



# Compliance History: Unsatisfactory Performer? What Now?

## DATES OF INTEREST

TCEQ calculates the compliance history mass classification on Sept. 1 each year. This process determines the compliance history ratings and classifications for all applicable entities.

By Nov. 15, these ratings and classifications will be posted and made available at TCEQ's

**Compliance History Search**<sup>1</sup>.

Entities electing to appeal their classification must submit their appeal within 45 days of the date the rating and classification is posted.

## Compliance History Reports, Classifications and Ratings

A compliance history report shows information about a site that is used to determine a compliance history rating. This information includes:

- Enforcement orders, court judgments, and consent decrees by the state of Texas or the federal government.
- Criminal convictions under the jurisdiction of the state of Texas or the federal government.
- Citation dates for chronic excessive emission events.
- Investigations (dates).
- Notices of violations (written).
- Environmental audits conducted under the Texas Environmental, Health and Safety Audit Privilege Act.
- Environmental management systems.
- Participation in TCEQ-supported voluntary pollution reduction or early compliance programs.

TCEQ evaluates classifications and ratings each September. Regulated entities have a 30-day period to review their compliance history information before the results are posted to TCEQ's website.

The classification categories and their corresponding rating ranges are:

- High Performer, below 0.10
- Satisfactory Performer, 0.10 – 55.00
- Unsatisfactory Performer, greater than 55.00
- Unclassified, No Rating

<sup>1</sup>[www2.tceq.texas.gov/oce/ch](http://www2.tceq.texas.gov/oce/ch)

## Consequences of an Unsatisfactory Performer Classification

Consequences of a regulated entity's classification as an unsatisfactory performer may include, but are not limited to, the following:

- Denial of permit or permit renewal.
- Unannounced investigations.
- Higher penalties in enforcement actions.
- More investigations or oversight to improve environmental compliance.

## RULE UPDATE

As of June 23, 2022, TCEQ's executive director may designate a site's classification as "under review" and then later reclassify it to "suspended" if exigent circumstances occur due to a significant emergency event at the site. Exigent circumstances are defined by the rule and could include major explosions or fires that cause significant community disruption or commitment of emergency response resources by federal or state governmental authorities.

See **Title 30, Texas Administrative Code, Section 60.4**<sup>2</sup> for the applicable, specific appeal process.

## To Get a Copy of a Compliance History Report

Email: [comphist@tceq.texas.gov](mailto:comphist@tceq.texas.gov)  
Call: 512-239-2545

And provide us with:

- The name and number of the customer or the name and number of the regulated entity, or site. If you need help locating a name and number, please go to our **Central Registry page**<sup>3</sup>.
- The format you prefer (ASCII, PDF, etc).
- A phone number or email address so we can contact you if we need more information.

Published classifications are also available directly from the **Compliance History Search**<sup>4</sup>.

<sup>2</sup>[www.tceq.texas.gov/goto/view-30tac](http://www.tceq.texas.gov/goto/view-30tac)

<sup>3</sup>[www15.tceq.texas.gov/crpub/index.cfm](http://www15.tceq.texas.gov/crpub/index.cfm)

<sup>4</sup>[www2.tceq.texas.gov/oce/ch](http://www2.tceq.texas.gov/oce/ch)

# Appealing a Compliance History Classification or Repeat Violator Classification

## What should be included in the appeal?

- Tell us what and why you are appealing.
- State the specific outcome you want.
- If appealing a classification, show that the classification will change as a result of your appeal.
- Include all supporting documents.

There is no hearing associated with the appeal process, so your written appeal must stand on its own merit. Be sure to include everything you want us to consider that supports your position.

## What is the deadline for filing this appeal?

We must receive your appeal no later than 45 days after the classification is posted on our website. (Example: If we post the classification on Nov. 15, the final day to have received your appeal will be Dec. 30.)

## Where should I send an appeal?

Send your appeal and all the supporting documents by certified mail, return-receipt requested, to:

**Executive Director**  
**Attn: Enforcement Division Deputy Director**  
**Compliance History Review, MC 219**  
**Texas Commission on Environmental Quality**  
**P.O. Box 13087**  
**Austin, TX 78711-3087**

# Correcting Compliance History Errors

## Who may correct an error?

Only TCEQ can correct an error, but anyone may bring an error to our attention and ask that it be corrected.

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

<sup>6</sup>[www.tceq.texas.gov/agency/directory/region](http://www.tceq.texas.gov/agency/directory/region)

## What kinds of errors may be considered?

Correctable errors can include clerical errors, such as:

- Typographical errors (example: a name is misspelled).
- Filing errors (example: an investigation within the five-year compliance period is missing from the report).
- Mathematical errors (example: a rating calculation is incorrect).

Or they can be factual errors found in the report, as in the following examples:

- An incorrect classification of a violation on the compliance history report.
- Failure to reflect participation in a TCEQ-supported voluntary program on the compliance history report.

## How are errors reported?

Email, call, or send a letter (See Contact Us below).

If requested, send documentation that supports the correction.

If the correction causes the rating or classification to change, we will post the new information on the TCEQ website.

## CONTACT US

Email: [comphist@tceq.texas.gov](mailto:comphist@tceq.texas.gov)

Phone: 512-239-2545

Mailing Address:

**Enforcement Division, MC 219**  
**Texas Commission on Environmental Quality**  
**P.O. Box 13087**  
**Austin, TX 78711-3087**

# Help for Small Businesses and Local Governments

If you are a small business or local government, TCEQ's Program Support and Environmental Assistance Division can help you with compliance issues or questions. Contact the Small Business and Local Government Section at 800-447-2827 or visit our [webpage](#)<sup>5</sup>. Or locate the TCEQ regional office to contact at our [Regional Directory](#)<sup>6</sup>.



## How is our customer service?

Fill out our online customer-satisfaction survey at [www.tceq.texas.gov/customersurvey](http://www.tceq.texas.gov/customersurvey).

TCEQ is an equal opportunity employer. The agency does not allow discrimination on the basis of race, color, religion, national origin, sex, disability, age, sexual orientation, or veteran status. In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting TCEQ at 512-239-0010, or 1-800-RELAY-TX (TDD), or by writing P.O. Box 13087, Austin, TX 78711-3087.