XII. AGENCY COMMENTS

Provide any additional information needed to gain a preliminary understanding of your agency.

The mission of the Texas Commission on Environmental Quality (TCEQ) is to protect the natural resources and human health of the State of Texas consistent with sustainable economic development. The TCEQ strives for clean air, clean water, and the safe management of waste in regulating more than 340,000 public and private facilities and individuals.

To accomplish our mission, the TCEQ:

- 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.

Public Outreach and Accessibility

The TCEQ is continuously seeking new ways to involve the public in its processes. Avenues such as technological advances in virtual media and social networking are two of the newer tools being considered for TCEQ proceedings. An indicator that the TCEQ is already succeeding in its outreach efforts is the number of public meetings and participants in those meetings. Between FY 05 and FY 09, the TCEQ's Office of Public Assistance held 385 public meetings which included 18,476 attendees. This attendance is comparable to the period of FY 00 to FY 04, when 352 meetings were conducted with approximately 17,592 attendees.

Through the TCEQ Web site, the public is offered 24/7 accessibility to track enforcement actions, complaints, and the status of a regulated entity. The advent of online access to enforcement and complaints information was a notable outcome of TCEQ's 2003 extensive self-review of its enforcement functions. Additional content on the TCEQ's Web site includes permit and authorization queries for the majority of TCEQ programs, as well as a wealth of data related to air and water quality across the state. The management and use of all this data is an evolving process at the TCEQ, with the goal to provide information in a timely, understandable, and accessible manner.

Another vehicle to obtain information from the TCEQ has been the Public Information Request (PIR) process. An agency-wide procedure has been established to comply with the Public Information Act and to ensure timely responses to all PIRs. Interested parties may submit a PIR via letter or through an electronic form available on the TCEQ's website. In FY 08, 2,666 PIRs were received and processed and 2,197 in FY 09.

Materials for the TCEQ's meetings involving the commissioners, such as Agendas and Work Sessions, are posted online at least 19 days before each meeting. This allows anyone interested, an opportunity to review the information prior to the meetings. The agency also offers the public access to view live, as well as archived, Agenda and Work Session meetings online, free of charge.

Efficiencies

In an on-going effort for efficiency, accessibility, and paperless processes, the TCEQ offers an abundance of electronic services to the public and the regulated community. These electronic services include eFiling, eComments, ePermits, eReporting, eLicense Renewal, and ePay. The move to online comments is the latest in a series of efforts to improve efficiency and encourage public participation at the TCEQ.

Considerable improvement to all of the TCEQ's permitting time frames has occurred since the inception of the TCEQ's 2002 permit time-frame reduction project. This project resulted in significant progress toward the goal of improving permitting efficiencies and reducing the backlog of permit applications. Over the last six years, the agency reduced the overall backlog of uncontested permits from 1,150 to 109. Staff continues to build on this success by implementing a new initiative, project time-frame tracking. This initiative focuses not only on permits but also on non-permitting functions such as water system plans and specification reviews, water district bond reviews, Superfund cleanups, corrective actions, and voluntary cleanup.

On-Demand

There is a significant on-demand aspect to the TCEQ's workload commitments. Hurricanes, flooding, explosions, catastrophic groundwater contamination, and exceptional drought conditions are among the realities that the TCEQ must address. Across the agency, TCEQ staff respond to on-demand activities in a highly coordinated fashion. These statewide demands are not just shouldered by the TCEQ's regional staff. The agency's technical experts, legal staff, homeland security personnel, and program staff in the Austin Central Office are an integral part of the on-demand team. To effectively and quickly respond, it is understood that the TCEQ is not always an 8-to-5 state agency.

Hurricanes top the list of challenging on-demand activities. For example, the response to Hurricane Ike involved TCEQ staff spending approximately 62,000 working hours and almost $7.5 million in unforeseen expenses. The TCEQ was among the first responders to the stricken Gulf Coast area. The agency's experience, as well as its response-and-recovery training, facilitated its staff's ability to integrate well with other responders and act as a major contributor to the recovery efforts.

The TCEQ's communication with critical organizations during major on-demand incidents is intact when using its Mobile Command Post. This dynamic accumulation of cutting-edge homeland security technology ensures that communication and critical data access are intact no matter the disaster situation. Also, as a member of the State's Homeland Security Council, TCEQ assists in the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy to detect, deter, respond

to, and recover from disasters, both natural and manmade.

Compliance

Ensuring compliance with environmental laws and regulations is one of the TCEQ's primary functions. The TCEQ believes that enforcement is one tool among many available to protect the environment and public health. When enforcement is necessary, it is swift, sure, and just, and within an overall strategy for achieving maximum compliance. A number of tools are used to enable and require the regulated community to comply. These tools include pollution prevention, on-site and off-site facility assistance, small business and local government assistance, regulatory workshops, publications and guidance documents, telephone hotlines, and the agency's expansive Web site. These tools work alongside the more traditional investigations and enforcement responsibilities.

The TCEQ also has an Environmental Crimes Unit that investigates and assists in the prosecution of environmental crimes, in coordination with a federal, state and local task force. This unit also screens cases, helps to execute search warrants, and testifies in certain cases.

In FY 08:

- over 100,000 routine and complaint investigations were conducted;
- over 14,000 notices of violation, the TCEQ's informal enforcement tool, were issued;
- 1,624 enforcement orders were issued and tracked for compliance;
- $16.9 million was assessed in administrative penalties; and
- approximately $4.6 million of the penalties were approved for Supplemental Environmental Projects (SEPs), which allows respondents to invest their penalty dollars in agency approved environmental projects in lieu of paying fines to the state.

In December 2003, the TCEQ initiated a comprehensive review of the agency's enforcement policies and practices. The results of the 14-month study included significant improvements in efficiency and transparency and an assurance that agency resources are dedicated to preventing and reducing risk to the public and the environment. Examples of the efficiencies included a drastic reduction in backlogged enforcement actions, implementation of a field citation program, and a risk-based investigation strategy.

At the same time, the TCEQ is exploring whether its current enforcement authority allows for the use of incentives and innovative projects to achieve compliance, as well as provide sufficient deterrence to protect the environment. A component of the TCEQ's enforcement process is utilization of a site's compliance history. The agency continues to evaluate the compliance history process for its use and effectiveness.

The commission strives to ensure that its enforcement policies and decisions are based on sound science, responsive to the public and fulfill Environmental Protection Agency (EPA) requirements.

Border Affairs

The TCEQ's Border Affairs program supports the agency's mission along the Texas-Mexico

border. Major responsibilities and accomplishments include:

- The Border Initiative – Encompasses all agency work with Mexico and in the border region. Special projects are developed to meet needs identified by the agency or that may be required by state and/or federal legislation. The program also works with local, state, and federal agencies on both sides of the border. As an example, a regional emergency response plan was developed in the Lower Rio Grande Valley, and the TCEQ helped negotiate a specific emergency response agreement between El Paso and Ciudad Juárez. The TCEQ also performs most of the work that sustains the Texas-Tamaulipas-Nuevo León-Coahuila regional workgroup, including meetings of three task forces and fourteen committees. One workgroup's efforts resulted in the proper disposal of 230,000 scrap tires in the sister cities of Piedras Negras, Coahuila, and Eagle Pass.
- The Border Governors Conference (BGC) – The TCEQ supports the Texas representatives of the BGC Water and Environment Work Tables, including development and implementation of declarations by the ten U.S.-Mexico border governors. As part of the 2007 BGC declaration, a definition of "extraordinary drought" in the Rio Grande basin was developed. The lack of a definition allowed Mexico to prolong the now-resolved debate over the decade-long Rio Grande water debt to the U.S.; water that actually belonged to Texas water rights holders. This definition complimented the March 2005 joint U.S. and Mexico announcement that Mexico's water debt would be repaid to Texas – repayment was fulfilled on September 27, 2005.
- Specific International Environmental Programs – The TCEQ works with local, state, and federal stakeholders to ensure proper implementation of local projects along the border. One of the TCEQ commissioners is a member of the Governmental Advisory Council to the EPA administrator on implementation of the North American Agreement on Environmental Cooperation, the trilateral environmental side-agreement to the North American Free Trade Agreement (NAFTA). The TCEQ also manages and is a member of the Joint Air Quality Advisory Committee (JAC) in the Ciudad Juárez-El Paso-Doña Ana County, New Mexico, air shed. The JAC, created under Annex V to the U.S.-Mexico La Paz Agreement for the protection of the border environment, develops and implements recommendations to address growing binational air quality problems.

Conservation

The TCEQ works to practice what it preaches about preventing pollution and promoting energy and water conservation. The agency's "green" efforts involve a number of recycling and resource conservation projects to ensure that the TCEQ employees' work environment reflects current best practices for conservation. Austin Energy lists the TCEQ as a "Corporate Leader" for its energy purchases through the Green Choice Program, which uses alternative energy sources, such as wind and solar.

Outside the buildings, fuel conservation is a theme in the TCEQ's central fleet. Hybrid and alternative fuel vehicles make up 62% of the central fleet, and a pair of electric delivery vehicles is also used for on-campus deliveries. Going paperless is another TCEQ operating goal, and changes have been instituted across the agency to reduce paper usage. The TCEQ also buys environmentally friendly products and supplies to meet its needs each year. In cooperation with the Texas Facilities Commission, the TCEQ is the first state agency to offer employees a single-stream recycling option for paper, plastic, glass, and

aluminum cans.

The TCEQ also promotes and facilitates recycling and reducing waste in Texas communities. For example, the TCEQ provides assistance to local and regional organizations so that household hazardous waste disposal options are available for urban and rural Texans. In FY 07 and FY 08, household hazardous waste collection events and lake and river cleanups collected more than 3,000 tons of hazardous and solid waste. Electronics have also become an important recycling focus, and the TCEQ adopted rules regulating computer recycling in September 2008. To ensure the program is effective, the TCEQ's Web site has the most complete list of Texas' computer recycling locations.

Additional TCEQ programs that promote and facilitate recycling efforts include Recycle Texas Online, which offers the public the free service of locating a recycler in Texas communities and helps to reduce waste going to our landfills, and the Resource Exchange Network for Eliminating Waste (RENEW), which is a materials-exchange network established by the Texas Legislature in 1987 to promote the reuse or recycling of industrial materials. Over the life of RENEW, 916 million pounds of materials have been exchanged to market wastes for recycling, reuse, or composting.

The Texas Environmental Excellence Award (TEEA) Program that began in 1993 celebrates the efforts of citizens, communities, businesses, and organizations that work to preserve and protect the Texas environment. Presented annually by the governor and the TCEQ commissioners, these awards spotlight the state's highest achievements in environmental preservation and protection. Since resource conservation is primarily a voluntary effort by the public, this program is very meaningful in offering recognition for conservation efforts.

Water

Since 2006, Texas has been suffering the effects of an exceptional drought. This drought, along with Texas' growing population, magnifies the water availability problem, posing the question whether the TCEQ has sufficient authority and resources to coordinate the management of the state's limited water resources. To combat the effects of the drought in Texas, the TCEQ provides water systems and the public with water-saving guidance that includes special emphasis on reducing water usage and on rain harvesting.

The TCEQ is recognized as a pioneer in the use of long-distance continuous monitoring and reporting of water quality data. The agency consistently improves its continuous water monitoring as newer systems are designed to address the data needs of individual sites. These needs include documenting water quality trends, tracking cleanup of a water body under the implementation plan of the Total Maximum Daily Load Program, prioritizing field investigations, and providing water quality data to local governments. The public can view this data on the TCEQ Web site. The TCEQ also uses the monitoring network to guide decisions on how to better protect certain segments of Texas' rivers or lakes. Looking forward, the TCEQ is exploring the possibility of expanding the use of water quality monitoring data within the TCEQ's regulatory process as well as utilizing the data to respond more quickly to environmental conditions.

The TCEQ is also charged with investigating the safety of Texas dams and received additional funding from the 81st Texas Legislature to do so. The dam safety investigators are responsible for bringing noncompliance to the attention of each dam owner and initiating any necessary enforcement actions. The cost to maintain and repair dams is considerable, and that financial burden is the sole responsibility of each dam owner. However, the state may need to consider whether it has a role in remediating aging dams. This concern is based on the age of Texas' dams—26 percent were constructed before 1960 and 84 percent prior to 1980—as well as increases in population which is resulting in development downstream from many of these existing dams.

Air

Texas' air quality is a top priority for the TCEQ, which requires constant awareness and improvement. The agency's air quality monitoring network, which is one of the largest and most highly integrated in the country, is the foundation for ensuring that accurate data for compliance, enforcement, and planning is readily available.

The blueprint for dealing with air quality issues region by region is the State Implementation Plan (SIP). This is an enforceable plan developed at the state level that demonstrates to the EPA how the state will comply with air quality standards under the federal Clean Air Act. A SIP must be submitted by the state government of any state seeking authorization to operate the federal air quality program. Revisions to parts of Texas' SIP are necessary when new federal or state requirements are enacted, when new data improves modeling techniques, when a specific area's attainment status changes, or when an area fails to reach attainment. Revisions to the SIP typically include an assessment of the problem and measures that will fix the problem. Assessments of the situation include monitoring data, an emissions inventory, and photochemical modeling. Measures to address air quality issues are known as control strategies. With the recent revision to the federal ozone air quality standard, the agency will be required to submit to the EPA a considerable number of revisions to the SIP by 2013.

Targeting industrial pollution is another major aspect of the TCEQ's air quality protection activities. Due to the concentration of petroleum and chemical facilities in Harris County and the surrounding counties, a prominent focus for the agency's protection efforts includes Southeast Texas. Even with widespread industrial and population growth, the air quality in Harris County continues to improve. With state regulations and enforcement activity, nitrogen oxides (NO_x) emissions have fallen by 57 percent and volatile organic compounds (VOCs) by 38 percent since 2000. This represents a total reduction of 675 tons per day of these smog-forming pollutants. The TCEQ and partners in local government and industry jointly operate a network of 65 stationary monitors, some of which calculate hourly averages of pollutants day and night. The innovative system includes monitors capable of triggering e-mail alerts when concentrations spike, so that the TCEQ, along with its governmental and industry partners, can quickly identify the emissions source.

Additionally, the agency has assembled an array of advanced monitoring tools including infrared cameras and mobile monitoring units that combine infrared and ultraviolet laser

technology to scan industrial facilities and measure emissions from sources such as storage tanks, flares, and cooling towers.

Clean and efficient energy production is one opportunity for Texas as demands for energy increases and the state's population grows. The TCEQ's response to state legislation supporting ultraclean energy was to adopt definitions for advanced clean energy projects and federally qualified clean coal technology. The agency also approved air permit requirements for both categories. In response to passage of state legislation in 2007, the TCEQ adopted rules to include 18 energy-saving and emission-reducing categories, addressing the expansion of equipment eligible for property tax abatement.

The TCEQ's monitoring network, data analysis and subsequent modeling have demonstrated that mobile sources (on-road and non-road) continue to be a significant source of emissions. The TCEQ has implemented several innovative programs created by the Texas Legislature to reduce mobile emissions.

The Texas Emissions Reduction Plan (TERP) was established by the 77th Texas Legislature in 2001 and includes a number of voluntary financial incentive and assistance programs, including emissions reduction incentive grants and the Clean School Bus Program. Since TERP began, more than 5,700 projects have been approved, totaling almost $750 million in grants awarded. These programs have achieved environmental benefits in the state's urban areas, with more than 156,000 tons of nitrogen oxides (a precursor to ozone, which is a major contributor to smog) removed from the atmosphere. Another successful incentive program is Drive a Clean Machine — AirCheckTexas. As of May 2009, this program has helped retire 22,217 older vehicles, with an equivalent number of newer, cleaner-burning vehicles now on the road. Funds from this program have also provided for the repair of 7,194 vehicles that failed the emissions test. These programs have helped to make Texas air safer to breathe.

Reductions in emissions from mobile and point sources have happened at the same time that the state's population has increased and its economy has grown; demonstrating that protection of the environment does not have to limit the state's ability to prosper.

Waste

The TCEQ has sought to improve the regulation and oversight of waste materials so that the public and the environment are kept safe from the improper management of waste. Another aspect of this effort is the encouragement of appropriate recycling activities.

The TCEQ's municipal solid waste (MSW) rules (30 TAC Chapter 330) were significantly revised in March 2006 to regulate MSW facilities in a more effective and comprehensible manner. The new TCEQ rules were adopted after lengthy deliberations by the commission and considerable input from the public and industry representatives. In addition to reorganizing the solid waste rules and improving readability, the commission also made dozens of substantive changes, including enhanced environmental protection.

Of late, mulch and compost facilities that operate out of compliance have received greater

scrutiny. The TCEQ's investigation strategy moved to a more proactive approach with accelerated enforcement, so that the risk to public health and safety is minimized. Innovative technology such as carbon monoxide monitors and additional temperature reading devices are useful tools for the TCEQ and its emergency response contractors to make determinations and respond proactively to fire hazards at mulch and compost facilities.

The contamination of groundwater and soil due to leaking petroleum storage tanks (PSTs) has been a known statewide environmental issue. The TCEQ oversees PST cleanups and reimburses eligible parties. Since the program began in 1987, the TCEQ has received reports of more than 25,000 leaking PST sites and as of August 2009, 23,000 sites have been completely cleaned up. The vast majority of PST cleanups have been paid through the State PST Remediation Fund, from which expenditures topped $1 billion. The PST reimbursement and regulatory programs are supported through a fee collected on the bulk delivery of gasoline and diesel fuel. This fee ends on August 31, 2011. Though the reimbursement program ends August 31, 2012, the PST regulatory program will continue, and there will be an ongoing need to clean up leaking PST sites.

Conclusion

The TCEQ is a dynamic organization with extensive responsibilities. The Self- Evaluation Report demonstrates the complexity and array of issues addressed daily by staff in Austin and across the state. The TCEQ welcomes the opportunity to continue this dialogue and provide additional information to assist the Sunset Commission in its evaluation.