



# Supplemental Environmental Projects Webinar

December 4, 2024

Joy Douglas, Environment and Development Planner I

North Central Texas Council of Governments

# Webinar Procedures

- This webinar will be recorded and posted to the NCTCOG TMDL webpage under the green banner labeled “Workshops”
  - [www.nctcog.org/TMDL](http://www.nctcog.org/TMDL)
- All registrants and attendees will receive an email with the presentation slides and a subsequent email when the recording is posted.
- Please keep your microphone on mute until the Question-and-Answer period at the end of the presentations.
  - Questions can also be typed into the chat box.
- Thank you!

# What is the North Central Texas Council of Governments?

- Voluntary association of local governments
- Established in 1966
- Assists local governments in:
  - Planning for common needs
  - Cooperating for mutual benefit
  - Recognizing regional opportunities
  - Resolving regional problems
  - Making joint decisions

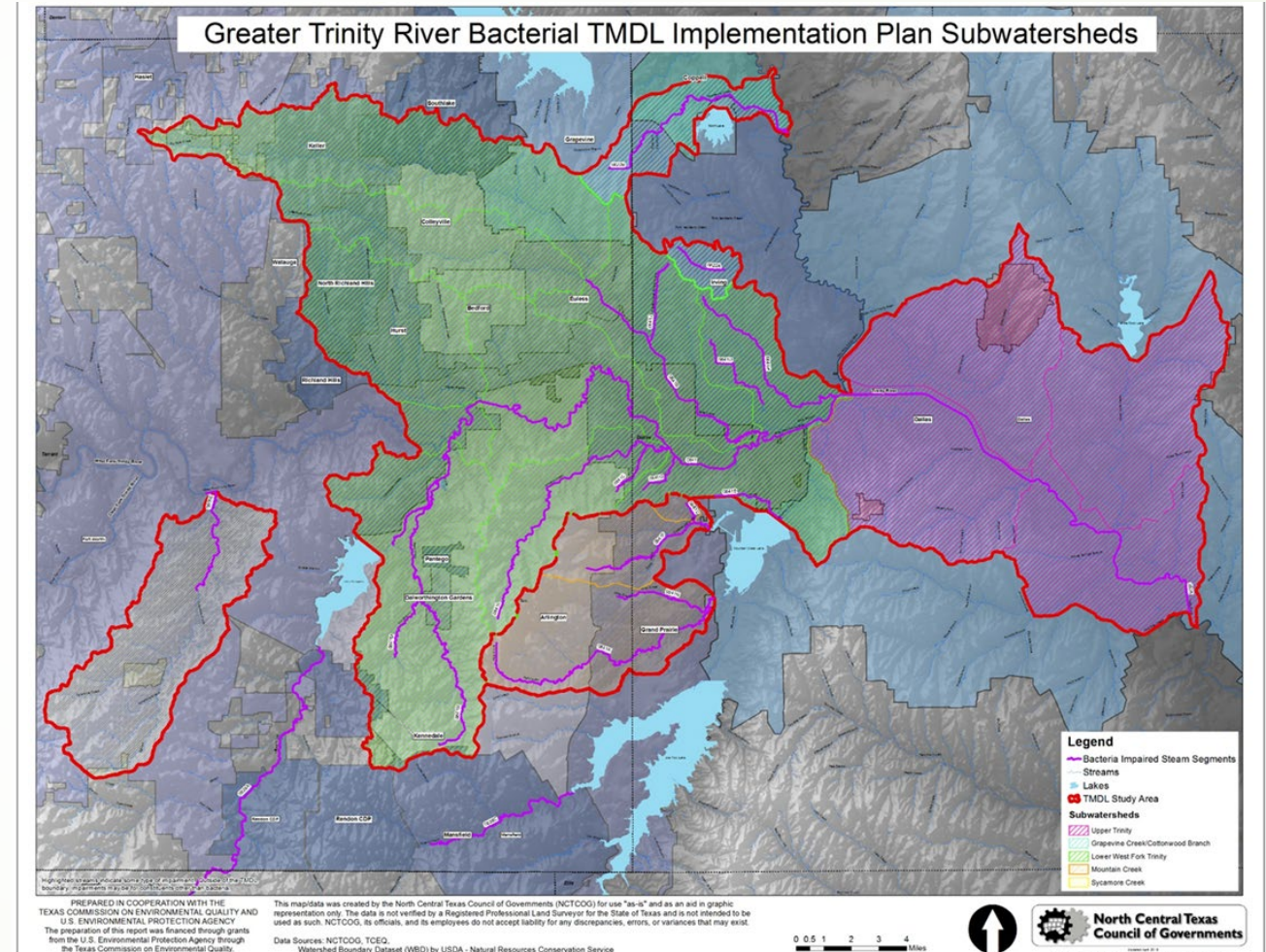


# Bacteria Impairments in the DFW Metroplex

- What does impairment mean?
  - A waterway is not meeting state water quality standards for its designated use.
- What could be causing the impairment?
  - Pet waste,
  - Sanitary sewer overflows,
  - Agricultural practices,
  - Wastewater treatment plants,
  - Illicit discharges,
  - Onsite sewage facilities (septic systems), and
  - Wildlife waste
- What is a total maximum daily load (TMDL)?
  - A budget for a pollutant that a waterway can receive and still safely maintain its designated use.

# Greater Trinity River Bacterial TMDL Implementation Plan Subwatersheds

- Upper Trinity River Segment 0805
- Elm Fork Tributaries of Grapevine Creek and Cottonwood Branch
- Lower West Fork Trinity River Segment 0841 and 11 of its tributaries
- Upstream of Mountain Creek Lake Segments 0841F, 0841K, 0841N, 0841Q, and 0841V
- Sycamore Creek Segment 0806E



# How is NCTCOG working with local governments to address TMDLs?



Approved by the Commission: December 11, 2013  
Approved by the Coordination Committee: July 11, 2012  
Revised by the Coordination Committee: June 13, 2019

## Implementation Plan Twenty-Two Total Maximum Daily Loads for Bacteria in the Greater Trinity River Region

### Upper Trinity River

Segment 0805  
Assessment Units 0805\_03 and 0805\_04

### Cottonwood Branch and Grapevine Creek

Segments 0822A and 0822B  
Assessment Units 0822A\_02 and 0822B\_01

### Lower West Fork Trinity River

Segments 0841, 0841B, 0841C, 0841E, 0841G, 0841H, 0841J, 0841L, 0841M, 0841R, 0841T, and 0841U  
Assessment Units 0841\_01, 0841\_02, 0841B\_01, 0841C\_01, 0841E\_01, 0841G\_01, 0841H\_01, 0841J\_01, 0841L\_01, 0841M\_01, 0841R\_01, 0841T\_01, and 0841U\_01

### Mountain Creek Lake Tributaries

Segments 0841F, 0841K, 0841N, and 0841V  
Assessment Units 0841F\_01, 0841K\_01, 0841N\_01, and 0841V\_01

### Sycamore Creek

Segment 0806E  
Assessment Unit 0806E\_01

- Through the Implementation Plan, NCTCOG works with local governments to implement best management practices (BMPs) to reduce the sources of bacteria. The I-Plan includes BMPs for
  - Participation in regional initiatives,
  - Education and outreach,
  - Ordinance, guideline, or management plan adoption, and more!
- This Implementation Plan also guides the projects and workshops selected by the TMDL Coordination Committee.

# Available TMDL Resources

- [Avian Feeding Social Media Toolkit](#)
- [Avian Feeding Signage](#)
- [What is a TMDL? Tri-Fold Brochure](#)
- [What is a TMDL? Educational Explainer Video](#)
- [OSSF Social Media Toolkit](#)
- [OSSF Instructional Guide](#)
- [Septic System Maintenance for Homeowners Educational Explainer Video](#)
- [Wastewater Door Hanger for Apartment Complexes](#)
- [Industrial Facilities and TMDLs: What You Need to Know FAQ Document](#)
- Other Activities:
  - Quarterly Newsletters
  - BMP Library
  - Workshops and Webinars



# Adena Crider, SEP Work Leader Carlos Flores, SEP Specialist

Texas Commission on Environmental Quality





# **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.
- Texas Water Code § 7.067
- For more information, visit <https://www.tceq.texas.gov/compliance/enforcement/sep>

# Purpose of SEPs



Prevent pollution

Environment  
Matters

# Purpose of SEPs



**Prevent** pollution



**Enhance** the quality of the environment



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



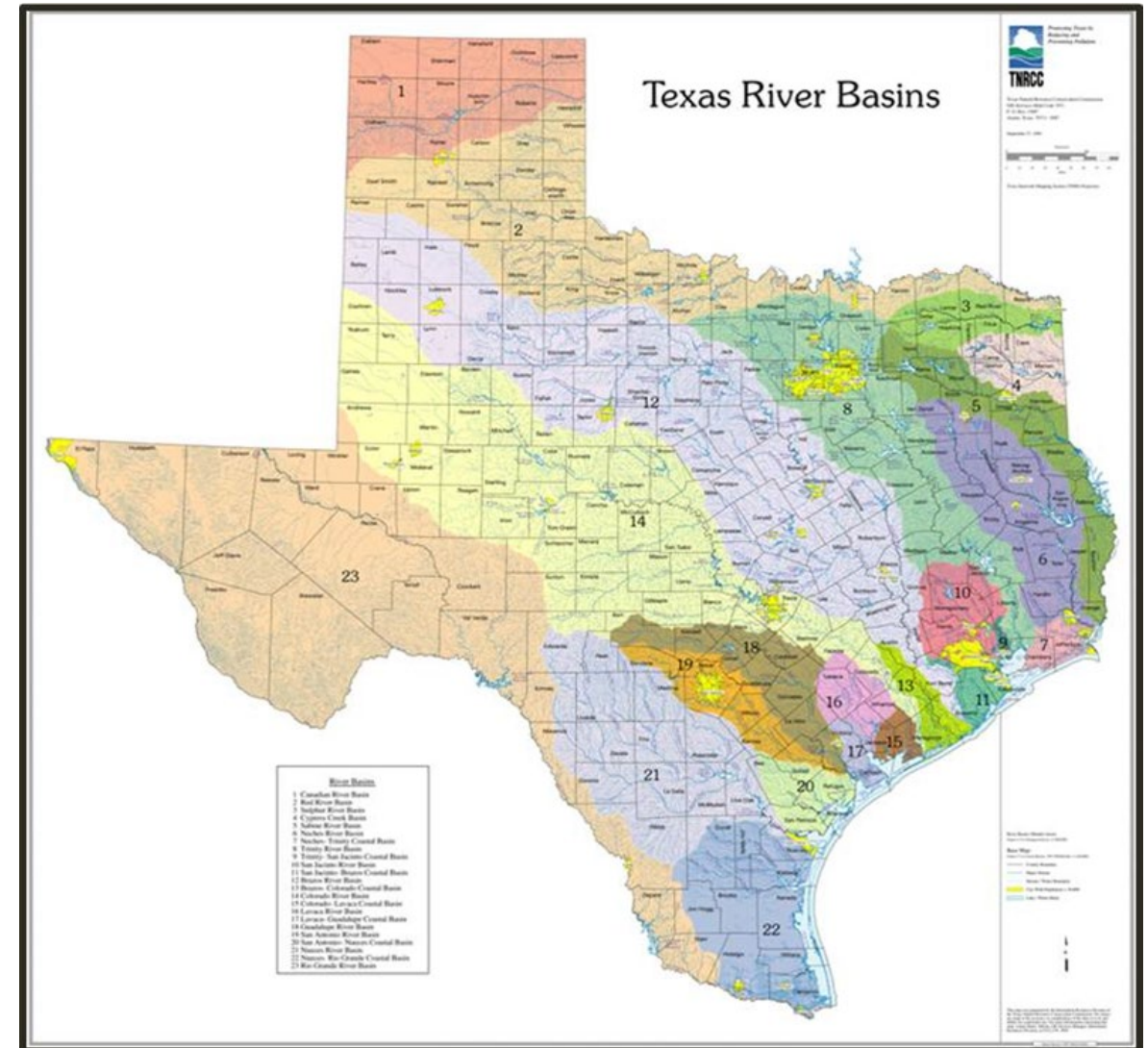
**Contribute** to public awareness of environmental matters

# History of SEPs in Texas

- **1991:** Texas Natural Resource Conservation Commission 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 Water Code, Solid Waste Disposal Act, and 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:** Guidance publication GI-352 released
- **2011:** "Discretionary" C-SEPs authorized, HB 2694
- **2013:** 10% administrative costs allowed for 501(c)(3) non-profits and local governments, HB 2290
- **2015:** "Mandatory" C-SEPs required, SB 394
- **2015:** Latest revision of guidance publication GI-352

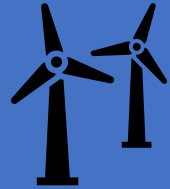
# SEP Location

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



# SEP Media

Air  
SEPs



Water and  
Waste SEPs



# SEP Media

Air  
SEPs



Performed with penalty monies  
from air violations

Water and  
Waste SEPs



Performed with penalty monies  
from water and waste violations

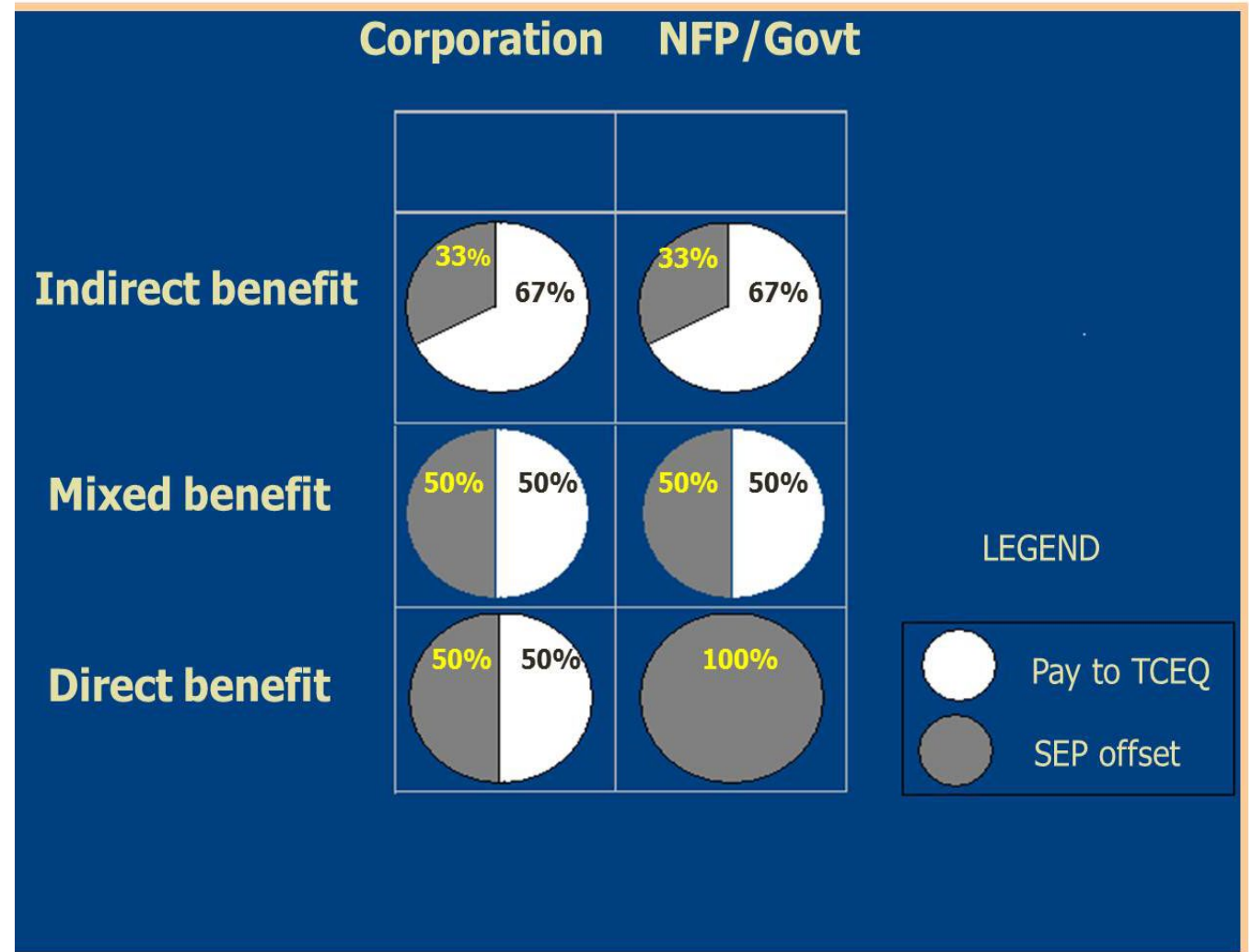


# SEP Offset

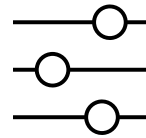
- All SEPs are funded by TCEQ penalties assessed against Respondents
- Allowable SEP offset
  - Does not reduce the total penalty that a Respondent owes
  - Determined by type of Respondent and environmental benefit
- A Respondent can choose to:
  - Contribute amount to a Pre-Approved SEP or
  - Perform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

# Penalty Percentage Offset

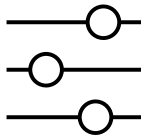
- Type of Respondent
  - Governmental entity/non-profit (NFP)
    - 100% offset
  - For-profit corporations or individuals
    - 50% offset
- Environmental Benefit
  - Direct—repair or replace wastewater treatment plant equipment or tire collection events
  - Indirect—educational and public-awareness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



# SEP Types



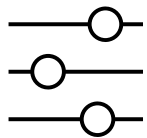
# SEP Types



## Custom SEP

- Any Respondent

# SEP Types



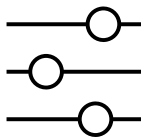
## Custom SEP

- Any Respondent

## Contribution to a Pre-Approved SEP

- Any Respondent

# SEP Types



## Custom SEP

- Any Respondent

## Contribution to a Pre-Approved SEP

- Any Respondent

## Compliance SEP

- Only Local Governments

# 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 the respondent's alleged violation occurred

- A Custom SEP cannot benefit the respondent
- Time consuming, but allows respondent to plan around specific environmental needs
- Must be fully completed within 365 days from the effective date of the Agreed Order
- Must be approved by 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.

# 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.

- Contributing is a simple way for respondents to give back to the community without having to undertake an environmental project themselves.
- 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>



# Compliance SEP (C-SEP)



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

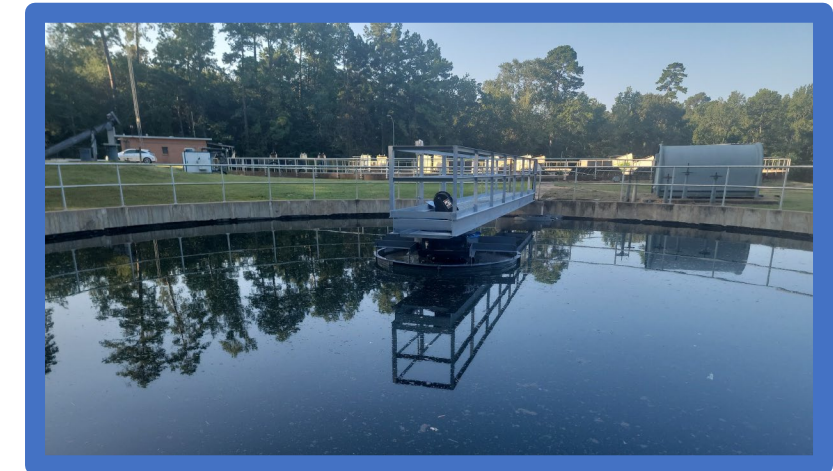
- A **Local Government (LG) respondent** can spend their allowable SEP Offset amount to implement an environmental enhancement project that is necessary to bring the LG respondent into compliance with environmental laws or necessary to remediate environmental harm caused by the LG respondent's alleged violation.
- Only an LG can perform a C-SEP
- LG defined within the SEP Statute; Texas Water Code § 7.067(b)(1): "school district, county, municipality, junior college district, river authority, water district or other special district, or other political subdivision created under the constitution or a statute of this state"

# Compliance SEP (C-SEP)



City of Huntsville  
August 2024  
Clarifier Rehabilitation

- A C-SEP can benefit the LG respondent
- A C-SEP can be performed prior to Commission approval
- Important that LG keeps receipts, pictures, and documentation of any projects performed to come into compliance or remediate environmental harm
- May not be used to directly resolve the violations that resulted from human error such as record keeping violations or hiring a licensed operator



# Two types of C-SEPs

1

2

# Two types of C-SEPs

## 1

### **Mandatory C-SEPs**

TCEQ must include in an enforcement order if they meet both conditions and submits 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.

## 2

# Two types of C-SEPs

## 1

### **Mandatory C-SEPs**

TCEQ must include in an enforcement order if they meet both conditions and submits 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.

## 2

### **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 Texas Water Code § 7.067 (a-2).

# Respondent SEP Options

Entity/Respondent	Maximum Offset	Custom SEP	Pre-Approved SEP	Compliance SEP
Individual	50%			-
For-Profit/Corporation	50%			-
Non-Profit	<b>100%</b>			-
Governmental Entity	<b>100%</b>			-
*Local Government	<b>100%</b>			

## Respondent SEP Options

Inquiry from  
for-profit  
50% SEP offset  
OR  
non-profit  
100% SEP offset

Inquiry from  
**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, 2022 (SEP No. 2011-52)



# Third-Party Administrators

- To have a project on the Pre-Approved SEP list, the Third-Party Administrator must submit an application that will be reviewed by the SEP Program and a panel of TCEQ staff from various divisions to ensure program criteria and agency priorities are met.
- Once a SEP is approved by both TCEQ and the Third-Party Administrator, it is then listed on TCEQ's website and becomes available to receive funds.



Southeast Texas Regional Planning Commission's  
Lighthouse, 2024  
(SEP No. 2011-33)

# Pre-Approved SEP Common 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  
(SEP No. 2011-13)

# Pre-Approved Projects FY 2024

Project Type	Available for Funding	Fully Funded or Currently Not Accepting Funds	Total Projects
Air Quality	8	7	15
Cleanup	1	5	6
Habitat/Restoration	5	4	9
Wildlife Conservation	1	0	1
Water Quality	4	4	8
<b>Total</b>	<b>19</b>	<b>20</b>	<b>39</b>

# 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 Texas 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)

# 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

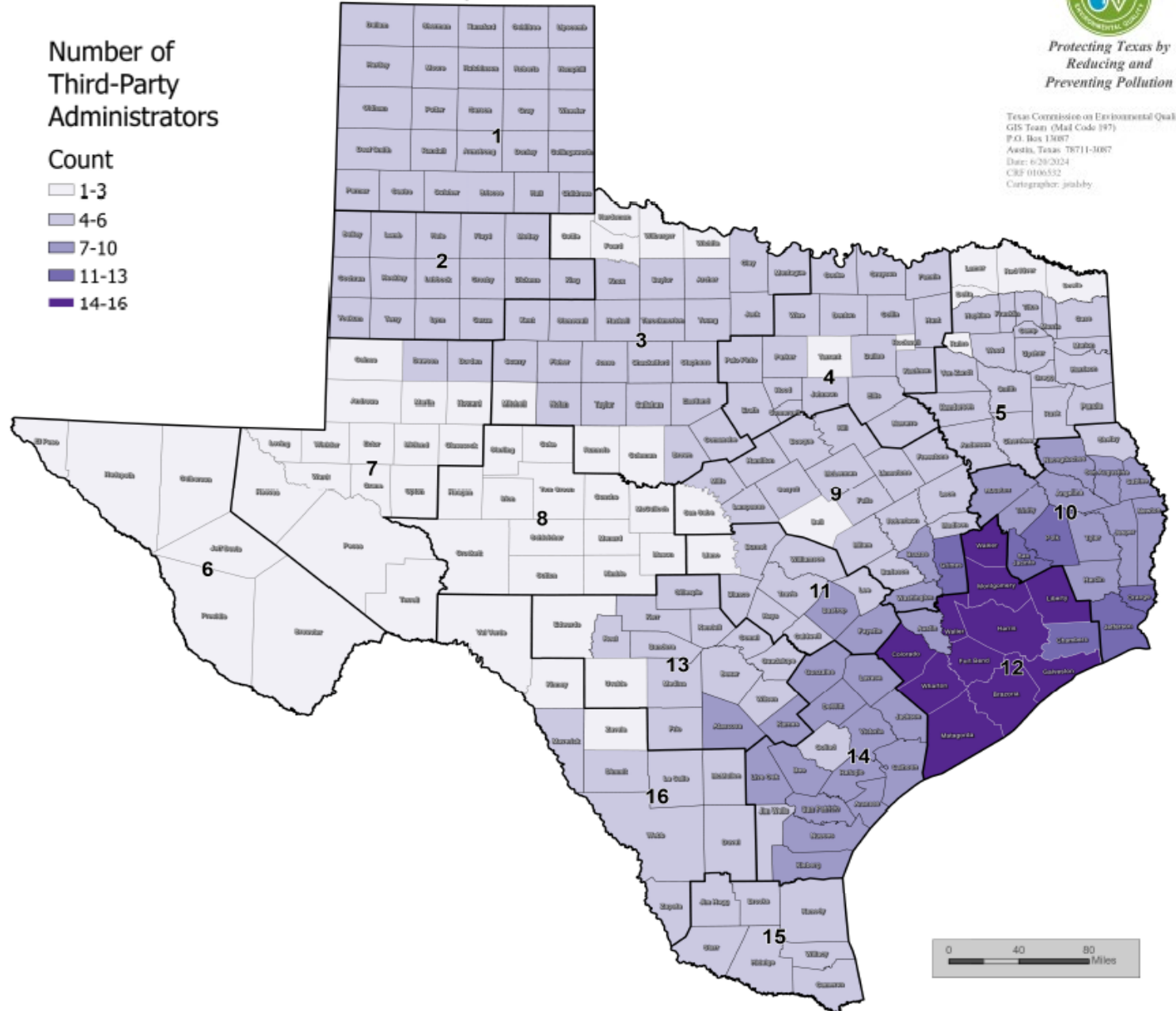
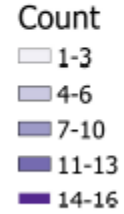
The purpose of the project is to purchase specialized vehicles that would be used for responding to emergencies to rescue and rehabilitate wildlife. The vehicles included in this project are a boat and trailer, a refrigerated truck, and a flatbed truck.



# Current Third-Party Administrators

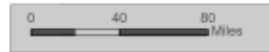
Third-Party Administrator Distribution

Number of  
Third-Party  
Administrators



Protecting Texas by  
Reducing and  
Preventing Pollution

Texas Commission on Environmental Quality  
GIS Team (Mail Code 97)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 6/28/2024  
CRF: 0106332  
Cartographer: jashby



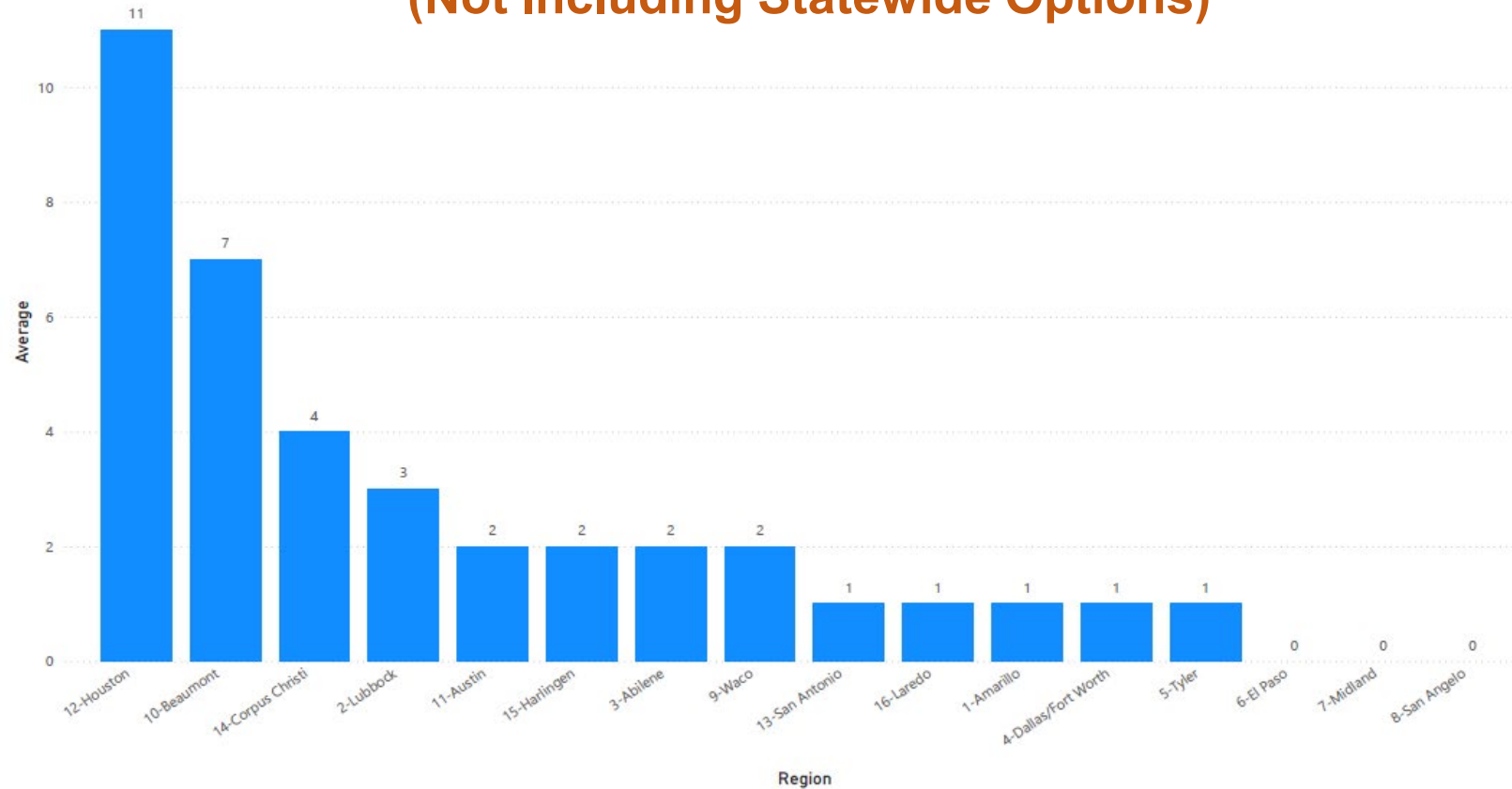
# SEP Program Developments

- New, standardized general terms and conditions for Pre-Approved SEPs
  - Additionally, agreements effective Fiscal Year 2024 and after will be available in their entirety on the Pre-Approved List on our website.
- TCEQ Commissioners' Work session on June 27, 2024
  - Upcoming guidance document edits; requests to streamline processes and policies
    - Make it easier to contribute to Pre-Approved SEP
    - Changes to current policy to increase and encourage more SEPs

# SEP Program Developments

- More outreach to areas that have disproportionately fewer SEPs

**Average Third-Party Administrators by Region  
(Not Including Statewide Options)**





# SEP Program Developments

- Efforts to increase transparency and public participation
  - Promoting success stories online
  - TCEQ Websites, Blogs, Social Media
  - How-to videos to assist in the application process



Texas A&M – Corpus Christi's AutoCheck  
(SEP No. 2011-34)


# SEP Participation

Fiscal Year	Number of SEPs	Sum of Offset Amount
2020	196	\$4,187,744
2021	139	\$2,383,549
2022	139	\$2,832,140
2023	145	\$3,954,808
2024	195	\$7,057,712
<b>Total</b>	<b>814</b>	<b>\$20,415,953</b>

# Do you have an enforcement case with TCEQ?

- Are you a local government? You may qualify for a Compliance SEP to address the violations or come into compliance with environmental laws.
- Reach out to our team or let your enforcement coordinator know you are interested in performing a Compliance SEP to see if you qualify.
- Not a local government but want to perform a project in your community that you design and implement, a Custom SEP might just be right for you!

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

**Respondent Information**

Application Date	TCEQ Docket No.	Enforcement Case No.
<input type="text"/>	<input type="text"/>	<input type="text"/>
Payable Penalty Amount \$	SEP Offset Amount \$	Enforcement Coordinator
<input type="text"/>	<input type="text"/>	<input type="text"/>
Respondent Name (legal name of organization)		
<input type="text"/>		
County		
<input type="text"/>		
Respondent Contact Person		
<input type="text"/>		
Telephone	<input type="text"/>	
Email	<input type="text"/>	

**Proposed SEP**

[View a list of all TCEQ Pre-Approved SEPs](https://www.tceq.texas.gov/compliance/enforcement/sep/pre-approved-seps.html)  
(<https://www.tceq.texas.gov/compliance/enforcement/sep/pre-approved-seps.html>).

Choose a Third-Party SEP to contribute to and enter the information below.

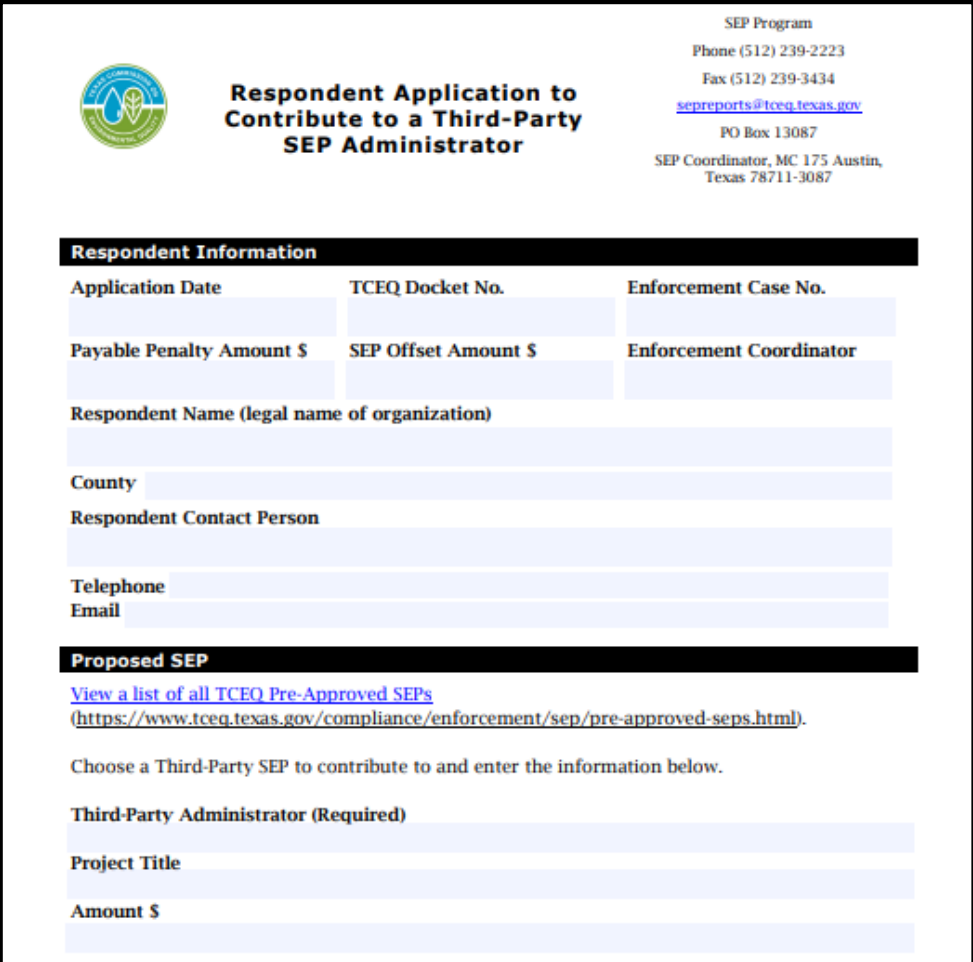
**Third-Party Administrator (Required)**

Project Title

Amount \$

# Consider contributing to Pre-Approved SEPs

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



The image shows a screenshot of a web form titled "Respondent Application to Contribute to a Third-Party SEP Administrator". At the top left is the TCEQ logo. To the right of the logo is the title and contact information for the SEP Program, including phone, fax, email, and address. The form is divided into two main sections: "Respondent Information" and "Proposed SEP".

**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**

[View a list of all TCEQ Pre-Approved SEPs](https://www.tceq.texas.gov/compliance/enforcement/sep/pre-approved-seps.html)  
(<https://www.tceq.texas.gov/compliance/enforcement/sep/pre-approved-seps.html>).

Choose a Third-Party SEP to contribute to and enter the information below.

Third-Party Administrator (Required)  
Project Title  
Amount \$

# Interested in Becoming a 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 No. 2017-03)

# SEP Team Contact Information

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

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**Adena Crider**  
SEP Work Leader, Litigation Division  
[Adena.Crider@tceq.texas.gov](mailto:Adena.Crider@tceq.texas.gov)

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**Carlos Flores**  
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**Jess Robinson**  
Senior Attorney, Litigation Division  
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**Gitanjali Yadav**  
Deputy Director, Litigation Division  
[Gitanjali.Yadav@tceq.texas.gov](mailto:Gitanjali.Yadav@tceq.texas.gov)

Questions?

# I-Plan Strategies Revamp

- ▶ NCTCOG is working to redevelop the Implementation Strategies located within the TMDL I-Plan over the next year. We are exploring what strategies should be modified, removed, or added, with assistance from the TMDL Subcommittees and Task Forces. NCTCOG anticipates on meeting with the subcommittees/task forces in early 2025 to begin gathering feedback on specific strategies. For more information or to get involved, please contact Joy Douglas at [JDouglas@nctcog.org](mailto:JDouglas@nctcog.org) or Casey Cannon at [CCannon@nctcog.org](mailto:CCannon@nctcog.org).
- ▶ [TMDL I-Plan Strategies Taskforce](#)



# Upcoming Events and Meetings

- ➔ **Water Resources Council** January 15, 2025 at 10:30 AM via Microsoft Teams
- ➔ **Stormwater Public Education Task Force Meeting** January 22, 2025 at 9:30 AM via Microsoft Teams
- ➔ **Regional Stormwater Management Coordinating Council** February 19, 2025 at 9:30 AM via Microsoft Teams

# Contact

## Joy Douglas

Environment and Development Planner

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(817) 422-5876

## Casey Cannon

Environment and Development Planner II

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## Hannah Ordonez

Senior Environment and Development  
Planner

[hordonez@nctcog.org](mailto:hordonez@nctcog.org)

817-695-9215

# Connect



Facebook.com/nctcogenv



@nctcogenv



nctcogenv



youtube.com/user/nctcoged



EandD@nctcog.org



nctcog.org/envir