

ADMINISTRATOR'S STATEMENT
80th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/30/2006
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Agency code: 582

Agency name: **Commission on Environmental Quality**

GENERAL INFORMATION

The mission of the Texas Commission on Environmental Quality (TCEQ) is to protect our state's human and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste. To accomplish this mission, we must:

- base decisions on the law, common sense, good science, and fiscal responsibility;
- ensure that regulations are necessary, effective, and current; apply regulations clearly and consistently;
- ensure consistent, just, and timely enforcement when environmental laws are violated;
- ensure meaningful public participation in the decision-making process;
- promote and foster voluntary compliance with environmental laws and provide flexibility in achieving environmental goals; and
- hire, develop, and retain a high-quality, diverse workforce.

Our mission must be accomplished using our limited state resources in the most effective and efficient manner possible. The agency is undertaking a number of initiatives that will impact planning and operations for several years to come. When implemented, these initiatives will help ensure our programs and operations are effective, efficient, just, and responsive to the needs of all Texans.

TCEQ continues to evaluate and improve its business practices to assure the protection of public health and the environment. We are ever mindful of the competing demands on state resources. We also accept as part of our charge the requirement to work within our approved funding and staffing limitations. This requires that we continue to re-evaluate how to efficiently meet current and new challenges.

GOVERNING BOARD INFORMATION

Kathleen Hartnett White, Chairman, term expires August 31, 2007, Valentine
Larry R. Soward, Commissioner, term expires August 31, 2009, Austin

OVERVIEW OF BUDGET REQUEST

The TCEQ has prepared its funding request in compliance with the policy letter dated June 2, 2006, and instructions issued by the Governor's Office of Budget, Planning and Policy and the Legislative Budget Board. As a result, the request for the 2008-2009 biennium reflects a reduction of more than 10% in general revenue and general revenue dedicated funds from the fiscal year 2006 expended and fiscal year 2007 budgeted levels of funding. The agency prioritized these reductions so that essential agency services would not be disrupted. Reductions in funds for the replacement of capital items were carefully scrutinized to ensure that core agency functions would be minimally impacted.

The TCEQ is requesting 13 exceptional items to ensure the agency's ability to address priority issues for the 2008-2009 biennium. These items total approximately \$146 million for the biennium and are presented in more detail under the Exceptional Items heading of the document. The baseline biennial request totals \$885 million, with fee generating sources comprising 88% of the request and federal funds received from the federal government or other agencies comprising 10% of the request. The remaining 2% of the request is funded by appropriated receipts and interagency contracts.

BASELINE BUDGET

A few of the key programs and initiatives contained in the Legislative Appropriations Request for the 2008-2009 biennium include the following:

Air Quality Issues and SIP Revisions

Working with the Environmental Protection Agency, the Legislature, local governments, and stakeholders, the agency is developing measures that will control air pollution while meeting requirements of the Federal Clean Air Act. Emphasis has been placed on obtaining real-time monitoring results and presenting them to the

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public on the Internet. The TCEQ has begun developing appropriate control strategies to attain the new 8-hour ozone standard recently finalized by the EPA, as well as strategies to address new federal rules regarding the interstate transport of air pollutants and the regulation of mercury contaminants. The agency has also worked with the San Antonio, Austin, and East Texas (Tyler- Longview) areas to address air quality problems through Early Action Compacts, which will provide for early attainment of the 8-hour standard in these areas.

TERP

There are two main components of the Texas Emissions Reductions Plan (TERP). The first component provides voluntary incentive grants to reduce NOx emissions primarily from mobile sources. Grants are also available to a more limited extent for stationary equipment. The voluntary incentive grants program is included in the State Implementation Plans (SIP) for Houston-Galveston, Dallas-Fort Worth, and Beaumont-Port Arthur areas and involves a commitment to reduce approximately 58.2 tons per day of NOx by 2007. In addition to these SIP commitments, the grants program is also intended to help other non and near nonattainment areas achieve NOx reductions, such as those entities included in Early Action Compacts (EAC).

Another component of the TERP program includes the New Technology Research and Development (NTRD) Program which promotes the development and commercialization of technologies that will support projects that may be funded under the TERP Emissions Reduction Incentive Grant Program to solve existing air quality problems. In 2005, the 79th Texas Legislature enacted House Bill (HB) 2481 that transferred the administration of the NTRD program, beginning September 1, 2006, to a non-profit organization based in Houston with the funding for the program to be provided through a contract with the TCEQ. The TCEQ executed a contract with the Texas Environmental Research Consortium (TERC) to administer the NTRD program.

Water Quality and Quantity

The TCEQ conducts many activities to ensure the adequacy and safety of the state's public drinking water and the quantity and quality of its surface and groundwater. The TCEQ has primary responsibility for the public water system (PWS) aspects of the Federal Safe Drinking Water Act. New federal groundwater disinfection requirements, projected to be adopted in late 2006, will affect approximately 5800 of the total 6700 public water systems in Texas regulated by TCEQ. Increasingly stringent federal standards for drinking water and drinking water treatment, and the extension of these standards to smaller public water systems, will continue to impact the TCEQ's compliance and enforcement programs, technical assistance to water systems and public concerns about the quality of drinking water supplies. In addition, pretreatment streamlining regulations will require TCEQ to revise program requirements for all authorized municipal wastewater pretreatment programs in Texas.

The TCEQ issues and administers surface water right permits to ensure that surface water resources are beneficially used by municipalities, industry, and agriculture while ensuring that adequate flows remain in Texas' stream and rivers for recreational uses and the environment. Major challenges in the water right arena include permitting of indirect reuse projects and providing water for environmental flows.

Waste and Remediation Issues

In fiscal year 2006, the Commission completed a comprehensive overhaul of its municipal solid waste regulations. The revisions are to be implemented immediately for new permit applications. For existing facilities, they will apply on a staggered schedule through March 2008. In addition, the commission is considering procedural changes to its municipal solid waste permitting program. These changes would affect the process for making major and minor changes to an existing solid waste management facility.

The commission completed a rulemaking to produce a more comprehensive set of requirements for Site Operating Plans (SOPs) for municipal solid waste landfill facilities, due to questions raised by previous court decisions on permit applications reviewed by the commission. The revised rules provide: greater clarity regarding the amount of detail needed in SOPs and performance based requirements; and balance between flexibility, enforceability, and environmental protection. The commission will continue to require permittees to update SOPs to meet the new requirements by calling in permit modifications within the state through 2007.

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EXCEPTIONAL ITEMS

TCEQ has conducted a review of its funding needs for the next biennium, and has identified the following list of exceptional items. The total request for the items is approximately \$70.7 million for FY08 and \$75.3 million for FY09. The items are presented in priority order.

General Revenue-Health and Safety

The agency requests to retain the general revenue funding replaced in the 79th Legislative Session with funding from the Water Resource Management Account. The amount totals \$40 million for the upcoming biennium.

General Revenue-Capital

The agency is requesting restoration of the general revenue funding which was reduced to support the 10% reduction. Restoration of this funding would allow for the purchase of capital items needed to meet agency business needs and would total approximately \$1.03 million for the upcoming biennium.

Full Texas Emissions Reduction Plan Funding

The TCEQ is requesting authorization to use the full share of the revenue received for the TERP program for the purposes intended, including grants to achieve reductions in emissions of nitrogen oxides (NOx) and grants to support development, testing, and certification of emission reduction technologies which will then be available for broad use in the state. The request totals approximately \$71 million for the 2008-09 biennium.

Edwards Aquifer

Field Operations conducts site inspections of proposed construction over the Edwards Aquifer and performs reviews of aquifer protection plans. As economic development has increased, the agency is now receiving between 12 and 17 construction plans per week. Additional staff (4) is needed to review plans in a timely manner (60 days) to ensure the proposed economic development maintains the integrity of the Aquifer. The request for the biennium totals \$528,464.

Expand the Continuous Water Monitoring Network

Funding is requested to expand the network of continuously reporting field stations to monitor and report water quality conditions on Texas water bodies in the amount of approximately \$1.1 million for the biennium.

Texas Clean School Bus Initiative

This request will provide funding for the Clean School Bus Program identified in HB 3469, 79th Legislative Session, and totals \$2 million for the biennium.

Maintenance of e-Service

The agency has built several electronic service systems (e-permitting, e-registration, e-payment, and e-reporting) over the past few years. The agency seeks additional funds to maintain these electronic government applications for the next biennium.

e-Permitting System Re-engineering

The agency's 14-year-old permit and registration tracking system (TRACS), has not kept up with the business needs of the agency. This will be the first phase of replacing this system with a modern system.

Texas Emission Reduction Plan (TERP)

TCEQ currently has 700 TERP contracts and anticipates the work load to increase to 2,000 active contracts by the end of the biennium consisting of 8000-9000 individual vehicles and pieces of equipment. TCEQ is requesting four additional staff to support the anticipated increase in work load.

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The program is currently supported by other funds (approx. \$953,000 each year) due to the limits placed on administrative support identified in Rider 30. This request will allow the TERP Program to be self sufficient and closer to the statutory percentage. The request also includes \$400,000 each year for TERP audits.

Laboratory Accreditation

The TCEQ is requesting to utilize the projected fee revenue from services provided for the laboratory accreditation program. This will enable the program to be self-funded.

The Laboratory Accreditation program was mandated by the passage of HB 2912, 77th Legislative Session. The initial phase required obtaining accreditation from EPA. Accreditation was received in July, 2005. We are now in the implementation phase. The agency is requesting appropriation authority for the revenue it will generate. Statewide, there are approximately 200 facilities requesting accreditation with the State of Texas.

State and County Air Quality Activities

The agency is requesting funding to implement HB 1611, 79th Legislature, to conduct air quality activities in counties currently participating in the Low Income Repair Assistance, Retrofit and Accelerated Vehicle Retirement Program (LIRAP) and the emissions reduction incentive program. Counties currently participating in the program will be allocated 70% of the funds. The remaining 30% will be used by the Commission to support the existing Texas Emissions Reduction Plan (TERP) NOx emissions reduction grants.

Funds allocated to counties will be used for purposes provided in HB 1611 such as outreach and education efforts in support and expansion of LIRAP and other air quality related projects to assist in complying with federal clean air standards. These projects include implementation of the Commission's smoking vehicle program; reduction of counterfeit state inspection stickers; and enhanced transportation system improvements.

Replacement Vehicles

One of the most significant capital assets maintained by the agency is vehicles. Regional vehicles are used in the performance of core missions of the agency, as mandated by the Texas Legislature and the U.S. EPA. Regional employees use vehicles to accomplish inspections, special use needs, emergency response and Concentrated Animal Feeding Operations (CAFO) support. TCEQ is requesting to replace approximately 65 vehicles that have over 100,000 miles, are over 6 years old, or otherwise deemed unsafe to operate or uneconomical to repair.

On-Site Wastewater Research Council

The Onsite Wastewater Treatment Council requests that all funds collected by the TCEQ be appropriated to fund research, demonstration projects, and technology transfer including information dissemination, and continuing education, which the Council is statutorily directed by Health & Safety Code, Chapter 367. The Commission collects a \$10 fee for each on-site wastewater treatment permit application processed. The fee proceeds are deposited to the credit of the on-site wastewater treatment research account within the General Revenue Fund.

SIGNIFICANT CHANGES IN POLICY

The agency is in the process of implementing several new initiatives that will impact how the agency conducts its business in the future.

Enforcement Review

TCEQ has completed an in-depth examination of its enforcement processes and functions. The review took a comprehensive look at whether the agency is enforcing environmental laws fairly, swiftly, and effectively. The review focused on three major subject matters - compliance history, penalties/corrective actions, and the enforcement process itself. Some of the major changes resulting from the review include:

- streamlining the expedited enforcement process from an average of approximately 290 days to 185 days;

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- establishing an early appeals process;
- providing the public with access to web-based information related to ongoing enforcement actions and complaint investigations;
- revising the criteria related to the initiation of enforcement actions to improve consistency of application and capture violations that pose the greatest risk to the health and safety of the public and environment while implementing a pilot field citation program; and
- implementing a risk-based investigation strategy for the prioritization of investigations.

Formal rule-making has been initiated to revise the Compliance History Rule. If adopted, the revised rule will: allow a customer to view its compliance history classification prior to posting the classification on TCEQ's public web site; expand the current opportunities to appeal a compliance history classification; exclude self-reported violations from compliance history until they are cited in a final enforcement order; exclude federal orders from compliance history; add a measure of complexity to the person classification; and revise the "repeat violator" formula.

Environmental Monitoring and Response (EMRS)

This initiative involves how the agency collects and uses information. Often, the TCEQ is rich in information and poor in knowledge. To help rectify this, we will utilize emerging and existing technologies to monitor true environmental conditions. Through public/private partnerships, we will employ existing, and in some cases deploy new, monitoring technology that will secure real-time or continuous data, help us better manage staff resources by focusing on real impacts on the environment, notify the public of potential environmental threats, monitor rule effectiveness, and provide accurate and timely information to the public. During 2006, the TCEQ will continue to conduct an air quality related pilot project in Houston and a water quality related pilot project in the Bosque-Leon watershed. These efforts will gather operational information that will be useful to future implementations of the EMRS concept. The goal of the projects is to evaluate and refine the methods of enhanced real-time monitoring, analysis of the resulting data, and response actions taken by the participants.

Permit Time-Frame Reduction

The agency continues its effort to improve the efficiency of the permitting processes through its project designed to shorten the time it takes to review and process major uncontested permits. Over the past two years, the agency has made headway in reducing the amount of time necessary to process permit applications. TCEQ will continue to build on this success with the implementation of a new online permitting system for applicants. The system will allow applicants to apply for a permit, pay associated fees, and print a copy of the permit in less than 30 minutes. Phase I of this project is expected to come on-line during the summer of 2006.

SIGNIFICANT CHANGES IN PROVISION OF SERVICE

The collection of meaningful data is an important tool used by the agency. TCEQ continues to investigate and implement new technologies and software, including the continued development of Internet services. TCEQ has made many improvements to its website through the development of applications that provide access to data on the web for public and regulated community use. These efforts are designed to make the agency more efficient and to improve customer service and data quality.

The TCEQ Central Registry is populated with basic core data from various agency programs and that data, as well as Compliance History data, is made available to the public via agency internet queries. The public can now search for Public Notices issued by the Chief Clerk by type, date, County or Program Area. The TCEQ has enhanced its Enforcement Process Review with online content detailing the typical phases of action that can occur when environmental violations are found. With added query features that provide information such as the status of complaints and status of Enforcement Actions, the agency can facilitate the growing expectations of both its internal and external customers.

The TCEQ is participating along with the Governor's Office of Economic Development and Department of Information Resources to streamline the process of obtaining permits and authorizations for new businesses. Instead of a new business owner going to several different agencies and submitting the same basic identifying information several different times, that person would go to one web site or Business Portal and type in the basic data once. The TCEQ has developed enhanced data links specific to individual business types where a customer can return activities associated with the particular portal query type. The Business Portal will integrate with the TCEQ

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ePermitting system providing a single permit application process.

In its continuing efforts to increase public knowledge of its work, the TCEQ has undertaken another initiative: the webcasting of commission meetings. The public can now view live TCEQ commission meetings wherever they can get on the web—at no cost to them, or to Texas taxpayers. Under an agreement with TexasAdmin.com, the webcasts will include the twice-monthly commission meetings. In addition, TexasAdmin.com will provide a six-month archive of meetings, which will be searchable by specific agenda items. TexasAdmin.com is providing this service, with sponsors of the webcast underwriting the cost. The TCEQ is the first Texas agency to introduce live streaming video of its public meetings.

SIGNIFICANT EXTERNALITIES

Changes in population will have an impact on the agency's programs. The expected population increase coupled with the state's limited resources, result in environmental challenges. Additional challenges include changing EPA standards. TCEQ has to constantly adjust its activities and rules to reflect those changes. The outcomes of federal and state court cases also have the potential to impact services provided by the agency. Moreover, TCEQ's work load has not declined with its successes, but continues to grow with new demands.

TCEQ looks forward to meeting the challenges facing Texas' environmental and natural resources.