

**WHITE  
MARQUEZ  
SOWARD**

**MARKED WORK SESSION AGENDA**

Friday, April 30, 2004

Texas Commission on Environmental Quality

1:30 p.m.

Room 201S, Building E

12100 Park 35 Circle

1. **Discussion of the Monthly Enforcement Report for February 2004.** Anne Dobbs, Office of Compliance and Enforcement, and Paul Sarahan, Office of Legal Services, presented this issue.

**Action: No action taken.**

2. **Consideration of the roles, responsibilities, and membership of the Pollution Prevention Advisory Committee.** Israel Anderson, Director, Small Business and Environmental Assistance and Pollution Prevention Advisory Committee Co-chairs, Melanie Barnes, League of Women Voters of Texas and Tim Yeakley, Texas Instruments, presented this issue. In response to this discussion, the Commission directed staff to post a notice to the Texas Register, seeking nominations to fill the open positions and *ex officio* positions on the Committee. In addition, the Commission directed a review of the *ex officio* positions prior to September 2005 when all *ex officio* appointments expire. Staff will review opportunities to seek travel reimbursements for TCEQ advisory committees, especially legislative created advisory committees like the Pollution Prevention Advisory Committee (PPAC). The Commission supports the current number of members until completion of the September 2005 review. The Commission expressed support for a pilot project under the Strategically Directed Regulatory Structure and of the items included on the PPAC's work plan. The PPAC is to report back to the Commission during future work sessions.

**Action: No action taken.**

3. **Consideration of issues regarding EPA's pending approval of the 2000 Texas Surface Water Quality Standards, the 2002 303(d) list, and the 2004 303(d) List.** Margaret Hoffman, Executive Director presented this issue as described in the backup materials distributed at work session.

**Action: No action taken.**

4. **Discussion of issues related to the agency's FY 2005 Preliminary Operating Budget.** Linda Flores, CFO, and Beck O'Brien, Director, Budget and Planning Division, presented this issue. Staff provided the Commissioners with specific budget appropriations from the backup materials. Staff will return to the next work session to present the recommended operating budget. Commissioner Soward indicated an interest in understanding the proposed decreases in Compliance and Enforcement and Permit, Remediation and Registration.

**Action: No action taken.**

5. **Discussion of regional environmental monitoring and response systems.** This issue was not discussed.
6. **Discussion of issues relating to agency compliance and enforcement policies and practices.** Glenn Shankle, Deputy Executive Director and Tracy Gross, Office of General Counsel and Chair of the Enforcement Process Committee, presented this issue. Mr. Shankle described how the time line has been revised to resolve concerns that the scheduled did not allow sufficient time for public participation enough time and to allow the Committee more opportunity to seek input from the Commissioners thorough work session or individually. Mr. Shankle proposed that economic benefit, as part of Penalty Policy Subcommittee, be identified as a standing item for which quick action is required. Updated [Key Issues for the Enforcement Process Review](#) are posted on the TCEQ internet at:  
[http://www.tceq.state.tx.us/assets/public/comm\\_exec/epreview/epr\\_77\\_key\\_issues.pdf](http://www.tceq.state.tx.us/assets/public/comm_exec/epreview/epr_77_key_issues.pdf)

**Action: No action taken.**

7. **Discussion of issues and activities concerning the State Implementation Plan and the Clean Air Action Plans submitted by Northeast Texas Air Care (NETAC) for Gregg, Harrison, Rusk, Smith and Upshur counties; Central Texas Clean Air Coalition (CTCAC) for Bastrop, Caldwell, Hays, Travis and Williamson counties; and the Alamo Area Council of Governments Air Improvement Resources Committee (AACOG) for Bexar, Comal, Guadalupe and Wilson counties.** Heather Evans, Kate Williams, and Gerry Wolfe Environmental, Planning, and Implementation Division presented this issue. Staff requested guidance from the Commission regarding proceeding with State Implementation Plan development which takes into consideration the Clean Air Action Plans being proposed by the various regional coalitions and committees. Some aspects of these individual plans suggest TCEQ enact rules requiring enforcement by this agency. Commissioner Marquez wants to see a commitment of funds from the Texas Emissions Reduction Program (TERP) to each of Early Action Compact areas as well as the other non-attainment areas. The Chairman voiced an interest in learning more about the TERP funding at a subsequent work session. The Commission had the following questions for staff:
- what is the legal authority for all the CAAP measures for which state rule implementation was requested;
  - what are the legal issues, for example with regard to confidentiality of a mandatory commute program;
  - what are the resource impacts for the agency;
  - what are the collateral issues on the economic impact of implementing mandatory requirements;
  - how many tons of emissions reductions projected from each measure.
  - what is the legal impediment to local governments from adopting ordinances to implement these various measures without the state adopting a rule imposing them.
- This above information may be provided in individual briefings. No action was taken. The following officials provided public comment:  
Will Winn, Mayor of Austin and Chairman of the Central Texas Clean Air Coalition,  
Jay Millikin, Comal County Commissioner and Chairman, Air Improvement Resources (AIR) Committee,  
Scheleen Walker, representing Travis County Commissioner's Court  
Dr. Ramon Alvarez, representing Environmental Defense

Judge H. T. Wright, County Judge from Caldwell County  
Sandy Hentges, representing Greater Austin Chamber of Commerce

**Action: No action taken.**

8. **Discussion of activities associated with the State Implementation Plan and issues related to recommendations regarding PM 2.5 and 8-hour ozone designations and boundaries.** This issue was presented by Randy Wood, Deputy Director, OEPA and Candy Garrett, Environmental Planning and Assessment from the backup materials. In view of the bump up notice for the Beaumont/Port Arthur, EPA expects a 1 hour rate of progress SIP. The agency could submit a 1 hour attainment demonstration or move forward to submitting something for the 8 hour. This is an issue to be discussed in greater detail at a later date. The following individuals provided public comment:  
Bill White, Mayor of Houston

**Action: No action taken.**

9. **Discussion of state and federal legislative issues potentially affecting the TCEQ. The commission may consider legislative proposals and federal rulemakings, as well as other state actions and state's participation in federal legislative and regulatory activities. The commission may also meet in closed meeting to receive legal advice regarding these matters, or any of the above matters, as authorized by Section 551.071 of the Open Meetings Act, Chapter 551 of the Government Code. Any commission action, decision, or vote on these matters will be made in open meeting in accordance with Section 551.102 of the Open Meetings Act, Chapter 551 of the Government Code.** Steve Minick, IGR presented this issue.

**Action: No action taken.**

10. **PUBLIC COMMENT SESSION: The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ, with the exception of pending permitting matters or other contested cases which are subject to the *ex parte* prohibition found in Texas Government Code §2001.061. In the interest of time, speakers will be limited to three minutes each, with the total time for public comment limited to one hour.** Dr. Ramon Alvarez, Environmental Defense, provided a response to comments made during the August 16th work Session regarding the Houston 8-hour ozone designations SIP.

**Action: No action taken.**

11. **Planning for the next Commissioners' Work Session.** The next work session is rescheduled to Monday, May 17th, 1:30 pm from the previous tentative date of May 28th. Items identified for discussion include the Recommended FY 2005 Operating Budget, the Texas Emissions Reduction Program and the standing items.
12. **Closed Session:**

- a. **The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.**

**Action: No action taken.**

- b. **The commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on a legal or personnel matter considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.**

**Action: No action taken.**

- c. **The commission will conduct a closed session to discuss their duties, roles, and responsibilities as commissioners of the TCEQ pursuant to section 551.074 of the open meetings act, codified as chapter 551 of the government code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.**

**Action: No action taken.**