part the permitting process, almost 1,800 OSSF investigations are conducted each year. Additionally, almost 200 investigations are conducted annually a result of complaints received. As a result of investigations, approximately 150 Notices of Violation are issued each year. In addition, TCEQ conducts onsite oversight audits of each Authorized Agent on a three year rotation.

Program Activities

Office of Compliance and Enforcement

- Adopts and enforces a minimum state code for design, construction, installation, operation and maintenance of OSSFs.
- Establishes a permitting process for the installation of OSSFs.
- Oversees the delegation of the OSSF program to local authorities.
- Provides technical assistance and support to the local authorities on regulatory matters, provides assistance on reviewing complex OSSF systems and provides technical assistance to the regulated community.
- Conducts audits and investigations of Authorized Agents, the Agent's permittees and, in areas where there are no Authorized Agent is designed, acts as the Authorized Agent.
- Develops processes to oversee enforcement activities and prepares proposed enforcement actions that include appropriate penalties and order provisions for the commission's consideration and approval.

Office of Legal Services

- Ensures authorizations are legally within the agency's authority to issue and are enforceable.
- Assists with responding to comments on pending applications.
- Represents TCEQ's Executive Director in enforcement hearings before the State Office of Administrative Hearings.
- Ensures the enforcement orders are legally sufficient.

Benefit of Activity to Fee Payers

The program benefits the regulated community and public by establishing the proper methods for treatment and disposal of wastewater from septic systems which improves and protects both groundwater and surface water quality so that the waters of the state meet their designated uses, such as public water supply, recreation, and aquatic life.

Pollution Prevention and Innovative Programs

Program Description

The TCEQ implements a variety of state pollution prevention and innovative programs. These include:

- source reduction, recycling, and waste minimization requirements (e.g. the Pollution Prevention Planning Program for generators of hazardous waste) that reduce pollution at the source and minimize its adverse impact on the environment, including to groundwater and waters of the state;
- the Household Hazardous Waste Collection Program that encourages proper management and reduction and the Don't Mess with Texas Water Program, which helps discourage illegal dumping in Texas waterways; and
- incentive programs, such as environmental management systems, that encourage compliance with all environmental rules, including those related to water quality protection and water conservation.

TCEQ also conducts multiple environmental seminars that educate the regulated community and public on dam safety, water quality, stormwater, water rights, and public drinking water requirements. This includes the annual Texas Environmental Trade Fair and Conference, held in Austin each spring.

Finally, through educational campaigns, curriculum development, outreach to schools and educators, attendance at conferences, guidance documents, public notices for permit applications, and toll-free hotlines, the TCEQ educates the general public on water quality protection, water conservation, and understanding how to participate in the environmental permitting process at TCEQ.

The public and regulated entities can benefit from these programs by reducing their regulatory burdens and saving money.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$475,243	\$0	\$0	\$475,243
FTEs	7.26	0	0	7.26

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.

Background

Authority for these programs can be found under Chapters 5 and 26 of the Texas Water Code (TWC), and Chapter 361 of the Texas Health and Safety Code (THSC). The TWC includes the requirements for innovative programs (Subchapter Q, enacted in 2001); public education and assistance programs (Section 5.239, enacted in 2011); and Don't Mess with Texas Water (Section 26.053, enacted in 2011). Under the THSC, the program's functions are generally encompassed within the Waste Reduction Policy Act (Subchapter Q, enacted in 1991), which includes water quality protection as a stated policy goal. There are other relevant provisions in THSC, Chapter 361, that establish specific source reduction programs (e.g. Household Hazardous Waste).

Workload

Office of Commissioners and Executive Director

In Fiscal Year 2016, TCEQ staff responded to 428 water-related calls on its public assistance toll free telephone numbers. This figure would include calls from the general public on pending water quality permits. Also during that year, TCEQ hosted a Water Quality/Stormwater Seminar in Austin that was attended by 322 individuals. At the Environmental Trade Fair and Conference held in May 2016, TCEQ offered 29 educational courses on public drinking water and wastewater issues that were attended by a combined total of 2,433 conference attendees. TCEQ staff also updated and published the *Field Guide to Water Education*, which is available to schools and teachers. TCEQ also coordinates with six Texas cities that have deployed a total 26 *Don't Mess with Texas Water* signs over waterways in their areas.

Program Activities

Office of Commissioners and Executive Director

- Staff-time and resources necessary to oversee and manage multiple state contracts that support the educational seminars. (Note: All expenses related to the seminars themselves are paid for out of a cost-recovery account authorized under House Bill 1, 84th Regular Session, Section 8.07.)
- Answering multiple toll-free information lines, researching regulations and statutes, and coordinating with agency programs areas or local officials as needed.
- Developing plain-language educational materials and interacting with the public at conferences and workshops.
- Providing direct technical assistance to regulated entities and the general public for pollution prevention planning and source reduction/recycling programs.
- Tracking compliance with state pollution prevention and recycling requirements and coordinating with the Office of Compliance and Enforcement as needed.

Benefit of Activity to Fee Payers

These activities benefits the fee payers by reducing pollution at the source and encouraging recycling to minimize its adverse impact on the environment, including groundwater and waters of the state.

Public Water System Supervision

Program Description

This program oversees the regulation of public drinking water systems. The goal of the program is to ensure that public water systems are supplying safe and adequate quantities of public drinking water to all users.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$8,981,993	\$625,710	\$16,549,490	\$26,157,193
FTEs	113.07	2.40	96.32	211.79

This program is supported by the Water Utility Regulatory Assessment fee.

Background

The drinking water program is a result of a primacy agreement with the U.S. Environmental Protection Agency (EPA). The state is required to implement and oversee the requirement of the Federal Safe Drinking Water Act (SDWA). State statutes governing these activities are in Health and Safety Code Chapter 341 and Commission regulations in 30 TAC Chapter 290.

Workload

Office of Compliance and Enforcement

More than 3,200 onsite investigations are conducted each year, of which an average of almost 600 are conducted as a result of complaints received. As a result of investigations, approximately 1,200 Notices of Violation are issued and more than 500 referrals for formal enforcement action are processed each year. Additionally, an estimated 250 water operator certification exams are administered by regional offices each year.

Office of Water

As of September 2016, there are 6916 public water systems in Texas. The Public Water System Supervision (PWSS) program collects approximately 56,903 compliance samples per year, reviews and approves approximately 2038 plans and specifications, reviews over 1150 exception requests and alternative capacity requirements, performs approximately 310 enforcement referrals, and conducts 590 financial, managerial, and technical assistance activities every year. In addition, the program fields over 25,000 customer service requests, and receives and reviews over 600,000 samples to evaluate compliance with the lead and copper rule, coliform rules, and the groundwater rule. In addition, program staff processed approximately 12,000 monthly operating reports in fiscal year 2016.

Program Activities

Office of Compliance and Enforcement

- Promotes compliance with environmental laws and regulations by conducting routine and complaint investigations of public water supply systems, including distribution systems, and by taking drinking water samples, as necessary, to ensure safe drinking water under state rules and under primacy agreement with the Environmental Protection Agency.
- Assists in identifying public water systems that need financial, managerial and technical assistance so the capacity development program or the technical oversight program can help those entities move toward compliance and avoid enforcement action.

- Oversees training, testing and certification of operators for public water systems.
- Develops processes to oversee enforcement activities and prepares proposed enforcement actions that include appropriate penalties and order provisions for the commission's consideration and approval.

Office of Water

- Schedules and collects samples for chemical analysis;
- Reviews samples for compliance with drinking water standards and performs enforcement referrals of systems that fail to comply with the Safe Drinking Water Act;
- Reviews plans and specifications for new/revised PWSs, including the review of the financial, managerial, and technical aspects;
- Reviews exceptions and alternative capacity requirements to verify the request meets or exceeds regulations;
- Maintains and updates public drinking water data and performs quality assurance;
- Transfers data for drinking water inventory, violations, and enforcement actions to EPA;
- Implements the state's Capacity Development Plan by providing technical assistance to PWSs through the Financial, Managerial, and Technical Assistance Program, and Texas Optimization Program;
- Identifies and provides support in preventing potential sources of contamination; and
- Assists at risk systems such as those experiencing water availability concerns due to natural disasters (i.e., drought).

Office of Legal Services

- Assists with preparing staff for public meetings and represents TCEQ's Executive Director at meetings with customers and regulated entities.
- Provides legal support through the development of rules.
- Ensures legal compliance with TCEQ rules and regulations.
- Assists the drinking water program through the Enforcement Division's cases to provide legal support through research as well as with the development of compliance orders to move water and sewer utilities toward and into compliance with the TCEQ rules and requirements.
- Represents the TCEQ's Executive Director in addressing enforcement issues and pending enforcement cases before the State Office of Administrative Hearings and cases referred to the Office of the Attorney General.

Benefit of Activity to Fee Payers

The Public Drinking Water System Supervision program benefits the fee payers by providing oversight and assistance for approximately 7,000 public drinking water systems in Texas. The oversight and assistance provided to the systems helps ensure systems are operating in accordance with state and federal regulations, and helps supply sufficient, safe drinking water for the citizens of the state. The assistance provided to systems enables them to provide water more efficiently and at a potentially lower cost to both the utility and the utility's customers. In addition, the work done through this program ensures compliance with the Capacity Development Plan for Texas which is required for Texas to get funding under Drinking Water State Revolving Fund (DWSRF) grants. DWSRF grant funding provides low and no-cost loans to public water systems and supports state compliance activities.

Small Business and Local Government Assistance

Program Description

The Small Business and Local Government Assistance Program (SBLGA) provides technical compliance assistance to small businesses and small local governments across all environmental media, including all types of water-related authorizations. Examples include:

- domestic/municipal and industrial wastewater discharge authorizations;
- stormwater (industrial, municipal, construction, etc.);
- other wastewater-related authorizations, such as beneficial land application and aggregate production operations;
- on-site sewage facilities;
- Edwards Aquifer;
- public drinking water; and
- water rights.

Assistance is provided by technical staff (Natural Resources Specialist classification).

Direct assistance can also be provided through the EnviroMentor Program, a network of over 100 private- and public- sector environmental professionals around the state who volunteer their time to assist customers who are without the financial ability to hire consultants. Most assistance is confidential and separate from enforcement, so as to encourage participation by regulated entities.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$779,776	\$0	\$0	\$779,776
FTEs	10.78	0	0	10.78

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.

Background

The 1990 Federal Clean Air Act Amendments, Section 507, requires states to implement a small business assistance program. The corresponding state statute, Texas Water Code, Section 5.135, requires the small business compliance assistance program to provide assistance not only with air-related requirements, but water- and waste-related requirements as well.

Under its general authority to conserve the natural resources of the state, the TCEQ further extends SBLGA's scope of duties to include technical assistance to small local governments. The TCEQ recognizes that these entities can also encounter challenges when implementing complex requirements.

Workload

Environmental Assistance Division

In Fiscal Year 2016, SBLGA responded to 3,749 direct requests for assistance with water-related requirements, which accounts for 49 percent of the total requests (air, water, and waste) received. There were 50 EnviroMentor referrals related to water requirements (72 percent of the total referrals), with a total of 879 hours volunteered (77 percent of the total hours donated). SBLGA mailed 39 water-related notifications (e.g. announcing new requirements) to 41,204 recipients via electronic means. Finally, SBLGA conducted 57 water-related presentations to 2,219 attendees (e.g. Asset Management Workshops for Small Wastewater Systems).

Program Activities

Environmental Assistance Division

Technical assistance is provided through the following means:

- SBLGA staff located in the TCEQ Central Office and deployed in 15 of the 16 regional offices, who can provide one-on-one assistance to walk-ins or at the customer's site;
- EnviroMentors, who are recruited, and whose work is coordinated, vetted, and tracked, by SBLGA staff;
- a toll-free hotline answered by the technical staff during regular business hours;
- technical workshops, the development of plain-language guidance documents and online tools, and other forms of outreach (e.g. electronic via GovDelivery);
- stakeholder engagement via a Compliance Advisory Panel (includes private small business representatives appointed by the Governor, Lieutenant Governor, and Speaker) and advisory committees/workgroups that can be convened around the state; and
- two Ombudsmen, one focused on small, rural communities, the other on small businesses, who represent those interests in environmental rule and policy development.

Technical assistance can be initiated not only by the regulated entity, but also by referrals from the TCEQ's program offices (primarily Office of Compliance and Enforcement), TCEQ management, legislators, and local environmental programs.

Benefit of Activity to Fee Payers

These activities benefits the fee payers by assisting entities in maintaining compliance with the required regulation which helps protect and improve the water quality so that groundwater and waters of the state meet their designated uses, such as public water supply, recreation, aquatic life, and fish consumption.

Total Maximum Daily Load

Program Description

The Total Maximum Daily Load (TMDL) program implements Section 303(d) of the federal Clean Water Act which is designed to reduce pollution in surface waters that are not meeting their designated uses. Total Maximum Daily Loads (TMDL) are water quality management plans developed to identify the acceptable loading of a pollutant that may be discharged into a surface water and still allow designated uses of that water to be met. A TMDL sets effluent limitations necessary to assure attainment of a Water Quality Standard. In coordination with stakeholders, an implementation plan is developed which identifies management measures and costs to improve water quality.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$2,457,850	\$0	\$1,472,223	\$3,930,073
FTEs	17.21	0	0.27	17.48

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.

Background

The Texas Water Code, Chapter 26, requires the TCEQ to establish a level of quality to be maintained in the waters in the state. The TCEQ is authorized to develop a Water Quality Plan that incorporates TMDLs when necessary to achieve the water quality standards set for waters in the state. In addition, states are responsible under federal law (Clean Water Act (CWA) Section 303(d)) for developing TMDLs for each water body identified as impaired by pollutant discharges. Federal requirements were assumed by the TCEQ with the TPDES delegation in 1998 which restricts additional pollutant loads from point sources until a TMDL establishes limitations that will attain water quality standards.

Workload

Office of Water

The TMDL program averages approximately 28 projects each year and conducts extensive public outreach to ensure stakeholders participate in developing each project. In any given year, they hold over 30 public meetings to discuss water quality and strategize project plans.

Program Activities

Office of Water

- Targeted surface water quality sampling to further quantify and define the extent of the water quality impairment
- Development of assessment reports, models, and load allocations, and TMDL Implementation Plans
- Implement public participation in decision-making processes using formulated stakeholder groups with balanced representation
- Management of projects and professional service contracts
- Interoffice/interagency coordination to assure plan implementation

Office of Legal Services

- Support the development of professional service contracts with third parties who develop TMDLs on behalf of TCEQ.
- Support the development of approval of TMDLs considered by the Commission and the U.S. Environmental Protection Agency (EPA).

Benefit of Activity to Fee Payers

This activity benefits the regulated community and public by restoring the quality of surface waters to meet their designated uses, such as: public water supply, recreational water, aquatic life, and fish consumption.

Wastewater Permitting

Program Description

The discharge of wastewater and certain types of stormwater into or adjacent to water in the state must be authorized by the Texas Commission on Environmental Quality (TCEQ). Entities are required to submit an application to the TCEQ which then reviews and prepares a draft permit that includes specific effluent limitations and requirements in order for the discharge to meet water quality standards. Authorizations may take the form of an individual discharge permit or a general permit, depending on the type of discharge activity. Specific types of wastewater treatment discharge authorizations include:

- domestic/municipal
- industrial
- beneficial land application
- sludge processing and disposal
- stormwater (industrial, municipal, construction, etc.)
- concentrated animal feeding operations
- others (pesticides, quarries, aquaculture, etc.)

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$19,098,641	\$456,398	\$5,532,998	\$25,088,037
FTEs	224.32	4.90	52.00	281.22

This program is supported by the General Permits Notice of Intent, Water Quality Permit Application, and Municipal Waste Permit Application fees.

Background

Authority for this program is provided under Chapter 26 of the Texas Water Code. The Water Code authorizes TCEQ to set requirements in a permit before an entity discharges wastewater into the surface waters of the State or disposes of wastewater adjacent to the waters of the State (i.e., irrigation, evaporation). In 1998, the Environmental Protection Agency (EPA) delegated permitting authority for discharge permits to the State of Texas and TCEQ is now required to implement and follow the National Pollutant Discharge Elimination System (NPDES) requirements set in federal regulations. Under delegation, this program is called the Texas Pollutant Discharge Elimination System (TPDES). As part of the delegation, several general permits previously issued by EPA are now processed and issued by TCEQ. In 2004, TCEQ developed and implemented a general permit for CAFOs that meet certain applicable criteria. In 2005, the Texas Legislature created Chapter 32 of the Texas Water Code which authorizes TCEQ to set requirements in a permit before a person can dispose of wastewater using subsurface dispersal systems.

Workload

Office of Compliance and Enforcement

There are currently almost 3,400 facilities regulated under TPDES and nearly 3,300 of these facilities are required to submit discharge monitoring reports (DMRs) to the TCEQ. A DMR is a periodic report which summarizes wastewater samples and analysis data prepared by certain wastewater treatment facilities. The DMR review is used to determine compliance and for initiating action subject to both EPA and state enforcement referral/initiation criteria. In addition to reviewing DMRs for compliance, approximately 25,000 investigations are conducted at these facilities each year, of which an average of 700 are conducted as a result of complaints received. As a result of investigations, approximately 1,600 Notices of Violation are issued and an average of 350 formal enforcement actions are processed each year.

Office of Water

As of September 26, 2016, there are 3,411 individual wastewater permits in Texas and over 36,998 wastewater authorizations under general permits in Texas. The program receives and issues approximately 829 individual wastewater permit applications, and processes approximately 11,050 general permit wastewater authorizations each year. These permits vary in complexity and may include stormwater management plans for municipalities greater than 10,000 population, and nutrient management plans for concentrated animal feeding operations (CAFOs) that involve a detailed technical review to ensure measures are in place to reduce run-off and maintain water quality standards in receiving streams.

In addition, there are currently 73 pretreatment programs in Texas where industrial users must implement actions to treat their waste before it reaches a municipal wastewater plant. These programs incorporate all industrial processes going to an individual wastewater plant and therefore are complex and require significant staff resources. Each year staff audit approximately 11 pretreatment programs and review annual reports for all 73 programs. There are typically around two substantial and 25 non-substantial modifications reviewed each year. Since these programs only occur in relatively large municipalities, or areas where industries use their municipal wastewater system for their discharge, the agency averages only one new pretreatment program a year.

The program receives approximately 50 requests from the U.S. Army Corps of Engineers (USACE) to certify whether activities proposed under Clean Water Act (CWA) Section 404, Dredge and Fill Permits, will meet Texas' water quality standards. The program typically issues around 35 certifications under CWA Section 401 each year.

The program updates the Water Quality Management Plan four times a year to incorporate updates to wasteload allocations and Total Maximum Daily Load (TMDL) allocations, that will be used in future wastewater permitting decisions.

Program Activities

Office of Compliance and Enforcement

- Promotes compliance with environmental laws and regulations by conducting routine scheduled investigations and complaint investigations of entities with wastewater treatment discharge permit/authorizations.
- Receives, reviews and responds to self-reported data recorded on DMRs submitted by permitted/authorized facilities.
- Develops processes to oversee enforcement activities and prepares proposed enforcement actions that include appropriate penalties and order provisions for the commission's consideration and approval.
- Receives and reviews Notices of Audit submitted by wastewater treatment facilities conducting a self-audit under the Texas Environmental, Health, and Safety Audit Privilege Act.
- Compiles and publishes annual compliance history ratings for use by TCEQ when considering approval of permits or permit renewals.

Office of Water

- Processes applications and drafts permits for authorization to dispose of wastewater into or adjacent to the waters of Texas. For each permit issued, the WQD is responsible for entering and maintaining permit information in databases.
- Establishes procedures to implement effluent limits and requirements that will protect the waters in the State so that receiving waters meet water quality standards.
- Evaluates the impact of proposed permits on surface and groundwater and recommends permit conditions to protect water quality. The permit conditions (e.g., effluent limits and requirements) are specific to each individual permit, general permit, or authorization. These limits are used by the WQD to calculate the annual fees assessed.
- Water quality protection necessary in dredge and fill permits issued the U.S. Army Corps of Engineers.
- Establishes pre-treatment requirements for industrial wastewater discharged to a domestic/ municipal wastewater system, and approves plans and specifications.
- Reviews and approves Nutrient Management Plans and Sludge Management Plans.

Office of Legal Services

- Ensures that authorizations and enforcement orders are within the agency's authority to issue and are enforceable.
- Represents the TCEQ's Executive Director in contested case hearings on permit applications and enforcement actions before the State Office of Administrative Hearings.
- Provides legal support on permit application reviews, rulemaking, responses to comments and to hearing requests.

Benefit of Activity to Fee Payers

Permit holders benefit from transparent procedures for implementing Texas Surface Water Quality Standards in wastewater permitting and from the opportunity to participate in the development of those procedures. Permit holders also benefit from appropriately assigned uses and water quality criteria to water bodies receiving treated wastewater, which results in permits that are protective of human health and aquatic life.

Permit holders benefit by obtaining one consolidated state and federal permit rather than having to obtain separate authorizations from TCEQ and EPA. For some types of proposed activities, general permits are developed by the TCEQ which allow permittees to get coverage under a permit by registering and implementing the best management practices required by the permit.

The general public benefits because the permit conditions are designed to ensure waters are of sufficient quality to support recreational, public drinking water, fish consumption, and aquatic life uses.

Water Assessment and Monitoring

Program Description

The Water Quality Assessment and Monitoring program monitors and assesses the quality of surface water bodies in Texas in order to collect and evaluate information on the status of water quality. The information is used for water quality planning activities such as conducting analyses to establish and determine attainment with water quality standards, developing Total Maximum Daily Loads, and establishing Watershed Protection Plans.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$7,639,007	\$0	\$2,731,263	\$10,370,270
FTEs	78.53	0	5.57	84.10

This program is supported by the Consolidated Water Quality and the Public Health Service fees. The Water Code 5.701 (p) and (q) authorize the fees collected in the Water Resource Management Account to protect the water resources in the state.

Background

State authority for an agency monitoring program is provided by TWC, Sections 26.011 and Section 26.127. Federal authority and the requirement for states to monitor and assess surface water quality is set out in the federal Clean Water Act, Sections 303(d) and 305(b).

Workload

Office of Water

There are approximately 1,800 active routine and targeted monitoring locations sampled on at least a quarterly basis each year. This sampling results in over 1,405,382 data points processed into the database, while the laboratory conducts over 51,000 analyzes each year. There are approximately six special studies conducted each year. The biennial assessment involves the evaluation of over 1,400 waterbodies statewide. The program typically attends around 40 public meetings to discuss water quality and obtain stakeholder input on assessment methodology and results.

Program Activities

Office of Water

Staff conducts assessments every two years to determine the status of surface waters in the state and identify waters that are not attaining water quality standards.

Activities include:

- coordinating monitoring plans to ensure coverage of select water bodies;
- developing water quality monitoring procedures;
- conducting water quality monitoring of streams, lakes and estuaries with resources from the central office, regional offices, and through local cooperators and contractors;
- participating in national water quality monitoring projects;
- conducting training events to ensure all sampling entities are following procedures;
- analyzing water samples in laboratories for a variety of constituents;
- managing and conducting quality assurance on collected data;
- developing assessment methodology;
- facilitating stakeholder participation in implementing assessment methods; and
- assessing data to provide a status of water quality across Texas every two years.

Benefit of Activity to Fee Payers

The monitoring and assessment efforts benefit the regulated community and public providing the data used to inform actions designed to maintain the quality of surface waters so they meet their designated uses, such as: public water supply, recreation, aquatic life, and fish consumption.

Water District

Program Description

The Districts Program implements the Texas Water Code (TWC) Chapters 49-51, 53-59, and 64-65, and the Safe Drinking Water Act Title 42 to ensure water district projects for bonds are eligible and comply with TCEQ's rules and regulations.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$2,623,670	\$102,286	\$69,840	\$2,795,796
FTEs	30.65	1.00	0	31.65

This program is supported by the Water District Bond Application, Water District Bond Proceeds, Misc. Water District Application, and Water District Creation Application fees.

Background

The authority for TCEQ's oversight:

- TWC Chapter 49 which provides for the TCEQ to have general oversight of water districts, to create water districts, and approve water district's bonds for certain water, sewer, drainage and recreational improvements. TCEQ rules covering this activity are found in 30 TAC Chapter 293.
- The Federal Safe Drinking Water Act enables the TCEQ to provide financial, managerial and technical assistance to keep utilities and systems in compliance with TCEQ rules and regulations.

Workload

Office of Compliance and Enforcement

Conducts approximately 575 investigation activities each year.

Office of Water

The staff of the Districts Program reviewed and processed 503 district applications in fiscal year 2016.

Program Activities

Office of Compliance and Enforcement

- Prepares reports from investigations of water and sewer utility systems used by utilities and districts programs in their reviews of pending applications.
- Investigates certain district related projects to ensure compliance with TCEQ rules and regulations.

Office of Water

- Reviewing bond applications to finance the development and maintenance of water and wastewater treatment infrastructure to verify the financial feasibility and eligibility of funding to ensure adequate and cost effective water and wastewater service;
- Evaluating applications for the creation of new districts to determine the financial viability of the proposed district, that a district has proposed adequate water and/or wastewater facilities, and to determine the preliminary estimate of bond funds needed to support the ultimate build-out of a district;
- Reviewing district director appointments to ensure compliance with rules for elections; and
- Conducting pre-purchase inspections associated with construction of districts to

- promote compliance with agency rules and the Texas Water Code.
- Develops and implements guidance and rules to ensure that water and sewer utilities and water districts are in compliance and their customers receive continuous and adequate service;
- Oversees the collection of the bonds application fee and the regulatory assessment fee.

Office of Legal Services

- Ensures the creations and other approvals by the districts programs are within the agency's authority to issue and are enforceable.
- Assists with preparing staff for public hearings and meetings.
- Responds to discovery requests and represents TCEQ's Executive Director at meetings and public hearings with customers and the regulated entities before the State Office of Administrative Hearings.
- Provides legal support through the development of guidance, rules and through review of draft orders and related documents on district related issues.
- Ensures legal compliance with TCEQ rules and regulations.
- Assists the districts programs with enforcement cases to provide legal support through research and the development of compliance orders to move water and sewer utilities toward and into compliance with the TCEQ rules and requirements.
- Represents the TCEQ's Executive Director in addressing enforcement issues and pending enforcement cases before the State Office of Administrative Hearings and cases referred to the Office of the Attorney General.

Benefit of Activity to Fee Payers

The fees associated with creation of certain water districts benefits fee payers by providing the applicant/fee payer with a TCEQ approved political subdivision of the state, which represents the initial stage for the development of infrastructure to serve future residents/customers. The fees also support the agency's review of bonds to ensure the financial viability of a proposed infrastructure need. This provides the required assurance so that districts can finance and maintain the development of infrastructure to serve current and future residents/customers. Additionally, the fees support the financial and managerial feasibility of public water systems as part of the Capacity Development Plan of Texas. Programs which support the Capacity Development Plan are a requirement for Texas to receive full funding under the Drinking Water State Revolving Fund (DWSRF) grants. DWSRF grant funding provides low and no-cost infrastructure loans to PWS and supports state compliance activities.

Water Rights Permits

Program Description

The water rights permits program authorizes the storage or diversion of state surface water in Texas. Water rights are allocated to maximize the beneficial use of state water for certain purposes of use. Water rights are typically issued in perpetuity and may authorize:

- Diversions for municipal, agricultural, industrial, and mining uses;
- Use of waters for hydroelectric power, navigation, and recreational purposes;
- Storage in on-channel reservoirs; and
- The transfer of state water from one basin to another (interbasin transfers), as well as authorizations to transport water down a state watercourse (bed and banks permit).

Certain smaller domestic, livestock, and wildlife management uses are exempt by statute from the permitting requirement. Specific special conditions may be imposed on water right holders to protect other existing water rights and the environment. During times of water shortage, water right holders are entitled to take their water in the order that the water right permits were issued. "First in time – first in right," is the slogan of the state's prior appropriations doctrine.

Cost of Activity	State - 0153	General Revenue	Federal	Total
Total Budget	\$6,169,237	\$1,147,588	\$287,916	\$7,604,741
FTEs	73.89	8.94	2.81	85.64

This program is supported by the Temporary or Emergency Water Use Permits Application, Water Use Permit Application, Water Use Permit - Construction Delay, and fees.

Background

Authority to issue and enforce water rights is granted in Chapter 11 of the Texas Water Code. The Water Code prohibits storage or diversion of state water, or use of a state watercourse to convey water downstream, without a permit. The water right with the oldest priority date is in 1734, and although much of the surface waters have been allocated, the program remains extremely busy with amendments that maximize the beneficial use of each surface water source.

Workload

Office of Compliance and Enforcement

Receives an average of 100 temporary water right permit applications per year for review/approval. An average of almost 1,400 water right investigations are conducted per year, approximately 100 of which are related to complaints received. As a result of investigations, less than 40 Notices of Violation are typically issued and an estimated 10 referrals for formal enforcement action are processed each year.

Office of Water

As of September 2016, there are 6,218 water rights in Texas. The program receives approximately 127 water right applications and 577 applications to change the ownership of a water right each year. The program processes over 120 water right applications and over 460 water right ownership application changes each year. In addition, almost 100 small (<10 acre-foot) temporary permit applications are processed each year by the agency's regional offices.

Approximately 5,700 annual water use reports are received, reviewed, and entered into a database each year. Every five years, staff conduct a detailed review of over 970 water conservation and/or drought contingency plans to ensure they contain appropriate information and management measures.

On average, almost 1,400 water right investigations are conducted per year, approximately 100 of which are related to complaints received. As a result of investigations, less than 40 Notices of Violation are typically issued and an estimated 10 referrals for formal enforcement action are processed each year.

Program Activities

Office of Compliance and Enforcement

- Promotes compliance with environmental laws and regulations by conducting field investigations in non-watermaster areas and responding to citizen complaints.
- Issues temporary water right permits for use of surface water less than 10 acre feet for a period of one year or less.
- Develops processes to oversee enforcement activities and prepares proposed enforcement actions that include appropriate penalties and order provisions for the commission's consideration and approval.

Office of Water

- Processes water right permit applications to ensure all administrative and technical requirements are met for each application;
- Conducts environmental reviews to assess impacts to instream uses;
- Conducts conservation reviews of Water Conservation Plans and Drought Contingency Plans to ensure efficient and beneficial use of water;
- Conducts hydrology analyses to determine if water is available for appropriation and if an application will affect existing water rights;
- Processes applications for changes of ownership to ensure accurate ownership records which is important for enforcement investigations and during priority calls;
- Conducts five-year update reviews of Water Conservation Plans, Water Conservation Implementation Plans, and Drought Contingency Plans;
- Gathering annual water use data to help support accurate determinations of water availability and analysis of information during a priority call;
- Conducts analyses to determine whether and how to implement curtailments during a priority call; and
- Develops and maintains database systems to track pending applications and index granted water rights.

Office of Legal Services

- Represents the agency in enforcement cases before the State Office of Administrative Hearings and cases referred to the Office of the Attorney General.
- Ensures the authorizations are within the agency's authority to issue and are enforceable.
- Assists with responding to comments that have been received on pending applications and represents TCEQ's executive director in public hearings before the State Office of Administrative Hearings.
- Provides general legal support to the program.

Benefit of Activity to Fee Payers

The water rights permitting program benefits fee-payers by providing a service to acquire water rights to use state water for several beneficial uses. Each water right application is evaluated to ensure water is available under specified conditions and to protect the ability of existing water rights to use state surface water per their water right. In areas where water is available on a

short-term basis, the agency can provide authorization to utilize small amounts of surface water for temporary projects.

The fee payer is also benefited by surface water management activities and by the agency's response to complaints in areas outside the jurisdiction of a watermaster. Where water is being used without authorization, the agency provides a mechanism to halt illegal diversions and enforce agency rules to obtain compliance.

The program benefits fee payers by ensuring accurate and updated records of water rights ownership so that water rights are assigned to the rightful owners. This also allows the agency to be more effective in conducting investigations and when contacting water right holders, either to notify them of impending water right requests near them, or in the case of an emergency.

The program also benefits fee payers by maintaining data on the annual reporting of water use, which helps support accurate determinations of water availability so that water rights are protected. This information is also important to analyze during an emergency when evaluating water rights for possible curtailment.

Administration

Administrative Support Costs

Method of Allocation

The budget for the TCEQ is divided into two major types of funds: (1) operating funds; such as salaries, travel, supplies and capital, and (2) pass-through funds; funding provided to third parties in the form of grants, such as remediation contracts, reimbursements, or local government contracts. Pass-through funds comprise the largest component of the TCEQ's budget.

The administrative costs are allocated to each of the various methods of finance on the basis of both direct salary costs and pass through expenses. Except where otherwise restricted or defined by law, each method of finance is allocated to support agency administration proportion to its level of contribution to agency operations. The allocation is modified, where appropriate, based upon the fund resources and ability to pay the allocation. For operating expenses, each fund contributes based on the operating expenses budgeted from that fund in proportion to total operating expenses.

Methods of finance which primarily support agency operations, and have little or no funds budgeted as pass-through grants to other entities, typically report a higher ratio of budget allocated to administrative support. Conversely, methods of finance that are heavily invested to support contracts or other pass-through activities will report a lower ratio of budget allocated for administrative support.

Some methods of finance are statutorily or otherwise limited to the amount of funds that may be allocated to agency operations or administrative support. For these funds, the funding allocated will not fully reflect the methodology described or the actual support costs produced by the program funded.

For purposes of comparison, methods of finance may be grouped together to indicate which funding sources support the major program areas of the agency - Air Quality, Water Resource Management and Waste Management. When administrative support allocations are aggregated by major program area, the statutory or other artificial constraints on cost allocation are mitigated. The agency continues to evaluate the allocation of the administrative cost to ensure a fair and equitable distribution of indirect support.

These costs directly affect the agency's program performance and the divisions included in this program either provide executive leadership or support services by supplying the essential administrative infrastructure required to maintain business operations. The administrative costs of the agency are generally the office of the Commissioners, the Executive, Administrative Services, and Legal Services – General Law.

Program Description

Office of the Commissioners

Three full-time commissioners are appointed by the governor to establish overall agency direction and policy, and to make final determinations on contested permitting and enforcement matters. The governor names the chairman of the commission.

Office of the Executive

The executive director, who is hired by the commissioners, is responsible for managing the agency's day-to-day operations. Major responsibilities include directing operations of

approximately 2,800 employees in 17 statewide offices, implementing commission policies, making recommendations to the commissioners about contested permitting and enforcement matters, and approving uncontested permit applications and registrations. The deputy executive director serves as the chief operating officer to assist the executive director in the administration of the agency. Six office clusters report to the executive director. Each office is headed by a deputy director. These deputies are responsible for administering our regulatory and administrative programs.

Office of Administrative Services

The office of Administrative Services provides services and support to agency staff and external customers, supplying the essential administrative infrastructure required to maintain business operations.

Office of Legal Services – General Law

The general law division serves as legal counsel to the agency on issues related to contracts, grants, procurement, employment law and public-service ethics; processing and distribution of information for the public; and records retention. The division is integral to the agency’s administration, coordinating statewide public hearings; managing its rulemaking, including publishing its rules in the Texas Register; reviewing, tracking and posting information and public notices at its website; and preparing matters for the commissioners’ agenda.

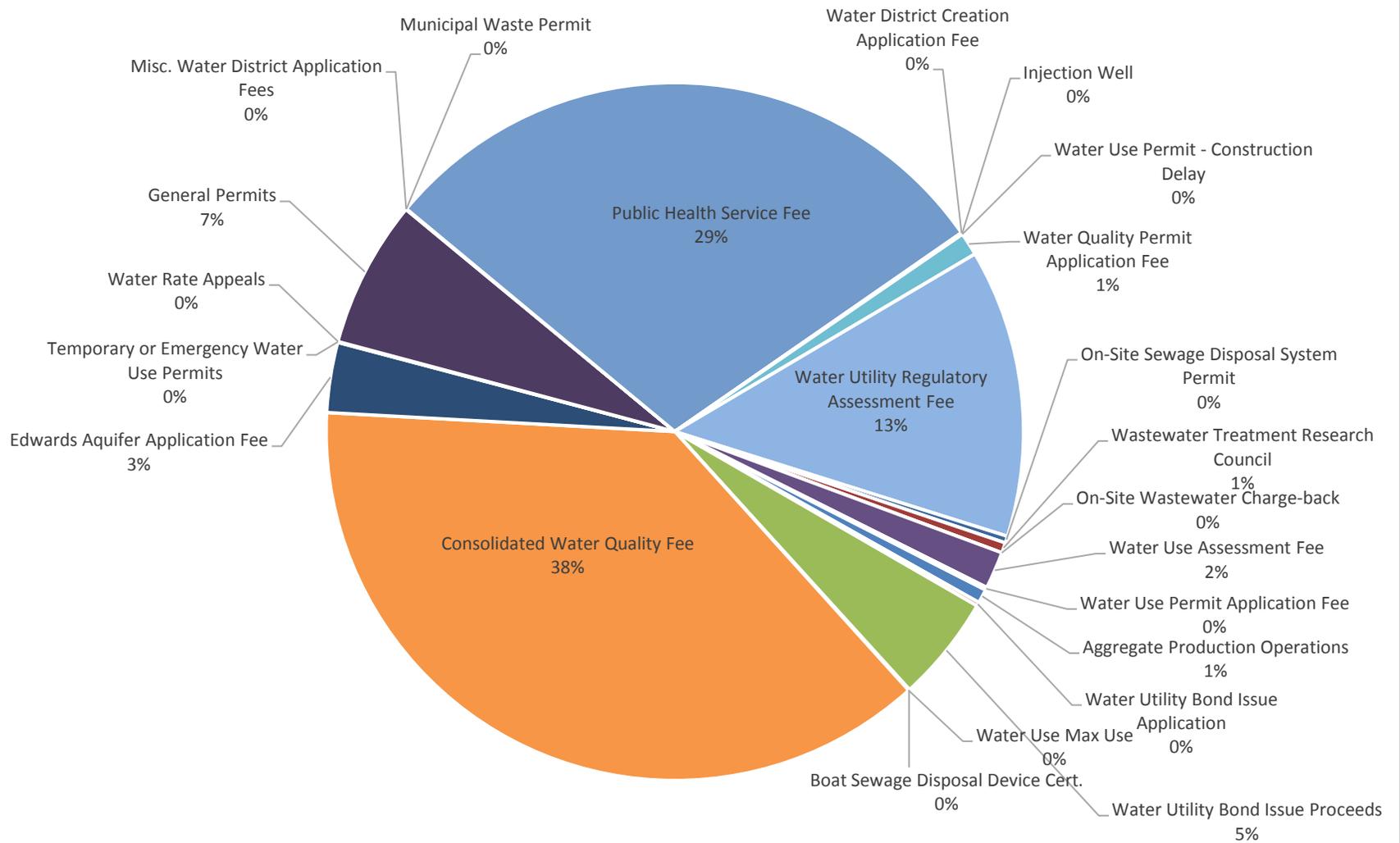
Cost of Activity	State - 0153	Other State	Federal	Total
Total Budget	\$12,566,938	\$0	\$0	\$12,566,938
FTEs	99.08	0	0	99.08

Note: Funds were allocated to each water program cost

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Fees

FY 16 WRM Revenue Estimates



Aggregate Operations Application

This fee is capped in statute. A change to the cap would require a statutory change.

The fee was created in 2011 by H.B. 571, 82nd Legislative Session. Aggregate Operations are required to pay an annual application fee up to \$950. The fee is assessed against any entity that operates a processing or removal operation associated with mineral extraction. There were 1,076 fee payers in FY 2016.

Current Rates

	Fee for Paper Forms	Fee for Online Forms
Portable Processing Plant	\$300.00	\$225.00
0 - 10 acres disturbed	\$300.00	\$225.00
>10 and <= 50 acres disturbed	\$500.00	\$375.00
>50 and <= 100 acres disturbed	\$700.00	\$525.00
>100 acres disturbed	\$950.00	\$712.50

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$-	\$305,238	\$338,313	\$394,138	\$462,988	\$325,000
Payers	0	669	767	870	1,076	

Statute

Water Code 28A.101. Fees

(a) A person who, under laws in the commission's jurisdiction and rules adopted under those laws, is authorized to operate an aggregate production operation shall pay annually an aggregate production operation registration fee to the commission in an amount established by commission rule.

(b) The commission shall set the annual registration fee in an amount sufficient to maintain a registry of active aggregate production operations in this state and implement this chapter, not to exceed \$1,000.

Rule

30 Texas Administrative Code (TAC) 342.26. Registration Fees

(a) Any person who submits a registration for an aggregate production operation shall remit, at the time of registration, a fee to the commission.

(b) The executive director shall determine the costs to administer this chapter and the requirements in Texas Water Code, §28A, and establish fees annually to recover the executive director's actual costs. The fees established by the executive director shall not exceed \$1,000. The executive director may implement a tier-based registration fee structure.

Boat Sewage Disposal

This fee is set in statute. A fee revision would require a statutory change.

This fee was created in 1973 by H.B. 1041, 63rd Legislative Session. A fee of \$15 to \$35 is assessed for the certification of boat sewage disposal systems.

The fee is assessed on boat owners whose boat have sanitation devices that can be discharged directly in to water systems. There were 2,488 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$35,786	\$11,910	\$38,611	\$8,508	\$37,307	\$12,000
Payers	1,982	794	2,547	566	2,488	

Statute

Water Code 26.044. Disposal of Boat Sewage

(c) The commission may delegate the administration and performance of the certification function to the executive director or to another governmental entity. The commission or delegated authority shall collect the following fees from applicants for certification:

- Boat Pump-out Station (biennial):
 - Initial Certificates for Pump-out \$35
 - Pump-out Renewal \$25
- Marine Sanitation Device (biennial):
 - Boat over 26 Feet or Houseboat \$15
 - Boat 26 Feet or less with Permanent Device \$15

Rule

30 TAC321.8. Certification Fees

(a) The commission shall charge a fee of \$15 for the initial certification and each renewal certification of marine sanitation devices.

(b) The commission shall charge a fee of \$35 for the initial certification and \$25 for the renewal certification of a boat pump-out station. Inspections of boat pump-out stations may be required prior to certification.

Consolidated Water Quality

This fee is capped in statute. A change to the cap would require a statutory change.

The agency was granted the authority to assess annual water quality fees in 1987 by S.B. 434, 70th Legislative Session. The current version of the fee was created in 2001 by HB 2912 of the 77th Legislative Session. An annual fee is assessed against each permit authorizing the treatment and/or discharge of wastewater issued under Water Code Chapter 26. The fee is calculated based on multiple criteria including pollutant potential and permitted limits for flow volume, traditional pollutants (oxygen demand, total suspended solids and ammonia), toxicity, and if a facility is designated as a major facility. The maximum fee is limited by statute to \$115,000 in 2016, based on Consumer Price Index (CPI) adjustment.

The fee is assessed against municipalities of all sizes, Municipal Utility Districts (MUDS), water supply corporations, energy companies, chemical companies, and other businesses. There were 3,288 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$21,917,911	\$22,569,316	\$25,102,077	\$24,434,084	\$26,827,765	\$26,800,000
Payers	3,384	3,284	3,251	3,238	3,288	

Statute

Water Code 26.0291 Water Quality Fee

(e) The commission by rule shall adopt a fee schedule for determining the amount of the fee to be charged. Beginning September 1, 2009, the maximum amount of a fee under this section is \$100,000. On September 1 of each subsequent year, the commission shall adjust the maximum fee amount as necessary to reflect the percentage change during the preceding year in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published monthly by the United States Bureau of Labor Statistics, or its successor in function. Notwithstanding any adjustment for inflation under this subsection, the amount of the fee may not exceed \$150,000 for each permit or contract and the maximum annual fee under this section for a wastewater discharge or waste treatment facility that holds a water right for the use of water by the facility is \$150,000. In determining the amount of a fee under this section, the commission may consider:

- (1) waste discharge permitting factors such as flow volume, toxic pollutant potential, level of traditional pollutant, and heat load;
- (2) the designated uses and segment ranking classification of the water affected by discharges from the permitted facility;
- (3) the expenses necessary to obtain and administer the NPDES program;
- (4) the reasonable costs of administering the water quality management programs under Section 26.0135; and
- (5) any other reasonable costs necessary to administer and enforce a water resource management program reasonably related to the activities of the persons required to pay a fee under this section.

Rule

30 TAC 21.3. Fee Assessment

b) Assessment for wastewater permits.

- (1) An annual fee is assessed against each person holding a wastewater permit. A separate fee is assessed for each wastewater permit.
- (2) The maximum fee which may be assessed any permit, including an aquaculture permit, is the amount, if any, set forth in Texas Water Code (TWC), Chapter 26. The minimum fee for an active permit is \$1,250. The minimum fee for an inactive permit is \$620.
- (3) In assessing a fee under this chapter, the commission considers the following factors:
 - (A) flow volume, and type;
 - (B) traditional pollutants;
 - (C) toxicity rating;
 - (D) storm water discharge;
 - (E) major designation;
 - (F) active or inactive status;
 - (G) discharge or retention;
 - (H) the designated uses and ranking classification of waters affected by waste discharges; and
 - (I) the costs of administering the following commission programs:
 - (i) water quality administration, including inspection of waste treatment facilities and enforcement of the provisions of TWC, Chapter 26, the rules and orders of the commission, and the provisions of commission permits governing waste discharges and waste treatment facilities;
 - (ii) the Texas Clean Rivers Program, under TWC, §26.0135, which monitors and assesses water quality conditions that support water quality management decisions necessary to maintain and improve the quality of the state's water resources (as defined in TWC, §26.001(5)).
- (4) For the purpose of fee calculation, chemical oxygen demand (COD) and total organic carbon (TOC) are converted to biochemical oxygen demand (BOD) values and the highest value is used for fee calculation. The conversion rate for TOC is three pounds of TOC is equal to one pound of BOD (3:1). The conversion rate for COD is eight pounds of COD is equal to one pound of BOD (8:1).
- (5) Fee rate schedule. Except as provided in paragraph (6) of this subsection, the fee shall be determined as the sum of the following factors:
 - (A) contaminated flow, an amount up to a maximum of \$1,090 per million gallons per day (mgd);
 - (B) uncontaminated flow, an amount up to a maximum of \$18 per mgd;
 - (C) traditional pollutants, an amount up to a maximum of \$23 per pound per day;
 - (D) toxic rating for industrial discharges:
 - (i) Group I, an amount up to a maximum of \$310;
 - (ii) Group II, an amount up to a maximum of \$1,090;
 - (iii) Group III, an amount up to a maximum of \$1,640;
 - (iv) Group IV, an amount up to a maximum of \$2,460;
 - (v) Group V, an amount up to a maximum of \$4,910; and
 - (vi) Group VI, an amount up to a maximum of \$9,830;
 - (E) major permit designation, an amount up to a maximum of \$3,120; and
 - (F) storm water authorization, an amount up to a maximum of \$780.
- (6) For the types of permits listed in this paragraph, these additional guidelines will apply in determining the fee assessment.

(A) Land application (retention) permits. The fee assessed a land application permit shall be 50 percent of that calculated under paragraph (5) of this subsection. However, in no event shall the fee for an active land application permit be less than \$1,250 per year.

(B) Inactive permits. The fee assessed an inactive permit shall be 50 percent of that calculated under paragraph (5) of this subsection. In the event an inactive permit is for a land application operation, the fee assessed shall be 25 percent of that calculated under paragraph (5) of this subsection. However, in no event shall the fee for an inactive permit be less than \$620 per year.

(C) Storm water only permits. The fee for an active permit which authorizes discharge of storm water only, with no other wastewater, is an amount up to a maximum of \$780.

(D) Aquaculture permits.

(i) In determining the flow volume to be used in fee calculation for an aquaculture production facility under paragraph (5) of this subsection, the flow for the facility shall be the facility's permitted annual average flow, or the facility's projected annual average flow if the permit does not have an annual average flow limitation.

(ii) If the facility's permit does not have an annual average flow limitation, the facility's projected annual average flow for the upcoming period from September 1 to August 31 shall be submitted to the executive director by June 30 preceding the fee year and shall be signed and certified as required by §305.44 of this title (relating to Signatories to Applications), and that amount will be used for fee calculation.

(iii) The maximum annual fee for aquaculture production facilities is the amount, if any, set forth in TWC, Chapter 26.

(7) A multiplier may be applied to adjust the total fee per permit, which would also adjust the total assessment for all permits under the Water Quality Fee Program. The multiplier will be an amount up to a maximum of 1.75. As part of the approval of the annual operating budget, the executive director shall report to the commission the multiplier that will be applied for the upcoming fiscal year.

Changes to the multiplier

FY	2010	2011	2012	2013	2014	2015	2016
Multiplier	1.0%	1.0%	1.0%	1.04%	1.20%	1.20%	1.27%

Edwards Aquifer Application

This fee is capped in statute. A change to the cap would require a statutory change.

This fee was created in 1987 by S.B. 434, 70th Legislative Session. The Commission may assess a fee to process and review plans for real estate developments or construction projects potentially affecting the Edwards Aquifer.

The application fee is paid by a developer or other person proposing a project (e.g. residential and non-residential buildings, sewage collection systems, underground and aboveground storage tanks) in the Edwards Aquifer Austin (EAA) and San Antonio (EAS) areas (Medina, Bexar, Comal, Kinney, Uvalde, Hays, Travis, and Williamson counties). There were 684 combined fee payers in FY 2016.

Current Rates

Water Pollution Abatement Plans and Modifications Contributing Zone Plans and Modifications		
Project	Project Area in Acres	Fee
One Single Family Residential Dwelling	< 5	\$650
Multiple Single Family Residential and Parks	< 5	\$1,500
	5 < 10	\$3,000
	10 < 40	\$4,000
	40 < 100	\$6,500
	100 < 500	\$8,000
Non-residential (Commercial, industrial, institutional, multi-family residential, schools, and other sites where regulated activities will occur)	≥ 500	\$10,000
	< 1	\$3,000
	1 < 5	\$4,000
	5 < 10	\$5,000
	10 < 40	\$6,500
	40 < 100	\$8,000
	≥ 100	\$10,000
	Organized Sewage Collection Systems and Modifications	
Project	Project Area in Acres	Fee
Sewage Collection Systems	\$0.50	\$650 - \$6,500
Underground and Aboveground Storage Tank System Facility Plans and Modifications		
Project	Cost per Tank or Piping System	Fee
Underground and Aboveground Storage Tank System Facility	\$650	\$650 - \$6,500
Exception Requests		
Project		Fee
Exception Requests		\$500
Extension of Time Requests		
Project		Fee
Exception of Time Requests		\$150

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$1,592,381	\$1,718,521	\$2,320,010	\$2,166,423	\$2,317,062	\$1,856,000
Payers	530	580	703	703	684	

Statute

Water Code 26.0461. Fees for Edwards Aquifer Plans

- (a) The commission may impose fees for processing plans or amendments to plans that are subject to review and approval under the commission's rules for the protection of the Edwards Aquifer and for inspecting the construction and maintenance of projects covered by those plans.
- (b) The plans for which fees may be imposed are:
- (1) water pollution abatement plans;
 - (2) plans for sewage collection systems;
 - (3) plans for hydrocarbon storage facilities or hazardous substance storage facilities; and
 - (4) contributing zone plans.
- (c) The commission by rule shall adopt a fee schedule for fees that it may impose under this section.
- (d) Except as provided by Subsection (d-1), a fee imposed under this section may not be less than \$100 or more than \$6,500.
- (d-1) A fee imposed under this section may not be more than \$13,000 if the fee is for a water pollution abatement or contributing zone plan for a development of more than 40 acres.

Rule

30 TAC 213.14. Fee Schedule

- (a) Water Pollution Abatement Plans. For water pollution abatement plans and modifications to those plans, the application fee shall be based on the classification and total acreage of the site where regulated activities will occur as specified in Table 1 of this subsection.

Table 1 - Classification/Number of Acres Fee

One single-family residential dwelling on less than 5 acres	\$650
Multiple single-family residential dwellings and parks:	
Less than 5 acres	\$1,500
5 acres to less than 10 acres	\$3,000
10 acres to less than 40 acres	\$4,000
40 acres to less than 100 acres	\$6,500
100 acres to less than 500 acres	\$8,000
500 acres or more	\$10,000
Non-residential (Commercial, industrial, institutional, multi-family residential, schools, and other sites where regulated activities will occur):	
Less than 1 acre	\$3,000
1 acre to less than 5 acres	\$4,000
5 acres to less than 10 acres	\$5,000
10 acres to less than 40 acres	\$6,500
40 acres to less than 100 acres	\$8,000
100 acres or more	\$10,000

(b) Organized sewage collection systems. For sewage collection system plans and modifications, the application fee shall be based on the total number of linear feet of all lines for which approval is sought. The fee shall be \$.50 per linear foot, with a minimum fee of \$650 and a maximum fee of \$6,500.

(c) Underground and aboveground storage tank facilities. For underground or permanent aboveground storage tank system facility plans and modifications, the application fee shall be based on the number of tanks or piping systems for which approval is sought. The fee shall be \$650 per tank or piping system, with a minimum fee of \$650 and a maximum fee of \$6,500.

General Permits

This fee is set in statute. A fee revision would require a statutory change or a change to Rider 19 Authorization: Water and Air Program Fee Rates.

The annual fee for general permits was created in 1997 by H.B. 1542, 75th Legislative Session. An annual fee is assessed against each permit held and range from \$100 to \$1,250. Additionally, wastewater permit applicants must pay an application fee of \$100 for all permit types except for Concentrated Animal Feeding Operations, which are \$350, discharge on quarries which are \$1,215, and Stormwater Application Fee which are \$200 for multi-sector permits and \$325 for construction permits. For Stormwater Applications paid through e-permits, there is a \$100 reduction in the fee.

A wide array of entities are assessed general permit fees, including municipalities, general contractors and construction companies, chemicals and plastics manufacturers, mining operations, concrete batch plants, petroleum storage facilities, landfills, auto salvage yards, feed lots, dairies, and many others. There were 19,156 combined fee payers in FY 2016.

Current Rates

General Permit Number	General Permit Description	Application Processing Fee by Paper or e-Permits	Annual Fee
TXG110000	Concrete Production Facilities	\$100	\$500
TXG130000	Aquaculture Production	\$100	Level I – \$0
			Level II – \$100
			Level III – \$250
			Level IV – \$250
TXG340000	Petroleum Bulk Stations and Terminals	\$100	\$500
TXG500000	John Graves Scenic Riverway	\$1,215	\$800
TXG530000	Harris County On Site Wastewater	\$100	\$0
TXG670000	Hydrostatic Test Water	\$100	\$100
TXG830000	Petroleum Fuel or Petroleum Substances	\$100	\$500
TXG870000	Pesticides	\$100 (Paper)	\$100 Pest Management Area
		\$75 (e-permits)	
			\$500 (County/Statewide)
TXG920000	Concentrated Animal Feeding Operations	\$75 (e-permits)	\$800
		\$100 (paper)	\$300 (Dry Litter Poultry)
		\$350 (new or significant expansion)	

TXR040000	Stormwater Discharge from a Small MS4	\$100	\$100
TXR050000	Stormwater Discharges associated with Industrial Activities (Multi-Sector)	\$200 (Paper)	\$200
		\$100 (e-permits)	
TXR150000	Stormwater Discharges associated with construction activities	\$325 (Paper)	\$0
		\$225 (e-permits)	
WQG100000	Evaporation Pond	\$100	\$1,250
WQG200000	Livestock Manure Compost Operations	\$100	\$100

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Stormwater Collected	\$1,687,138	\$1,604,061	\$1,635,021	\$1,739,929	\$1,805,752	\$1,700,000
Stormwater Payers	7,690	7,026	7,314	7,483	7,730	
Wastewater Collected	\$3,102,597	\$3,382,798	\$2,222,670	\$2,227,885	\$2,267,650	\$2,100,000
Wastewater Payers	8,288	14,274	9,858	10,049	10,471	
Wastewater Manure Collected	\$800,331	\$756,542	\$766,764	\$794,564	\$803,749	\$761,000
Wastewater Manure Payers	957	898	923	908	955	

Statute

Water Code 5.701. Fees

(b) Except as otherwise provided by law, the fee for filing an application or petition is \$100 plus the cost of any required notice. The fee for a by-pass permit shall be set by the commission at a reasonable amount to recover costs, but not less than \$100.

HB 1 General Appropriations Act 2016-17, Art IV – 21, Rider 19 Authorization: Water and Air Program Fee Rates.

To provide for the recovery of costs of processing certain water and air applications, the following fee rates are established pursuant to Government Code, Chapter 316, Subchapter E, to be effective during the biennium beginning on September 1, 2015.

The maximum rate for the fees authorized in Water Code, §§5.701 (b-c), shall be \$2,000.

Water Code 26.040. General Permits

(a) The commission may issue a general permit to authorize the discharge of waste into or adjacent to waters in the state by category of dischargers in a particular geographical area of the state or in the entire state if the dischargers in the category discharge storm water or:

- (1) engage in the same or substantially similar types of operations;
- (2) discharge the same types of waste;
- (3) are subject to the same requirements regarding effluent limitations or operating conditions;
- (4) are subject to the same or similar monitoring requirements; and
- (5) are, in the commission's opinion, more appropriately regulated under a general permit than under individual permits based on commission findings that:
 - (A) the general permit has been drafted to assure that it can be readily enforced and that the commission can adequately monitor compliance with the terms of the general permit; and
 - (B) the category of discharges covered by the general permit will not include a discharge of pollutants that will cause significant adverse effects to water quality.

(b) The commission shall publish notice of a proposed general permit in a daily or weekly newspaper of general circulation in the area affected by the activity that is the subject of the proposed general permit and in the Texas Register. For a statewide general permit, the commission shall designate one or more newspapers of statewide or regional circulation and shall publish notice of the proposed statewide general permit in each designated newspaper in addition to the Texas Register. The notice must include an invitation for written comments by the public to the commission regarding the proposed general permit and shall be published not later than the 30th day before the commission adopts the general permit. The commission by rule may require additional notice to be given.

(c) The commission may hold a public meeting to provide an additional opportunity for public comment. The commission shall give notice of a public meeting under this subsection by publication in the Texas Register not later than the 30th day before the date of the meeting.

(d) If the commission receives public comment relating to issuance of a general permit, the commission may issue the general permit only after responding in writing to the comments. The commission shall issue a written response to comments on the permit at the same time the commission issues or denies the permit. The response is available to the public and shall be mailed to each person who made a comment.

(e) A general permit may provide that a discharger who is not covered by an individual permit may obtain authorization to discharge waste under a general permit by submitting to the commission written notice of intent to be covered by the general permit. A general permit shall specify the deadline for submitting and the information required to be included in a notice of

intent. A general permit may authorize a discharger to begin discharging under the general permit immediately on filing a complete and accurate notice of intent, or it may specify a date or period of time after the commission receives the discharger's notice of intent on which the discharger may begin discharging unless the executive director before that time notifies the discharger that it is not eligible for authorization under the general permit.

(f) A general permit may authorize a discharger to discharge without submitting a notice of intent if the commission finds that a notice of intent requirement would be inappropriate.

(g) Authorization to discharge under a general permit does not confer a vested right. After written notice to the discharger, the executive director may suspend a discharger's authority to discharge under a general permit and may require a person discharging under a general permit to obtain authorization to discharge under an individual permit as required by Section 26.027 or other law.

(h) Notwithstanding other provisions of this chapter, the commission, after hearing, shall deny or suspend a discharger's authority to discharge under a general permit if the commission determines that the discharger's compliance history is classified as unsatisfactory according to commission standards under Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. A hearing under this subsection is not subject to Chapter 2001, Government Code.

(i) A general permit may be issued for a term not to exceed five years. After notice and comment as provided by Subsections (b)-(d), a general permit may be amended, revoked, or canceled by the commission or renewed by the commission for an additional term or terms not to exceed five years each. A general permit remains in effect until amended, revoked, or canceled by the commission or, unless renewed by the commission, until expired. If before a general permit expires the commission proposes to renew that general permit, that general permit remains in effect until the date on which the commission takes final action on the proposed renewal.

(j) The commission may through a renewal or amendment process for a general permit add or delete requirements or limitations to the permit. The commission shall provide a reasonable time to allow a discharger covered by the general permit to make the changes necessary to comply with the additional requirements.

(k) The commission may impose a reasonable and necessary fee under Section 26.0291 on a discharger covered by a general permit.

(l) The issuance, amendment, renewal, suspension, revocation, or cancellation of a general permit or of authority to discharge under a general permit is not subject to Subchapters C-F, Chapter 2001, Government Code.

(m) The commission may adopt rules as necessary to implement and administer this section.

Rule

30 TAC 205.4 Authorization and Notices of Intent

(g) Unless otherwise provided in the general permit or in §305.53 of this title (relating to Application Fee), a person seeking authorization by general permit shall submit a \$100 application fee payable to the agency at the time of filing an notice of intent NOI. If a person is denied coverage under the general permit in accordance with subsection (c) or (e) of this section, any application fee will be applied to the application fee required for an individual permit application for the same discharge.

30 TAC 205.6. Annual Fee Assessments

A person authorized by a general permit shall pay an annual waste treatment inspection fee under Texas Water Code (TWC), §26.0291, consistent with §§305.501-305.507 of this title (relating to the Waste Treatment Inspection Fee Program) or as specified in the general permit; and may be subject to an annual watershed monitoring and assessment fee under TWC,

§26.0135(h), consistent with §220.21 of this title (relating to Water Quality Assessment Fees) or as specified in the general permit.

Injection Well

This fee is capped in statute. A change to the cap would require a statutory change.

This fee was created in 1981 by H.B. 1379, 67th Legislative Session. Facilities that inject waste and wastewater to subsurface wells require authorization for both disposal of waste of any potential discharges into surface waters. The permit application fee for a non-hazardous waste disposal wells \$100. The fee for a hazardous waste disposal well is \$2,000. There were 64 fee payers in FY 2016.

This fee is paid by petrochemical plants, animal product processors, inorganic chemical and pharmaceutical plants, mining companies, agricultural chemical processors, municipal entities and mineral development companies.

Current Rates

Type of Application	Application Fee (per well)	Notice Fee (per application)
New Class I Non-Hazardous	\$100	\$50
New Class I Hazardous	\$2000	\$50
Amendment Class I Non-Hazardous	\$100	\$50
Amendment Class I Hazardous	\$2000	\$50
Renewal Class I Non-Hazardous	\$100	\$50 + \$15
Renewal Class I Hazardous	\$2000	\$50 + \$15
Transfer of Permit Class I	\$100	\$50
Minor Modification Class I	\$100	\$0
New Class III Area Permit	\$100	\$50
Amendment Class III Area Permit	\$100	\$50
Renewal Class III Area Permit	\$100	\$50 + \$15
Transfer Class III Area Permit	\$100	\$50
Minor Modification Class III Area Permit	\$100	\$0
Endorsement Class III Area Permit	\$100	\$0

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$22,700	\$13,930	\$42,600	\$48,195	\$42,515	\$22,000
Payers	21	25	64	70	64	

Statute

Water Code. 27.014. Application Fee

With each application for a disposal well permit, the commission shall collect a fee in the amount provided by and under the terms of Section 5.701.

Water Code 5.701. Fees

(b) Except as otherwise provided by law, the fee for filing an application or petition is \$100 plus the cost of any required notice. The fee for a by-pass permit shall be set by the commission at a reasonable amount to recover costs, but not less than \$100.

HB 1 General Appropriations Act 2016-17, Art IV – 21, Rider 19 Authorization: Water and Air Program Fee Rates.

To provide for the recovery of costs of processing certain water and air applications, the following fee rates are established pursuant to Government Code, Chapter 316, Subchapter E, to be effective during the biennium beginning on September 1, 2015.

The maximum rate for the fees authorized in Water Code, §§5.701 (b-c), shall be \$2,000.

Rule

30 TAC 305.53. Consolidated Permits - Application Fee

(a) (1) The permit application fee for each disposal well which will not be authorized to receive hazardous waste is \$100. The fee for each disposal well which will be authorized to receive hazardous waste is \$2,000.

Miscellaneous Water District Application

This fee is set in statute. A fee revision would require a statutory change or a change to Rider 19 Authorization: Water and Air Program Fee Rates.

The authority for the fee originated in 1917, during the 35th Legislative Session. Certain water and water-related (e.g., wastewater, irrigation) districts are assessed a fee for requests to update or change information previously submitted, such as: modify project plans, change ownership, appoint a director, convert to a municipal utility district, etc. A miscellaneous water district creation application must be accompanied by a fee of \$100. There were 194 fee payers in FY 2016.

Common Name / Known As	Amount Authorized
Appeal of Decision by the Board of Directors of a MUD Application	\$ 5,000 TWC 54.239: Commission may set fee
Additional Powers/Conversion to MUD Application	\$ 700 TWC 5.701(e): TCEQ may set fee by rule
Director Appointment Application	\$ 100 TWC 49.105: no fee in statute
Reinstatement of Director Application	\$ 100 TWC49.052(g): no fee in statute
Revenue Note Application	\$ 100
Change Order Application	\$ 100
Change in Project Scope / Plans Application	\$ 100
Surplus Funds Application	\$ 100
Escrow Funds Release Application	\$ 100
Tax Rate Change Application	\$ 100
Bond Amendment Application	\$ 100
Extension of Time Application	\$ 100
Bankruptcy Application	\$ 100 TWC 49.456(e): Commission can set adequate fee
Contract Tax Application	\$ 100
Name Change Application	\$ 100 TWC 49.071: no fee in statute
Fire Plan Approval Application	\$ 100 TWC 49.351: no fee in statute
Fire Department Financing Application	\$ 100 TWC 49.351(g): no fee in statute
District Dissolution Application	\$ 100 TWC 49.321: no fee in statute
Standby Fee Application	\$ 100 TWC 49.231: no fee in statute
Impact Fee Application	\$ 100 LGC 395.080(b): may charge adequate fee
Road Powers Application	\$ 100 TWC 54.234: no fee in statute
Project Approval	\$ 100
Emergency Approval of District Projects	N/A
Purchase of Facilities Application	N/A
Change of Maturity Schedule	N/A

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$20,699	\$21,225	\$20,000	\$18,100	\$19,700	\$15,000
Payers	268	212	193	181	194	

Statute

Water Code 5.701. Fees

(b) Except as otherwise provided by law, the fee for filing an application or petition is \$100 plus the cost of any required notice. The fee for a by-pass permit shall be set by the commission at a reasonable amount to recover costs, but not less than \$100.

HB 1 General Appropriations Act 2016-17, Art IV – 21, Rider 19 Authorization: Water and Air Program Fee Rates.

To provide for the recovery of costs of processing certain water and air applications, the following fee rates are established pursuant to Government Code, Chapter 316, Subchapter E, to be effective during the biennium beginning on September 1, 2015.

The maximum rate for the fees authorized in Water Code, §§5.701 (b-c), shall be \$2,000.

Rule

30 TAC 293.80 Revenue Notes

(c) Applications for commission approval of revenue notes except as provided in subsection (d) of this section shall include the following:

- (9) an application fee in the amount of \$100;

Municipal Waste Permit Application

This fee is set in statute. A fee revision would require a statutory change or a change to Rider 19 Authorization: Water and Air Program Fee Rates.

The authority for the fee originated in 1917, during the 35th Legislative Session. Municipal Waste Permit applicants must pay a fee of \$100 for all permit types.

This fee applies to landfills that require authorization to operate waste water treatment systems. There were 56 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$7,600	\$3,650	\$7,200	\$5,800	\$5,600	\$6,000
Payers	108	40	73	73	56	

Statute

Water Code 5.701. Fees

(b) Except as otherwise provided by law, the fee for filing an application or petition is \$100 plus the cost of any required notice. The fee for a by-pass permit shall be set by the commission at a reasonable amount to recover costs, but not less than \$100.

HB 1 General Appropriations Act 2016-17, Art IV – 21, Rider 19 Authorization: Water and Air Program Fee Rates.

To provide for the recovery of costs of processing certain water and air applications, the following fee rates are established pursuant to Government Code, Chapter 316, Subchapter E, to be effective during the biennium beginning on September 1, 2015.

The maximum rate for the fees authorized in Water Code, §§5.701 (b-c), shall be \$2,000.

Rule

30 TAC 330.59 Contents of Part 1 of the Application

(h) Application fees.

(1) In accordance with §305.53 of this title (relating to Application Fee), the application fee for a permit, registration, amendment, modification, or temporary authorization is \$150.

On-Site Wastewater Charge-back Permit

This fee is set in statute. A fee revision would require a statutory change.

The authority for the fee originated in 1987, during the 70th Legislative Session. The fee is assessed only when the TCEQ assumes control of the OSSF Program from a local governmental entity that voluntarily relinquishes their OSSF permit authority or has the permit authority revoked by TCEQ. This fee has never been applied.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$0	\$0	\$0	\$0	\$0	\$0
Payers	0	0	0	0	0	0

Statute

Health & Safety 366.059 Permit Fee Paid to Department or Authorized Agent

(b) The commission may assess a reasonable and appropriate charge-back fee, not to exceed \$500, to a local governmental entity for which the commission issues permits for administrative costs relating to the permitting function that are not covered by the permit fees collected. The commission shall base the amount of a charge-back fee under this subsection on the actual cost of issuing a permit under this section. The commission may assess a charge-back fee to a local governmental entity under this subsection if the local governmental entity is an authorized agent that:

- (1) has repealed the order, ordinance, or resolution that established the entity as an authorized agent; or
- (2) has had its authorization as an authorized agent revoked by the commission.

(c) Fees collected under this section shall be deposited to the credit of the water resource management account.

(d) The commission may not assess a charge-back fee to a local governmental entity if the local governmental entity has repealed the order, ordinance, or resolution that established the entity as an authorized agent or has lost its designation as an authorized agent due to material change in the commission's rules under this chapter.

Rule

30 TAC 285.14 Charge-back Fee

(a) Under Texas Health and Safety Code, §366.059, the commission may assess a reasonable and appropriate charge-back fee, not to exceed \$500 per permit, to local governmental entities that either have repealed an on-site sewage facility (OSSF) order, ordinance, or resolution, or have had their delegation revoked by the commission according to §285.13 of this title (relating to Revocation of Authorized Agent Delegation). The charge-back fee will be assessed for each OSSF permit issued within that local governmental entity's area of jurisdiction. The amount of the charge-back fee will be based on the executive director's actual cost of issuing an OSSF permit in that jurisdiction. The executive director's actual cost will be based on the type and number of OSSFs typically installed and inspected in the local governmental entity's jurisdiction, along with expected travel expenses for the executive director.

- (1) If a local governmental entity repeals its OSSF order, ordinance, or resolution or the commission revokes a local governmental entity's delegation and the local governmental entity agrees to the amount of the charge-back fee, the executive director will recommend the commission approve the charge-back fee. In order to have legal effect as

an order of the commission, the charge-back fee must be approved and ordered by the commission. The commission order must include:

- (A) the type of OSSFs typically installed and inspected in the local governmental entity's jurisdiction;
- (B) the number of OSSFs installed in the local governmental entity's jurisdiction over the preceding five years;
- (C) the distance the county courthouse or city hall is from the nearest agency regional office;
- (D) the current mileage rate set by the Comptroller of the State of Texas; and
- (E) the amount of the charge-back fee.

(2) If a local governmental entity repeals its OSSF order, ordinance, or resolution or the commission revokes a local governmental entity's delegation and the local governmental entity does not agree to the amount of the charge-back fee, the commission will refer the matter to SOAH for a contested case hearing to determine the charge-back fee, according to Chapter 80 of this title (relating to Contested Case Hearings).

Public Health Services

This fee is set by the commission. A fee revision would require rulemaking.

This fee was created in 1993 by S.B. 1041 of the 73rd Legislative Session. Operators of public drinking water systems are assessed a fee based on the number of connections. The Commission adopted a rule package on May 11, 2016 which increased the maximum amounts that can be charged for these fees. For systems with 25 or fewer connections, the fee will be an amount up to a maximum of \$200 (FY17 rate is \$125); for systems with 26 to 160 connections, the fee will be an amount up to a maximum of \$300 (FY 17 rate is \$200); and for systems with 161 or more connections, the fee will be an amount up to a maximum of \$4.00 per connection (FY 17 rate is \$2.45).

This fee is assessed against owners or operators of public drinking water supply systems. There were 7,116 fee payers in FY 2016.

Current Rates

If you have...	Then you will pay...
fewer than 25 connections	\$125
between 25 and 160 connections	\$200
more than 160 connections	\$2.45 for each connection

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$20,062,264	\$20,376,260	\$20,230,530	\$20,595,433	20,948,570	\$23,078,000
Payers	7,163	7,166	7,179	7,252	7,116	

Statute

Health & Safety 341.041. Fees

(a) The commission by rule may charge fees to a person who owns, operates, or maintains a public drinking water supply system. The commission may establish a schedule of fees. The amount of the fees must be sufficient to cover the reasonable costs of administering the programs and services in this subchapter or the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq. Among other factors, the commission shall consider equity among persons required to pay the fees as a factor in determining the amount of the fees. The commission may also use the fees to cover any other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes listed in Section 5.701(q), Water Code.

Rule

30 TAC 290.51. Fees for Services to Drinking Water System

(a) Purpose and Scope.

(1) The purpose of this section is to establish fees for services provided by the commission to public water systems.

(2) The commission will provide services to public water systems, as follows:

- (A) scheduling of analysis of drinking water for chemical content;
- (B) collection of samples of drinking water for chemical analyses;
- (C) review system data for evaluation of sampling waivers;
- (D) inspect public water systems;

- (E) review plans for new systems and major improvements to existing systems; and
- (F) provide technical assistance as needed.

(3) The fees which the commission will charge for services provided to community and nontransient noncommunity water systems under this subsection will be according to the following schedule.

(A) For a system with fewer than 25 connections, the fee will be an amount up to a maximum of \$200.

(B) For systems with 25 - 160 connections, the fee will be an amount up to a maximum of \$300.

(C) For a system with greater than or equal to 161 connections, the fee will be an amount up to a maximum of \$4.00 per connection.

(i) The number of connections will be determined from data collected from the latest agency inspection report.

(ii) All nontransient noncommunity systems, state, federal, and other community water system installations determined by the commission to serve large populations through a few connections will have the number of connections for fee purposes determined by dividing the population served by a value of ten.

(iii) Examples of such installations include, but are not limited to, universities, children's homes, correctional facilities, and military facilities which generally do not bill customers for water service.

(4) New public water systems will not be assessed a fee for services until water is supplied to the first connection.

(5) The commission will charge a fee of \$100 for services provided to noncommunity water systems which are not addressed in paragraph (3) of this subsection.

(6) All fees are due by January 1 of each year, shall be paid by check, money order, electronic funds transfer, or through the agency's payment portal, and shall be made payable to the Texas Commission on Environmental Quality. Penalties and interest for the late payment of fees shall be assessed in accordance with Chapter 12 of this title (relating to Payment of Fees).

Temporary or Emergency Water Use Permit

This fee is capped in statute. A change to the cap would require a statutory change.

The authority for these fees originated in 1917, during the 35th Legislative Session. Applications for a Temporary / Emergency Water Use Permit (which do not create a permanent water right) must pay a fee of \$100 for 10 acre feet or less or \$250 if more.

This fee is paid by entities requiring a temporary water right and can encompass any entity require the diversion of surface water There were 248 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$43,230	\$29,258	\$28,933	\$24,412	\$28,917	25,0000
Payers	372	278	246	246	248	

Statute

Water Code 11.138. Temporary Permits

- (a) The commission may issue temporary permits for beneficial purposes to the extent that they do not interfere with or adversely affect prior appropriations or vested rights on the stream from which water is to be diverted under such temporary permit. The commission may, by appropriate order, authorize any member of the commission to approve and issue temporary permits without notice and hearing if it appears to such issuing party that sufficient water is available at the proposed point of diversion to satisfy the requirements of the temporary permit as well as all existing rights. No temporary permit issued without notice and hearing shall authorize more than 10 acre-feet of water, nor may it be for a term in excess of one year.
- (b) The commission may prescribe rules governing notice and procedure for the issuance of temporary permits.
- (c) As between temporary permits, the one applied for first has priority.
- (d) The commission may not issue a temporary permit for a period exceeding three calendar years.
- (e) A temporary permit does not vest in its holder a permanent right to the use of water.
- (f) A temporary permit expires and shall be cancelled by the commission in accordance with the terms of the permit.
- (g) The commission may prescribe by rule the fees to be paid for issuance of temporary permits, but no fee for issuance or extension of a temporary permit shall exceed \$500.

Rule

30 TAC 295.132. Filing, Recording, and Notice Fees

- (a)(1)(B) Fees for a temporary permit shall be based upon the total amount of water requested for impoundment and diversion as follows:
 - (i) ten acre-feet or less - \$100; and
 - (ii) greater than 10 acre-feet - \$250.

30 TAC 295.134. Maximum Fees

A fee under §295.133 of this title (relating to One-Time Use Fees) for one use of state water under a permit from the commission shall not exceed \$50,000. The fee for each additional use of water under a permit for which the maximum fee is paid shall not exceed \$10,000. Temporary water permit use fees under §295.133 of this title shall not exceed \$500. The fee for any application for extension of time to commence or complete construction under §295.133 of

this title shall not exceed \$1,000. The fee under §295.133 of this title for the use of saline tidal water for industrial processes shall not exceed five thousand dollars (\$5,000).

Wastewater Treatment Inspection

This fee is set by the commission. A fee revision would require rulemaking.

This fee was created in 1987 by H.B. 1875, 70th Legislative Session. A fee of \$200 for single-family dwellings or \$400 for multi-family dwellings is assessed in connection with applications submitted to the TCEQ for new OSSF systems. The fee is paid by citizens who want to install on-site sewage disposal systems, or septic tanks, in counties where TCEQ is the permitting authority. There were 956 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$204,754	\$213,110	\$209,100	\$230,810	\$225,905	\$215,000
Payers	875	850	853	853	956	

Statute

Health & Safety 366.058. On-Site Sewage Disposal Systems – Permit Fee

(a) The commission by rule shall establish and collect a reasonable permit fee to cover the cost of issuing permits under this chapter and administering the permitting system. The commission may also use the fee to cover any other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes listed in Section 5.701(q), Water Code.

Rule

30 TAC 285.21. Fees

- (a) The application fee for an on-site sewage facility (OSSF) permit is:
- (1) \$200 for an OSSF serving a single family dwelling; or
 - (2) \$400 for all other types of OSSFs.

Wastewater Treatment Research Council

This fee is set in statute. A fee revision would require a statutory change.

This fee was created in 1987 by H.B. 32, 70th Legislative Session. A fee of \$10 is assessed for each permit processed for an on-site sewage disposal system.

The fee is paid by every entity that submits an application to install an on-site sewage disposal septic system in the state. There were 34,119 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$236,173	\$279,972	\$304,697	\$304,010	\$341,188	\$275,000
Payers	27,089	27,997	30,407	30,407	34,119	

Statute

Health & Safety 367.010. On-Site Wastewater Treatment Research - Fees

(a) The commission and each county, municipality, public health department, and river authority shall collect a \$10 fee for each on-site wastewater treatment permit application processed.

Rule

30 TAC 285.21. Fees

(b) A fee of \$10 shall also be collected for each OSSF permit for the commission as required by the Texas Health and Safety Code, Chapter 367.

Water District Bond Application

This fee is set in statute. A fee revision would require a statutory change.

The authority for the fee originated in 1917, during the 35th Legislative Session. A person who files a bond issue application with the commission must pay an application fee of \$500 plus notice costs. District application fees are used to support the costs of processing and approval of district petitions and resolution.

These fees are paid by water districts that are required to seek commission approval of their bonds prior to issuance. Municipal systems do not pay this fee. There were 254 fee payers in FY16.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$69,600	\$78,300	\$103,450	\$145,950	\$125,700	\$85,000
Payers	173	160	178	215	254	

Statute

Water Code 5.701. Fees

(f) A person who files a bond issue application with the commission must pay an application fee set by the commission. The commission by rule may set the application fee in an amount not to exceed the costs of reviewing and processing the application, plus the cost of required notice. If the bonds are approved by the commission, the seller shall pay to the commission a percentage of the bond proceeds not later than the seventh business day after receipt of the bond proceeds. The commission by rule may set the percentage of the proceeds in an amount not to exceed 0.25 percent of the principal amount of the bonds actually issued. Proceeds of the fees shall be used to supplement any other funds available for paying expenses of the commission in supervising the various bond and construction activities of the districts filing the applications.

Rule

30 TAC 293.43. Application Requirements

For the approval of projects and the issuance of bonds, a district shall submit:

- (4) a filing fee of \$500 plus the cost of any required notice;

Water District Bond Proceeds

This fee is set in statute. A fee revision would require a statutory change.

The authority for the fee originated in 1917, during the 35th Legislative Session. Bond sellers shall pay to the commission a fee of 0.25 percent of the bond proceeds not later than the seventh business day after receipt of the bond proceeds. Bond fees are to be used to supplement other funds available to pay expenses of supervising bond and construction activities of water districts.

These fees are paid by public water utilities and corporations that provide potable water or sewer service. Municipal systems do not pay this fee. There were 240 fee payers in FY16.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$1,585,045	\$1,620,425	\$1,784,772	\$2,628,219	\$3,519,175	\$2,500,000
Payers	188	176	160	202	240	240

Statute:

Water Code 5.701. Fees

(f) A person who files a bond issue application with the commission must pay an application fee set by the commission. The commission by rule may set the application fee in an amount not to exceed the costs of reviewing and processing the application, plus the cost of required notice. If the bonds are approved by the commission, the seller shall pay to the commission a percentage of the bond proceeds not later than the seventh business day after receipt of the bond proceeds. The commission by rule may set the percentage of the proceeds in an amount not to exceed 0.25 percent of the principal amount of the bonds actually issued. Proceeds of the fees shall be used to supplement any other funds available for paying expenses of the commission in supervising the various bond and construction activities of the districts filing the applications.

Rule:

30 TAC 293.45. Action of the Commission and Bond Proceeds Fee

(b) If the bonds are approved by the commission, the district shall pay to the commission by check 0.25 percent of the principal amount of the bonds actually issued not later than the seventh business day after receipt of the bond proceeds. The commission may allow the district to pay a lesser amount if it determines that the circumstances surrounding a particular bond issue justify a lesser amount.

Water District Creation Application

This fee is set by the commission. A fee revision would require rulemaking.

The authority for the fee originated in 1917, during the 35th Legislative Session. A water district creation application must be accompanied by a fee of \$700.

This fee is paid by water districts. There were 22 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$5,700	\$9,800	\$13,300	\$9,800	\$14,800	\$10,000
Payers	4	14	20	14	22	

Statute

Water Code 5.701. Fees

(e) A person who files with the commission a petition for the creation of a water district or addition of sewage and drainage powers or a resolution for a water district conversion must pay a one-time nonrefundable application fee. The commission by rule may establish the application fee in an amount sufficient to cover the costs of reviewing and processing the application, plus the cost of required notice. The commission may also use the application fee to cover other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes listed in Subsection (p). This fee is the only fee that the commission may charge with regard to the processing of an application for creation of a water district, addition of sewage or drainage powers, or conversion under this code.

Rule

30 TAC 293.11. Information Required to Accompany Applications for Creation of Districts

(a) Creation applications for all types of districts, excluding groundwater conservation districts, shall contain the following:

- (1) \$700 nonrefundable application fee;

Water Quality Permit

This fee is set in statute. A fee revision would require a statutory change or a change to Rider 19 Authorization: Water and Air Program Fee Rates.

The authority for the fee originated in 1917, during the 35th Legislative Session. A fee is assessed in connection with applications for wastewater treatment permits. Application fees vary from \$100 - \$2,000 depending on the gallons per day of flow requested in the permit.

Fee is paid by municipalities of all sizes, MUDS, water supply corporations, energy companies, chemical companies, and other businesses. There were 883 fee payers in FY 2016.

Current Rates

Flow	New/Major Amendment	Renewal
<0.05 million gallons per day (MGD)	\$350.00	\$315.00
≥0.05 but <0.10 MGD	\$550.00	\$515.00
≥0.10 but <0.25 MGD	\$850.00	\$815.00
≥0.25 but <0.50 MGD	\$1,250.00	\$1,215.00
≥0.50 but <1.0 MGD	\$1,650.00	\$1,615.00
≥1.0 MGD	\$2,050.00	\$2,015.00

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$685,905	\$802,787	\$934,800	\$770,165	\$763,315	\$750,000
Payers	892	886	1,039	913	883	

Statute

Water Code 5.701. Fees

(c) The fee for filing a water permit application is \$100 plus the cost of required notice.

HB 1 General Appropriations Act 2016-17, Art IV – 21, Rider 19 Authorization: Water and Air Program Fee Rates.

To provide for the recovery of costs of processing certain water and air applications, the following fee rates are established pursuant to Government Code, Chapter 316, Subchapter E, to be effective during the biennium beginning on September 1, 2015.

The maximum rate for the fees authorized in Water Code, §§5.701 (b-c), shall be \$2,000.

Rule

30 TAC 305.53. Consolidated Permits - Application Fee

(a)(6) The permit application fees for wastewater disposal permits shall not be less than \$100 and not more than \$2,000 as follows.

(A) Agricultural permit applications fees are as follows:

(i) minor amendments - \$100; and

(ii) new, amendment, and renewal applications - \$300.

(B) Domestic wastewater permit application fees are based upon the following flow categories:

- (i) minor amendments - \$100;
 - (ii) new, amendment, and renewal applications less than 50,000 gallons per day - \$300;
 - (iii) new, amendment, and renewal applications 50,000 to less than 100,000 gallons per day - \$500;
 - (iv) new, amendment, and renewal applications 100,000 to less than 250,000 gallons per day - \$800;
 - (v) new, amendment, and renewal applications 250,000 to less than 500,000 gallons per day - \$1,200;
 - (vi) new, amendment, and renewal applications 500,000 to less than 1 million gallons per day - \$1,600; and
 - (vii) new, amendment, and renewal applications 1 million and greater gallons per day - \$2,000.
- (C) Municipal storm water permit application fees as follows:
- (i) minor amendments - \$100; and
 - (ii) new, major amendments, and renewal applications - \$2,000.
- (D) Industrial wastewater permit application fees are based upon the EPA major/minor designation and the commission assigned toxicity rating as follows:
- (i) minor amendments for minor facilities - \$100;
 - (ii) minor amendments for major facilities - \$400;
 - (iii) new, amendment, and renewal applications for minor facilities that are not subject to categorical standards promulgated by EPA (40 Code of Federal Regulations, Part 400) - \$300;
 - (iv) new, amendment, and renewal applications for minor facilities that must comply with a categorical standard promulgated by the EPA (40 Code of Federal Regulations, Part 400) - \$1,200; and
 - (v) new, amendment, and renewal applications for major facilities - \$2,000.

Water Use Assessment

This fee is capped in statute. A change to the cap would require a statutory change.

The authority for the fee originated in 1917, during the 35th Legislative Session. An annual fee is assessed against holders of water rights such as power plants, river authorities, and water districts to name a few. Fee rates range from \$0.021 to \$0.385 per acre foot. WUF is assessed against an entity that holds a water right unless the entity is exempt from the WUF as specified in statute and/or rule. There were 218 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$951,213	\$1,075,406	\$1,058,646	\$1,153,037	\$1,232,179	\$1,200,000
Payers	170	173	192	206	218	

Statute

Water Code 26.0135. Watershed Monitoring and Assessment of Water Quality

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section. Irrigation water rights, non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177.

Water Code 26.0291. Water Quality Fee

(a) An annual water quality fee is imposed on:

(2) each user of water in proportion to the user's water right, through permit or contract, as reflected in the commission's records, provided that the commission by rule shall ensure that no fee shall be assessed for the portion of a municipal or industrial water right directly associated with a facility or operation for which a fee is assessed under Subdivision (1) of this subsection.

(c) The fee for each year is imposed on each permit or water right in effect during any part of the year. The commission may establish reduced fees for inactive permits.

(d) Irrigation water rights are not subject to a fee under this section.

(e) The commission by rule shall adopt a fee schedule for determining the amount of the fee to be charged. Beginning September 1, 2009, the maximum amount of a fee under this section is \$100,000. On September 1 of each subsequent year, the commission shall adjust the maximum fee amount as necessary to reflect the percentage change during the preceding year in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published monthly by the United States Bureau of Labor Statistics, or its successor in function. Notwithstanding any adjustment for inflation under this subsection, the amount of the fee may not exceed \$150,000 for each permit or contract and the maximum annual fee under this section for a

wastewater discharge or waste treatment facility that holds a water right for the use of water by the facility is \$150,000. In determining the amount of a fee under this section, the commission may consider:

(4) the reasonable costs of administering the water quality management programs under Section [26.0135](#); and

(5) any other reasonable costs necessary to administer and enforce a water resource management program reasonably related to the activities of the persons required to pay a fee under this section.

(f) The fees collected under this section shall be deposited to the credit of the water resource management account, an account in the general revenue fund.

(g) The commission may adopt rules necessary to administer this section.

(h) A fee collected under this section is in addition to any other fee that may be charged under this chapter

Rule

30 TAC 21.3 Fee Assessment

(c) Assessment for water rights.

(1) An annual fee is assessed against each person holding a water right, except for those exemptions specified in this section. A separate fee is assessed for each water right.

These fees do not apply to water uses, including domestic and livestock use, which are exempt from the need for authorization from the commission under TWC, Chapter 11.

(2) This fee will apply to all municipal or industrial water rights, or portions thereof, not directly associated with a facility or operation which is assessed a fee under subsection (b) of this section, and to all other types of water rights except agriculture water rights and certain hydroelectric water rights described in paragraph (5) of this subsection.

(3) The fee for each water right authorizing diversion of more than 250 acre-feet per year for consumptive use shall be \$.385 per acre-foot.

(4) An authorization to impound water will be assessed a fee only when there is no associated consumptive use authorized, and then the fee will be calculated at the non-consumptive rate described in paragraph (5) of this subsection.

(5) The fee for water rights for non-consumptive use above 2,500 acre feet per year, including hydropower purposes, shall be \$.021 per acre-foot. The fee shall not be assessed against a holder of a non-priority hydroelectric right who owns or operates privately-owned facilities which collectively have a capacity of less than two megawatts.

Water Use Permit Application

This fee is set in statute. A fee revision would require a statutory change or a change to Rider 19 Authorization: Water and Air Program Fee Rates.

The authority for the fee originated in 1917, during the 35th Legislative Session. Applicants for a water use permit (water right) must submit a fee of \$100 to \$2,000 depending on the amount of acre feet requested in the application.

The fee payers can include power plants, river authorities, and water districts to name a few. There were 538 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$124,021	\$145,863	\$120,455	\$118,141	\$90,528	\$100,000
Payers	303	450	464	449	538	

Statute

Water Code 5.701. Fees

(c) The fee for filing a water permit application is \$100 plus the cost of required notice.

HB 1 General Appropriations Act 2016-17, Art IV – 21, Rider 19 Authorization: Water and Air Program Fee Rates.

To provide for the recovery of costs of processing certain water and air applications, the following fee rates are established pursuant to Government Code, Chapter 316, Subchapter E, to be effective during the biennium beginning on September 1, 2015.

The maximum rate for the fees authorized in Water Code, §§5.701 (b-c), shall be \$2,000.

Rule

30 TAC 295.132. Filing, Recording, and Notice Fees

(a)(1)(A) Fees for a water use permit or an application for extension of time to begin or complete construction shall be based upon the total amount of water requested to be appropriated for impoundment and diversion as follows:

- (i) less than 100 acre-feet - \$100;
- (ii) 100 - 5,000 acre-feet - \$250;
- (iii) 5,001 - 10,000 acre-feet - \$500;
- (iv) 10,001 - 250,000 acre-feet - \$1,000;
- (v) greater than 250,000 acre-feet - \$2,000

(a) In addition to the filing, recording, and notice fees stated in §295.132 of this title (relating to Filing, Notice, and Recording Fees), the following fees shall be submitted at the time an application for an appropriation is made:

- (1) for the use of state water for agriculture, a fee of \$.50 per acre each year;
- (2) for the impoundment of state water, except under the Texas Water Code, §11.142 and §11.1431, a fee of \$.50 per acre-foot of storage; however, if the applicant seeks to impound water in an on-channel reservoir for in-place recreational purposes, the fee is \$1.00 per acre-foot of storage (storage is based on the total holding capacity of the reservoir at normal maximum operating level);

(3) for the use of state water for any temporary purpose, a fee of \$1.00 per acre-foot or fraction thereof;

(4) for other uses of state water not specifically named in this section, a fee of \$1.00 per acre-foot to be diverted annually. However, no political subdivision may be required to pay fees to use water to recharge underground freshwater-bearing sands and aquifers or for the abatement of natural pollution. This fee is waived for applications for instream use water rights deposited into the Texas Water Trust.

(b) If the total fee for a permit exceeds \$1,000, the applicant shall pay at least one-half of the use fee when the application is filed, and one-half within 180 days after notice is mailed to the applicant that the permit is granted. If the applicant does not pay all of the amount owed before beginning to use state water under the permit, the permit is annulled and reverts to the status of a pending, filed application requiring notice, the payment of notice fees, and the balance of the use fees.

(c) A fee imposed under subsection (a) (4) of this section for the use of saline tidal water for industrial processes shall be one dollar (\$1.00) per acre-foot of water diverted for the industrial process, not to exceed a total fee of five thousand dollars (\$5,000).

(d) For an application requesting multiple uses of the same amount of water, the fee shall be based on the use with the highest fee.

30 TAC 295.134. Maximum Fees

A fee under §295.133 of this title (relating to One-Time Use Fees) for one use of state water under a permit from the commission shall not exceed \$50,000. The fee for each additional use of water under a permit for which the maximum fee is paid shall not exceed \$10,000.

Temporary water permit use fees under §295.133 of this title shall not exceed \$500. The fee for any application for extension of time to commence or complete construction under §295.133 of this title shall not exceed \$1,000. The fee under §295.133 of this title for the use of saline tidal water for industrial processes shall not exceed five thousand dollars (\$5,000).

30 TAC 295.139. Miscellaneous Fees

(d) The ownership recording fee for changing the commission ownership records of water rights shall be \$100 for each numbered water right.

Water Use Permit-Construction Delay

This fee is capped in statute. A change to the cap would require a statutory change.

The authority for the fee originated in 1917, during the 35th Legislative Session. Applicants requesting an extension of time to begin or complete construction of diversion facilities and/or a storage reservoir must submit a fee based on the total amount of water requested to be appropriated for impoundment and diversion. The fee for any application for extension of time to commence or complete construction shall not exceed \$1,000. There were no fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$1,003	\$205	\$2,760	\$205	\$-	\$1,000
Payers	4	2	2	2	0	

Statute

Water Code 11.145. When Construction Must Begin

(a) If a permit is for appropriation by direct diversion, construction of the proposed facilities shall begin within the time fixed by the commission, which shall not exceed two years after the date the permit is issued. The appropriator shall work diligently and continuously to the completion of the construction. The commission may, by entering an order of record, extend the time for beginning construction. The commission may establish fees, not to exceed \$1,000, for extending the time to begin construction of the proposed facilities.

(b) If the permit contemplates construction of a storage reservoir, construction shall begin within the time fixed by the commission, not to exceed two years after the date the permit is issued. The commission, by entering an order of record, may extend the time for beginning construction. The commission may fix fees, not to exceed \$1,000, for extending the time to begin construction of reservoirs.

Rule

30 TAC 295.132. Filing, Recording, and Notice Fees

(a)(1)(A) Fees for a water use permit or an application for extension of time to begin or complete construction shall be based upon the total amount of water requested to be appropriated for impoundment and diversion as follows:

- (i) less than 100 acre-feet - \$100;
- (ii) 100 - 5,000 acre-feet - \$250;
- (iii) 5,001 - 10,000 acre-feet - \$500;
- (iv) 10,001 - 250,000 acre-feet - \$1,000; and
- (v) greater than 250,000 acre-feet - \$2,000.

30 TAC 295.134. Maximum Fees

The fee for any application for extension of time to commence or complete construction under §295.133 of this title shall not exceed \$1,000.

Water Utility Regulatory Assessment

This fee is set in statute. A fee revision would require a statutory change.

This fee was created in 1991 by S.B. 2, 72nd Legislative Session. A provider of potable water or sewer utility service collects from each retail customer an assessment based on a percentage of the utility charge on their monthly bill. The provider then remits the payment to TCEQ on an annual basis based on services provided during a calendar year. A public utility as defined in Water Code Section 13.002 must collect an amount equal to 1 percent of the total utility charge. Water supply or sewer service corporations as defined by Water Code Section 13.002 and districts as defined by Water Code Section 49.001 must collect an assessment equal to 0.5 percent of total utility charges.

These fees are paid by public water utilities and water supply or sewer service corporations that provide potable water or sewer service. Municipal systems do not pay this fee. There were 2,356 fee payers in FY 2016.

History of Revenue Collection

Fiscal Year	2012	2013	2014	2015	2016	2017 Est
Collected	\$9,097,843	\$8,468,683	\$8,818,219	\$8,912,515	\$9,536,592	\$8,900,000
Payers	2,300	2,199	2,159	2,095	2,356	

Statute

Water Code 5.701. Fees

(n)(1) Each provider of potable water or sewer utility service shall collect a regulatory assessment from each retail customer as follows:

- (A) A public utility as defined in Section 13.002 shall collect from each retail customer a regulatory assessment equal to 1 percent of the charge for retail water or sewer service.
- (B) A water supply or sewer service corporation as defined in Section 13.002 shall collect from each retail customer a regulatory assessment equal to one-half of 1 percent of the charge for retail water or sewer service.
- (C) A district as defined in Section 49.001 that provides potable water or sewer utility service to retail customers shall collect from each retail customer a regulatory assessment equal to one-half of 1 percent of the charge for retail water or sewer service.

Rule

30 TAC 291.76. Regulatory Assessment

(d) Amounts payable to the commission shall be based on the following:

- (1) for a public utility as defined in the Water Code, §13.002, 1.0 percent of the charge for retail water and sewer service;
- (2) for a water supply or sewer service corporation as defined in the Water Code, §13.002, 0.5 percent of the charge for retail water and sewer service;
- (3) for a district as defined in the Water Code, §49.001, 0.5 percent of the charge for retail water and sewer service.

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Water Study Plan

The study shall determine the level of agency workload related to each of the entities paying fees and the relative benefit each fee payer group receives (from water quality permitting, water quality regulation, and safe drinking water programs).

The agency shall develop a methodology to determine the appropriate level of rates for water-related fees that would generate revenue in proportion to agency workload and fee payer benefits.

The TCEQ shall base any future fee rate modification made to ensure sufficient revenues to the Water Resource Management Account on the findings of the study,

- Provided such fee rate changes do not conflict with any statutory provisions relating to water-related fees or water-related programs, and
- Provided such fee rates do not exceed any maximum levels set in statute.

Planning for the Study

The study would contain three or four phases –

- Data collection – This phase will provide the workload information and the corresponding fee, and the benefit to the fee payers.
- Fee review – This phase will determine if the appropriate fee is associated with the work. It will also establish the methodology for establishing the rate based on the workload.
- Recommendations – This phase will summarize Phase I and II to present recommendations for rate setting based on workload.
- Decision document – This phase will conclude the finding and present the final decisions, including changes and why the changes occurred.

The team involved in the planning and implementation would include a representative from Financial Administration, Chief Financial Officer, Budget and Planning, Legal Services, Office of Water, and Office Compliance and Enforcement.

Throughout the process, Executive Management will receive an update of the study at a budget meeting.

The proposed date to complete the study is August 2016.

Phase I – Data Collection

September 2015 to December 2015

1. Create template to determine workload from water activities. Information may include the following
 - a. Purpose of the activity
 - b. Total cost of activity
 - c. Number of FTEs
 - d. Which fee supports the activity? Is the fee required for the activity?
 - e. Explain the benefit of the activity to the fee payers.
 - f. Identify the federal grants that support this activity.
 - g. How much on average is supported by Federal Funds
 - h. Identify performance measure
2. List of Fees (similar to the word document arranged by fee rather than fund).
3. Determine deadline to receive information from
 - a. Office of Water
 - b. Supporting Offices

4. Seek feedback from offices on the template. Determine if the survey is clear and thorough.

January to April 2016

5. Request data from direct water activities – Office of Water by section. Schedule meetings with each division to review the template. This review will not include the Watermaster Offices and the River Compacts.
6. Share information with supporting offices to collect their costs associated with the direct water activities, including Office of Compliance and Enforcement and Office of Legal Services. Schedule meetings to review data and review template.
7. Review and compile the data received.
8. Determine an appropriate percentage associated with the direct activities for Indirect Administration support, including Commissioners, Executive, Office of Administrative Services, and Office of Legal Services.
9. Address conflicting information received from the compiled data.
10. Compile data to determine total cost of each activity.

Phase II – Fee review

April to May 2016

1. Using the list of Fees created in Phase I, request feedback from the Offices to determine if a fee should be continued or not with an explanation of why.
2. Compile cost of water activities by fee. Determine if more than one fee supports a program.
3. Review the water activities and the fee payer benefits associated with each fee. Address any discrepancies associated with the use of the fee listed in statute.
4. Review the costs compared to the current collections for each fee.
5. Develop options for a methodology to establish rates based on the data received from the Offices relating to workload and fee payer benefits.
6. Review the methodology.

Phase III – Recommendations

May to July 2016

1. Prepare a summary of the findings and the methodologies.
2. Briefing with Offices to present findings.
3. Incorporate revisions.
4. Briefing with Commissioners and Executive Management.
5. Incorporate revisions and finalize.

Phase IV – Decision Document

August 2016

1. Prepare a decision document that includes findings, changes, and why the changes occurred.
2. Distribute for revisions/comments.
3. Finalize the document.