



# **Supplemental Environmental Projects (SEPs)**

# What is a SEP?

- A SEP is an environmental enhancement project that offsets a Respondent's administrative penalty in a TCEQ enforcement matter.
- Tex. Water Code § 7.067
- For more information, visit <https://www.tceq.texas.gov/compliance/enforcement/sep>



# Purpose of SEPs



**Prevent** pollution



**Reduce** the amount of pollutants reaching the environment



**Enhance** the quality of the environment



**Contribute** to public awareness of environmental matters



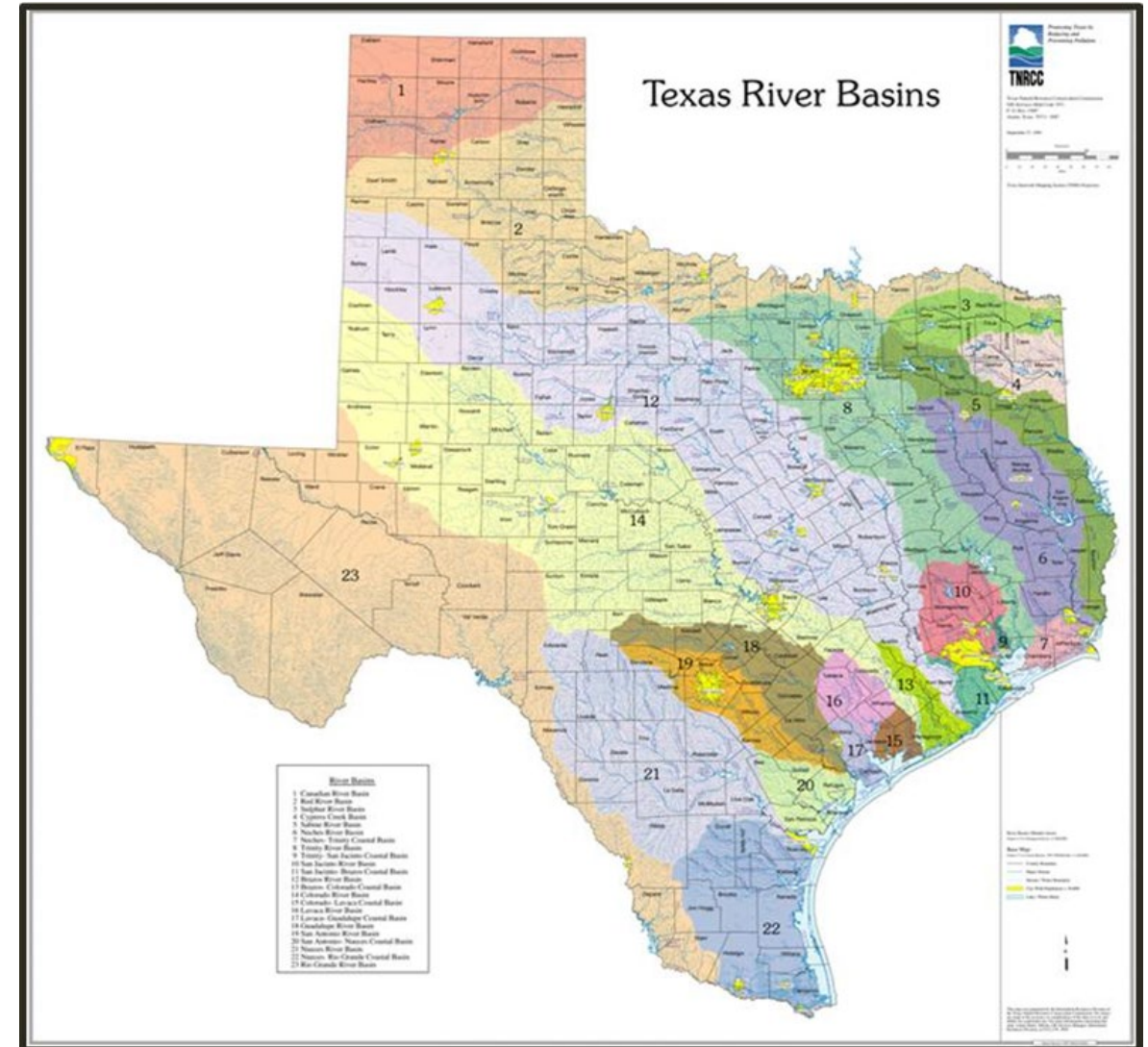
# History of SEPs in Texas

- **1991:** Texas Natural Resource Conservation Commission, a TCEQ predecessor agency, begins using SEPs to resolve enforcement actions
- **1993:** SEPs authorized in statute in 73<sup>rd</sup> Legislature's "Good Works' Administrative Penalties" act, which amends the Texas Water Code, Texas Solid Waste Disposal Act, and Texas Clean Air Act, HB 2429
- **1997:** Statutory authorization for SEPs consolidated into its modern location, Tex. Water Code § 7.067
- **1999:** Transboundary SEPs with activities in Mexico explicitly authorized, SB 828
- **2006:** TCEQ guidance publication GI-352 released
- **2011:** "Discretionary" Compliance SEPs (C-SEP) authorized, HB 2694
- **2013:** 10% administrative costs allowed for 501(c)(3) non-profits and local governments, HB 2290
- **2015:** TCEQ requirement for "Mandatory" C-SEPs, SB 394
- **2015:** Latest revision of guidance publication GI-352



# SEP Location

- Benefit the **community** in which the alleged violation occurred
- Community Examples:
  - City
  - County
  - Texas River Basin
  - Texas Aquifer
  - Texas Air Control Region



# SEP Types

## Custom SEP

- Any Respondent

## Contribution to a Pre-Approved SEP

- Any Respondent

## Compliance SEP

- Only Local Government Respondents

# SEP Media

Air SEPs

Performed with penalty monies from air violations

Water and  
Waste SEPs

Performed with penalty monies from water and waste violations

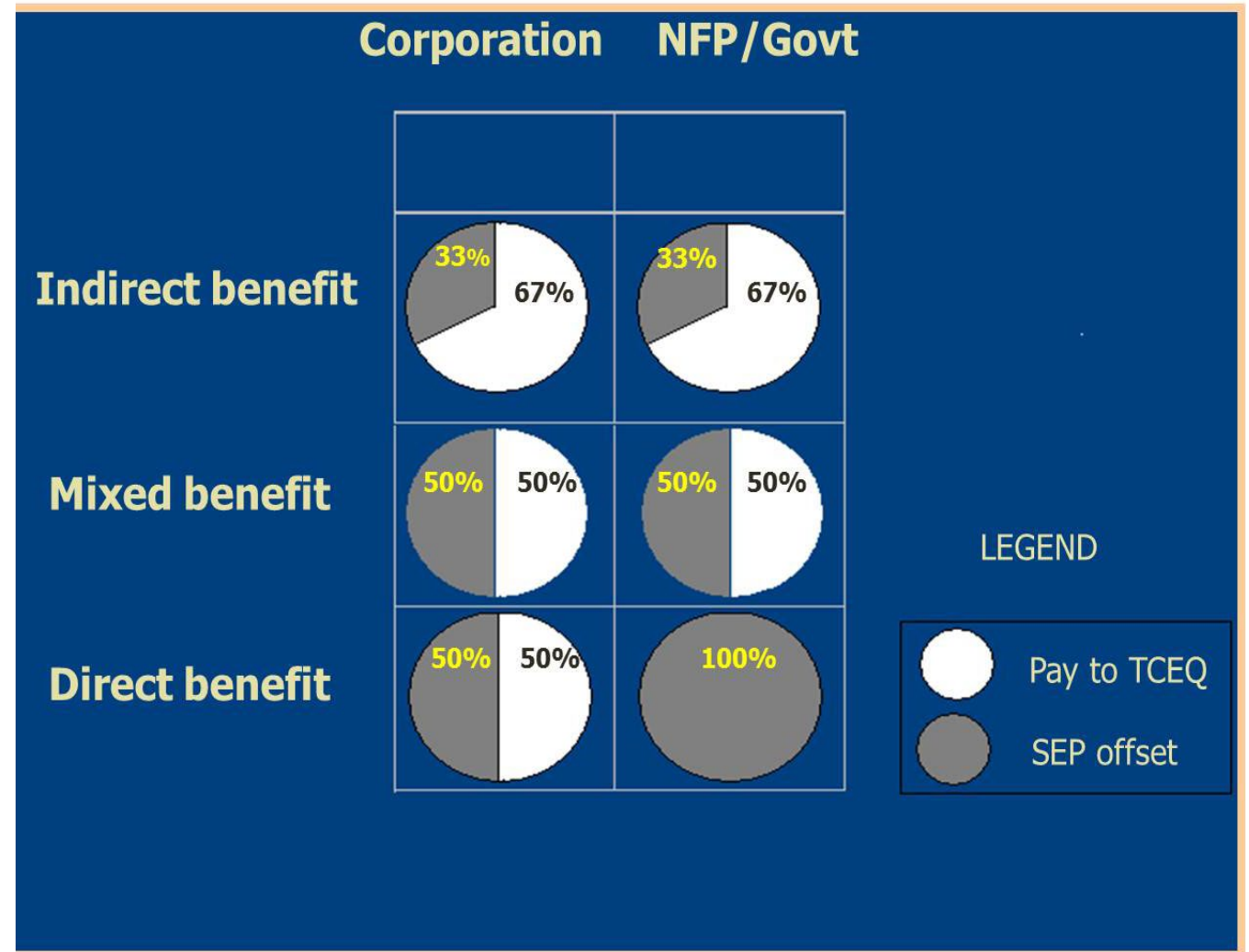
# SEP Offset

- All SEPs are funded by TCEQ penalties assessed against a Respondent
- An allowable SEP offset
  - Does not reduce the total penalty that a Respondent owes and
  - Is determined by type of Respondent and environmental benefit
- A Respondent can choose to:
  - Contribute amount to a Pre-Approved SEP or
  - Perform a Custom SEP or Compliance SEP expending at least the SEP offset amount



# Penalty Percentage Offset

- Type of Respondent
  - Governmental entity/non-profit (NFP)—100% offset
  - For-profit corporations or individuals—50% offset
- Environmental Benefit
  - Direct (e.g., repair or replace wastewater treatment plant equipment or tire collection events)
  - Indirect (e.g., educational and public-awareness projects)
  - Mixed (e.g., a project that involves both collecting household hazardous waste and educating the public on proper disposal methods)



# Custom SEP

Any respondent can spend their allowable SEP Offset amount to implement an environmental enhancement project to address the specific needs within the community where Respondent's alleged violation occurred

- A Custom SEP cannot benefit the Respondent
- Must be fully completed within 365 days from the effective date of the Agreed Order
- Must be approved by the Commission before commencement of the project can occur



San Antonio River Authority performed a household hazardous waste cleanup event in 2024 as a custom SEP, collecting over 55 tons of electronics, tires, hazardous liquids, and other materials.



# Compliance SEP (C-SEP)



Rio Grande City, Texas installed a new Lift Station with backup pump at their facility in 2019

- A **Local Government (LG) Respondent** can spend their allowable SEP Offset amount to implement an environmental enhancement project that is necessary to bring the LG Respondent into compliance with environmental laws or necessary to remediate environmental harm caused by the LG Respondent's alleged violation.
- Only an LG can perform a C-SEP
- LG defined within the SEP Statute; Tex. Water Code § 7.067(b)(1)
- A C-SEP can benefit the LG Respondent
- A C-SEP can be performed prior to Commission approval

# Types of C-SEPs

## Mandatory C-SEPs

TCEQ *must* allow a LG respondent to perform a C-SEP if the LG meets both conditions below and submits a sufficient proposal.

1. The LG has not previously committed a violation at the same site with the same underlying cause in the preceding 5 years, and
2. The LG did not agree, before the date the Commission initiated the enforcement action, to perform the project.

## Discretionary C-SEPs

If the two conditions are not met, TCEQ “prevent[s] regulated entities from systematically avoiding compliance” through use of C-SEPs by assessing the respondent’s ability to pay the penalty and to come into compliance, per Tex. Water Code § 7.067 (a-2).

On a case-by-case basis, under these circumstances, TCEQ *may* allow a respondent to perform a C-SEP if the LG meets the conditions and submits a sufficient proposal.

**Performing a SEP is always optional for TCEQ respondents.**

# Contribution to a Pre-Approved SEP

Any Respondent can choose to contribute their allowable SEP Offset amount to a Third-Party Administrator that has an existing SEP Agreement with TCEQ to perform a SEP.

- Limited to a Pre-Approved SEP in the Respondent's community that matches the Respondent's violation media
- A Pre-Approved SEP cannot benefit the Respondent
- Must be approved by the Commission before contribution can occur

Toggle column: Project Type - Minimum Contribution - Media Type - Funding Status - Eligible Counties

Search:

Project Administrator and Title	Minimum Contribution	Media Type	Funding Status
Texas State Aquarium 2024-02 Rescue and Recovery Vehicles	\$100	EAQ, IHW, WDW, IWD, MLM, MSW, MWD, PST, PWS, WQ, WR	Total Budget: \$341,000 Needed for Completion: \$340,796
Texas Water Development Board: 2014-05 Water-Level Recorder Data in Every Texas County (Statewide)	\$500	EAQ, IHW, WDW, IWD, MLM, MSW, MWD, PST, PWS, WQ, WR	Total Budget: \$997,500 Needed for Completion: \$668,756
Houston-Galveston Area Council: 2012-15 Wastewater Treatment Assistance	\$500	EAQ, IHW, WDW, IWD, MLM, MSW, MWD, PST, PWS, WQ, WR	Total Budget: \$492,000 Needed for Completion: \$330,795
University of Texas at Austin LBJ: 2013-11 Lower Rio Grande Water Quality Initiative	\$100	EAQ, IHW, WDW, IWD, MLM, MSW, MWD, PST, PWS, WQ, WR	Total Budget: \$25,008 Needed for Completion: 0
City of Baytown: 2018-03 Residential Sewer Line Repair and Replacement Program	\$500	EAQ, IHW, WDW, IWD, MLM, MSW, MWD, PST, PWS, WQ, WR	Total Budget: \$19,959,000 Needed for Completion:

Showing 1 to 24 of 24 entries

<https://www.tceq.texas.gov/compliance/enforcement/sep/pre-approved-seps>



## Respondent SEP Options

Inquiry from:  
(1) for-profit—  
50% SEP Offset  
OR  
(2) non-profit—  
100% SEP Offset

Inquiry from:  
(3) local  
government—  
100% SEP  
Offset

**Contribution SEP**  
Respondent  
contributes to a  
Pre-Approved SEP  
that is performed by a  
3<sup>rd</sup> Party

**Custom SEP**  
Respondent designs and  
performs a SEP within their  
community

**Compliance SEP**  
Local Government  
performs a SEP that  
brings it into compliance  
with environmental laws  
or remediates harm  
caused by alleged  
violation

# Third-Party Administrators

Pre-Approved SEPs are performed by Third-Party Administrators that have an agreement with TCEQ to receive contributions from Respondents to perform an environmental enhancement project.

- Third-Party Administrators
  - Only governmental organizations and/or 501(c)(3) non-profit organizations
  - Must fulfill certain requirements, such as being able to receive and manage SEP funds in a separate bank account, providing a line-item budget, and complying with reporting



SEP funds from an Audubon Texas project were used to build a new dock for conservation activities at green island in 2022



# Pre-Approved SEP Examples

- **Air SEP Examples:**
  - Air quality: School bus replacement, energy efficiency upgrades
  - Air monitoring: Establishing air monitoring networks
- **Water and Waste SEP Examples:**
  - Collection events: Tires, household hazardous waste
  - Habitat restoration, preservation, and acquisition projects
  - Water quality: Wastewater and drinking water assistance for low-income households, clean up events
  - Water monitoring: Establishing water monitoring networks
  - Public Water Systems Assistance Project



Angelina Beautiful Clean Household Hazardous Waste Collection Event  2022

# Allowable Third-Party Administrator SEP Expenses

- Direct cost of the project, including:
  - Supplies
  - Materials
  - Equipment
  - Contracted labor (to include engineering)
- Administrative costs (discretionary)
  - Limited to 501(c)(3) Non-Profits and Local Governments as defined in Tex. Water Code § 7.067(b)(1)
  - Cannot exceed 10% of the direct cost of the project
  - Includes:
    - Salary and fringe benefits
    - Travel and per diem
    - Overhead costs



Texas A&M - Corpus Christi's AutoCheck, above, and Gulf Coast Authority's Trash Bash, Below (SEP No. 2011-34 and SEP No. 2010-002)



# SEPs enhance the quality of the environment

Tex. Water Code § 7.067(b)(2): “Supplemental environmental project” means a project that prevents pollution... enhances the quality of the **environment**...”

- Not explicitly limited to TCEQ jurisdiction Tex. Water Code § 5.013

Rescue and Recovery Vehicles

SEP NO. 2024-02

## Project Description for Rescue and Recovery Vehicles

### Facts/Purpose

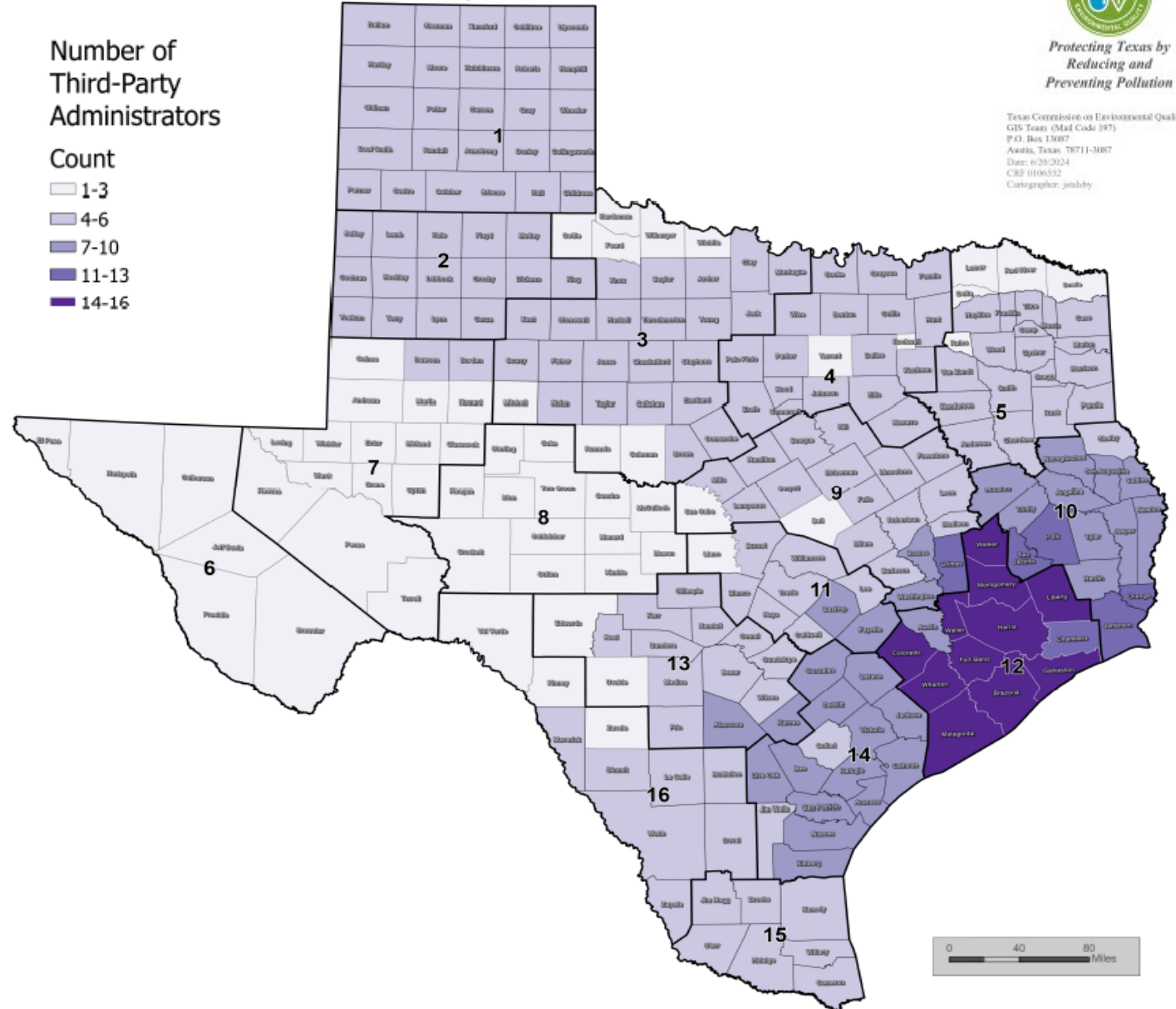
The purpose of the project is to purchase specialized vehicles that would be used for responding to emergencies to rescue and rehabilitate wildlife. The vehicles included in this project are a boat and trailer, a refrigerated truck, and a flatbed truck.





# Current Third-Party Administrators

Third-Party Administrator Distribution

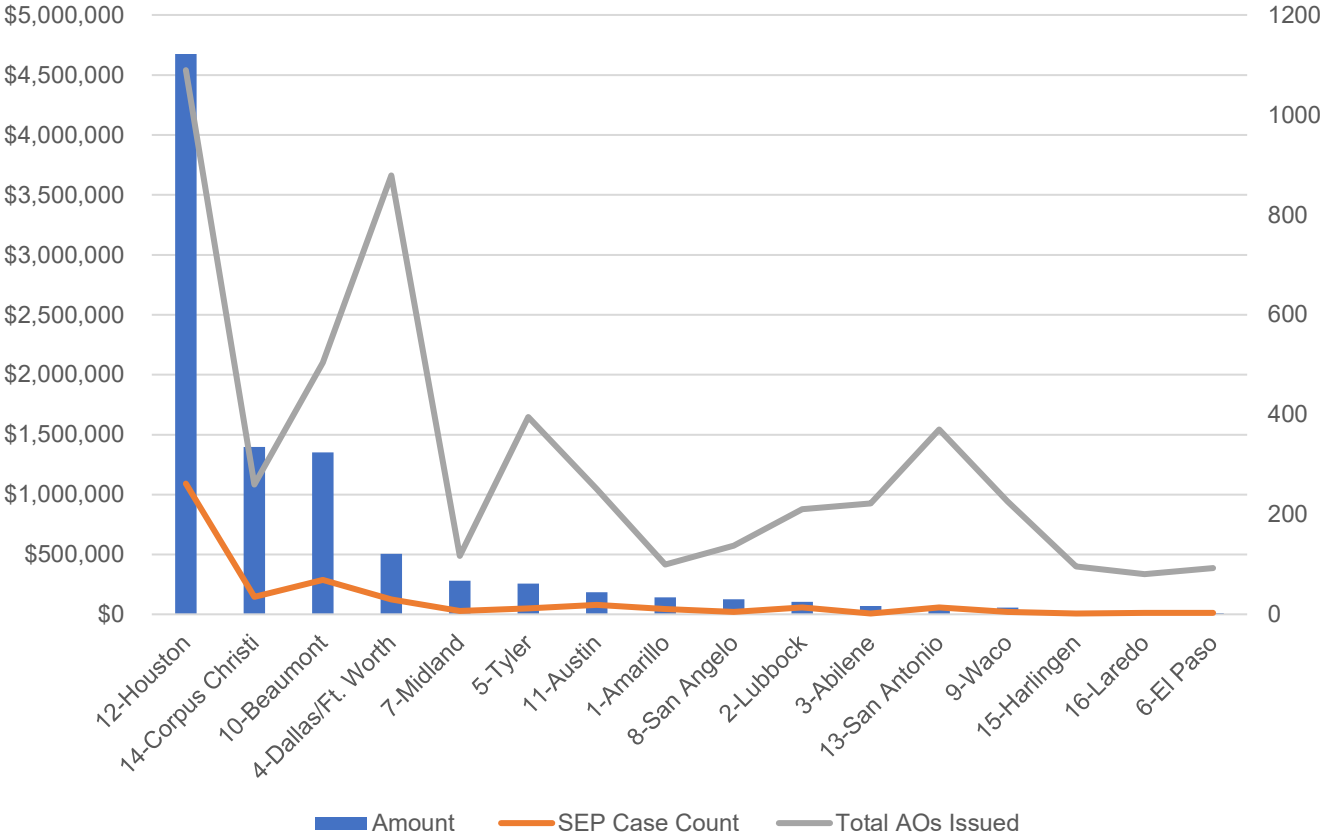


# Issued Agreed Orders with Contribution SEPs

Region	SEP Offset Amount	SEP Case Count	Total AOs Issued
12-Houston	\$4,674,180	262	1090
14-Corpus Christi	\$1,398,045	35	260
10-Beaumont	\$1,350,717	69	504
4-Dallas/Ft. Worth	\$506,287	30	879
7-Midland	\$280,246	7	117
5-Tyler	\$258,136	12	395
11-Austin	\$185,810	19	251
1-Amarillo	\$142,114	11	100
8-San Angelo	\$127,226	5	138
2-Lubbock	\$105,301	14	211
3-Abilene	\$70,481	2	222
13-San Antonio	\$68,937	14	370
9-Waco	\$57,721	5	226
15-Harlingen	\$19,752	2	96
16-Laredo	\$13,692	3	81
6-El Paso	\$13,059	3	93
<b>Total</b>	<b>\$9,271,704</b>	<b>493</b>	<b>5033</b>

(9/1/2019 – 5/1/2024)

Contribution SEPs and Total AOs Issued



# SEPs in Texas v. SEPs in Other Jurisdictions


- Texas allows 1-to-1 offset of penalties to SEPs without qualifications
  - Colorado: no less than 1.5:1 ratio for “custom” SEPs; can be 1:1 for contributions to pre-approved
  - EPA: “outstanding quality” of project must be demonstrated for 1:1 ratio
  - Idaho: “generally” 2:1 ratio of SEP expenditures to penalty reduction, case-by-case basis, up to 75% of the penalty
- Texas allows for Third-Party Administrators of pre-approved SEPs
  - Several states (e.g., California, Colorado) do as well.
  - Maryland maintains a “SEP Library”
  - EPA only allows for “custom SEPs” but allows the public to submit ideas
- Texas allows for Compliance SEPs for Local Governments
  - Unique to Texas
- Texas specifically authorizes transboundary SEPs in Mexico
  - Unique to Texas

# SEP Program Developments

- New, standardized general terms and conditions for pre-approved SEPs
- TCEQ Commissioners' Work session on June 27, 2024
  - Upcoming guidance document edits
  - Requests to streamline processes and policies
- More outreach to areas that have disproportionately fewer SEPs
- Efforts to increase transparency and public participation

# Consider Contributing to a Pre-Approved SEP

- TCEQ Enforcement Action? Contributing to a pre-approved SEP is easy!
- Improve relationship with local nonprofits and governments, keep penalty dollars in your community
- For-profit entities provide one check to TCEQ upon settlement and one check directly to Third-Party Administrator after Commission approval
- Fill out application online at <https://www.tceq.texas.gov/downloads/compliance/enforcement/sep/20699-03-04-19.pdf>



**Respondent Application to  
Contribute to a Third-Party  
SEP Administrator**

SEP Program  
Phone (512) 239-2223  
Fax (512) 239-3434  
[sepreports@tceq.texas.gov](mailto:sepreports@tceq.texas.gov)  
PO Box 13087  
SEP Coordinator, MC 175 Austin,  
Texas 78711-3087

Respondent Information		
Application Date	TCEQ Docket No.	Enforcement Case No.
Payable Penalty Amount \$	SEP Offset Amount \$	Enforcement Coordinator
Respondent Name (legal name of organization)		
County		
Respondent Contact Person		
Telephone		
Email		
Proposed SEP		
<a href="https://www.tceq.texas.gov/downloads/compliance/enforcement/sep/pre-approved-seps.html">View a list of all TCEQ Pre-Approved SEPs</a> ( <a href="https://www.tceq.texas.gov/downloads/compliance/enforcement/sep/pre-approved-seps.html">https://www.tceq.texas.gov/downloads/compliance/enforcement/sep/pre-approved-seps.html</a> ).		
Choose a Third-Party SEP to contribute to and enter the information below.		
Third-Party Administrator (Required)		
Project Title		
Amount \$		



# To Future Third-Party Administrators...

- Have you always wanted to perform a project but been unsure where to get funding?
- Do you have big ideas to help extend the SEP Program's reach with new projects?
- Apply to be a Third-Party Administrator!  
<https://www.tceq.texas.gov/downloads/compliance/enforcement/sep/3rd-party-sep-application.pdf>
- Contact [SEPReports@tceq.texas.gov](mailto:SEPReports@tceq.texas.gov) with questions



Texas Association of RC&D – Public Water Systems Assistance Project for City of Hamilton

# SEP Team Contact Information

[SepReports@tceq.texas.gov](mailto:SepReports@tceq.texas.gov)

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