Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS.

Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS. (a) The commission may compromise, modify, or remit, with or without conditions, an administrative penalty imposed under this subchapter. In determining the appropriate amount of a penalty for settlement of an administrative enforcement matter, the commission may consider a respondent's willingness to contribute to supplemental environmental projects that are approved by the commission, giving preference to projects that benefit the community in which the alleged violation occurred. The commission may encourage the cleanup of contaminated property through the use of supplemental environmental projects. The commission may approve a supplemental environmental project with activities in territory of the United Mexican States if the project substantially benefits territory in this state in a manner described by Subsection (b). Except as provided by Subsection (a-1), the commission may not approve a project that is necessary to bring a respondent into compliance with environmental laws, that is necessary to remediate environmental harm caused by the respondent's alleged violation, or that the respondent has already agreed to perform under a preexisting agreement with a governmental agency.

(a-1) For a respondent that is a local government, the commission:

(1) may approve a supplemental environmental project that is necessary to bring the respondent into compliance with environmental laws or that is necessary to remediate environmental harm caused by the local government's alleged violation; and

(2) shall approve a supplemental environmental project described by Subdivision (1) if the local government:

(A) has not previously committed a violation at the same site with the same underlying cause in the preceding five years, as documented in a commission order; and

(B) did not agree, before the date that the commission initiated the enforcement action, to perform the project.

Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS.

(a-2) The commission shall develop a policy to prevent regulated entities from systematically avoiding compliance through the use of supplemental environmental projects under Subsection (a-1)(1), including a requirement for an assessment of:

(1) the respondent's financial ability to pay administrative penalties;

(2) the ability of the respondent to remediate the harm or come into compliance; and

(3) the need for corrective action.

(b) In this section:

(1) "Local government" means a 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.

(2) "Supplemental environmental project" means a project that prevents pollution, reduces the amount of pollutants reaching the environment, enhances the quality of the environment, or contributes to public awareness of environmental matters.

(c) The commission may allow a local government or an organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code, that receives money from a respondent to implement a supplemental environmental project under this section to use a portion of the money, not to exceed 10 percent of the direct cost of the project, for administrative costs, including overhead costs, personnel salary and fringe benefits, and travel and per diem expenses, associated with implementing the project. Money used for administrative costs under this subsection must be used in accordance with Chapter 783, Government Code.

Added by Acts 1997, 75th Leg., ch. 1072, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 290, Sec. 1, eff.

Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS.

Sept. 1, 1999; Acts 2001, 77th Leg., ch. 483, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 965, Sec. 4.03, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. 2694), Sec. 4.11, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 350 (H.B. 2290), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1145 (S.B. 394), Sec. 1, eff. June 19, 2015.