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# Annual Enforcement Report

*Fiscal Year 2023*

Prepared by  
Office of Compliance and Enforcement

SFR-126/23  
November 2023

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY • PO BOX 13087 • AUSTIN, TX 78711-3087

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## **Introduction**

The [Texas Commission on Environmental Quality](https://www.tceq.texas.gov)<sup>1</sup> (TCEQ) is the state's primary environmental regulatory agency. Its mission is to protect our state's human and natural resources consistent with sustainable economic development. The agency regulates approximately 790,000 public and private facilities or individuals in Texas that affect, or have the potential to significantly affect, the environment.

Pursuant to Texas Water Code (TWC) Section 5.126, by Dec. 1 each year, the agency is required to prepare a report of enforcement actions for the preceding fiscal year (FY), including a comparison of TCEQ's enforcement actions for the preceding five FYs. The report includes statistical indicators including the number of investigations, number of Notices of Violations, number of enforcement actions, type of enforcement actions, penalties assessed, deferred, or collected; and other information TCEQ determines is relevant.

The report also includes a comparative analysis of data evaluating the agency's performance over time, and that of entities that TCEQ regulates (pursuant to TWC Section 5.756); evaluations of complaints (pursuant to TWC Section 5.1773); emissions events (pursuant to Texas Health and Safety Code (THSC) Section 382.0215); and aggregate production operations (pursuant to TWC Section 28A.054). Information on the Texas Tier II Chemical Reporting Program has also been included in the report since FY 2016 when enforcement of the program was transferred to TCEQ in response to House Bill 942, 84<sup>th</sup> Legislative Session.

This 27<sup>th</sup> edition of the report includes information from FY 2018-2023. TCEQ's FY begins Sept. 1 and ends Aug. 31 of the following year.

## **Environmental Toolbox**

TCEQ approaches enforcement as a tool among many available to achieve its mission. The agency pursues swift, fair, sensible, and responsive enforcement, used within an overall strategy for achieving timely compliance. TCEQ uses a broad range of tools to enable and require businesses and governments, large and small, to comply with environmental rules. These tools include on-site and off-site facility assistance, small business and local government assistance, [advisory and stakeholder groups and committees](https://www.tceq.texas.gov)<sup>2</sup>, general education events, regulatory workshops, publications and guidance documents, telephone hotlines, the agency's expansive website, on-site and record review investigations, and civil and administrative enforcement.

## **Event Coordination and Education Activities**

TCEQ provides educational opportunities and technical assistance through coordinated workshops, seminars, and educational events. These include the agency's keystone event, the Environmental Trade Fair and Conference. During FY 2023, 41 agency-sponsored seminars provided technical information and assistance to over 8,200 attendees.

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<sup>1</sup> [www.tceq.texas.gov](https://www.tceq.texas.gov)

<sup>2</sup> [www.tceq.texas.gov/agency/decisions/participation/advise](https://www.tceq.texas.gov/agency/decisions/participation/advise)

### **TCEQ-Sponsored Seminars**

- Advanced Air Permitting Seminar
- Emissions Inventory Seminar
- Dam Safety Seminar (three events)
- Environmental Trade Fair and Conference
- Public Drinking Water Conference
- Tier II Chemical Reporting Training (34 events)

Additionally, TCEQ continues to sponsor the [Take Care of Texas](https://takecareoftexas.org)<sup>3</sup> Program (TCOT), which provides Texans simple actionable conservation, protection, and waste reduction tips. During FY 2023, the program garnered more than 2,300 pledges to TCOT. The [Take Care of Texas Tips](https://www.youtube.com/c/TakeCareofTexas/featured)<sup>4</sup> video received 10.4 million impressions through digital video advertisements and social media advertisements, making this one of the biggest TCOT campaigns to date.

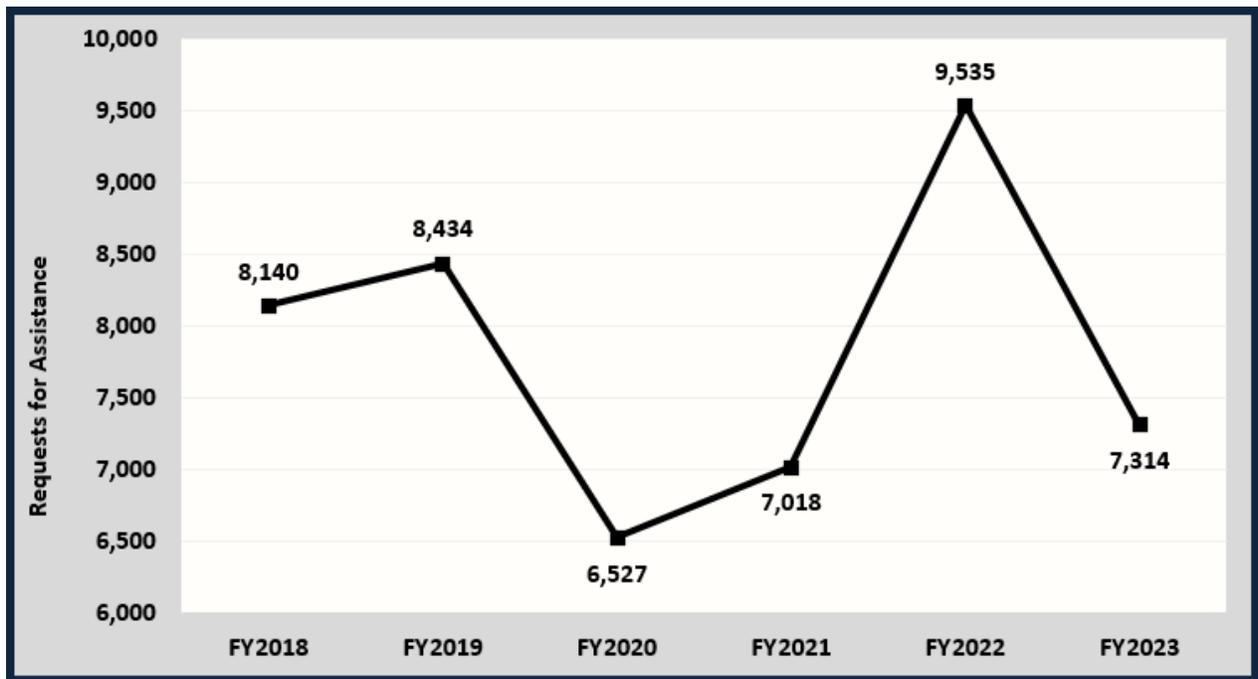
### **Assistance to Small Businesses and Local Governments**

TCEQ annually reaches at least 66,000 Texas small businesses and local governments, keeping them informed about changes and trends in environmental regulations to help them comply. In FY 2023, the Small Business and Local Government Assistance Program (SBLGA) received 7,314 direct requests for assistance (RFAs) from customers. TCEQ staff also presented compliance information to small businesses and local governments at webinars with 2,493 attendees. This assistance focuses on up-to-date information that ultimately helps the regulated community understand environmental rules and how to comply with them. The figure below represents the number of direct RFAs from small business and local government customers over the past six years.

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<sup>3</sup> <https://takecareoftexas.org>

<sup>4</sup> [www.youtube.com/c/TakeCareofTexas/featured](https://www.youtube.com/c/TakeCareofTexas/featured)

**Figure 1—Requests for Assistance from Small Businesses & Local Governments**

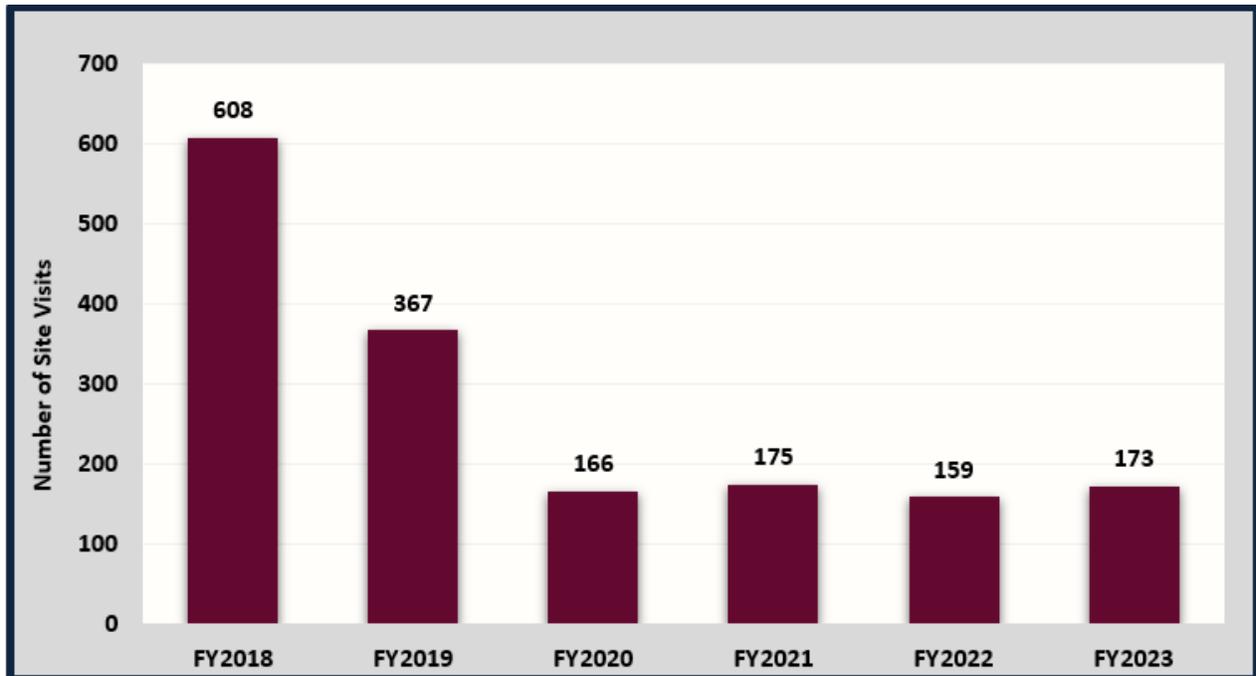
The increase in RFAs from FY 2021 to FY 2022 largely resulted from outreach to public drinking water supply (PWS) systems regarding new Emergency Preparedness Plan requirements that were implemented under Senate Bill 3, 87<sup>th</sup> Legislative Session. The SBLGA Program also handled a large volume of RFAs related to the renewal of the Multi-Sector General Permit for stormwater. FY 2023 reflects a more typical volume of assistance without these external factors.

TCEQ's Site Visit Program provides on-site visits to check on regulated entities' compliance with all aspects of environmental regulations—air, water, and waste. The Site Visit Program largely supports the agency's priority to meet the federal Energy Policy Act (EPA) of 2005 requirements for petroleum storage tank (PST) facilities. Utilizing a grant from the United States Environmental Protection Agency (EPA), the Site Visit Program continued its work at potentially abandoned PST facilities in the counties impacted by Hurricane Harvey to determine whether a release had occurred. Since FY 2019, 44 comprehensive assessments have been conducted and remediation was initiated at 17 facilities and completed at 14 facilities. Of the 17 sites where remediation was initiated, 14 have received No Further Action letters, two have been referred to TCEQ's State Lead Program for remediation, and the last remaining site is still under evaluation that will continue in FY 2024.

During FY 2023, TCEQ continued its focus on abandoned PST sites. Under this project, TCEQ uses the Abandoned PST Screening process, developed in FY 2020, to establish when a PST can be considered abandoned and removed from the EPA mandatory investigation cycle. This process also provides guidance to other parts of the agency for determining what additional assistance or action may be necessary to mitigate risks that may be presented by these abandoned PSTs. As a result of these efforts, 61 facilities have been identified as Abandoned PST EPA facilities, including four facilities that have been referred to TCEQ's Remediation Division for tank removal. An additional 157 facility registrations have been inactivated, either due to tank removal or research that resulted in discovery of tank removal documentation.

The figure below represents the number of on-site visits for small business and local government customers over the past six years under TCEQ's Site Visit Program. The 2018 site visits were Hurricane Harvey Damage Assessments and PST pilot project site visits. The 2019 visits were Hurricane Harvey Damage Assessments and PST EAct focused. Site visits conducted in 2020 through 2023 were Abandoned PST EAct site visits.

**Figure 2—Number of SBLGA Site Visits at Abandoned PST EAct Sites by FY**



TCEQ also has an [EnviroMentor](#)<sup>5</sup> Program that matches participating small businesses and local governments with dedicated environmental professionals who volunteer their time and expertise to help these small entities achieve compliance. In FY 2023, this group tallied 333 volunteer hours and helped 13 small businesses or governments.

## Compliance and Enforcement Program

A strong enforcement program must ensure that enforcement mechanisms are applied and issued in an equitable manner. Equitable treatment means that violators of environmental requirements do not come out ahead economically to the disadvantage of those entities that spend substantial resources to comply with the law.

TCEQ continues to implement the provisions of the [Penalty Policy](#)<sup>6</sup>, which was last revised in January 2021. The cornerstone of this policy emphasizes compliance to protect our citizens and the environment from harm, coupled with ensuring consistent, just, and timely enforcement when environmental laws are violated. Compliance efforts often require significant costs from regulated entities above and beyond any penalties imposed by the agency.

TCEQ has the authority to levy penalties in 31 environmental program areas. Under TWC Chapter 7, penalties can be as much as \$25,000 per day, per violation for most administrative cases and \$25,000 per day, per violation for most civil judicial cases. Legislation passed during

<sup>5</sup> [www.tceq.texas.gov/assistance/em](http://www.tceq.texas.gov/assistance/em)

<sup>6</sup> [www.tceq.texas.gov/compliance/investigation/rg-253.html](http://www.tceq.texas.gov/compliance/investigation/rg-253.html)

the 88<sup>th</sup> Legislative session increased the potential maximum administrative penalty to \$40,000 per day for certain specific violations. This statutory change was effective Sept. 1, 2023.

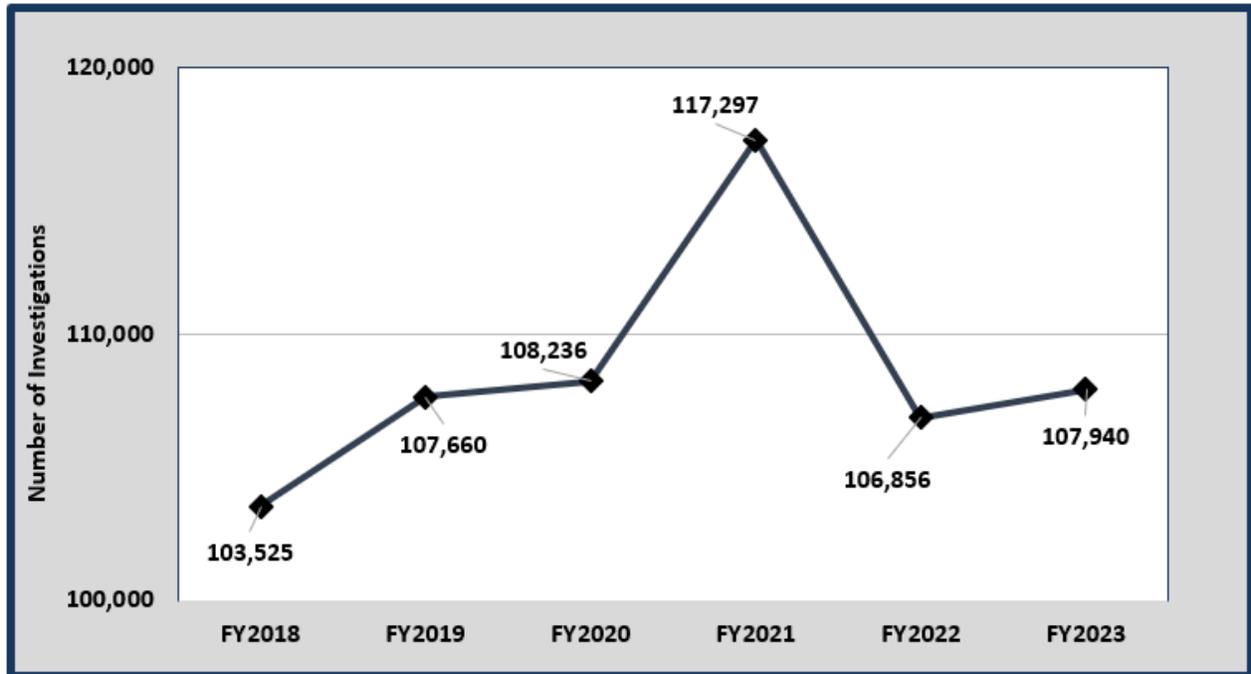
There are specific statutory provisions for certain regulated program activities that authorize different administrative and civil penalty amounts. Some examples of these situations include, but are not limited to the following:

- Limiting the statutory maximum to \$1,000 for levees.
- Limiting the statutory maximum to \$5,000 (occupational licensees, on-site sewage disposal, public water supplies, public water utilities, used oil and filters, and water rights).
- Applying a minimum penalty of \$2,500 and maximum penalty of \$25,000 per violation (unauthorized discharges from quarries).
- Applying a strict penalty of \$10,000 per day per violation (with an exception), rather than defining a maximum (rock crusher or concrete plants that perform wet batching, dry batching, or central mixing and are operating without a permit).
- Applying a penalty based on the number of years an aggregate production operation has been operating without being registered and providing a maximum penalty.
- Providing different maximum penalty amounts based upon the specific violation cited (dry cleaners).
- Providing a particular penalty amount total per violation, as in some statutes, rather than per day (dry cleaners, computer equipment manufacturers).

When determining the penalty amount, TCEQ considers many factors including: the nature, circumstances, extent, duration, and gravity of the violation; the severity of impacts to human health and the environment; compliance history; culpability; good faith efforts to comply; economic benefit; deterrence; and other factors as justice may require.

## **Investigations**

TCEQ's enforcement activities originate primarily from on-site investigations and facility record reviews. Scientific, technical, and environmental specialists in the agency's 16 regional offices are responsible for most investigations. In FY 2023, TCEQ conducted nearly 108,000 investigations, of which over 68,000 were on-site (see figure below).

**Figure 3—Total Investigations by FY**

The number of investigations in FY 2023 is similar to the average over the past six years (see [Appendix A](#) and [Appendix B](#) for six-year totals). In FY 2021, the number was higher due to restrictions imposed because of the COVID-19 pandemic. During this time, TCEQ was able to conduct more investigations with the same amount of resources using off-site virtual and record reviews.

In FY 2022, TCEQ resumed pre-COVID-19 pandemic operations with on-site investigations, which take significantly more time. During FY 2022, the number also decreased due to significant staff turnover and challenges finding qualified candidates, which impacted investigation activities. FY 2023 reflects a more typical workload as the agency returned to normal operations.

For routine, on-site compliance investigations, TCEQ typically provides advance notice to the entity. This ensures that proper personnel and records will be available at the time of the investigation. A single notice may be given when multiple activities contribute to the total investigation count. Investigations that do not receive advance notification include enforcement follow-up investigations and those that are complaint-related or otherwise warrant an unannounced investigation.

The agency provided advance notice for 15,523 on-site investigations and conducted over 52,500 unannounced on-site investigations. Seventy-five percent of the unannounced investigations were conducted in the [Watermaster Programs](#)<sup>7</sup> to ensure compliance with water rights in Texas.

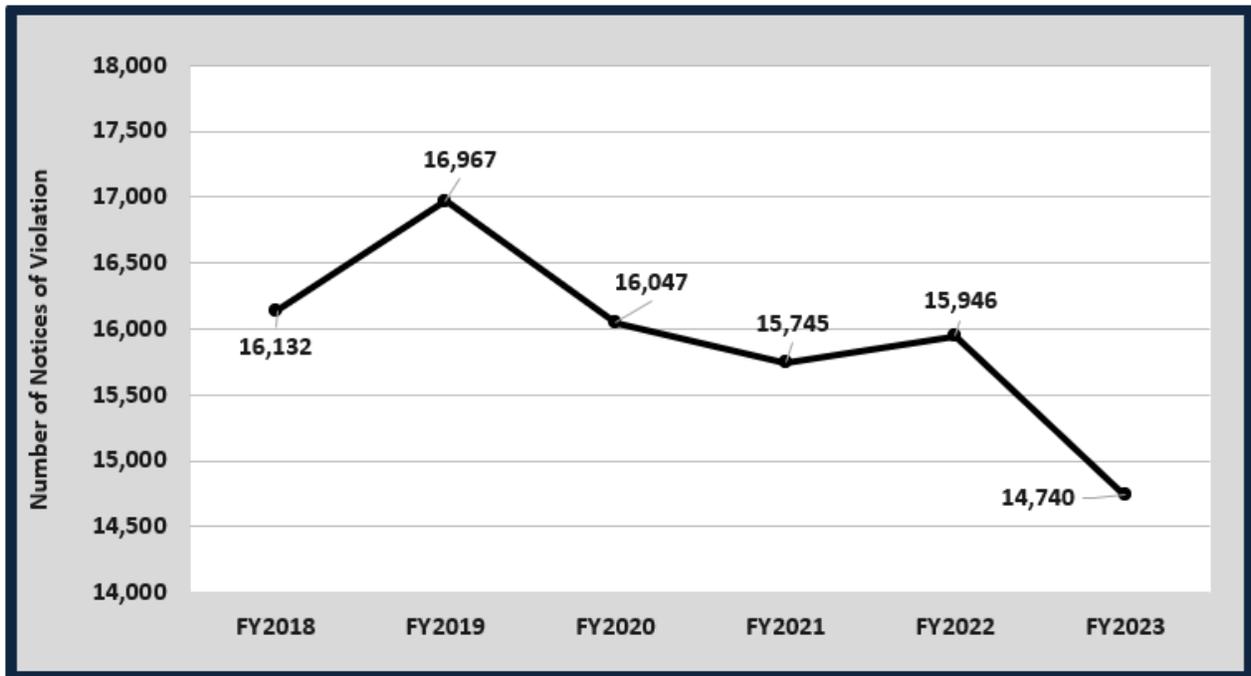
<sup>7</sup> [www.tceq.texas.gov/permitting/water\\_rights/wmaster](http://www.tceq.texas.gov/permitting/water_rights/wmaster)

## Notices of Violation

The most common tool TCEQ uses to ensure compliance with environmental laws is the Notice of Violation (NOV). A NOV is a letter that is sent to a regulated entity when it is determined that an environmental violation may have occurred. The NOV is a multi-purpose, flexible tool that is used thousands of times each year.

In many cases, the NOV is enough to compel timely compliance. In other cases, it can be the first step in a process that ultimately results in formal administrative enforcement, civil enforcement, or possible criminal charges for violation of environmental laws. As depicted in the figure below, TCEQ issued 14,740 NOVs in FY 2023.

**Figure 4—Notices of Violation by FY**



The number of NOVs has generally declined over the past five years. TCEQ’s Drinking Water Program continues to implement several strategies to address PWS noncompliance through extensive tracking, stakeholder outreach, education, training, and technical assistance activities which has resulted in an overall decrease in violations. Notices of violation issued for the past six years are located in [Appendix C](#) and [Appendix D](#).

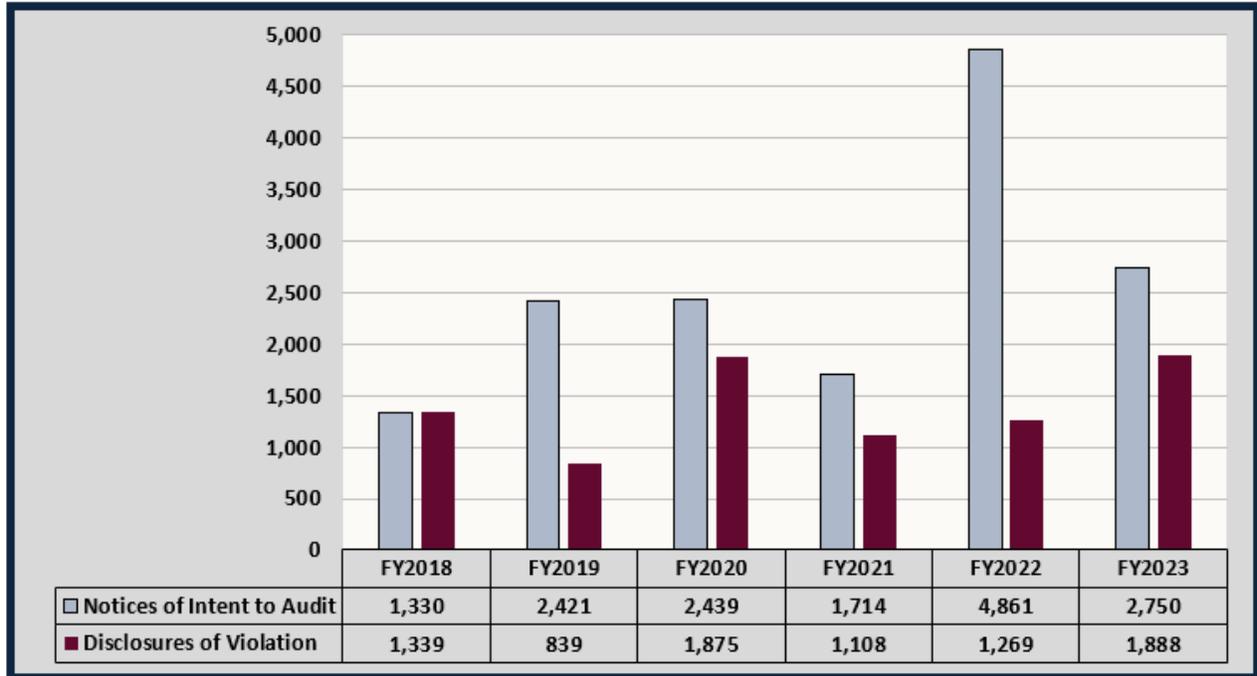
## Texas Audit Act

TCEQ’s enforcement efforts have been enhanced by voluntary environmental self-audits conducted at facilities under the [Texas Environmental, Health, and Safety Audit Privilege Act](#)<sup>8</sup> (Audit Act). This law encourages businesses and governments subject to environmental regulation to perform comprehensive assessments of compliance with environmental laws, regulations, and permits for their own facilities. Organizations who participate in the Audit Act must notify TCEQ of their intent to self-audit and then fully disclose and resolve violations resulting from the audit. TCEQ ensures that all violations disclosed under this program are corrected and, provided that certain conditions of the Audit Act are complied with, the participants in this program may not be subject to civil and administrative penalties. The figure

<sup>8</sup> [www.tceq.texas.gov/downloads/rules/publications/rg-173.pdf](http://www.tceq.texas.gov/downloads/rules/publications/rg-173.pdf)

below depicts a summary of the Notices of Intent to Audit (NOAs) and Disclosures of Violation (DOVs) that TCEQ has received from FY 2018 through FY 2023.

**Figure 5—Texas Environmental Health & Safety Audit Privilege Act: Notices and Disclosures by FY**



Although the volume of NOAs in FY 2023 decreased from the prior year, the numbers remained slightly higher than average. The higher number of DOVs in FY 2023 are the result of the increase in NOAs received from the prior FY. In FY 2022, the increase in the number of NOAs received was attributed primarily to the oil and gas industry (approximately 80%), particularly in the Permian Basin.

## Compliance Monitoring

The success of TCEQ's regulatory assistance through outreach, training, and the voluntary self-audit program—as well as consistent compliance monitoring and enforcement—is revealed in the high percentages of compliance documented following completed investigations. The table below depicts the compliance rates of facilities inspected from FY 2018 through FY 2023.

**Table 1—Percent of Facilities Inspected in Compliance**

Facility Type	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
Air Facilities	98%	97%	96%	94%	96%	97%
Water Facilities	99%	99%	99%	99%	99%	99%
Waste Facilities	96%	97%	97%	97%	97%	96%

The compliance rate is based on investigations resulting in violations that warranted formal enforcement action (i.e., administrative orders, civil judgments, compliance agreements, or referrals to another agency or Program such as Texas Railroad Commission, Superfund, or Criminal Investigations). As mentioned previously, minor violations may have been documented

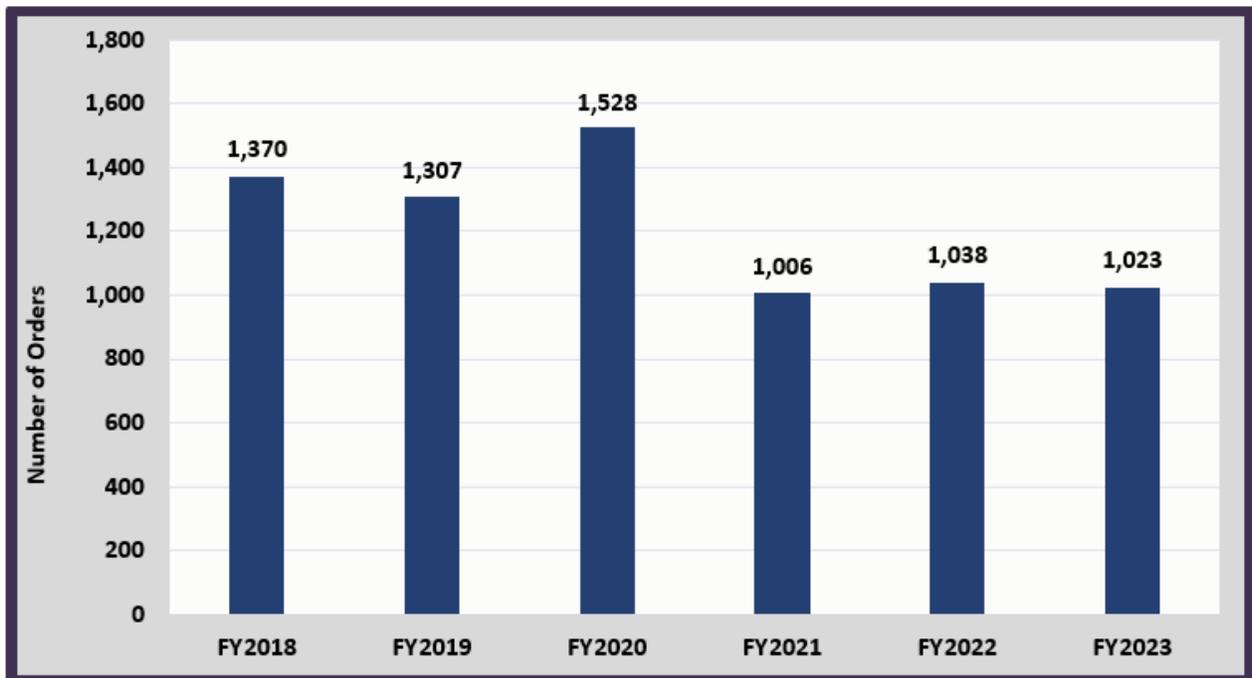
during some investigations that resulted in issuance of an NOV, but it was enough to compel compliance.

## **Formal Enforcement Actions**

### **Administrative Enforcement**

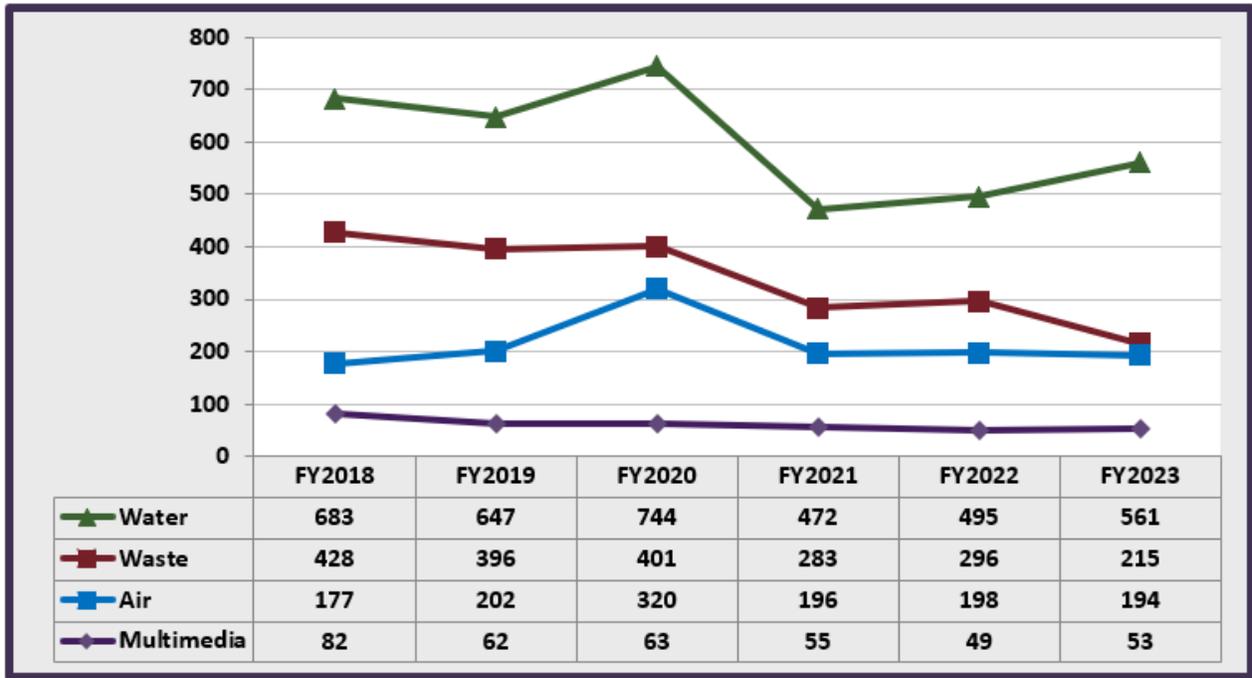
The number of administrative orders issued by TCEQ varies each year and is dependent upon the violator's willingness to settle a case. If a violator refuses to settle a case, and requests a hearing, TCEQ must try the case through the administrative hearing process. This legal process is like trying a case in court and may extend the time it takes to obtain an order and reach compliance. TCEQ issued 1,023 administrative orders in FY 2023, as shown in the figure below.

**Figure 6—Administrative Orders Issued by FY**



The number of administrative orders issued since FY 2021 has trended lower, primarily because of significant staff turnover and vacancies. The figure below summarizes the number of administrative orders issued by media for the last six years.

**Figure 7—Administrative Orders Issued by Media per FY**



One of the most familiar indicators for the enforcement activities of a regulatory agency is penalties (the amount of money ordered to be paid). The administrative orders issued in FY 2023 required payments of \$8,424,234 in penalties and an additional \$3,592,533 was required to be paid for [Supplemental Environmental Projects](#)<sup>9</sup> (SEPs), as discussed below. While penalties are an important deterrent, NOVs, administrative orders, and judgments require compliance and often impose significant costs upon regulated entities. The following table provides a summary of the penalties and SEPs associated with administrative orders over the past six years.

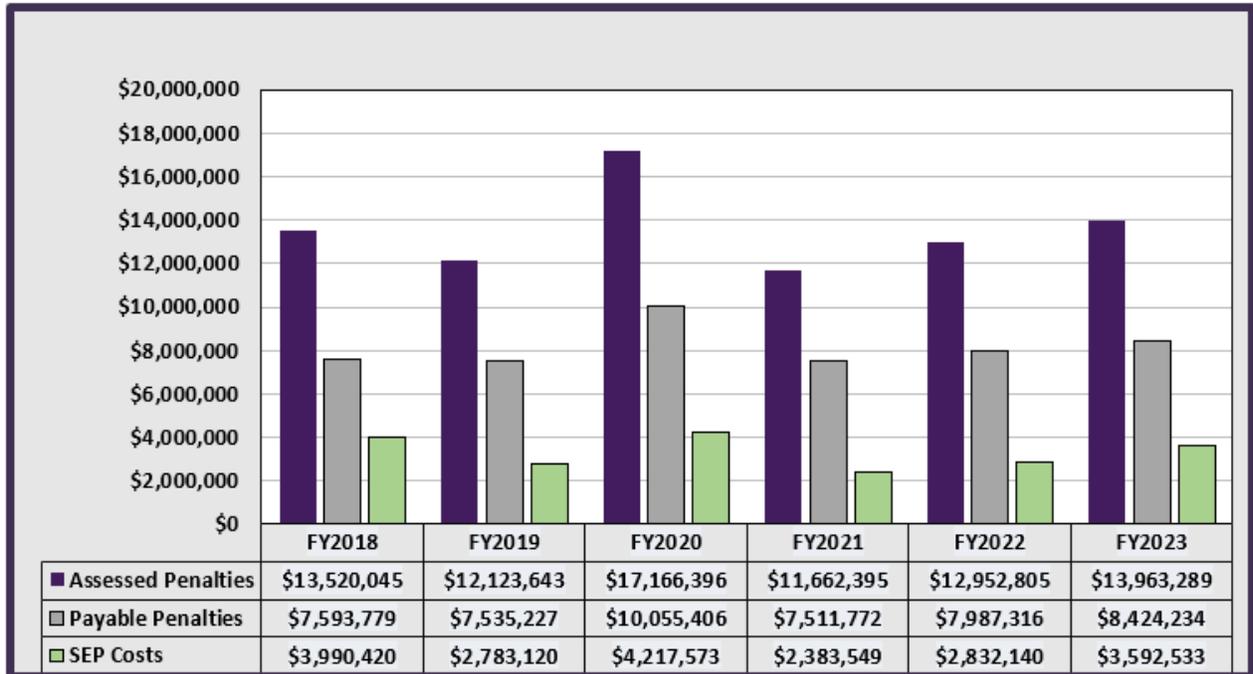
**Table 2—Administrative Penalty Amounts and SEPs by FY**

FY	Orders Issued	Assessed Penalties	Deferred Penalties	Payable Penalties	SEP Costs	Orders with SEPs
2018	1,370	\$13,520,045	\$1,935,846	\$7,593,779	\$3,990,420	169
2019	1,307	\$12,123,643	\$1,805,296	\$7,535,227	\$2,783,120	153
2020	1,528	\$17,166,396	\$2,893,417	\$10,055,406	\$4,217,573	196
2021	1,006	\$11,662,395	\$1,767,074	\$7,511,772	\$2,383,549	139
2022	1,038	\$12,952,805	\$2,133,349	\$7,987,316	\$2,832,140	139
2023	1,023	\$13,963,289	\$1,946,522	\$8,424,234	\$3,592,533	144

<sup>9</sup> [www.tceq.texas.gov/compliance/enforcement/sep](http://www.tceq.texas.gov/compliance/enforcement/sep)

Assessed and payable penalties, as well as SEP costs, associated with administrative orders issued over the past six years are shown in the figure below.

**Figure 8—Penalties and SEP Costs in Administrative Orders Issued by FY**



## Supplemental Environmental Projects

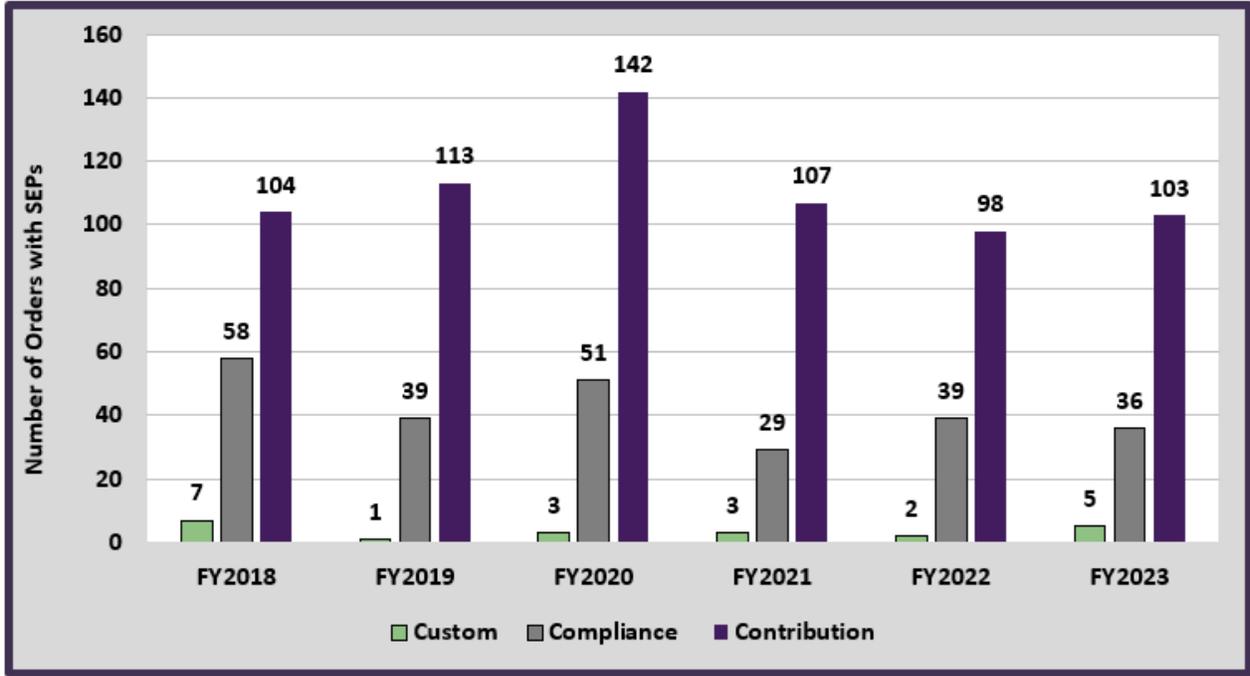
SEPs are projects approved by the commission to benefit the local Texas communities where environmental laws and regulations have been violated. Respondents in enforcement actions are allowed to put a portion of their penalty dollars to work to benefit the environment in the community affected by the violations, rather than paying the entire penalty to the State’s General Revenue Fund. Respondents can choose to perform a Custom SEP or contribute to a Pre-Approved SEP (Contribution SEP). Additionally, respondents that are certain types of local governments can perform a Compliance SEP to come into compliance with environmental laws or to remediate the harm caused by those violations.

SEPs that have been approved during FY 2023 include the following:

- Repair on structures or equipment that may be the cause of the violation.
- Cleanups of abandoned illegal dump sites.
- Events for collecting community household hazardous waste and tires.
- Air and water quality monitoring networks.
- Wetlands and habitat restoration.
- Establishment of nature preserves.
- Cleanups of bays and watersheds.
- Installing and repairing on-site sewage facilities, municipal sewer lines, and potable water service for low-income households.
- Replacing diesel buses with “clean technology” for school districts.
- Energy efficient upgrades and retrofits for public buildings or low-income homeowners.
- Purchasing alternative fueled equipment to replace diesel and gasoline powered equipment.

The figure below provides the number of orders with SEPs by type per FY.

**Figure 9—Orders with SEPs by Type per FY**



## Civil Enforcement

In circumstances where compliance is not achieved through the agency’s administrative process, or in instances where more immediate action is required, such as an emergency event, the agency may refer the matter to the Texas Office of the Attorney General (OAG) for civil enforcement. Under TWC Section 7.105, TCEQ has discretion to refer any matter and an obligation to refer certain matters to the OAG for civil enforcement. During FY 2023, the OAG obtained 19 judgments in cases referred from TCEQ and for which TCEQ was a necessary and indispensable party to enforcement initiated by another entity. These civil judgments resulted in \$5,572,592 to be paid in penalties. The table below shows a summary of the civil judgments that have been issued for the past six years.

**Table 3—Civil Judgments Issued by FY**

FY	Civil Judgments	Civil Penalties to be Paid
2018	34	\$3,816,814
2019	30	\$3,081,387
2020	18	\$2,314,630
2021	24	\$16,555,128
2022	24	\$6,845,268
2023	19	\$5,572,592

A successful enforcement program, combined with a strong regulatory assistance program, ensures that the public and the environment receive the benefits of the protections embodied in environmental statutes, regulations, and permits.

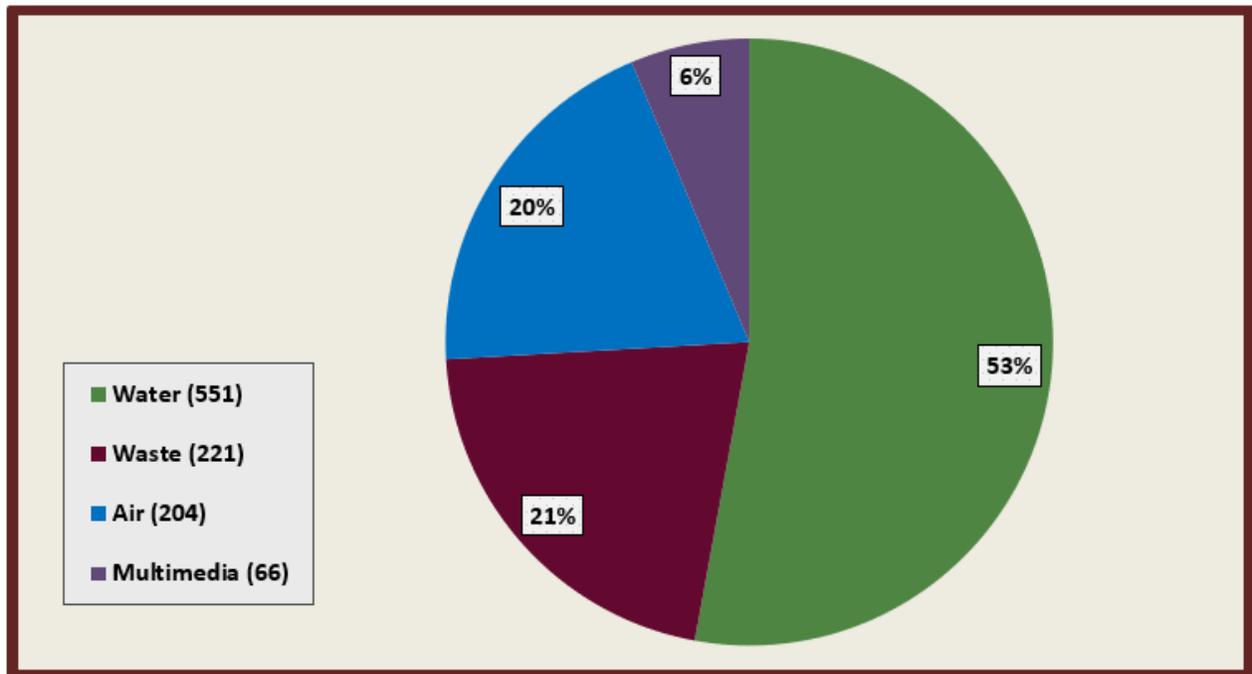
## **Comparative Analysis**

Texas Water Code Section 5.756 requires that TCEQ evaluate performance, over time, of the agency and of entities regulated by the agency. This section of the report addresses the comparison of entities regulated by TCEQ. An analysis has been performed on the types of businesses for all orders and judgments issued, those issued to regulated entities with prior orders and judgments, orders and judgments issued to regulated entities with the same or similar violations, the violations included in the orders and judgments, and the size of businesses or municipalities that had orders and judgments issued during the FY.

### **Comparison of Orders and Judgments Issued by Media Type**

In FY 2023, TCEQ issued 1,023 administrative orders and assisted the OAG in obtaining 19 civil judgments. The figure below displays the percentage of orders and judgments issued during FY 2023 by media type (air, waste, water, and multimedia).

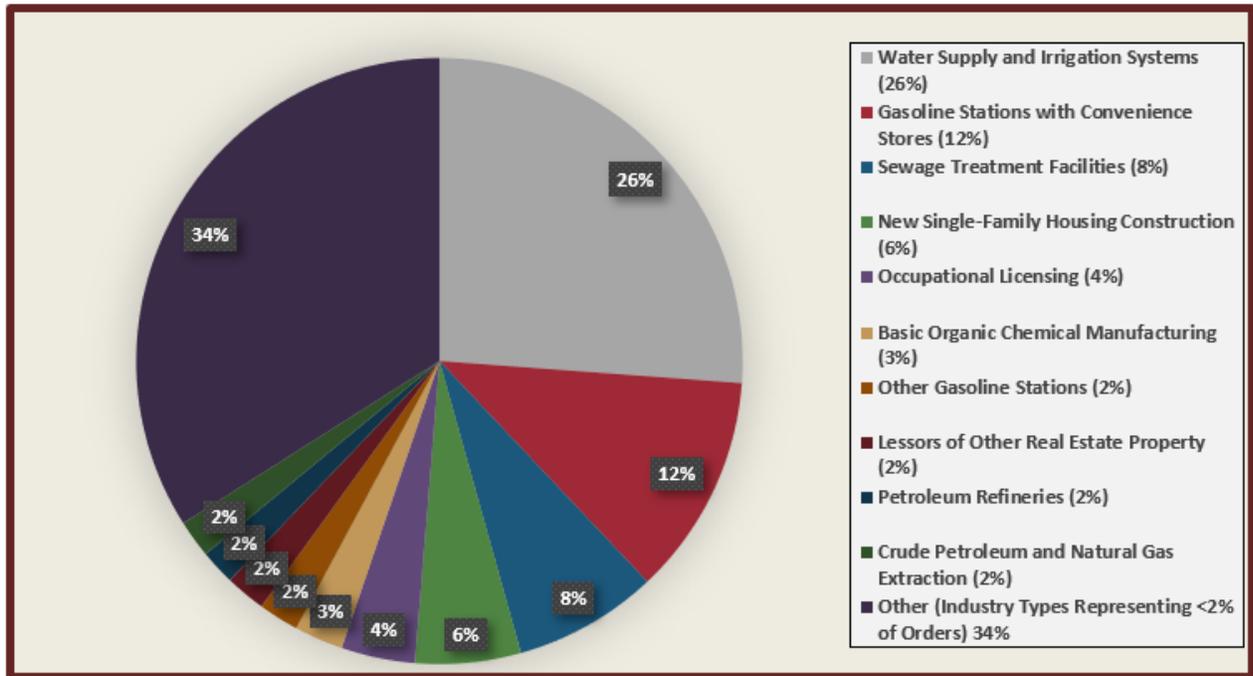
**Figure 10—Number and Percent of Orders and Judgments Issued in FY 2023 by Media Type**



### **Comparison of Orders and Judgments Issued by Industry Type**

The percent of regulated entities with orders and judgments issued for FY 2023 based upon the North American Industrial Classification System (NAICS) are shown in the following figure. The industry types with the highest percentages were Water Supply and Irrigation Systems, Gasoline Stations with Convenience Stores, and Sewage Treatment Facilities. Thirty-four percent of the regulated entities represented NAICS categories of less than two percent.

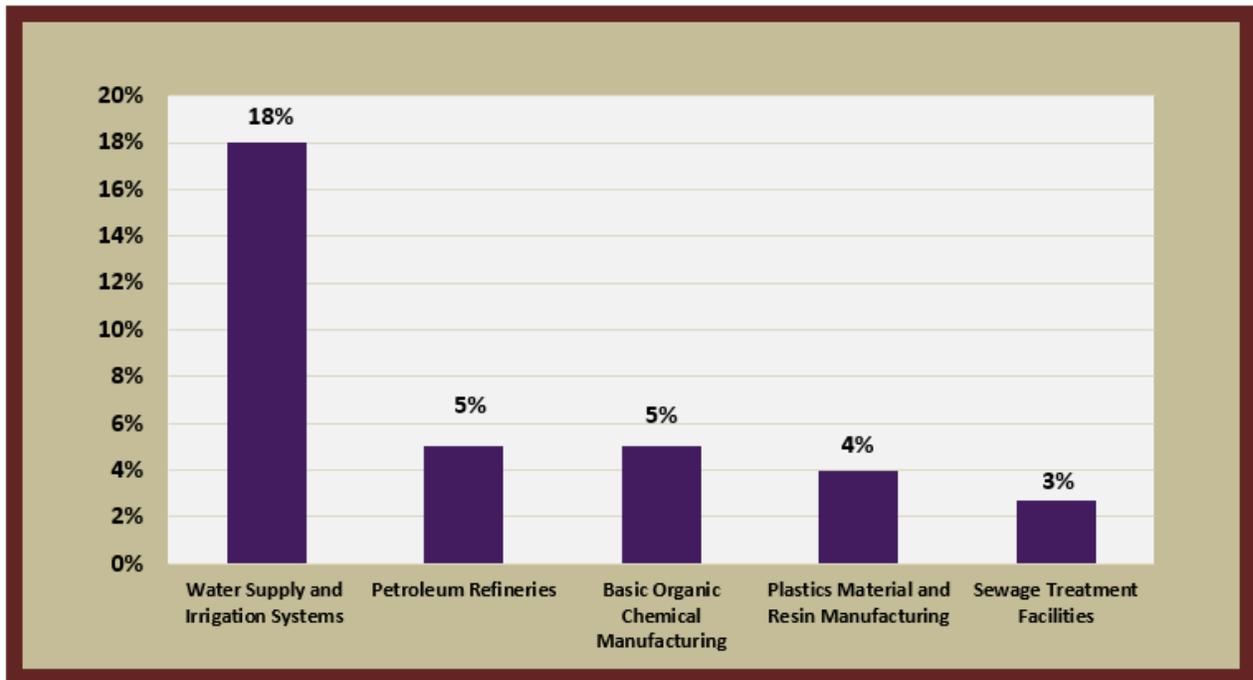
**Figure 11—Percent of Industry Types with Orders and Judgments Issued in FY 2023**



There were 1,013 regulated entities that were issued a total of 1,042 administrative orders and civil judgments in FY 2023. These numbers differ because it is not a one-to-one relationship. A single order may address violations at more than one regulated site and more than one order may be issued to the same responsible party during the FY.

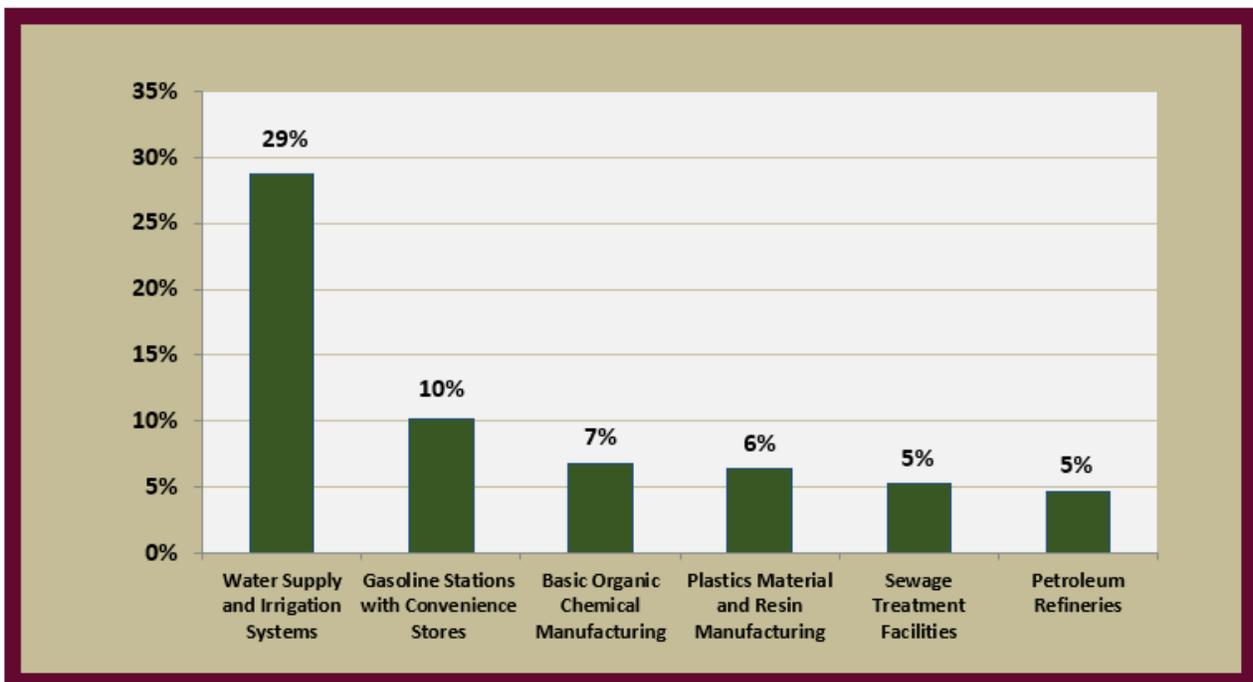
Of the regulated entities that were issued orders in FY 2023, 301 (30%) had previous enforcement orders or judgments and 328 (31%) of orders and judgments had violations that were the same or similar as those included in prior orders or judgments over the past five years. The highest percentage of industry types with prior orders and judgments included: Water Supply and Irrigation Systems, Petroleum Refineries, Basic Organic Chemical Manufacturing, Plastics Material and Resin Manufacturing, and Sewage Treatment Facilities, as shown in the figure below.

**Figure 12—Percent of Industry Types with Previous Orders and Judgments**



The highest percentage of industry types for regulated entities with same or similar violations included in prior enforcement orders and judgments were as follows: Water Supply and Irrigation Systems, Gasoline Stations with Convenience Stores, Basic Organic Chemical Manufacturing, Plastics Material and Resin Manufacturing, Sewage Treatment Facilities, and Petroleum Refineries, as shown in the figure below.

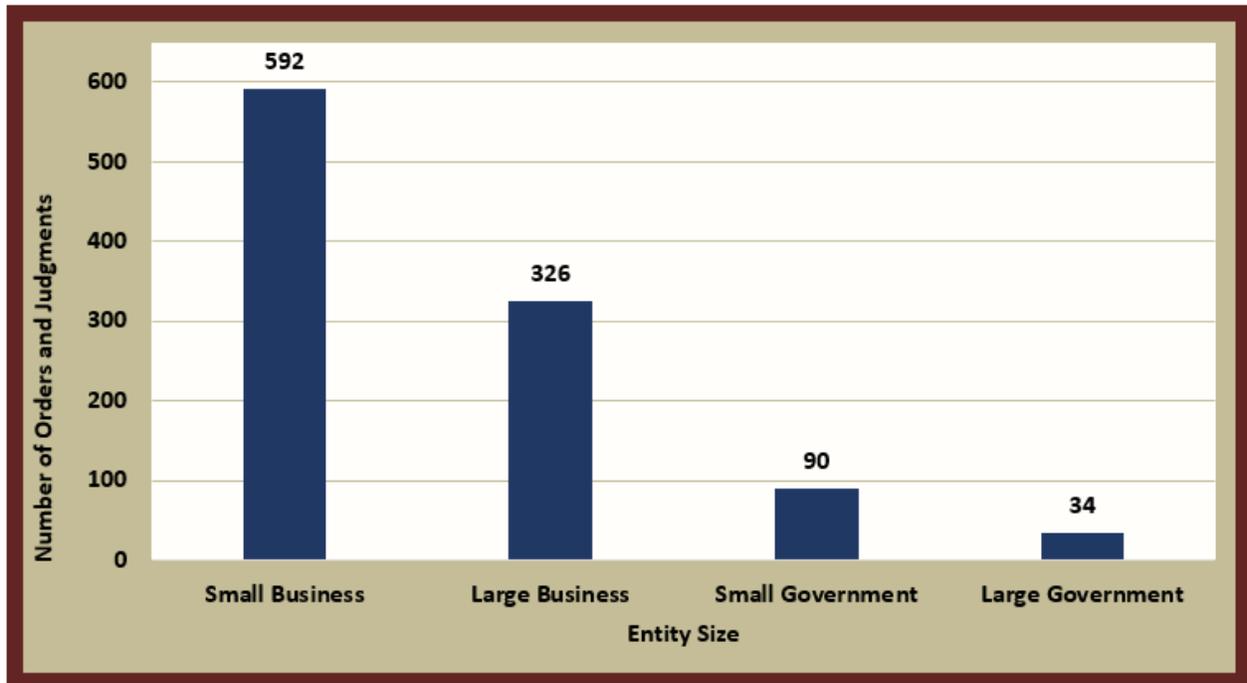
**Figure 13—Percent of Orders and Judgments with Same or Similar Violations**



## Comparison of Orders and Judgments Issued by Legal Entity Size

Enforcement orders and judgments are issued to legal entities of varying sizes. For orders and judgments issued in FY 2023, 57% were issued to small businesses, 31% were issued to large businesses, 9% were issued to small governments, and 3% were issued to large governments. The figure below depicts the number of orders and judgments issued based on the size of businesses and local governments. For purposes of this report, a small business is defined as any person, firm, or business that employs fewer than 100 full-time employees. A small government is defined as a city with a population of less than 5,000 or a county with a population of less than 25,000.

**Figure 14—Size of Legal Entities with Orders and Judgments Issued in FY 2023**



## Comparison of Citations in Orders and Judgments Issued

Of the 1,042 administrative orders and civil judgments issued in FY 2023, there were 2,888 violations alleged with 6,283 citations of rules, statutes, permits, or orders. Of all the citations documented, 76% were for violations of rules or statutes, 22% were for violations of permit provisions, and 2% were for violations of orders previously issued.

The following table lists the highest percentage of common rule or statutory citations included in orders and judgments issued in FY 2023. Citations of less than 1% frequency are not included.

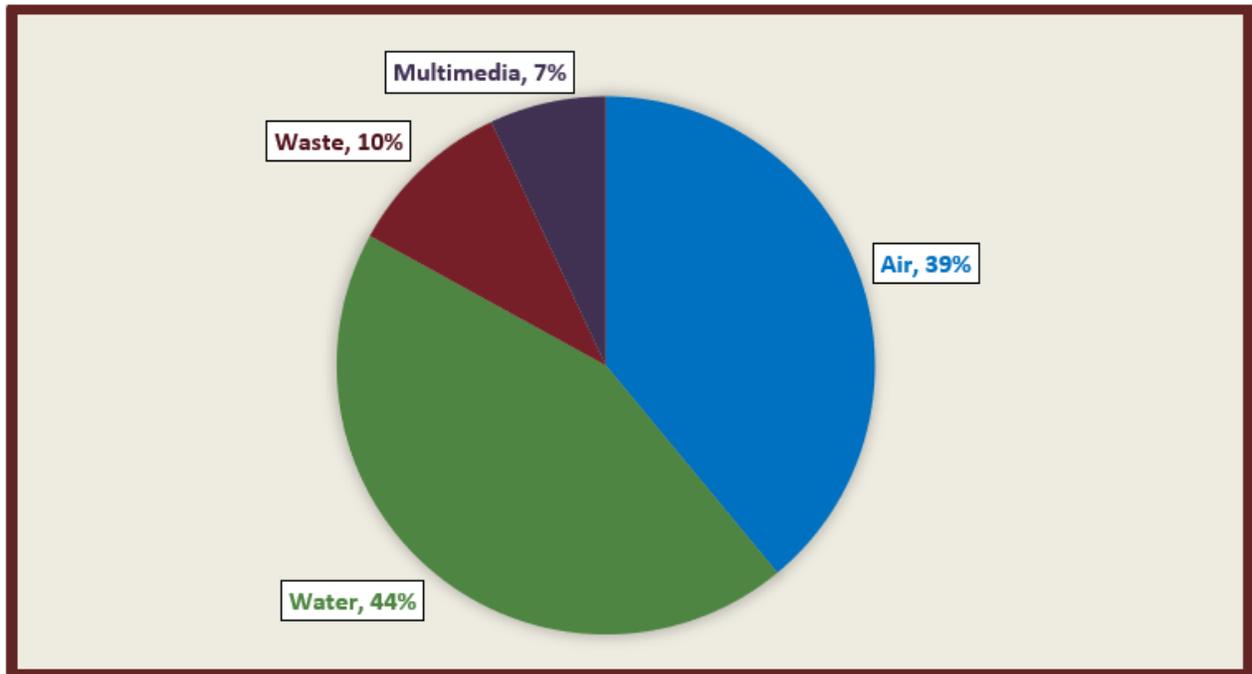
**Table 4—Percent of Citations in Orders and Judgments Issued in FY 2023**

Media	Section	Percent
Air	THSC § 382.085—Unauthorized Emissions Prohibited	10%
Air	30 TAC* § 116.115—General and Special Conditions of New Source Review Permits	8%
Water	30 TAC § 290.46—Minimum Acceptable Operating Practices for Public Drinking Water Systems	7%
Air	30 TAC § 122.143—General Terms and Conditions of Permits	7%
Multimedia	30 TAC § 305.125—Consolidated Permits: Standard Permit Conditions	4%
Waste	TWC § 26.3475—Release Detection; Spill and Overfill Prevention; Corrosion Protection	4%
Water	THSC §341.0315—Public Drinking Water Supply System Requirements	3%
Air	30 TAC § 101.20—General Air Quality Rules	3%
Waste	30 TAC § 334.50—Release Detection	3%
Water	30 TAC § 290.122—Public Notification	3%
Water	30 TAC § 290.110—Disinfectant Residuals	3%
Water	30 TAC § 290.117—Regulation of Lead and Copper	3%
Water	TWC § 26.121—Unauthorized Discharges Prohibited	2%
Water	TWC § 13.1394—Standards of Emergency Operations	2%
Water	30 TAC § 290.115—Stage 2 Disinfection Byproducts (TTHM and HAA5)	2%
Water	30 TAC § 290.42—Water Treatment	2%
Water	30 TAC § 290.106—Inorganic Contaminants	2%
Water	30 TAC § 290.45—Minimum Water System Capacity Requirements	1%
Water	30 TAC § 281.25—Texas Pollutant Discharge Elimination System Permit Application	1%
Air	30 TAC § 101.201—Emissions Event Reporting and Recordkeeping	1%
Multimedia	TWC § 7.101—General Violations of Statutes, Rules, Orders, and Permits	1%
Water	30 TAC § 290.41—Water Sources	1%

\*Texas Administrative Code

The figure below depicts the most frequently cited rules or statutes by media type for orders and judgments issued in FY 2023. The higher percentage of orders and judgments issued in the water media is reflective of the number of orders or judgments issued against PWS systems.

**Figure 15—Percentage of Most Frequently Cited Rules or Statutes by Media Types**



## **Compliance History Program**

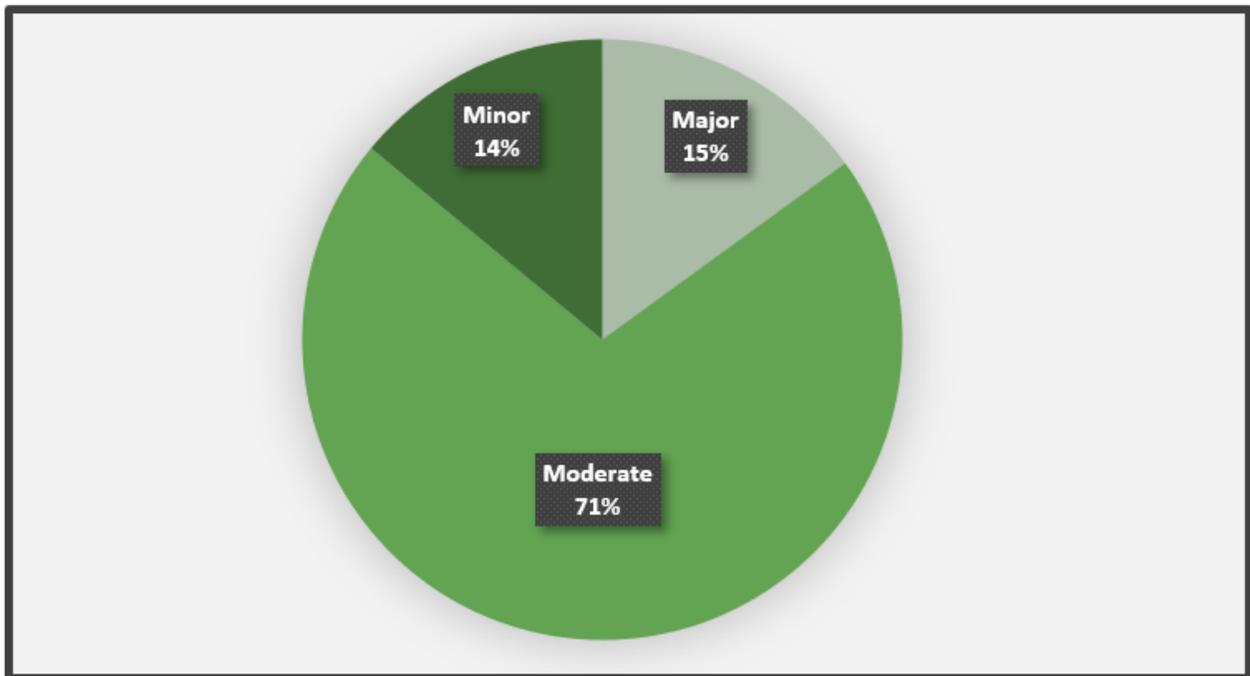
Texas Water Code Chapter 5, Subchapter Q requires TCEQ to "develop standards for evaluating and using compliance history." This statute also requires the agency to track and consider the compliance history of businesses and industries.

Under the [Compliance History](#)<sup>10</sup> Program, each regulated entity along with the owner or operator are classified using a three-tiered rating system. "High" performers are those with an above-average compliance record. "Satisfactory" performers have generally complied with environmental regulations, and "Unsatisfactory" performers have a below-average record.

The Compliance History Program sets up a point system for various violations, criminal convictions, and federal orders. These points may be offset by mitigating factors, such as implementation of a voluntary pollution-reduction program or voluntary disclosure of violations. The point system is based on several factors, including whether a documented violation of an applicable legal requirement is of major, moderate, or minor significance. TCEQ's rationale for categorizing the violations as either major, moderate, or minor, as defined in Title 30, Texas Administrative Code (30 TAC) Subsection 60.2(d), is based on its experience in evaluating the severity of various violations and their impacts, or potential impacts, to human health and the environment.

The figure below depicts the percentage of major, moderate, and minor violations included in orders and judgments issued in FY 2023. The most common violation types are those of moderate severity at 71%. Examples of violations based on compliance history category are depicted in the subsequent table.

**Figure 16—Severity of Violations Included in Orders and Judgments Issued in FY 2023**



<sup>10</sup> [www.tceq.texas.gov/compliance/enforcement/compliance-history](http://www.tceq.texas.gov/compliance/enforcement/compliance-history)

**Table 5—Examples of Violations Based on Compliance History Categories**

<b>MAJOR</b>
<ul style="list-style-type: none"> <li>• A violation of a commission enforcement order, court order, or consent decree.</li> </ul>
<ul style="list-style-type: none"> <li>• Operating without required authorization or using a facility that does not possess required authorization.</li> </ul>
<ul style="list-style-type: none"> <li>• An unauthorized release, emission, or discharge of pollutants that caused, or occurred at levels or volumes sufficient to cause, adverse effects on human health, safety, or the environment.</li> </ul>
<b>MODERATE</b>
<ul style="list-style-type: none"> <li>• A complete or substantial failure to monitor, analyze, or test a release, emission, or discharge, as required by a commission rule or permit.</li> </ul>
<ul style="list-style-type: none"> <li>• A complete or substantial failure to submit or maintain records, as required by a commission rule or permit.</li> </ul>
<ul style="list-style-type: none"> <li>• Not having an operator whose level of license, certification, or other authorization is adequate to meet applicable rule requirements.</li> </ul>
<b>MINOR</b>
<ul style="list-style-type: none"> <li>• Performing most, but not all, of a monitoring or testing requirement, including required unit or facility inspections.</li> </ul>
<ul style="list-style-type: none"> <li>• Performing most, but not all, of a requirement addressing the submittal or maintenance of required data, documents, notifications, plans, or reports.</li> </ul>

### **Status of Compliance History Exigent Circumstances**

No sites were placed under review or reclassified as suspended under 30 TAC Section 60.4 during FY 2023.

# **Criminal Enforcement**

## **Texas Environmental Enforcement Task Force**

Texas is a leader and national model in investigating and prosecuting environmental crime. Created in 1991, the Task Force has included participants from more than 25 local, state, and federal agencies. TCEQ, and particularly the Environmental Crimes Unit (ECU), play a key investigative role and head the Task Force. Members include TCEQ, the Governor’s Office, the Texas Parks and Wildlife Department, the OAG, the Railroad Commission of Texas, and the General Land Office. These agencies coordinate activities with the EPA’s Criminal Investigation Division, the U.S. Attorney’s Office, the Federal Bureau of Investigation, and local district and county attorneys. Numerous other federal, state, and local agencies also participate in Task Force investigations. TCEQ ECU, with assistance from other members of the Task Force, also conducts environmental crimes enforcement training for local law enforcement officers.

## **Criminal Investigations**

In FY 2023, the agency participated in seven search warrants and obtained resolutions on 11 cases, which included convictions, probation, deferred adjudications, and pretrial interventions (PTI). Pretrial interventions included one corporation and one individual. Convictions were obtained against 14 individuals and four corporations. The finalized cases include five felony counts and 60 misdemeanor counts (see following table).

**Table 6—Summary of Criminal Investigation Information by FY**

FY	Search Warrants	Cases Resulting in Resolutions	Convictions against Individuals	Convictions against Corporations	Total Convictions	Felony Counts	Misdemeanor Counts
2018	7	18	19	5	24	18	17
2019	3	11	12	3	15	9	14
2020	6	9	10	3	13	9	8
2021	7	7	6	2	8	1	7
2022	3	17	17	3	20	14	13
2023	7	11	14	4	18	5	60

These cases consisted of unauthorized discharges, illegal dumping, tampering with governmental records (related to the PWS Backflow Prevention Program and underground storage tank records), unlawful use of state water, criminal negligent endangerment under the Clean Air Act, and installation of on-site sewage facility equipment without being properly licensed by TCEQ.

The dispositions obtained in the unlawful use of state water case were the first known convictions obtained under TWC Section 7.142, which resulted in convictions for two individuals and two corporations. In a commercial illegal dumping case, one of the individuals pled guilty to illegal dumping and received 14 months confinement. Another individual entered a plea agreement to resolve multiple felony offenses, including illegal dumping, for which he

received seven years imprisonment. In another case, the plea agreements required two individuals to surrender their TCEQ issued licenses. A case resolved with a PTI resulted in \$40,000 contributed to various SEPs in and managed by Harris County, including the Buffalo Bayou Partnership. A \$4,000,000 community service payment from a federal-led case will be used to purchase over 100 acres of property in LaPorte, Texas. Through the National Fish and Wildlife Foundation (NFWF), the Galveston Bay Foundation will purchase the property and the Texas Land Conservancy will develop a conservation easement to protect the property in perpetuity for conservation and open-space purposes for the benefit of the local community.

The case resolutions in FY 2023 resulted in a total of \$12,059,000 in criminal fines, \$4,000,000 to NFWF, nine and a half years of deferred adjudication, ten years of probation, 288 hours of community service, \$40,000 toward SEPs and eight years, two months, and two days of jail time. The [FY 2023 Criminal Convictions](#)<sup>11</sup> chart provides additional details for ECU's case resolutions.

## **Environmental Complaints**

TCEQ receives approximately 10,000 complaints each FY from Texans concerned about a situation or event in which a possible environmental, health, or regulatory violation has occurred. TCEQ reviews each complaint and conducts investigations on those within agency jurisdiction as appropriate. TWC Section 5.1773 requires that TCEQ annually conduct a comprehensive analysis of the complaints it receives and assess the impact of any changes made to the agency's complaint policy.

This complaint assessment has historically been published as part of the [TCEO Biennial Report to the Texas Legislature](#)<sup>12</sup>, which is completed by Dec. 1 of even-numbered years. Beginning in FY 2023, the agency's annual complaint assessment will be published in this Annual Enforcement Report in addition to the Biennial Report to provide more transparency on the agency's intake, assessment, and handling of complaints. Information from previous years may be updated to reflect current data.

### **Complaint Data Collection and Reporting**

TCEQ receives complaints through direct notification to the regional offices. Specifically, the public may report an environmental problem to TCEQ through an [online complaint form](#)<sup>13</sup>, a 24-hour toll-free hotline (888-777-3186), email to [complaint@tceq.texas.gov](mailto:complaint@tceq.texas.gov) (o en español, [quejas@tceq.texas.gov](mailto:quejas@tceq.texas.gov)), or by written correspondence. All complaints are handled per the [Complaint Investigation Manual](#)<sup>14</sup>, available on the TCEQ website.

When TCEQ receives an environmental complaint, information about the complaint is typically recorded in the agency's database. If the complaint is determined to be more appropriately handled by another agency, it may be referred to an agency that has jurisdiction. Upon completion of the complaint investigation, the findings will be documented in TCEQ's enforcement database. If violations are identified, the investigation could result in issuing an NOV or Notice of Enforcement (NOE) to the regulated entity.

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<sup>11</sup> [www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2023/app-e-fy-2023-criminal-convictions.pdf](http://www.tceq.texas.gov/downloads/compliance/enforcement/actions-reports/aer/fy2023/app-e-fy-2023-criminal-convictions.pdf)

<sup>12</sup> [www.tceq.texas.gov/publications/sfr/tceq-biennial-report](http://www.tceq.texas.gov/publications/sfr/tceq-biennial-report)

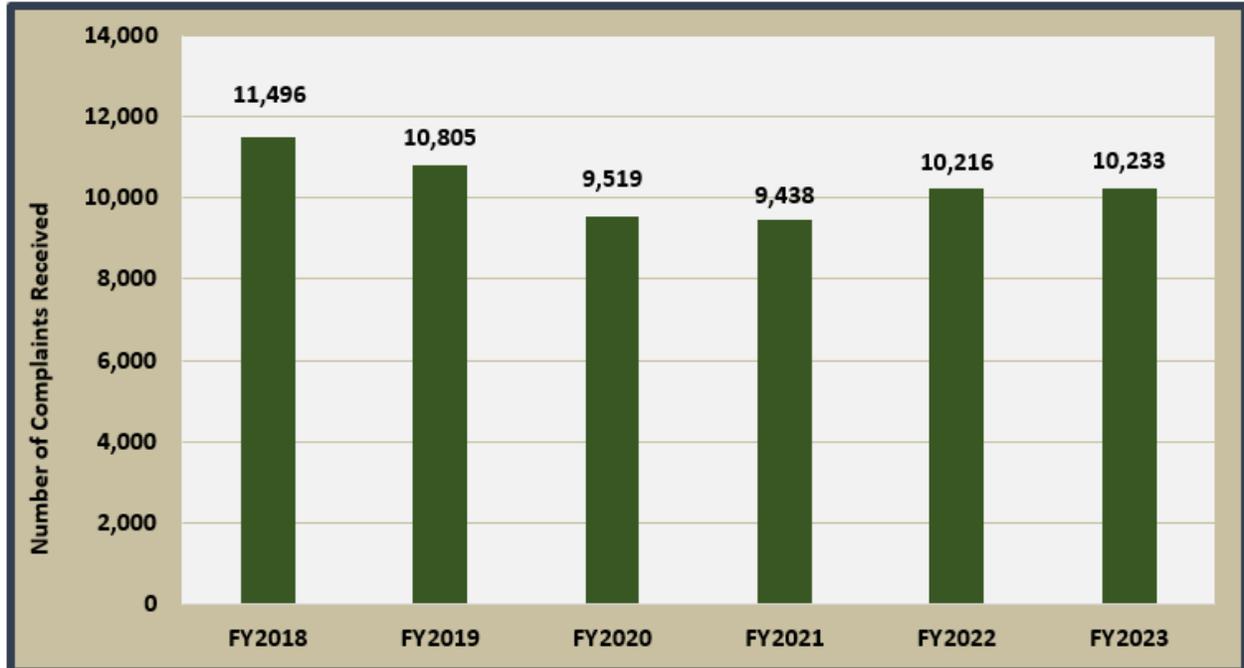
<sup>13</sup> [www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html](http://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html)

<sup>14</sup> [www.tceq.texas.gov/downloads/compliance/complaints/protocols/gi-602.pdf](http://www.tceq.texas.gov/downloads/compliance/complaints/protocols/gi-602.pdf)

## Complaint Trends

The number of complaints received in FY 2023 was higher than during the COVID-19 pandemic (FY 2020 and FY 2021). However, total complaints have not returned to pre-pandemic levels, with FY 2023 having 5% fewer complaints (10,233) than FY 2019 (10,805), as shown in the figure below.

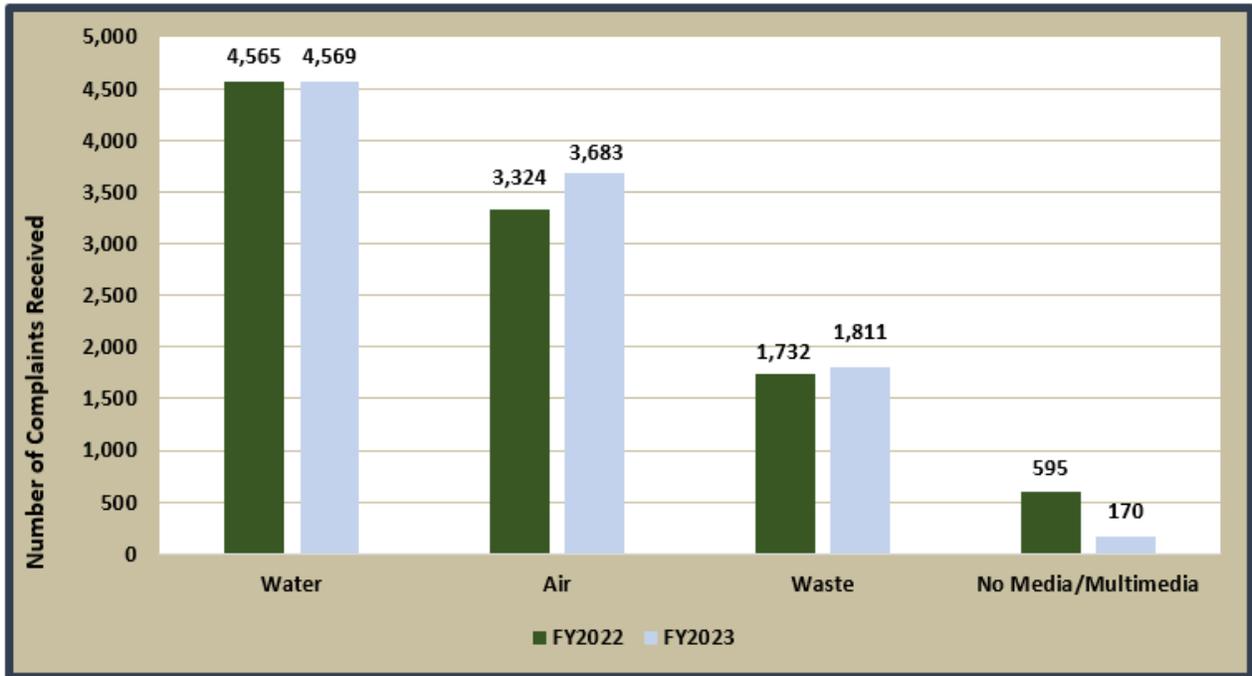
**Figure 17—Complaints Received by FY**



## Analysis of Environmental Media

Total complaints were analyzed by environmental media (air, waste, water, and no media) statewide, as shown in the figure below. “No media” refers to complaints that do not fit within one of the established medias (for example, multimedia or referred complaints). The media with the most complaints in FY 2023 was water (45%), similar to last year. Air complaints made up 36% of all complaints received, an increase of 11% from 3,324 in FY 2022 to 3,683 in FY 2023. Waste complaints made up 18% of all complaints received, an increase of 5% from 1,732 in FY 2022 to 1,811 in FY 2023.

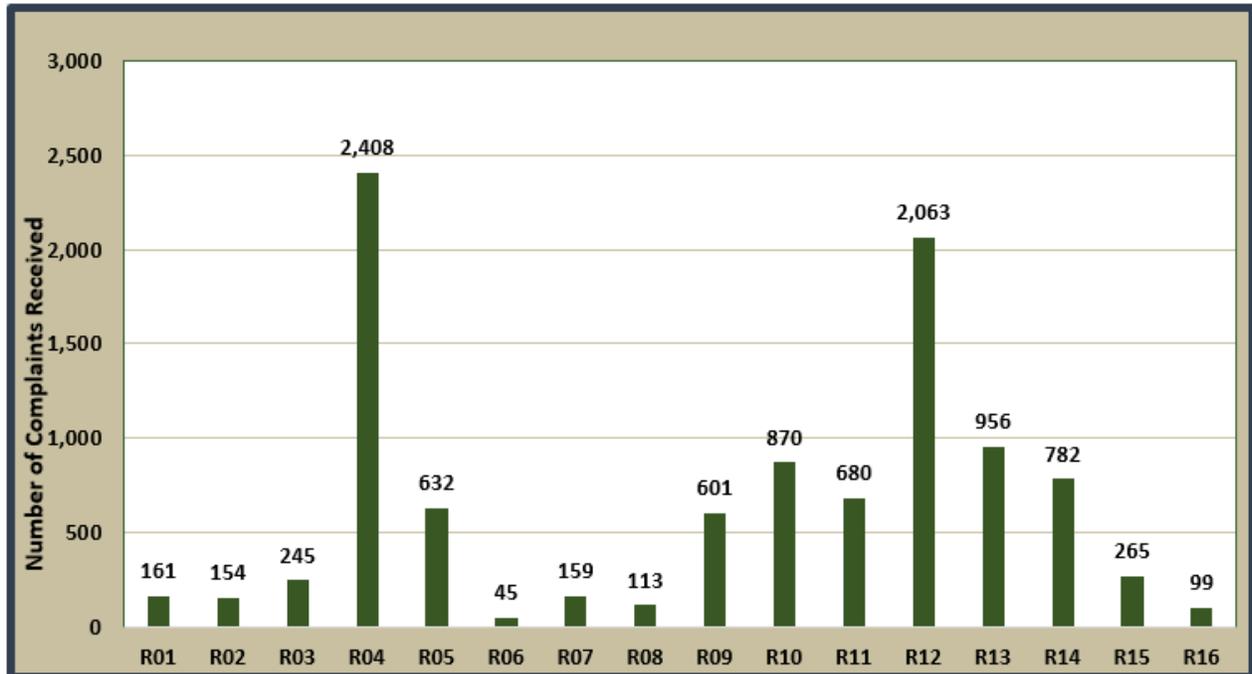
**Figure 18—Complaints Received by Media**



## Analysis by Region

The number of complaints varies according to regional population. In FY 2023, 44% of all complaints came from regions with the two largest metropolitan areas—the Dallas-Fort Worth region (24%) and the Houston region (20%), as shown in the figure below.

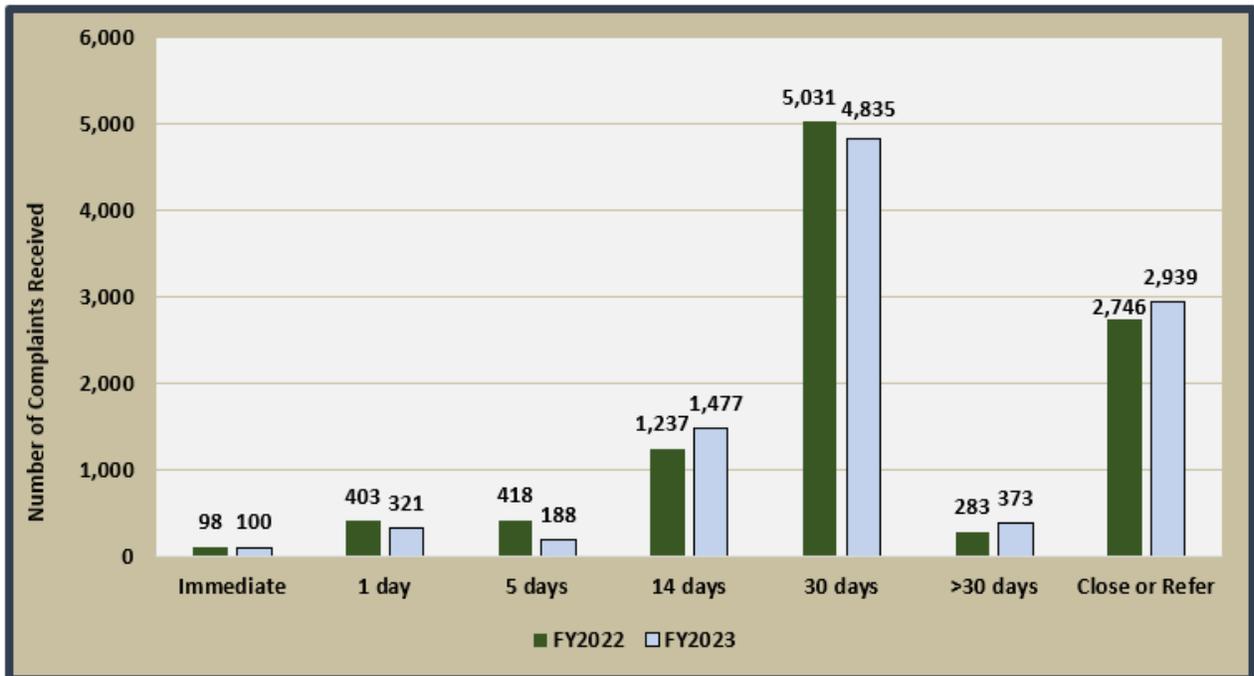
**Figure 19—Complaints Received by TCEQ Region**



## TCEQ Response to Complaints Received

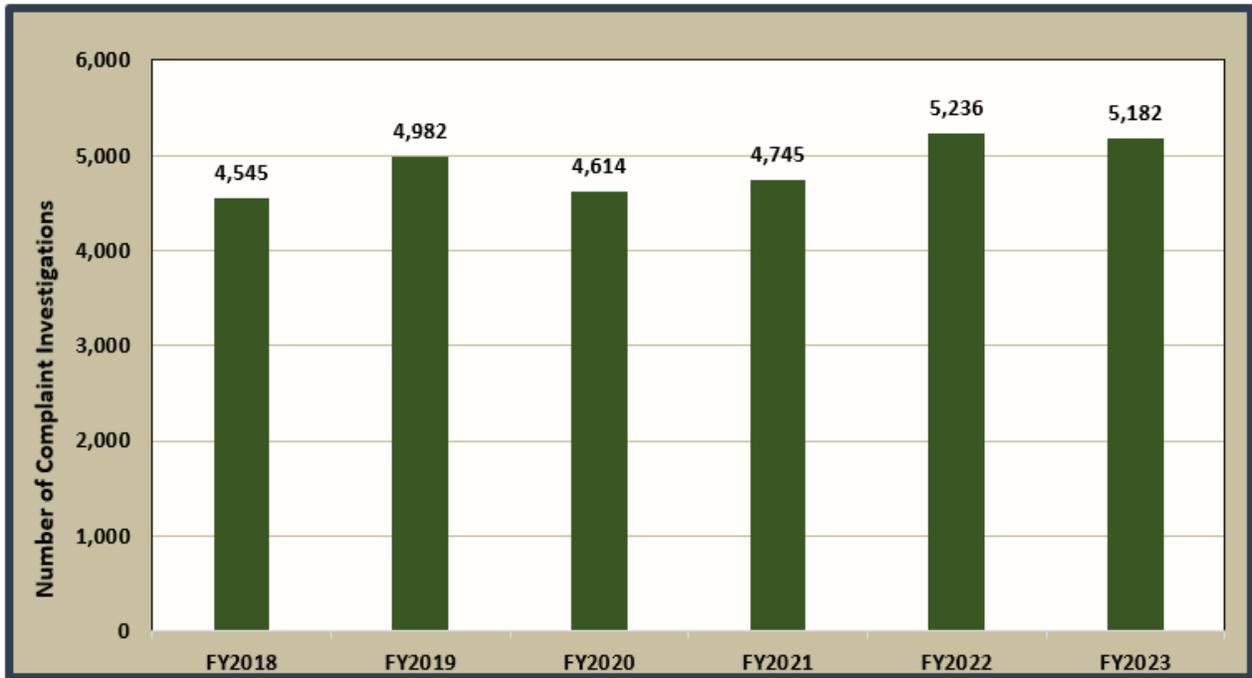
Complaint investigations are prioritized based on the relative threat to public health, safety, or the environment. Each assigned priority represents a prescribed response time. Of the complaints that were received in FY 2023, 4% required immediate response (one working day or less), 64% required response between 5 and 30 days, and 4% were assigned a response time of more than 30 calendar days. Of the complaints received, 29% were not investigated either because the complaint was not within TCEQ jurisdiction and referred to another agency, including to a local government in which TCEQ has an agreement to refer such complaints, or there was inadequate information to investigate the complaint. The figure below depicts TCEQ response to complaints received.

**Figure 20—TCEQ Response to Complaints Received**



The figure below provides a summary of the number of investigations conducted by TCEQ in response to complaints received. When multiple complaints are received for the same or similar issue, they may be addressed in a single investigation. The number of complaint investigations increased by over 14% from 4,545 in FY 2018 to 5,182 in FY 2023.

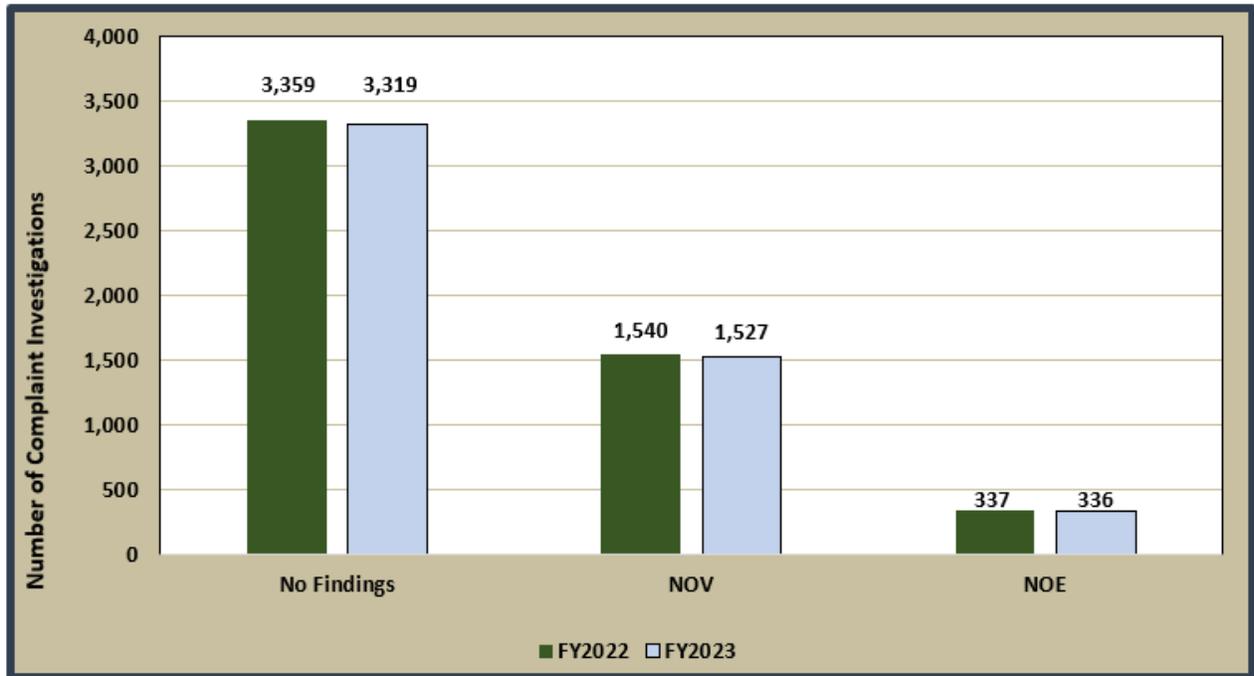
**Figure 21—Complaint Investigations by FY**



## Results of Complaint Investigations

Complaint investigations can result in violations that may or may not be directly related to the allegation described in the complaint. Between FY 2018 and FY 2023, 34% of complaint investigations cited at least one violation. Approximately 28% of those complaint investigations resulted in an NOV and approximately 6% resulted in an NOE. Approximately 66% of complaint investigations resulted in “no findings,” which means that the complaint allegation or other violations could not be substantiated. The figure below depicts the results of complaint investigations conducted in FY 2022 and FY 2023.

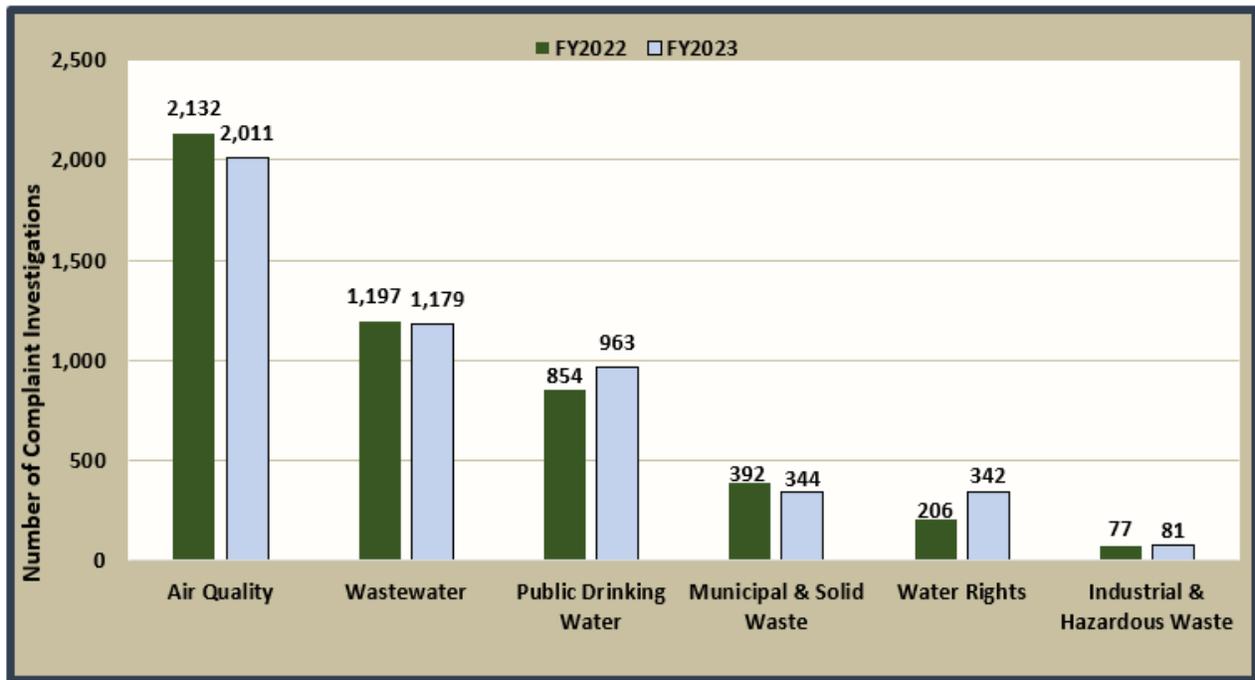
**Figure 22—Results of Complaint Investigations**



### Trends by Complaint Type

When a complaint is received, it is classified by its nature, which enables TCEQ to assign the most appropriate investigator based on skill set. The two most reported complaint types are odor (cited in 21% of complaints received) and dust (cited in 8% of complaints received). These types of complaints are generally related to allegations of nuisance conditions. Upon investigation of the complaint, TCEQ may determine that other categories apply, either in addition to or instead of the original nature classification.

TCEQ also analyzed the programs associated with complaint investigations. Unlike the nature of a complaint, which is generally determined at the time the complaint is received, the applicable program is identified during the investigation. The figure below shows the number of complaint investigations of the most common programs. The balance of 262 complaint investigations is associated to other miscellaneous programs.

**Figure 23—Most Common Programs for Complaint Investigations**

## **Assessment of Emissions Incidents**

Certain incidents that result in unauthorized emissions are required to be recorded or reported to TCEQ. This includes emissions events, scheduled maintenance, startup, and shutdown (MSS) activities, and excess opacity events, as defined in 30 TAC Chapter 101 Subchapter F.

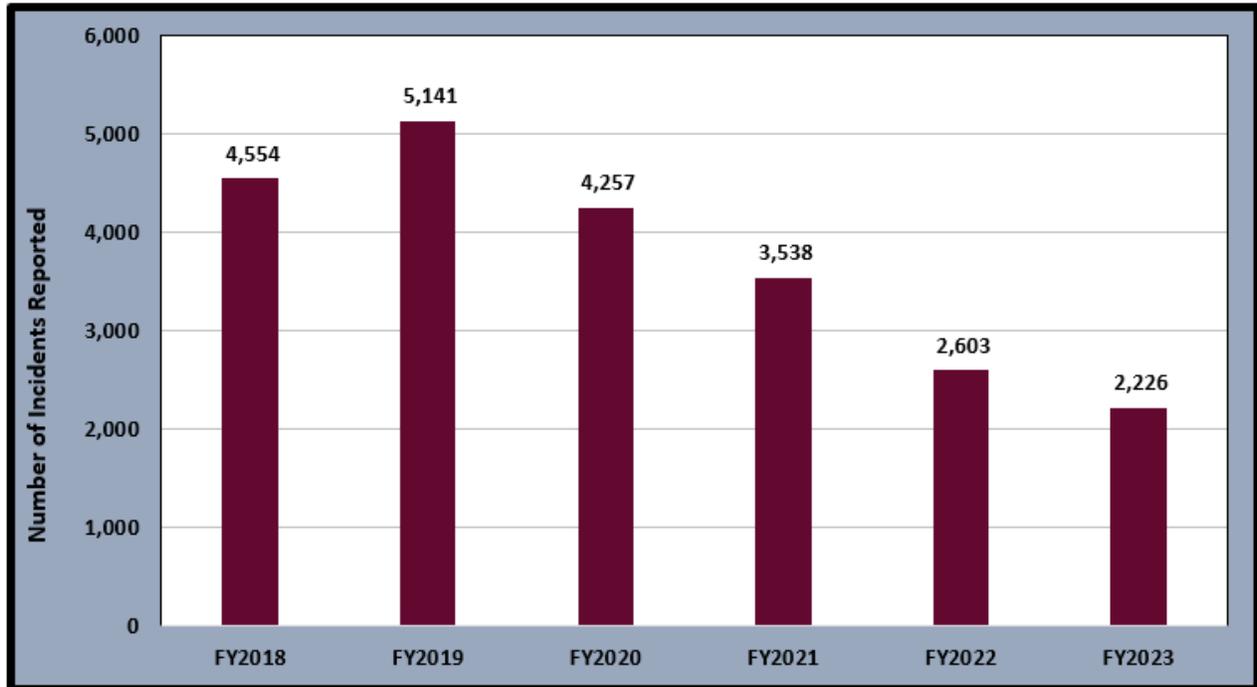
- Emissions events are air upset events or unscheduled MSS activities from a common cause that result in unauthorized emissions of air contaminants.
- Scheduled MSS activities are those activities performed by the regulated entity owner or operator that require prior notice and a final report per TCEQ rules.
- Excess opacity events occur when an opacity is equal to or exceeds 15% above an applicable opacity limit averaged over a six-minute period.

In FY 2023, TCEQ implemented additional changes to the Emissions Incidents Program to ensure statewide consistency for investigations of incidents and consistent enforcement for violations related to them. These changes included the formation of the Emissions Event Review Section, a central review section within the Office of Compliance and Enforcement's Critical Infrastructure Division, which is responsible for investigation of all emissions incidents reported to TCEQ, regardless of the facility location. The Emissions Event Review Section became effective Sept. 1, 2022. During FY 2023, internal processes were updated to improve consistency in review of emissions incidents across the state. Additionally, the section enhanced external communications regarding emissions incident reporting requirements and affirmative defense demonstrations.

## Total Number of Reported Incidents

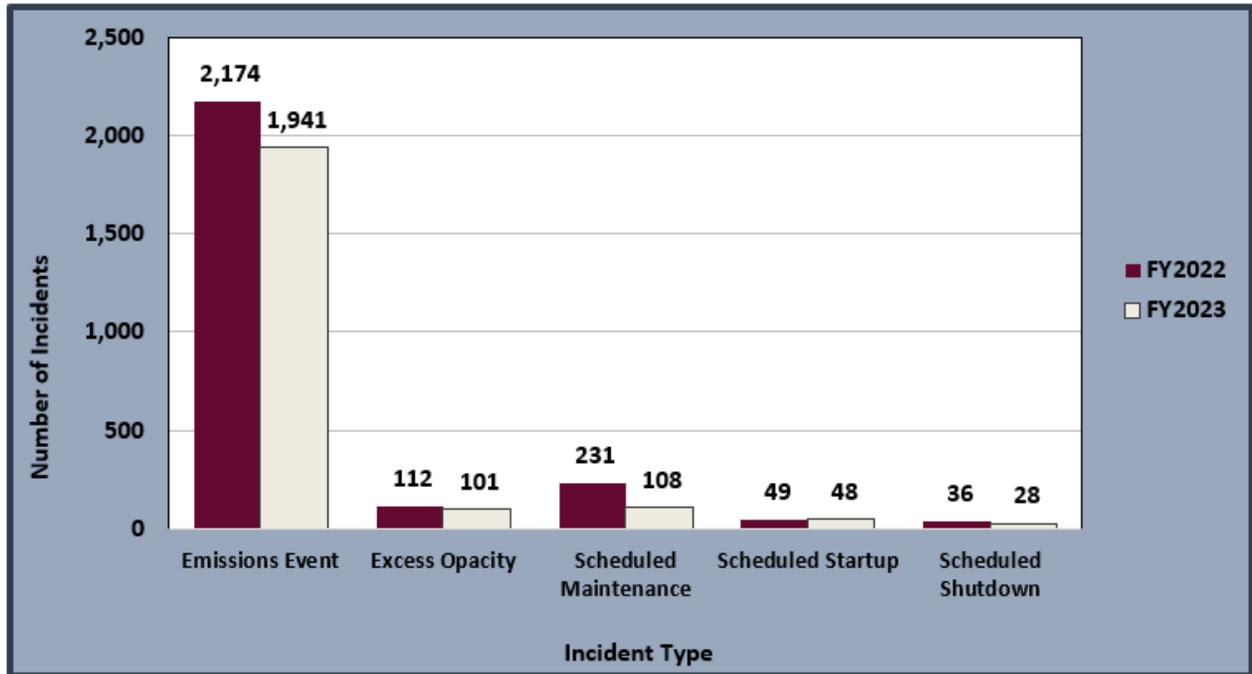
As shown in the figures and table below, the overall number of emissions incidents reported under 30 TAC Chapter 101, Subchapter F decreased by 14% from 2,603 in FY 2022 to 2,226 in FY 2023.

**Figure 24—Total Incidents Reported Statewide by FY**



The total number of events reported has decreased over the last five years, which may be attributed to TCEQ’s focus and outreach to regulated entities on proper reporting, authorization, and enforcement. One outreach example is TCEQ’s “Find It and Fix It” initiative for oil and gas operations in the Permian Basin, initiated in FY 2021. Additionally, TCEQ conducted outreach to industry groups in the oil, gas, and pipeline sectors with an emphasis on properly authorizing and minimizing and controlling predictable emissions. The Emissions Event Review Section also participated in multiple meetings with industry groups and met individually with companies across all sectors to discuss reporting requirements and authorizations. The total number of emissions incidents includes emissions events, scheduled MSS activities, and excess opacity events as shown in the figure below.

**Figure 25—Total Incidents Reported Statewide by Type**



FY 2022 quantities were revised to reflect final reportable emissions.

The following table provides the complete set of data by TCEQ regions related to the total number of reported incidents in FY 2022 and FY 2023. Note that TCEQ regions listed throughout this section are based on where the facility is, not the location of the investigator reviewing the incident.

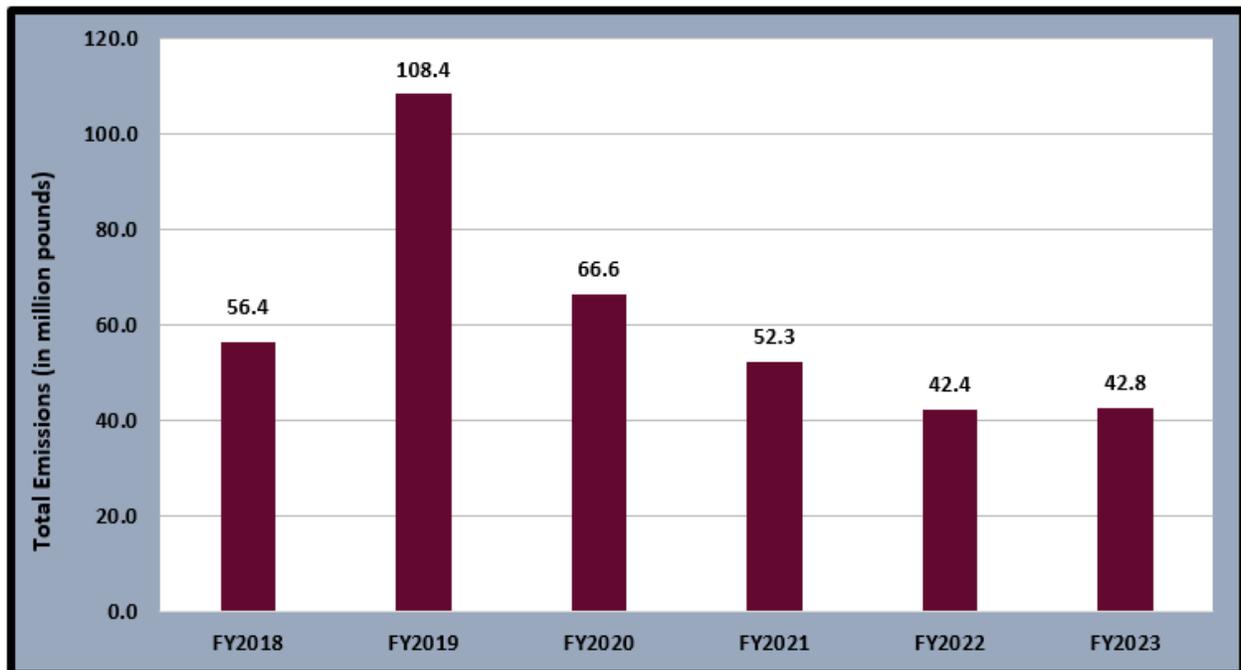
**Table 7—Total Incidents Reported Statewide per TCEQ Region**

TCEQ Region	FY2022	FY2023
Region 01—Amarillo	83	94
Region 02—Lubbock	112	54
Region 03—Abilene	29	25
Region 04—DFW Metroplex	145	49
Region 05—Tyler	65	62
Region 06—El Paso	15	23
Region 07—Midland	1,191	1,049
Region 08—San Angelo	81	32
Region 09—Waco	32	30
Region 10—Beaumont	144	136
Region 11—Austin	36	44
Region 12—Houston	413	415
Region 13—San Antonio	26	40
Region 14—Corpus Christi	197	159
Region 15—Harlingen	10	1
Region 16—Laredo	24	13
<b>Total</b>	<b>2,603</b>	<b>2,226</b>

## Total Quantity of Air Emissions

The total quantity of reported emissions incidents increased from 42.4 million pounds in FY 2022 to 42.8 million pounds in FY 2023. Quantities released in each region fluctuate year to year based on the presence or absence of large events. One large incident can result in a noticeable spike when comparing two years, but the overall trend across multiple years has remained consistent. For example, TCEQ Region 10-Beaumont saw a significant increase from FY 2021 to FY 2022 due in part to two startups at a facility. However, the total quantity in that region during FY 2023 more closely aligns with previous years' totals. Additionally, one incident in TCEQ Region 2-Lubbock reported 1.7 million pounds of VOCs, accounting for approximately 72% of the emissions released in that region. The figure and table below depict the total quantity of emissions in pounds reported to TCEQ.

**Figure 26—Total Quantity of Emissions Reported Statewide by FY**



FY 2022 quantities were revised to reflect final reportable emissions.

**Table 8—Total Quantity of Emissions Reported Statewide under 30 TAC Chapter 101, Subchapter F per TCEQ Region**

TCEQ Region	FY2022	FY2023
Region 01—Amarillo	2,718,697	2,214,089
Region 02—Lubbock	1,776,953	2,385,420
Region 03—Abilene	27,537	583,791
Region 04—DFW Metroplex	587,190	288,991
Region 05—Tyler	385,430	288,896
Region 06—El Paso	130,271	294,688
Region 07—Midland	16,303,432	17,760,336
Region 08—San Angelo	1,348,009	1,516,762
Region 09—Waco	130,016	105,760
Region 10—Beaumont	10,401,365	6,699,495
Region 11—Austin	258,717	290,841
Region 12—Houston	5,023,345	6,755,611
Region 13—San Antonio	20,684	426,266
Region 14—Corpus Christi	2,596,806	3,129,351
Region 15—Harlingen	80,685	24
Region 16—Laredo	603,365	92,160
<b>Total</b>	<b>42,392,502</b>	<b>42,832,481</b>

The quantities of emissions are rounded to the nearest pound.

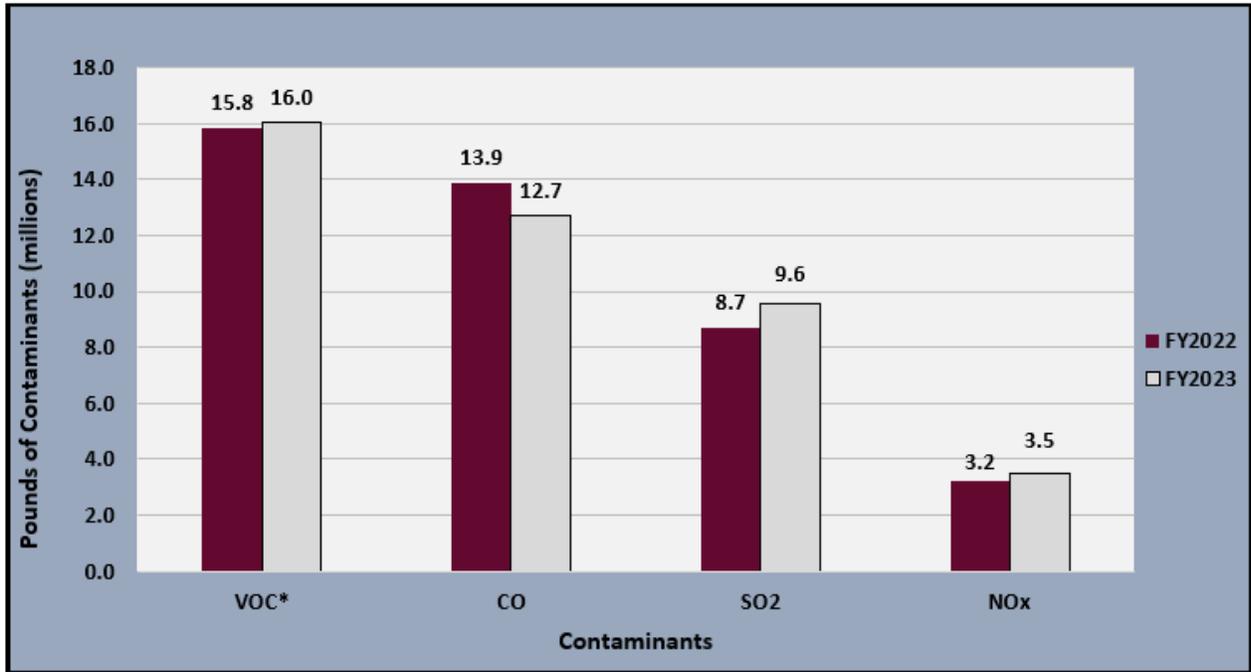
Opacity events are not included as opacity is reported as a percentage.

## Top Contributing Air Contaminants

The figure below displays the quantity of emissions by contaminant group for FY 2022 and FY 2023. Volatile Organic Compounds (VOCs) had the highest reported quantity of the contaminants reported under 30 TAC Chapter 101, Subchapter F for FY 2023, with 16.0 million pounds, followed by carbon monoxide (CO) at 12.7 million pounds. There was an increase in sulfur dioxide (SO<sub>2</sub>), from 8.7 million pounds in FY 2022 to 9.6 million pounds in FY 2023, which was attributed to weather-related events over the summer. Overall, there has been a downward trend in pounds of contaminants for the last four years. This is in part due to the continued impact of TCEQ’s “Find It and Fix It” outreach efforts in the Permian Basin as previously described.

Total VOCs include propane, natural gas, and highly reactive volatile organic compounds (HRVOCs), in addition to VOCs as defined in 30 TAC Section 101.1. HRVOCs include the following groups of contaminants: 1,3-butadiene, butene, ethylene, and propylene.

**Figure 27—Top Contributing Air Contaminants Reported Statewide by Pollutant**



\* VOC includes propane, natural gas, and HRVOC.

FY 2022 quantities were revised to reflect final reportable emissions.

Final reported quantities of emissions are included in the totals, where available. Initial reported quantities are included where final reports were not available at the time this report was prepared. The complete set of data related to the major contaminants released and reported in FY 2023 is in the table below.

**Table 9—Total Quantity of Air Contaminants Reported Statewide by Pollutant**

Contaminant Reported	Emissions Events	Scheduled Maintenance	Scheduled Startup	Scheduled Shutdown	Total
Volatile Organic Compounds (VOC)	15,159,952	502,022	302,791	62,051	16,026,816
Carbon monoxide (CO)	9,535,240	469,400	2,631,061	77,544	12,713,245
Sulfur dioxide (SO <sub>2</sub> )	9,386,296	151,866	34,253	2,593	9,575,008
Nitrogen oxides (NO <sub>x</sub> )	2,720,681	154,700	567,515	30,896	3,473,792
HRVOCs	Emissions Events	Scheduled Maintenance	Scheduled Startup	Scheduled Shutdown	Total
1,3 Butadienes	53,006	233	1,930	160	55,329
Butenes	108,640	4,686	16,742	429	130,497
Ethylene	1,185,879	22,170	100,975	39,065	1,348,089
Propylene	398,831	5,333	31,982	3,565	439,711
<b>HRVOCs Total</b>	<b>1,746,356</b>	<b>32,422</b>	<b>151,629</b>	<b>43,219</b>	<b>1,973,626</b>

HRVOCs are included in the VOC total.

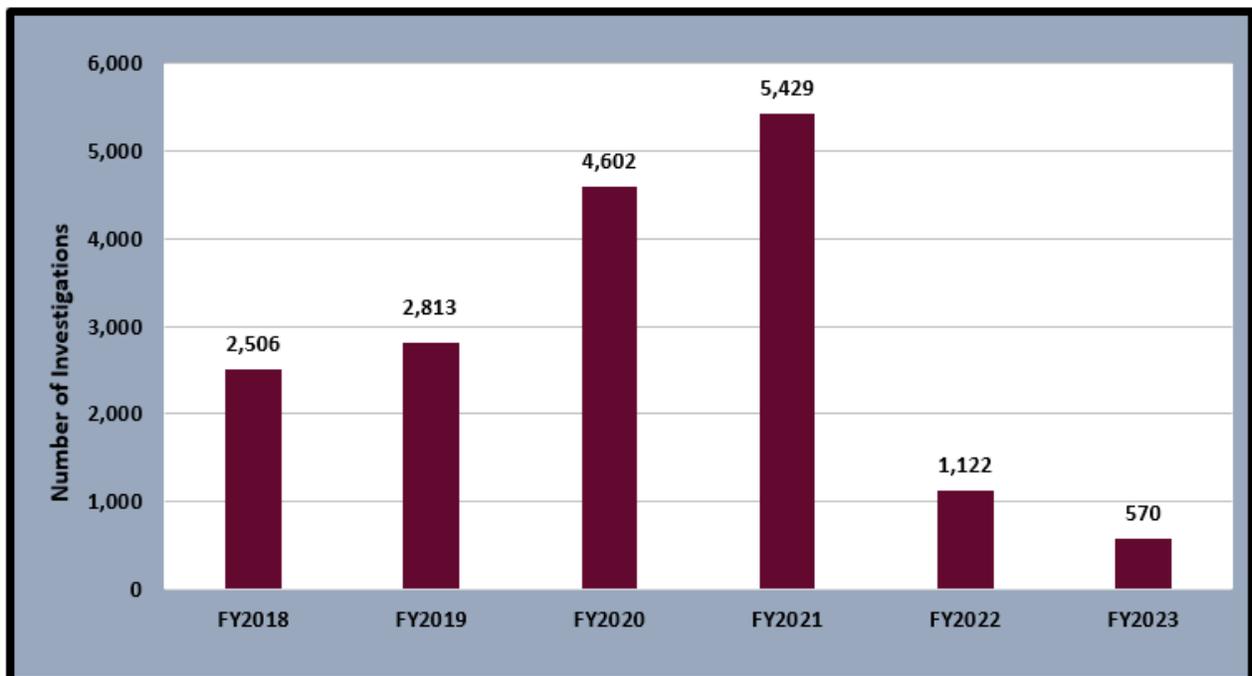
The quantities of emissions are rounded to the nearest pound.

## Emissions Incident Investigations

All emissions incidents that are reported to TCEQ are reviewed and evaluated. If the regulated entity claims an affirmative defense and the incident is not an Excessive Emissions Event (discussed further below), this review will also include evaluation of the affirmative defense criteria in 30 TAC Section 101.222. In general, all emissions incidents that are above the reportable quantity for any constituent are investigated to determine root cause, review response activities, identify patterns of similar emissions incidents, and review preventive and corrective actions.

The figure below depicts the number of emissions incident investigations by FY that include a review of the affirmative defense criteria. Investigations are not conducted until after the final report for the emissions incident is submitted, which in some instances may occur in the following FY. Some investigations include multiple incidents.

**Figure 28—Emissions Incident Investigations by FY**



The total number of emissions incident investigations decreased from 1,122 in FY 2022 to 570 in FY 2023. The investigation numbers are lower in FY 2022 and FY 2023 than previous years for various reasons:

- Efforts to reorganize the program.
- The “Find It and Fix It” initiative.
- Efforts in prior FYs to eliminate investigation backlogs.
- A decrease in the number of incidents reported.

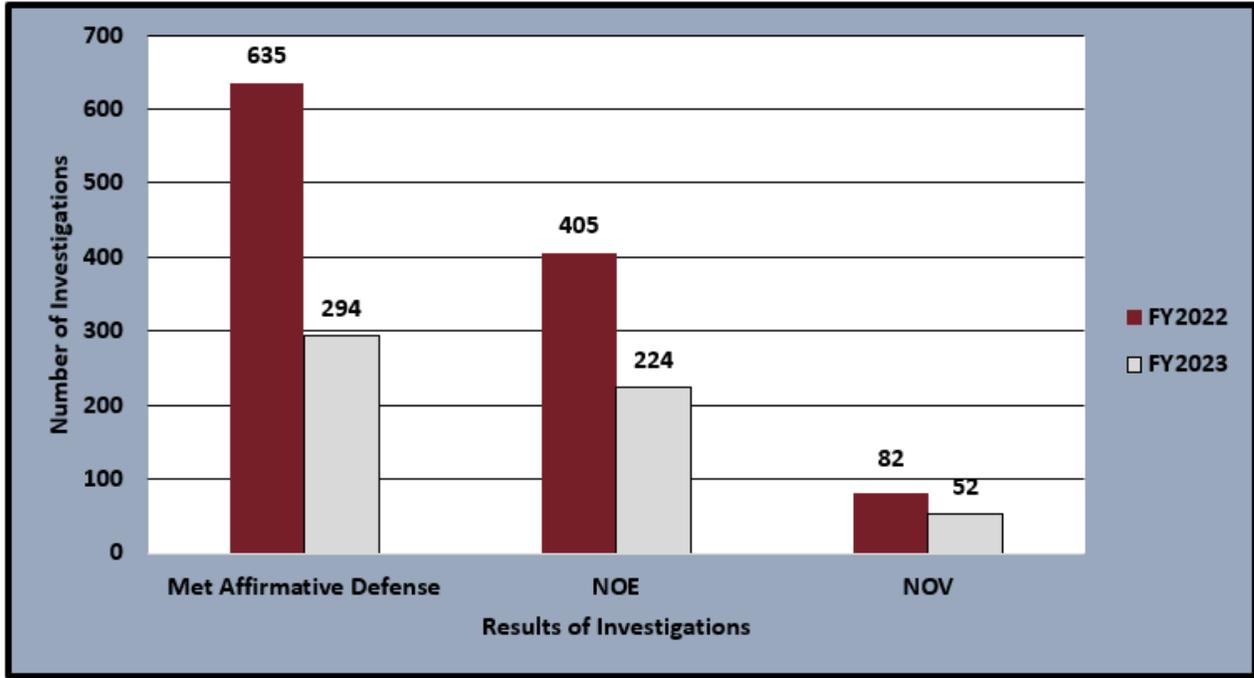
Incidents received that were nonreportable were excluded from data for FY 2022 and FY 2023 but had been included in previous reports. A nonreportable incident is one that is below the reportable quantity or does not meet the definition in 30 TAC Section 101.1 of an unauthorized emissions event, unplanned MSS activity, or excess opacity event. The table below breaks down the number of emissions incident investigations per TCEQ region in FY 2022 and FY 2023.

**Table 10—Emissions Incident Investigations per TCEQ Region**

TCEQ Region	FY2022	FY2023
Region 01—Amarillo	56	29
Region 02—Lubbock	81	5
Region 03—Abilene	25	11
Region 04—DFW Metroplex	14	7
Region 05—Tyler	44	33
Region 06—El Paso	5	5
Region 07—Midland	182	106
Region 08—San Angelo	78	0
Region 09—Waco	19	19
Region 10—Beaumont	82	56
Region 11—Austin	24	18
Region 12—Houston	412	214
Region 13—San Antonio	17	6
Region 14—Corpus Christi	74	44
Region 15—Harlingen	3	2
Region 16—Laredo	6	15
<b>Total</b>	<b>1,122</b>	<b>570</b>

Of the investigations conducted to review affirmative defense claims, NOEs decreased from 405 in FY 2022 (36% of all approved investigations) to 224 in FY 2023 (39% of all approved investigations) and NOVs decreased from 82 in FY 2022 (7% of all approved investigations) to 52 in FY 2023 (9% of all approved investigations). The total number of incidents receiving an affirmative defense determination decreased from 57% in FY 2022 to 52% in FY 2023. The figure below shows the results of emissions incident investigations conducted in FY 2022 and FY 2023.

**Figure 29—Emissions Incident Investigation Results**



An NOV or NOE may include multiple violations.  
 FY 2022 totals were updated.

The table below provides the complete data set for results related to investigations in response to emissions events, scheduled MSS activities, and excess opacity events during FY 2023.

**Table 11—Emissions Incident Investigation Results by Incident Type**

Incident Type	Met Affirmative Defense	NOE	NOV	Total Investigations
Emissions Events	222	214	48	484
Excess Opacity	57	6	4	67
Scheduled Maintenance	9	4	0	13
Scheduled Startup	3	0	0	3
Scheduled Shutdown	3	0	0	3
Total	294	224	52	570

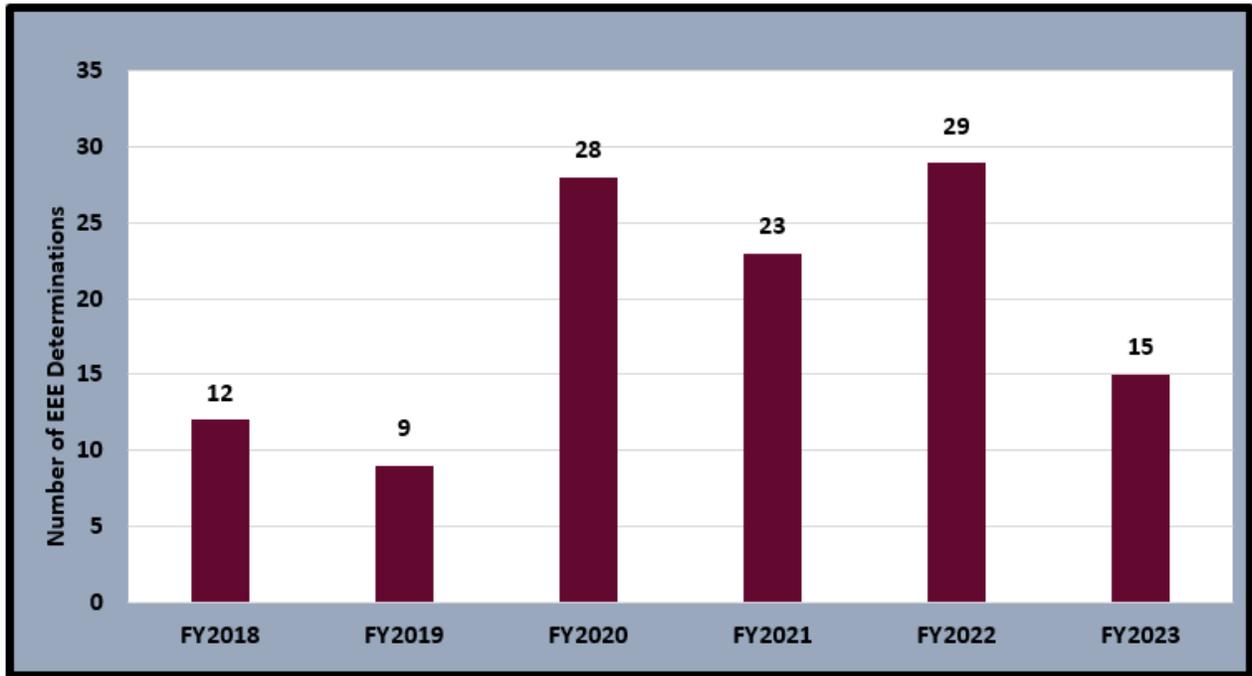
## Excessive Emissions Events

Emissions events are not authorized through the permitting process and are categorized as either an Excessive Emissions Event (EEE) or a Non-Excessive Emissions Event. Determining whether an emissions incident is excessive or non-excessive is made by evaluating six criteria:

- The frequency of the facility’s (i.e., piece of equipment’s) emissions incidents.
- The cause of the emissions incident.
- The quantity and impact on human health or the environment of the emissions incident.
- The duration of the emissions incident.
- The percentage of a facility’s total annual operating hours during which emissions incidents occur.
- The need for startup, shutdown, and maintenance activities.

The number of EEE determinations decreased from 29 in FY 2022 to 15 in FY 2023. The decrease in EEE reviews is in part due to the formation of the Emissions Event Review Section, which has focused on improving consistency in reviewing incidents reported across the state. The figure below represents the total EEE determinations that were approved each FY over the past six years. Incidents associated with these determinations may have occurred in a year before the approval year. The 15 EEE determinations in FY 2023 were comprised of one incident that occurred in FY 2021, 11 incidents in FY 2022, and three incidents in FY 2023.

**Figure 30—Excessive Emissions Events by FY**



The table below represents the distribution of EEE determinations per TCEQ region over the last six years.

**Table 12—EEE Determinations Approved per TCEQ Region by FY**

TCEQ Region	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
Region 01—Amarillo	0	0	0	0	0	2
Region 02—Lubbock	0	0	0	0	1	1
Region 03—Abilene	0	0	0	0	0	1
Region 04—DFW Metroplex	0	0	0	0	0	0
Region 05—Tyler	0	1	0	2	0	1
Region 06—El Paso	0	0	0	0	0	0
Region 07—Midland	0	0	1	0	0	1
Region 08—San Angelo	0	0	0	0	0	0
Region 09—Waco	0	0	0	0	0	0
Region 10—Beaumont	0	0	5	2	1	1
Region 11—Austin	0	0	0	0	0	0
Region 12—Houston	10	7	21	14	25	8
Region 13—San Antonio	2	0	1	1	0	0
Region 14—Corpus Christi	0	1	0	4	2	0
Region 15—Harlingen	0	0	0	0	0	0
Region 16—Laredo	0	0	0	0	0	0
<b>Total</b>	<b>12</b>	<b>9</b>	<b>28</b>	<b>23</b>	<b>29</b>	<b>15</b>

If an emissions incident is determined to be excessive, the owner or operator must submit a Corrective Action Plan (CAP) within 60 days of receiving notification of the EEE determination. The CAP must identify the following:

1. The cause or causes of the emissions incident (including all contributing factors that led to the emissions incident).
2. The control devices or other measures that are reasonably designed to prevent or minimize similar emissions incidents in the future.
3. Operational changes the owner or operator will take to prevent or minimize similar emissions incidents in the future.
4. Time frames within which the owner or operator will implement the components of the CAP.

## **Aggregate Production Operations**

Texas Water Code Chapter 28A requires that TCEQ conduct an annual survey to identify all active [aggregate production operations](https://www.tceq.texas.gov/assistance/industry/aggregate-production)<sup>15</sup> (APOs) in the state and to ensure each active APO is registered. TCEQ must also report the results of the 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 them. Additionally, TCEQ must conduct routine on-site investigations.

<sup>15</sup> [www.tceq.texas.gov/assistance/industry/aggregate-production](https://www.tceq.texas.gov/assistance/industry/aggregate-production)

## Training Program

The statute requires that APO inspections be conducted by investigators trained in all applicable regulatory requirements. TCEQ has implemented a training curriculum specific to the performance of APO investigations. A total of 140 investigators have completed the training since the statute’s inception, 35 of which are still active.

## Registered Facilities

For FY 2023, 1,038 APOs have active registrations with TCEQ. The number of registered APOs per region is provided in the table below.

**Table 13—Registered APOs per TCEQ Region by FY**

TCEQ Region	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
Region 1—Amarillo	19	27	26	28	26	21
Region 2—Lubbock	18	17	19	19	18	20
Region 3—Abilene	62	61	60	62	63	66
Region 4—Dallas/Fort Worth	127	131	129	135	124	131
Region 5—Tyler	36	37	40	37	37	29
Region 6—El Paso	33	33	29	33	34	34
Region 7—Midland	84	80	91	88	88	102
Region 8—San Angelo	38	37	42	34	33	33
Region 9—Waco	89	93	80	76	68	77
Region 10—Beaumont	48	47	62	61	59	59
Region 11—Austin	93	96	94	97	97	93
Region 12—Houston	149	146	169	167	156	164
Region 13—San Antonio	108	118	114	110	106	109
Region 14—Corpus Christi	50	58	61	65	58	63
Region 15—Harlingen	19	17	19	19	22	22
Region 16—Laredo	21	19	21	18	20	15
<b>Total</b>	<b>994</b>	<b>1,017</b>	<b>1,056</b>	<b>1,049</b>	<b>1,009</b>	<b>1,038</b>

## Investigations and Results

In FY 2023, agency staff completed 999 APO surveys and 407 Comprehensive Compliance Investigations (CCIs). The table below displays the breakdown of CCIs by TCEQ regional office.

**Table 14—APO Comprehensive Compliance Investigations per TCEQ Region by FY**

TCEQ Region	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
Region 1—Amarillo	6	18	7	8	13	8
Region 2—Lubbock	10	8	10	3	9	9
Region 3—Abilene	22	24	41	24	31	32
Region 4—Dallas/Fort Worth	40	43	12	15	43	38
Region 5—Tyler	13	13	13	31	16	15
Region 6—El Paso	8	10	6	3	13	15
Region 7—Midland	15	7	4	49	32	22
Region 8—San Angelo	14	13	19	18	17	12
Region 9—Waco	28	25	45	46	33	33
Region 10—Beaumont	21	10	40	16	29	29
Region 11—Austin	33	35	36	15	34	43
Region 12—Houston	62	31	37	59	74	64
Region 13—San Antonio	45	43	51	45	54	49
Region 14—Corpus Christi	22	22	15	28	20	28
Region 15—Harlingen	0	7	8	1	7	5
Region 16—Laredo	8	9	9	9	8	5
<b>Total</b>	<b>347</b>	<b>318</b>	<b>353</b>	<b>370</b>	<b>433</b>	<b>407</b>

In addition to the CCIs, there were 562 APO investigations, including the following types:

- 51 complaint investigations
- Four follow-up investigations
- 19 best management practices investigations
- 81 file reviews

These surveys and investigations resulted in 140 NOVs and 37 NOEs. This includes investigations at APO facilities that resulted in either an NOV or NOE with one or more violations of a rule under TCEQ jurisdiction. However, violations cited may include other programs not directly related to 30 TAC Chapter 342.

In addition, 25 administrative orders were issued in FY 2023, including eight administrative orders with violations for failure to register or renew an existing registration. There was a total of \$191,059 in assessed penalties associated with these orders. The following table lists surveys, investigations, and enforcement history for APOs for the past six years.

**Table 15—APO Surveys, Investigations, and Enforcement by FY**

FY	Annual Surveys	Investigations	NOVs	NOEs	Administrative Orders Issued
2018	1,264	468	188	20	12
2019	1,443	462	150	34	28
2020	1,288	611	150	25	27
2021	1,221	589	99	20	15
2022	1,088	577	100	42	9
2023	999	562	140	37	25

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## **Tier II Chemical Reporting Program**

TCEQ oversees the Texas Tier II Chemical Reporting Program (Tier II Program) and is the state repository for hazardous chemical inventory reports (Texas Tier II Reports) that are required to be submitted under the Texas Health and Safety Code, Chapters 505, 506, and 507 ([Community Right-to-Know Act](#)<sup>16</sup>).

Texas Tier II Reports are inventories that provide detailed information on hazardous substances or chemicals stored at a facility, as well as emergency contact information. Tier II Report information is used by emergency response personnel (fire, police, and Emergency Medical Services) in responding to accidents and other community emergencies and by Local Emergency Planning Committees (LEPCs), who use the information for developing community emergency response plans.

Four types of Tier II Reports may be required when meeting or exceeding chemical thresholds:

1. **Tier II Annual Reports**—Must be submitted between Jan. 1 and Mar. 1 annually and include information on hazardous substances or chemicals stored at a facility during the previous calendar year.
2. **Tier II Update Reports**—Required when information has changed on a previously submitted Tier II Report.
3. **Tier II Initial Reports**—Required when new hazardous substances or chemicals are added at an existing facility, or a new facility begins storing hazardous substances or chemicals.
4. **Tier II Deficiency Correction Reports**—Required when program area staff find noncompliance issues on a submitted Tier II Report that needs to be corrected.

### **Tier II Program Investigations**

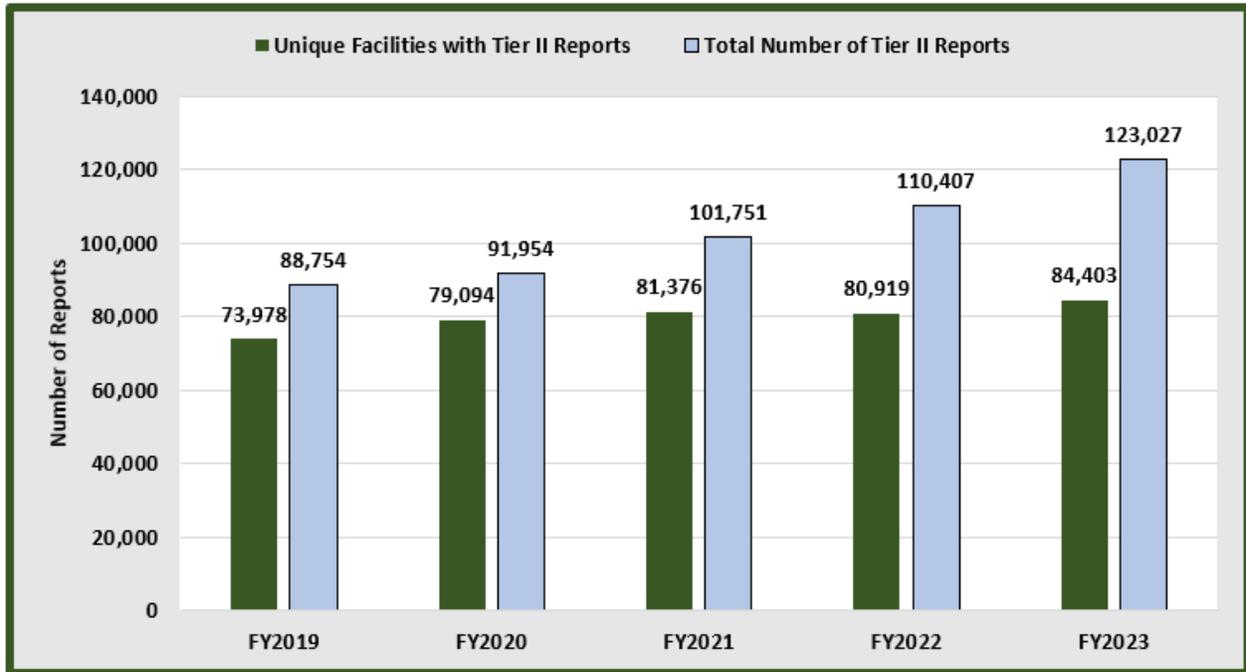
On average, TCEQ receives over 100,000 Tier II Reports each year. In FY 2023, the agency received 123,027 reports from 84,403 facilities. The figure below summarizes the number of Tier II Reports received by FY<sup>17</sup>. The total number of Tier II Reports is higher than the number of unique facilities with Tier II Reports because some facilities submit more than just their annual report (e.g., Update, Initial, or Deficiency Correction reports).

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<sup>16</sup> [www.tceq.texas.gov/permitting/tier2/laws-and-regulations.html](http://www.tceq.texas.gov/permitting/tier2/laws-and-regulations.html)

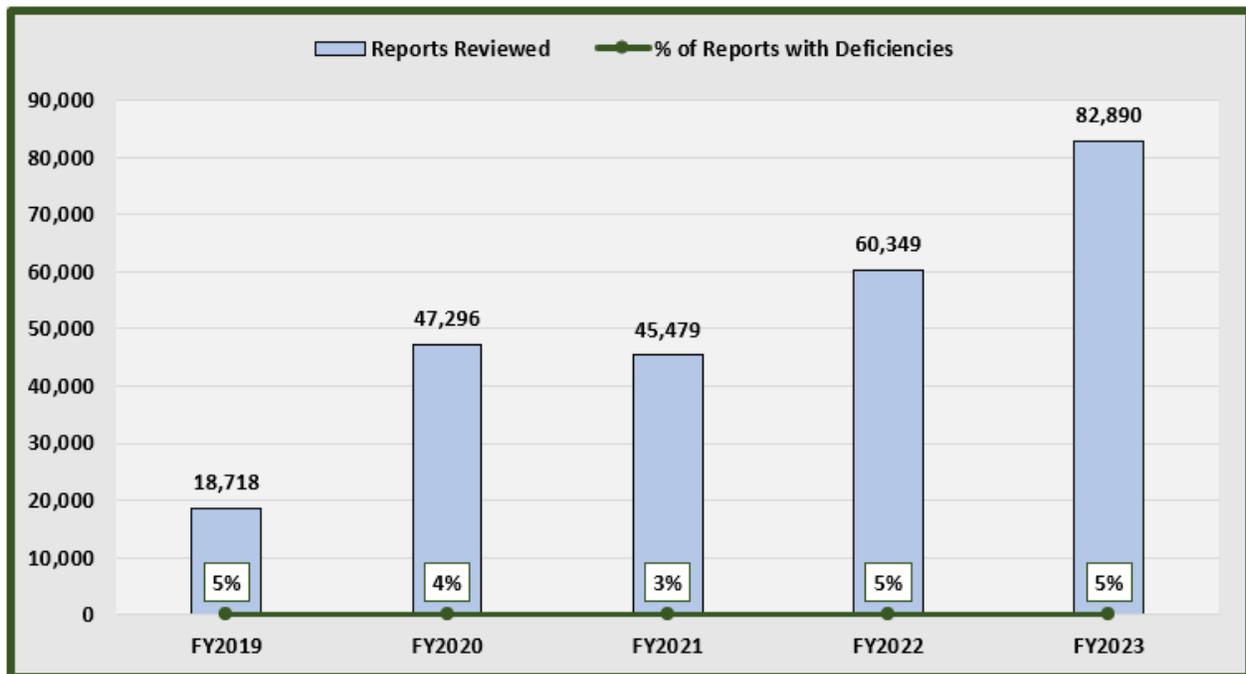
<sup>17</sup> Data for FY 2018 is not available because a new data system was being developed during that year.

**Figure 31—Tier II Reports Received by FY**



Tier II staff reviewed over 65% of all submitted reports and found deficiencies in approximately 5% of reports. The increase in FY 2023 for total reports received was due to an increased number of staff reviews where deficiencies were discovered. Tier II staff also reviewed all Deficiency Correction reports to ensure that the reports were compliant. The figure below compares the number of Tier II Reports reviewed by FY to the percentage found to be deficient.

**Figure 32—Tier II Reviews by FY**

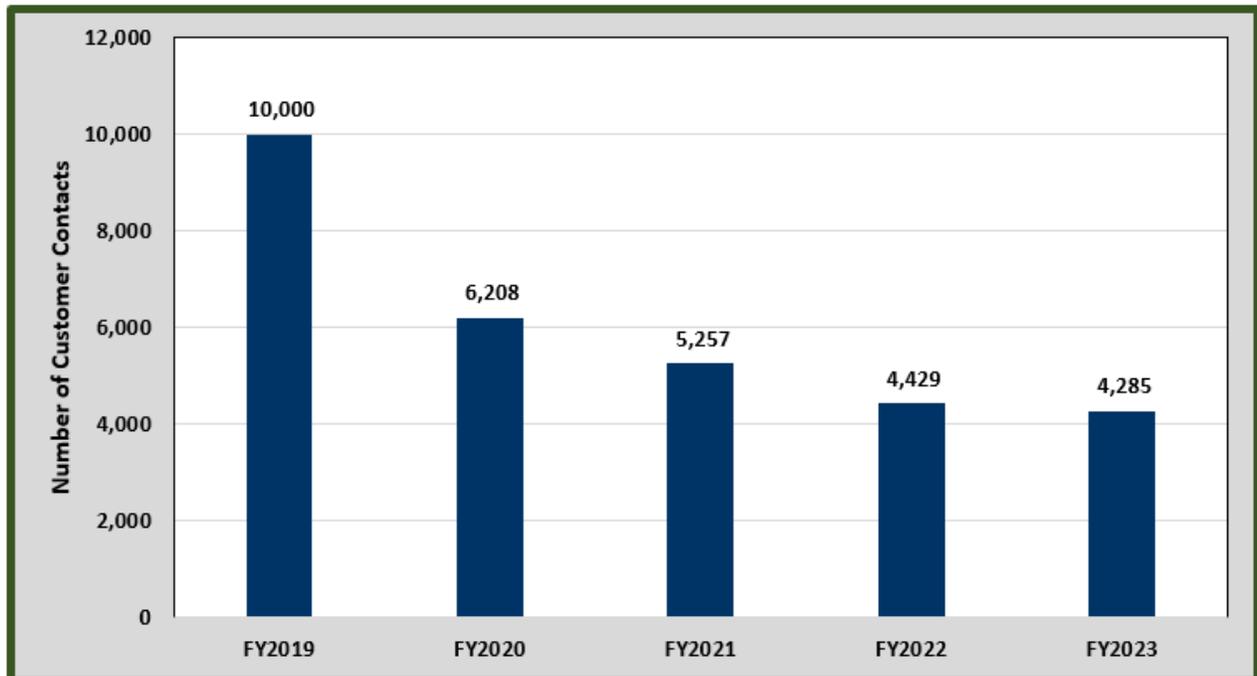


TCEQ also conducts on-site investigations at Tier II facilities. In FY 2023, TCEQ conducted 104 on-site Tier II investigations and performed 32 Tier II record review investigations. Additionally, TCEQ conducted 13 on-site investigations at ammonium nitrate (AN) facilities. The AN storage facility designation is specific to facilities meeting the requirements in [Texas Agriculture Code Section 63.151](#)<sup>18</sup> and does not include all facilities reporting AN in Texas.

## Tier II Program Customer Assistance

The Tier II Program also provides support to customers via email, phone calls, and online help forms to support the program. The figure below shows the number of customer contacts received by FY.

**Figure 33—Tier II Customer Contacts by FY**



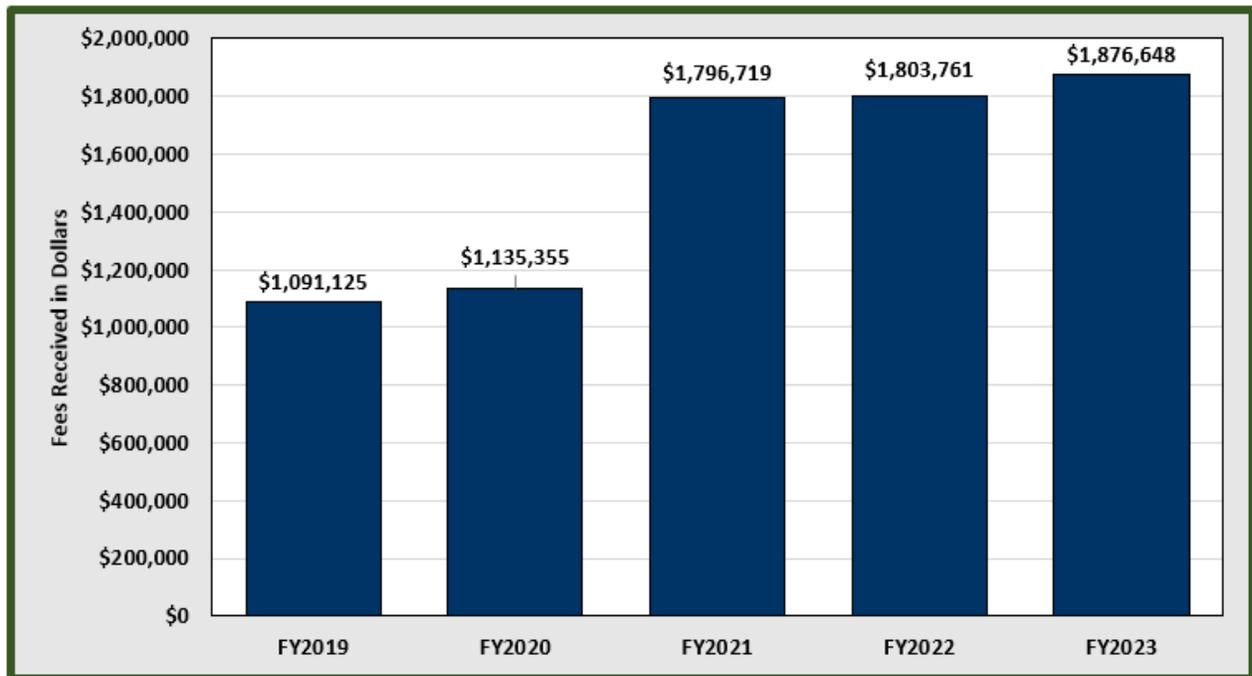
Numbers for FY 2019 were estimated. The Tier II Program implemented a formal tracking system for customer contacts in FY 2020.

## Tier II Program Fees

The statutes under the Texas Community Right to Know Act require a fee to be submitted with each Tier II Report. These fees are used to fund the Tier II Program and provide grants for LEPCs. In FY 2023, TCEQ received over \$1.8 million in fees (see figure below). The increase in revenues starting in FY 2021 was due to a restructuring of fee discounts that went into effect in November 2020, when amendments were adopted to the [Tier II Rules in 30 TAC Chapter 325](#)<sup>19</sup>.

<sup>18</sup> <https://statutes.capitol.texas.gov/Docs/AG/htm/AG.63.htm>

<sup>19</sup> [www.tceq.texas.gov/goto/view-30tac](http://www.tceq.texas.gov/goto/view-30tac)

**Figure 34—Tier II Fees Received by FY**

A summary of all [Tier II Program Activities](#) for the last five years is located in the Appendices of this report.

## Texas LEPC Grant Program

Under the Tier II Program, TCEQ is authorized to oversee the Texas LEPC Grant Program. LEPCs are largely unfunded, and the THSC authorizes up to 20% of chemical reporting fees to be awarded as grants to LEPCs to assist them in fulfilling their responsibilities under the Emergency Planning and Community Right-to-Know Act. The Tier II Program has awarded over \$4.3 million in grant funding to LEPCs since 2017 and will be going into its third grant round in FY 2023-2024.

## Results Of Enforcement Actions

Since FY 1998, TCEQ has compiled statistical information to capture the results and environmental benefits of concluded enforcement actions initiated by TCEQ and from cases referred to the OAG. Once administrative orders and civil judgments are finalized, each case is analyzed to document if the enforcement action involved an impact or potential impact on Human Health Protection, Worker Protection, and Ecosystem Protection. These impacts can include compliance actions that address risks posed to human health or the environment; training, or updates to operating procedures that reduce or eliminate the risk posed to workers; and compliance actions that prevent releases to the environment.

EPA's *Guide to Calculating Environmental Benefits from EPA Enforcement Cases: 2014 Update* and *Case Conclusion Data Sheet Training Booklet: November 2000* are used to classify the compliance actions of each enforcement case. A compliance action is any action that is taken by an entity in response to an issued administrative order or civil judgment that helps to return the facility to compliance, reduce or eliminate current or future threats to human health or the

environment, or improves management of environmental programs at the facility. Compliance actions are broken into the following categories:

- Pollution Reduction—actions that result in the reduction or elimination of pollutants.
- Pollution Prevention—actions that result in preventing future releases of pollutants.
- Work Practices—actions that result in work practices that generate an environmental benefit but cannot always be quantified.

An enforcement case can have more than one compliance action. The data represented in this section is not a one-to-one ratio but rather a compilation of all compliance actions for every enforcement case. Therefore, the total number of compliance actions represented do not equal the total number of administrative orders and civil judgments for FY 2023.

In FY 2023, approximately 48% of administrative orders and civil judgments involved an impact to Human Health Protection, 33% involved an impact to Ecosystem Protection, and 19% involved an impact to Worker Protection.

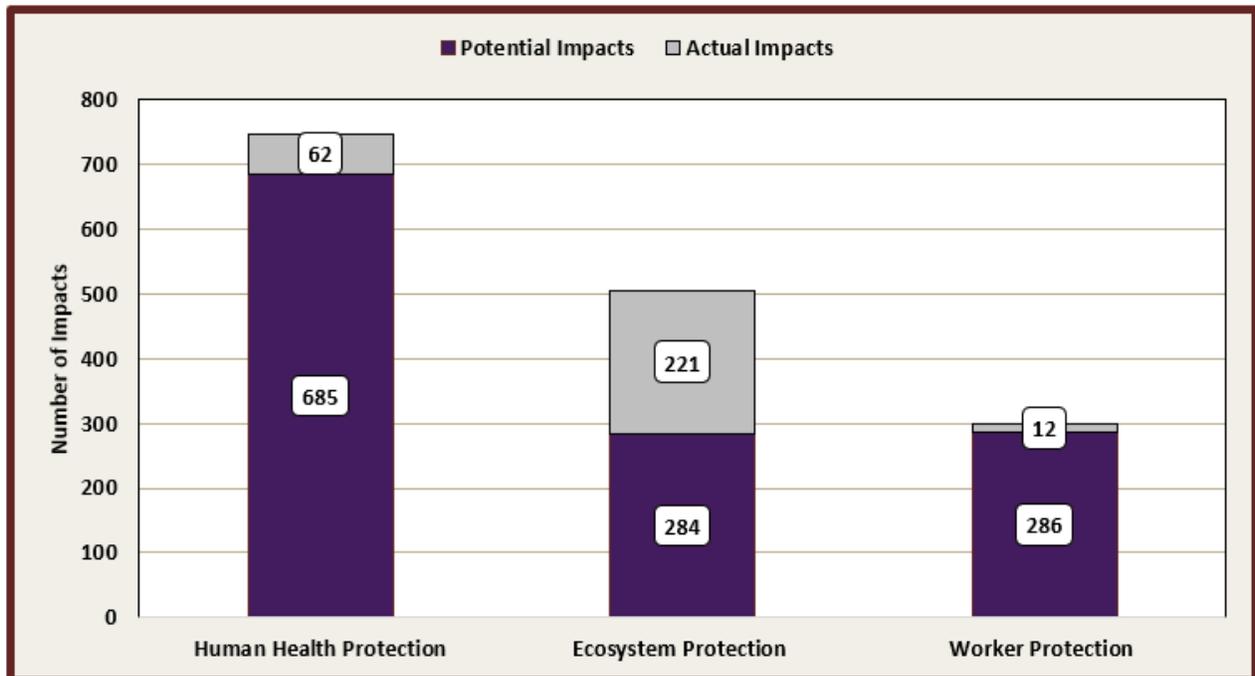
Of these, there were **actual impacts** documented in orders and judgments:

- 62 for Human Health Protection
- 221 for Ecosystem Protection
- 12 for Worker Protection

There were also **potential impacts** documented in orders and judgments:

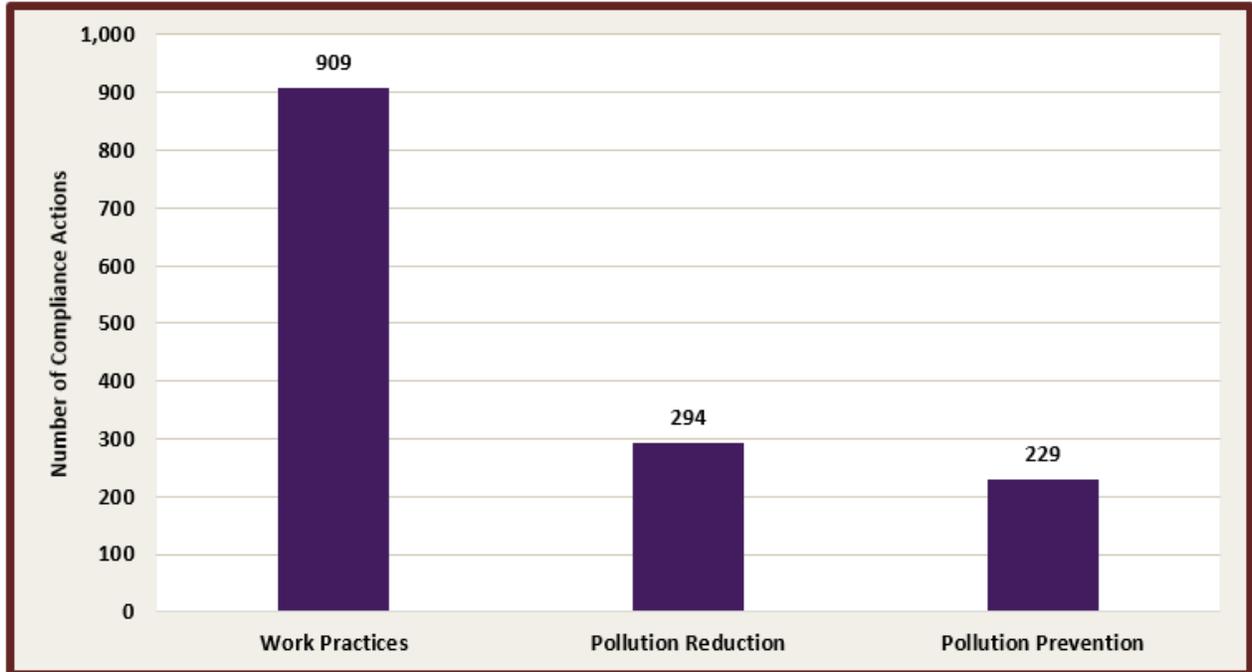
- 685 for Human Health Protection
- 284 for Ecosystem Protection
- 286 for Worker Protection

**Figure 35—Impact Analysis of Orders and Judgments in FY 2023 (Human Health and Environmental Protection)**



Based on the estimated cost of compliance determined during penalty calculations, violators spent over \$112 million to correct violations and take necessary steps to protect the environment. The following figure depicts the number of orders and judgments for each compliance action category addressed by enforcement cases in FY 2023.

**Figure 36—Impact Analysis of Orders and Judgments in FY 2023 (Compliance Actions)**



Work practices are actions that a facility conducts to better manage their environmental program and to inform TCEQ and the public of their discharges or emissions. Examples of work practice actions include training, labeling, record-keeping, sampling, permitting, and reporting.

Pollution reduction actions are those that reduce or eliminate an on-going discharge, emission, or release of pollutants into the environment. Examples of pollution reduction actions include implementing best management practices to stop a discharge, waste disposal changes, equipment repairs, and changes to pollution-control technologies to reduce or eliminate emissions or discharges.

Pollution prevention actions apply to instances in which there is no current release of pollutants, but a release could occur in the future without the enforcement action. These compliance actions are intended to prevent future releases. Examples of pollution prevention actions include proper waste containment, equipment maintenance and repair, and installation of leak and release detection equipment.

For pollution reduction compliance actions, TCEQ documents the total quantity and type of pollutants that are reduced or expected to be reduced or eliminated in response to an order or judgment. The following table provides a summary of the top pollutant reductions expected to occur through enforcement actions finalized in FY 2023. Overall, it is generally estimated that TCEQ final enforcement actions resulted in, or will result in, over 60 million pounds of pollutants eliminated or reduced, or the routes of exposure reduced, in the environment. In those cases where remediation was not yet completed, estimates of the contaminants to be removed were used. In those cases where emissions and discharges were reduced or eliminated by the enforcement action, the estimation was based upon an assumption that the violations would have continued at least for one year if TCEQ had not acted.

**Table 16—Top 10 Estimated Pollutant Reductions from Orders and Judgments Issued**

POLLUTANT NAME	AMOUNT REDUCED (LBS)	MEDIUM
MUNICIPAL SOLID WASTE	35,779,278	LAND
WASTEWATER DISCHARGE, INDUSTRIAL AND MUNICIPAL	13,059,621	WATER
VOLATILE ORGANIC COMPOUNDS	3,580,853	AIR
INDUSTRIAL HAZARDOUS WASTE	2,118,535	LAND
SULFUR DIOXIDE	1,829,108	AIR
SCRAP TIRES	1,081,491	LAND
CARBON MONOXIDE	719,330	AIR
SOIL AND DIRT	592,694	LAND
PARTICULATE MATTER	355,807	AIR
NITROGEN OXIDES	276,533	AIR

## **Appendices**

**[Appendix A: Total Investigations](#)**

**[Appendix B: On-Site Investigations](#)**

**[Appendix C: Notices of Violation Issued—Central Office](#)**

**[Appendix D: Notices of Violation Issued—Regional Offices](#)**

**[Appendix E: FY 2023 Criminal Convictions](#)**

**[Appendix F: Summary of Tier II Activities by FY](#)**

## **Other Resources**

### **Annual Enforcement Reports—Previous Five Years**

[2022](#) | [2021](#) | [2020](#) | [2019](#) | [2018](#)

### **Texas Open Data Portal**

Visit the [Texas Open Data Portal](#) for datasets pertaining to:

- Administrative Orders Issued
- Civil Judgments Issued
- Supplemental Environmental Projects
- Compliance History
- Complaints