

US EPA ARCHIVE DOCUMENT



# State Innovation Grant Program: Texas

## Developing an Innovative Permit Initiative to Promote EMSs (2002 Competition)

### The State Innovation Grant Program

In 2002 EPA introduced the State Innovation Grant Program to support efforts led by state environmental agencies to test innovative approaches for achieving better environmental results and improved efficiency in permitting programs. Between 2002 and 2007, the State Innovation Grant program competition awarded over six million dollars to support 35 state projects that test permitting innovation for a variety of regulated entities including several small business sectors. A summary of the awards by year appears in the table below.

State Innovation Grant Program Statistics, 2002-2007			
Competition Year	Proposals Submitted	Proposals Selected	Total Program Funding (\$)
2002/2003	29	6	\$618,000
2004	33	9	\$1.425 Million
2005	26	7	\$1.479 Million
2006	25	6	\$1.243 Million
2007	17	7	\$1.611 Million
<b>Cumulative Total</b>	130	35	\$6.376 Million

"Innovation in Permitting" has been the theme of the State Innovation Grant competition since its inception. In the last three competition cycles states received awards for projects in the following three categories:

- **The Environmental Results Program (ERP)** is an innovative approach to improving environmental performance based on a system of the interlocking tools of compliance assistance, self-certification (sometimes, where permissible, in lieu of permitting), and statistically-based measurement to gauge the performance of an entire business sector. The program utilizes a multimedia approach to encourage small sources to achieve environmental compliance and pollution prevention. (See: <http://www.epa.gov/permits/erp/>)
- **Environmental Management System (EMS)** is a system involving a continual cycle of planning, implementing, reviewing and improving the processes and actions that an organization undertakes to meet its business and environmental goals. EMSs provide organizations of all types with a structured system and approach for managing environmental and regulatory responsibilities to improve overall environmental performance and stewardship. (See: [www.epa.gov/ems/info/index.htm](http://www.epa.gov/ems/info/index.htm))
- **Performance Track** is a partnership that recognizes top environmental performance among participating US facilities of all types, sizes, and complexity, both public and private. (See: <http://www.epa.gov/performance-track/>)

NCEI has provided awards also for projects testing watershed-based permitting, and for permit process streamlining in past competitions. For more information on the history of the programs, including information on solicitations, state proposals, and project awards, please see the EPA State Innovation Grants website at <http://www.epa.gov/innovation/stategrants>

### Project Background:

In 2001, the Texas legislature passed two laws: the first mandated the creation of the Strategically Directed Regulatory Structure (SDRS) to support innovative programs and promote performance-based regulation; and the second required the state to develop regulatory incentives for implementing Environmental Management Systems (EMSs). Building on the state's environmental leadership program (CLEAN TEXAS), the SDRS was envisioned as a way to offer incentives to regulated facilities that can demonstrate that their practices are more protective of the environment and public health than existing standards.

In response to these new laws, the Texas Commission on Environmental Quality (TCEQ) applied for and received a State Innovation Grant to help support the implementation of the SDRS. With these funds, TCEQ launched a project to:

- Encourage innovative permitting activities to address significant air and water quality issues; and
- Support innovative pollution prevention initiatives (i.e. involving EMSs, permitting actions, incentives).

The project had three main components: 1) integrating EMSs into permitting activities and encouraging improved environmental performance via incentives; 2) providing EMS training for TCEQ permit staff and regulated facilities; and 3) evaluating performance and documenting project results.



## Project Description

At the outset of the SDRS project in 2004, TCEQ sought to establish incentives for CLEAN TEXAS members to improve their environmental performance. TCEQ identified permits for integration with EMSs activities and incentives, established a process for accelerated permitting for CLEAN TEXAS members with an approved EMS, and created trainings for permitting staff on EMSs. These efforts culminated in an inter-agency Memoranda of Agreement (MOA) formalizing the incentives for CLEAN TEXAS members (i.e. expedited permitting and reduced inspection frequency).

Once the structure of permit incentives was in place, TCEQ worked to pilot test these incentives among CLEAN TEXAS members with an EMS approved by TCEQ. The Agency granted expedited reviews for permit amendments to a number of eligible facilities, and piloted incentives involving flexibility in permitting requirements for two CLEAN TEXAS members. One facility received a "flexible permit," that provided operational flexibility to make predefined changes without advance approval from TCEQ. For the other facility, TCEQ authorized a reduction in the frequency with which the facility conducts required fugitive emissions monitoring.

TCEQ also adapted a rule allowing landfills with a TCEQ-approved EMS to use the EMS as their required site operating plan. To date, no facility has taken advantage of this option.

As part of the SDRS, TCEQ also conducted a series of outreach and education activities for agency management and staff, industries, and municipalities, which included:

- Briefings on the CLEAN TEXAS program and EMSs for the TCEQ management team.
- EMS-specific training for permitting and enforcement personnel.

- Training workshops for regulated entities throughout the state designed to show them how to use an EMS to meet or exceed permit and other compliance requirements, and improve their environmental performance.
- Sessions to introduce EMS concepts to local government officials and demonstrate how EMSs can help municipalities comply with regulations (e.g., the Municipal Separate Storm Water Sewer System rule).

## Results

TCEQ's SDRS project succeeded in integrating EMSs into the agency's permitting process and developing specific permitting incentives for CLEAN TEXAS members. It also increased knowledge and understanding of EMSs among approximately 500 industry and municipality representatives, and educated TCEQ staff about the role EMSs can potentially play the permitting process. TCEQ did note a few challenges to achieving a higher level of success, specifically with quantifying results, measuring time and cost effectiveness, and limitations on its ability to develop and offer incentives:

- TCEQ had difficulty quantifying the direct impact SDRS had on reducing environmental impacts. Annual environmental results reports submitted by CLEAN TEXAS facilities during the grant period show measurable environmental reductions in pollutant emissions. These results occurred at all CLEAN TEXAS facilities, not just those participating in the SDRS.
- TCEQ was not able to quantify cost and time savings for participants and the state as a result of expedited permit reviews and greater permit flexibility. TCEQ did see higher costs associated with the project, particularly in time invested by facilities seeking regulatory incentives. These costs were attributed to a number of factors including: facilities submitting incomplete permit applications causing repetitious reviews, competing priorities for permitting staff, the difficulty of obtaining agency approval for non-

standard or new innovative actions or procedures, and the extensive compliance screening process required for CLEAN TEXAS members.

- Limitations on the types of incentives that could be developed and implemented for CLEAN TEXAS members also reduced facility participation, which impacted the SDRS project. Although many incentives were proposed, only a few were ultimately approved, in part because of federal and state regulatory constraints and programmatic concerns. TCEQ found that interest among facilities in CLEAN TEXAS was often tied to the type of incentives offered, and their perception of tradeoffs between membership benefits versus the time and effort required. Companies showed less interest when the incentives were tied to completing all CLEAN TEXAS membership requirements or when available incentives would not provide flexibility for certain federal regulations.

TCEQ will continue to encourage facilities to use EMSs to improve environmental performance by conducting additional trainings with small businesses and municipalities, as well as expanding its CLEAN TEXAS recruitment efforts.

### Connection to EPA's Goals

TCEQ's permit initiative directly supports EPA's Strategic Goal #5, focused on compliance and environmental stewardship, by promoting an innovative approach to improve environmental performance through pollution prevention measures. It also supports several Cross-Goal Strategies through exploration of improved compliance assistance approaches and incentives to help achieve environmental protection.

### Project Contacts:

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