VII. GUIDE TO AGENCY PROGRAMS - CONTINUED

Narrative Description

The Office of the Commissioners
Bryan W. Shaw, Ph.D., Chairman
Buddy Garcia, Commissioner
Carlos Rubinstein, Commissioner

11 FTEs

Three full-time commissioners are appointed by the governor to establish overall agency direction and policy, and to make final determinations on contested permitting and enforcement matters. They are appointed for six-year terms with the advice and consent of the Texas Senate. A commissioner may not serve more than two six-year terms, and the terms are staggered so that a different member's term expires every two years. The governor also names the chairman of the commission.

The TCEQ commissioners have adopted a mission statement and philosophy that embody their vision of how this agency should conduct its business, and have issued a Resolution Concerning Public Participation at the TCEQ.

General Counsel

11 FTEs

The general counsel (GC) is the chief adviser on law and ethics for the commissioners. In addition to managing the administrative affairs of the commissioners office, the general counsel provides legal assistance to the commissioners in their review of permits, proposed enforcement actions, rules, and other matters.

Alternative Dispute Resolution (ADR) activities are also the responsibility of the GC. The ADR staff assists permit applicants and persons opposed to the applications in resolving their differences informally, if possible, to avoid the time and expense of a contested public evidentiary hearing. ADR procedures are voluntary, and those participating in an ADR do not forfeit their right to a hearing if the ADR does not result in a settlement. Between FY 05 and FY 09, ADR handled 137 contested cases, including 66 fully settled cases and 71 partially settled cases.

Chief Auditor

19 FTEs

The Chief Auditor's Office (CAO) provides assurance and advisory services that help the commissioners and management meet agency goals and objectives. The CAO provides independent and objective information, analyses, and recommendations to assist

management in effecting constructive change, managing business risk, and improving the compliance and accountability of the regulated community and business partners. To provide a full range of audit services to the agency, during the past year, the CAO reorganized into three teams: Internal Audit, External Audit, and Information Technology Audit. Since FY 05, the CAO has completed 93 audits of all types.

Chief Clerk

23 FTEs

The Office of the Chief Clerk (OCC) issues required notices of applications, public hearings, and public meetings. The OCC also prepares the commission agendas, transmits final decision documents to applicants and other parties, and maintains the official records of pending commission proceedings. The OCC also maintains those pages of the TCEQ's Web site pertaining to notice searches, OCC database searches, commissioners' Agendas and Work Sessions and the executive director's agendas.

Public Assistance

13 FTEs

The Office of Public Assistance (OPA) answers questions about pending TCEQ permits, explains the permitting process and opportunities for public participation, and conducts public meetings around the state on permit applications. The office includes an Environmental Equity Program that helps minority and low-income communities work toward solutions to problems with industries and facilities near their homes. OPA is responsible for distributing the TCEQ Customer Satisfaction Survey, which encourages customers' feedback on their experiences with the agency. Every two years, OPA summarizes the most recent biennium's survey responses in a Report on Customer Service to the Legislative Budget Board. The director is the agency's customer service representative, and OPA is the point of contact for all complaints against the agency. OPA has conducted a total of 385 meetings with 18,476 attendees in the past five fiscal years. These include public meetings, notice and comment hearings, and informational meetings on permitting matters, as well as rule hearings and stakeholder meetings. The majority of meetings are in regard to permitting actions.

Public Interest Counsel

8 FTEs

The Office of Public Interest Counsel was created by the legislature to ensure that the public's interest is represented in issues considered by the commission. The office does not formally represent individuals at commission proceedings. However, citizens who have questions about the legal aspects of dealing with the TCEQ, its hearing process, and its rules can obtain help from this office. Assistance is available to anyone who is affected by a

particular permit application or other agency authorization. The staff of the Public Interest Counsel also assists people who have questions about enforcement proceedings.

Office of the Executive Director
Mark R. Vickery, P.G., Executive Director
Zak Covar, Deputy Executive Director

10 FTEs

The executive director, who is hired by the commissioners, is responsible for managing the agency's day-to-day operations. Major responsibilities include directing the operations of over 2,900 employees in 17 statewide offices, implementing commission policies, making recommendations to the commissioners about contested permitting and enforcement matters, and approving uncontested permit applications and registrations.

The deputy executive director serves as the chief operating officer, to assist the executive director in the administration of the agency.

The agency has five office clusters that report to the executive director. Each office is led by a deputy director. These deputies are responsible for administering the agency's regulatory and administrative programs.

- Office of Administrative Services
- Chief Engineer's Office
- Office of Compliance and Enforcement
- Office of Legal Services
- Office of Permitting and Registration

In addition, five divisions report directly to the executive director:

- Agency Communications
- Budget and Planning
- Chief Financial Officer
- Intergovernmental Relations
- Small Business and Environmental Assistance

Agency Communications

25 FTEs

The Agency Communications Division works to continuously improve and streamline the delivery of print and Web information to the public and within the agency. This division coordinates the agency response to all media inquiries, prepares and distributes agency news releases, and coordinates news conferences. The division also includes the agency

library, and a publishing staff that coordinates, produces, and distributes regulatory and general informational materials, both print and Web.

Budget and Planning

21 FTEs

The Budget and Planning Division is responsible for developing and monitoring the agency's annual operating budget. Staff prepares, submits, and monitors all of the agency's federal grant applications and work plans, centralizing grants management in support of TCEQ programs. The division also develops and submits the agency's strategic plan, biennial legislative appropriations request, and quarterly performance reports to the governor and the legislature. In addition, its staff conducts special analyses to monitor the achievement of agency goals and priorities.

Chief Financial Officer

5 FTEs

The Chief Financial Officer's office oversees all budgeting and financial issues in the agency. This includes the development of the agency's strategic plan, biennial appropriations request, the annual operating budget, and quarterly performance reports to the legislature and the governor. On fiscal matters, this office is the point of contact for the TCEQ's oversight agencies. The office is involved in bill implementation and preparing fiscal notes that have revenue requirements and it monitors revenue and expenditures, estimates revenue collections, and provides fiscal analysis and reporting.

Intergovernmental Relations

12 FTEs

The Intergovernmental Relations Division (IGR) coordinates the agency response to congressional and state legislative inquiries and constituent issues, legislative initiatives, and interim committee studies affecting the agency. It coordinates the agency's testimony and participation during legislative sessions and ensures that the legislature is informed of the TCEQ's initiatives and activities. It manages the agency's comments on national policy issues.

The IGR also serves as a clearinghouse for border affairs information for the TCEQ. The Border Affairs staff involved in these activities supports the agency's mission in the border region with Mexico and represents the agency in national environmental work with Mexico. These ongoing projects, some which require collaboration with other state, federal, or even binational agencies, include:

- The Border Initiative. This is an agency umbrella plan that encompasses all agency work with Mexico and in the border region.
- The Border Governors Conference (BGC). The staff supports commissioners in their roles as Texas representatives on the Environment and Water Work Tables of the BGC.
- Border 2012. This is a binational environmental program—led by the EPA and its Mexican counterpart, SEMARNAT—with the ten border states as active partners.
- The Border Environment Cooperation Commission and the North American Development Bank. These are two NAFTA-created environmental agencies
- The Joint Advisory Committee for the Improvement of Air Quality in the Ciudad Juárez, Chihuahua – El Paso, Texas – Doña Ana County, New Mexico, Air Basin (JAC). The JAC develops and implements recommendations to address binational air quality problems.
- The International Boundary and Water Commission (IBWC), U.S. and Mexico. Staff works with the IBWC on water allocation and sanitation issues affecting Texas, as well as disaster response due to potential flooding.
- TCEQ Border Grant. Staff manages this grant, which supports the TCEQ's border programs, including equipment to measure visibility and regional haze in Big Bend and Guadalupe Mountain national parks.
- Colonias Coordination. The Border Affairs manager represents the agency in the Border Initiatives Committee, which is chaired by the colonias coordinator in the office of the Texas Secretary of State.
- The Good Neighbor Environmental Board. The Border Affairs manager is a member of this EPA advisory board to the president and the Congress.

Small Business and Environmental Assistance

75.5 FTEs

The Small Business and Environmental Assistance Division (SBEA) helps Texans prevent pollution, conserve resources, and achieve compliance with regulations; educates customers; and promotes conservation of natural resources through partnerships in Texas and along its border with Mexico. The division offers services to a variety of customers, including small businesses and local governments, industries and manufacturers, agricultural operations, students and academia, and anyone interested in environmental stewardship. Detailed information about this program is included in a separate document for agency programs.

The Office of Legal Services
Stephanie Bergeron Perdue, Deputy Director

4.5 FTEs

The Office of Legal Services (OLS) consists of three divisions under the oversight of the deputy director. The three OLS divisions are (1) the General Law Division, (2) the Environmental Law Division, and (3) the Litigation Division.

The deputy director's direct reports also include the agency's bankruptcy program. The bankruptcy program, in coordination with the Texas Office of the Attorney General (OAG), pursues debtors in federal bankruptcy court for environmental obligations and recovery of financial liabilities owed to the TCEQ.

The mission of the OLS is to provide legal counsel and support to the executive director (ED), the agency program areas, and, in conjunction with the Office of General Counsel (OGC) and the Office of Public Interest Counsel, to the commissioners. Generally, the responsibilities of the office are to:

- provide legal counsel to clients;
- represent the ED in administrative cases;
- conduct legal research and issue legal opinions;
- coordinate with the Environmental Protection Agency (EPA) and the OAG;
- monitor legislative, regulatory, and judicial developments; and
- manage the rulemaking process for the agency.

General Law Division

55 FTEs

The General Law Division (GLD) provides legal counsel to the agency on issues related to personnel and employment law, ethics, contracts, public information processing and distribution, management of rulemaking projects, and records retention. The division director serves as the agency's ethics advisor. The GLD also provides the OLS with administrative support (paralegals and legal secretaries).

GLD attorneys provide legal counsel to the agency by providing:

- advice on personnel and employment law issues, ethics, and TCEQ operating policy matters;
- training to agency staff on ethics and equal employment law issues;
- investigations of internal complaints of discrimination and retaliation;

- referral, coordination, and assistance to the OAG in state and federal court litigation;
- legal support regarding agency contracts and grants, memoranda of agreements, intellectual property, real property transactions, homeland security, and miscellaneous issues;
- legal support for disputes that arise during the course of contract performance; and
- coordination as well as preparation of responses to public information requests for the OLS.

The Texas Register/Paralegal Section of the GLD coordinates the administrative aspects of rulemaking documents and the rulemaking process by working with internal customers, such as rulemaking teams throughout the agency, as well as with external customers, such as the Texas Register, located in the Secretary of State's Office. The staff frequently provides assistance to both internal and external customers with rulemaking inquiries and public information act requests. The staff is also responsible for ensuring that statutory requirements for public participation in the agency's rulemaking process are met.

Environmental Law Division

44.5 FTEs

The Environmental Law Division (ELD) provides legal support to the Office of Permitting and Registration and the Chief Engineer's Office. The ELD is composed of four sections divided generally by media: (1) Air, (2) Industrial Hazardous Waste and Municipal Solid Waste, (3) Water Quality, and (4) Water Rights and Water Utilities. The ELD provides legal counsel to the agency by providing:

- legal assistance in permitting matters, including participation in public meetings and drafting of the Response to Comments and Response to Hearing Requests;
- representation of the ED in certain contested permit cases, including all contested water utility and water rights permit cases, by coordinating discovery and prefiled testimony, preparing witnesses, drafting closing arguments and exceptions to the Proposal for Decision and representing the ED at Agenda;
- interpretation of federal and state environmental statutes and rules;
- legal analysis on issues related to federal program delegation, including rulemaking to implement federal changes and obtaining certification from the OAG for delegated programs;
- referral, coordination, and assistance to the OAG in state and federal court litigation, including appeals of commission actions;
- legal support for rulemaking projects, including drafting the regulatory impact analysis and the takings impact analysis and reviewing the preamble and proposed and adopted rules;
- legal support for the development of the State Implementation Plan (SIP), including revisions to the SIP and rulemaking;

- legal assistance on the Edwards Aquifer Rules and Water Pollution and Abatement Plans;
- legal support on the development of Total Maximum Daily Loads;
- legal assistance on radioactive waste issues, including related applications and licenses;
- legal support to the Operator Licensing program, including representing the ED in revocation proceedings;
- review of all district bond orders;
- emergency orders for ED approval and presentation of the matter at Agenda for the commission to affirm, modify, or set aside;
- assistance in drafting of proposed legislation and legal analysis of introduced legislation; and
- response to requests for OAG opinions in accordance with the Public Information Act for ELD-related matters, including program documents.

Litigation Division

44 FTEs

The Litigation Division (LD) provides legal representation primarily to the Enforcement and Remediation divisions of the Office of Compliance and Enforcement (OCE). It also includes the Environmental Crimes Unit.

The legal support provided by LD falls into two primary areas: (1) enforcement and (2) remediation. The work of the enforcement attorneys in support of the Enforcement Division includes negotiating agreed orders and compliance agreements; processing default orders; and conducting contested administrative enforcement actions. The type of enforcement case referred to the LD is one in which the respondent is uncooperative, uncommunicative, and/or unwilling to reach an agreement or one in which the respondent wants to participate in a contested case hearing. The enforcement attorneys also supply legal advice to the Field Operations Division staff of the OCE and participate as speakers during basic investigator training on topics such as citizen collected evidence and expert witness testimony. The remediation attorneys in the LD provide legal advice to staff in the Remediation Division of the OCE regarding a variety of programs, including voluntary cleanup, dry cleaning, petroleum storage tanks, natural resource damages, and state and federal Superfund.

The attorneys in LD also:

- refer cases to the OAG to pursue civil penalties and injunctive relief and act as the liaison between the OAG and the agency;
- provide advice for and implementation of the Supplemental Environmental Project (SEP) program, including drafting custom SEPs;
- provide legal advice to agency personnel about the Audit Privilege Act;

- review and research Notice of Intent to Sue letters under Citizen Suit provisions of the federal Clean Water Act and Resource Conservation and Recovery Act;
- prepare emergency orders for appointment of temporary managers and of water utilities and refer the utility to the OAG to place the utility into receivership;
- assist in drafting proposed legislation and provide analysis of introduced legislation;
- provide legal support for rulemaking projects, including drafting the regulatory impact analysis and the takings impact analysis and reviewing the preamble and proposed and adopted rules; and
- respond to requests for OAG opinions in accordance with the Public Information Act for LD–related matters, including program documents.

In coordination with a federal, state, and local task force, the Environmental Crimes Unit of the LD investigates and assists in the prosecution of environmental crimes by screening cases, investigating environmental crimes, helping execute search warrants, testifying, and assisting in the prosecution of environmental crimes.

Office of Administrative Services
Dorca Zaragoza-Stone, Deputy Director

5 FTEs

The Deputy of the Office of Administrative Services consists of four divisions, under the oversight of the deputy director, that provide core, agency-wide administrative services. These divisions are Financial Administration, Human Resources and Staff Development, Information Resources, and Support Services.

Financial Administration

85 FTEs

The Financial Administration Division is responsible for managing the agency's finances, ensuring the integrity of the accounting records, and maintaining adequate internal controls to safeguard the agency's financial assets. The Financial Reporting Section is responsible for the maintenance of the agency's financial systems; preparation of the indirect cost rate proposal; billing and collection of federal grants; and providing financial information, including the agency's annual financial report, to management and oversight entities. The Revenue Section is responsible for the billing and collection of fees due to the agency and for managing and maintaining financial assurance documents in accordance with federal and state regulations. The Payment Processing Section is responsible for the audit and processing of payment vouchers; processing the agency's payroll according to state and federal guidelines; and oversight of the agency's timekeeping system to ensure compliance with state and federal rules and agency policy.

Human Resources and Staff Development

35 FTEs

Human Resources and Staff Development (HRSD) supports the agency by assisting in recruiting, hiring, developing and retaining a diverse, competent workforce. The division is responsible for agency recruitment and staffing services, including the administration of internship and volunteer programs. HRSD oversees job classification and employee compensation, ensuring compliance with the State Classification Plan, Fair Labor Standards Act, and Equal Pay practices. The division also provides services for staff and management development, which includes administering the performance management system, as well as the acquisition and delivery of general work skills, technical training, and agency policy training, and the coordination of the agency's leadership development program. HRSD provides services related to employee benefits, leave, and workers' compensation. Additionally, it facilitates employee relations and coordinates wellness and other employee programs. Further, the division undertakes the agency's succession and workforce planning processes and produces reports for management decision making.

Information Resources

145.5 FTEs

The Information Resources Division (IRD) is responsible for the provision of information technology (IT) and other services across the agency. IRD provides IT customer support, and manages maintenance of the agency's physical IT infrastructure through oversight of a contract with the state data center. It works with programs across the agency, providing technical leadership in software development, enhancement services for enterprise information systems, and IT project management and business analysis services. IRD develops IT budgets, plans, and reports for agency management and other oversight agencies. The division also administers the agency's central records system through a contract with a commercial records management firm, and coordinates the agency's response to public information requests.

Support Services

61 FTEs

The Support Services Division houses the agency's procurement and contracts section and its Historically Underutilized Business (HUB) program, as well as miscellaneous standard support services. The Procurement and Contracts Section issues bid solicitations, receives vendor responses, assists in the contractor selection process, and issues purchase orders or contracts. HUB staff monitor and evaluate the agency's HUB performance, and take steps to ensure that the agency makes a good-faith effort to meet its HUB goals. The HUB program ensures good-faith efforts through various avenues, including the evaluation of procurement and contract documents for potential HUB opportunities, outreach activities such as participation in vendor forums, fostering of mentor-protégé agreements, and direct assistance to agency programs working to meet HUB goals. The Business Services Section manages the agency's physical assets and inventory, its fleet program, central supplies, and mail delivery. The Telecommunications and Staff Services Section oversees the Texas Facilities Commission's delivery of facilities and security services, manages the agency's risk program, and provides copy and telephone-related services.