

The Work Session agenda document below includes hyperlinks (item numbers highlighted in blue) that enable the user to view work session backup documents [documents pertaining to a particular matter that have been filed with the Office of the Chief Clerk (OCC) and distributed to the Commissioners for their consideration]. To view all work session backup in person including those documents not found in the hyperlinks below, please visit the OCC at 12100 Park 35 Circle, Building F, Suite 1101 (30 TAC § 1.10).

Backup documents filed with the OCC and distributed to the Commissioners will be added to this document daily until 5:00 p.m. Tuesday before the given work session date. Updates to backup documents will be noted by a purple indicator. Documents filed less than two days before the work session date will not be added to this document. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white.

Chairman Bryan W. Shaw, Ph.D.
Commissioner H.S. Buddy Garcia
Commissioner Carlos Rubinstein

MARKED AGENDA

NEW BUSINESS AGENDA

August 25, 2011

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

12100 Park 35 Circle
Room 201S, Building E

This meeting is a work session for discussion between Commissioners and staff. Public comment will be accepted at the discretion of the Commissioners. The Commissioners may take action on items posted for consideration. The Commissioners will not take action on items posted for discussion only. The Commissioners may discuss or consider posted items in an order other than the order posted. The Commissioners may recess for a lunch break and not meet in Open Session from 12:00 pm to 1:00 pm. Unfinished items will be continued to the afternoon.

Item 1. Consideration of Sunset Implementation regarding revisions to the Commission's Penalty Policy.

Item presented by Richard Hyde, Deputy Director, Office of Compliance and Enforcement.

Request public comment and bring back to a future work session or agenda.
No action taken.

Item 2. Consideration of Executive Director Delegation to Issue Certain Administrative Orders.

Item presented by Kathleen Decker, Director, Litigation Division and Stephanie Bergeron Perdue, Deputy Director, Office of Legal Services.

Adopt the Executive Director's proposed resolution delegating certain administrative enforcement orders from the Commission to the Executive Director with the following modifications: 1) Include Field Citations and exclude findings agreed orders in the category of matters to be delegated to the Executive Director; 2) Include a penalty ceiling of \$7,500 in Provision 1a. of the proposed resolution; Delete the sixth "WHEREAS" clause on page 1 of the proposed resolution; Modify the phrase "each Commissioner and the Office of General Counsel" to "each Commissioner, the Office of General Counsel, and Office of Public Interest Counsel" in provision 5. of the proposed resolution; and direct the Office of General Counsel to make the needed changes to the proposed resolution along with any changes needed for formatting or to effectuate the intent of the Commission.

CR/BG; all agree.

Item 3. Discussion of the Environmental Protection Agency's Final Cross-State Air Pollution Rule.

Item presented by Stephanie Bergeron Perdue, Deputy Director, Office of Legal Services.

No action taken.

Item 4. Consideration of revision to the Texas Commission on Environmental Quality's mission statement, as directed by the Sunset Advisory Commission.

No action taken.

Registrant: Bee Moorhead, representing Texas Impact.

Item 5. **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.

Registrant: Tom "Smitty" Smith, representing Public Citizen.

Item 6. **CLOSED SESSION.**

a. **Docket No. 2011-0001-EXE.** The Commission will conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director and General Counsel, 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 meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

b. **Docket No. 2011-0002-EXE.** 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 of the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

c. **Docket No. 2011-0003-EXE.** The Commission will conduct a closed meeting 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 meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ COMMISSIONERS' WORK SESSION AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

REGISTRATION FOR AGENDA STARTS AT 9:00 A.M. UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.

THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: <http://www.texasadmin.com/tceqw.shtml>