

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

## AGENDA

Wednesday, November 17, 2004

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

- Item 1. **Docket No. 2004-1513-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter G, Transportation Planning, Section 114.260, Transportation Conformity; and revisions to the Transportation Conformity State Implementation Plan for Texas Nonattainment and Maintenance Areas.

The proposed rulemaking would incorporate the July 1, 2004 federal transportation conformity rule amendments to 40 Code of Federal Regulations Part 93, except for Section 93.105, Consultation; would update citations; and would amend language to be consistent with agency style and format. (Margie McAllister, Terry Salem, Debra Barber) (Rule Project No. 2005-002-114-AI)

Approve publication of, and hearing on, proposed amendments to 30 TAC Chapter 114 and revisions to the Transportation Conformity State Implementation Plan for Texas Nonattainment and Maintenance Areas. RM/KW; all agree.

- Item 2. **Docket No. 2004-0874-RUL.** Consideration of the adoption of new Sections 114.80 - 114.87 in new Division 3, Early Action Compact Counties, of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles; Subchapter C, Vehicle Inspection and Maintenance; Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program; and Early Action Compact Counties; and corresponding revisions to the state implementation plan.

The rulemaking adoption would implement the motor vehicle inspection and maintenance program for Travis and Williamson Counties as part of the Austin area early action compact plan as authorized by Senate Bill 1159, 78th Legislature, Regular Session, 2003. The proposed rules were published in the July 30, 2004 issue of the *Texas Register* (29 TexReg 7259). (Bob Wierzowiecki, Garrett Arthur, Alan Henderson) (Rule Project No. 2004-071-114-AI)

Adopt new Sections 114.80 - 114.87 in new Division 3, Early Action Compact Counties, of 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. KW/RM; all agree.

- Item 3. **Docket No. 2004-0832-RUL.** Consideration for the adoption of a revision to the state implementation plan (SIP) concerning the attainment demonstration for the **Northeast Texas Early Action Compact area including Gregg, Harrison, Rusk, Smith and Upshur Counties.** The adoption contains results of photochemical modeling and technical analyses in support of the demonstration of attainment of the 8-hour ozone standard by 2007 and maintenance of that standard through 2012. (Gerry Wolfe, Daniel Long) (Project No. 2004-077-SIP-NR)

Adopt the revision to the state implementation plan (SIP) concerning the attainment demonstration for the Northeast Texas Early Action Compact area including Gregg, Harrison, Rusk, Smith and Upshur Counties. RM/KW; all agree.

- Item 4. **Docket No. 2004-0871-RUL.** Consideration of the adoption of a new division in **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter J, Operational Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 - 114.512 and 114.517; and corresponding revisions to the state implementation plan.

The adoption would provide a nitrogen oxides reduction option that local governments could elect to have apply within their jurisdictions to assist with maintaining compliance with the federal ozone national ambient air quality standard. The statewide rules for idling limitations for heavy-duty vehicles would be applicable only within local jurisdictions that enter into a Memorandum of Agreement with the commission to enforce the rules. The proposed rules were published in the July 30, 2004 issue of the *Texas Register* (29 TexReg 7268). (Scott Carpenter, Garrett Arthur, Joseph Thomas) (Rule Project No. 2004-072-114-AI)

Adopt the new division in 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. KW/RM; all agree.

- Item 5. **Docket No. 2004-1512-RUL.** Consideration for publication of, and hearing on, proposed new **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter J, Operational Controls for Motor Vehicles, Division 1, Switchyard Locomotive Idling Limitations, Sections 114.500, 114.502, 114.506, and 114.509; and corresponding revisions to the state implementation plan.

The proposed rulemaking would limit the idling of switchyard locomotives in switchyards or other confined areas in the Dallas/Fort Worth ozone nonattainment area to no longer than 15 consecutive minutes. (Bob Wierzowiecki, Kerri Rowland, Joseph Thomas) (Rule Project No. 2005-006-114-AI)

Approve publication of, and hearing on, proposed new 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. KW/RM; all agree.

- Item 6. **Docket No. 2004-1503-RUL.** Consideration for publication of, and hearing on, proposed amended Sections 115.10, 115.229, and 115.429 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, and corresponding revisions to the state implementation plan.

The proposed rulemaking would subject both the filling of gasoline storage vessels (Stage I) at motor fuel dispensing facilities, and surface coating processes located in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties to the same control, monitoring, testing, recordkeeping, and reporting requirements in effect in the other four counties in the Dallas/Fort Worth eight-hour ozone nonattainment area. (Teresa Hurley, John Minter, Emily Barrett) (Rule Project No. 2005-005-115-AI)

Approve publication of, and hearing on, proposed amended Sections 115.10, 115.229, and 115.429 of 30 TAC Chapter 115 and corresponding revisions to the state implementation plan. KW/RM; all agree.

Item 7. **Docket No. 2004-1502-RUL.** Consideration for publication of, and hearing on, proposed **30 TAC Chapter 117**, Control of Air Pollution from Nitrogen Compounds, Sections 117.114, 117.201, 117.203, 117.206, 117.213, 117.214, 117.479, and 117.520 and corresponding revisions to the state implementation plan (SIP).

The proposed rulemaking would revise certain sections in Chapter 117 to implement control measures to meet the United States Environmental Protection Agency required nitrogen oxide portion of the 5% increment of progress SIP revision for the Dallas/Fort Worth eight-hour ozone nonattainment area. The proposed changes would also incorporate technical changes and clarifications that will affect major and minor sources in the Beaumont/Port Arthur, Dallas/Fort Worth, and Houston/Galveston/Brazoria nonattainment areas in the state. These changes remove and add exemptions, and add operational flexibility with regard to measuring emissions. (Karen Hill, Janis Hudson, Emily Barrett) (Rule Project No. 2005-004-117-AI)

Approve publication of, and hearing on, proposed 30 TAC Chapter 117 and corresponding revisions to the state implementation plan, with the removal of the language "and dual-fuel" from the fiscal notes of the preamble as proposed by the Executive Director. KW/RM; all agree.

Item 8. **Docket No. 2004-0872-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, Subchapter C, Volatile Organic Compound Transfer Operations, Division 2, Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities, Sections 115.227 and 115.229; Subchapter E, Solvent-Using Processes, Division 1, Degreasing Processes, Sections 115.412, 115.413, 115.415 - 115.417, and 115.419; Subchapter F, Miscellaneous Industrial Sources, Division 1, Cutback Asphalt, Sections 115.512, 115.516, 115.517, and 115.519; and corresponding revisions to the state implementation plan.

The adopted rulemaking lowers the exemption level for facilities subject to Stage I vapor recovery controls from 125,000 gallons to 25,000 gallons of gasoline in a calendar month in the four counties in the San Antonio early action compact (EAC) area (Bexar, Comal, Guadalupe, and Wilson Counties) and in the five counties in the Austin EAC area (Bastrop, Caldwell, Hays, Travis, and Williamson Counties); extends the control requirements for cold solvent cleaning, open-top vapor degreasing, and conveyORIZED degreasing to the four counties in the San Antonio EAC area and to the five counties in the Austin EAC area; and extends the control requirements for cutback asphalt to the five

counties in the Austin EAC area. The proposed rules were published in the July 30, 2004 issue of the *Texas Register* (29 TexReg 7272). (Teresa Hurley, John Minter, Emily Barrett) (Rule Project No. 2004-073-115-AI)

Adopt amendments to 30 TAC Chapter 115 and corresponding revisions to the state implementation plan. RM/KW; all agree.

- Item 9. **Docket No. 2004-1471-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, Subchapter C, Volatile Organic Compound Transfer Operations, Division 2, Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities, Sections 115.222 and 115.223, and Division 4, Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities, Sections 115.240, 115.242, 115.243, 115.245, 115.248, and 115.249, and corresponding revisions to the state implementation plan.

The proposed rulemaking would further strengthen the third-party certification of vapor recovery equipment approved for use by the executive director outside of the California Air Resources Board certification program, make the approval of alternate Stage I equipment more commensurate with Stage II requirements, expand the types of equipment deemed “onboard refueling vapor recovery compatible” to include new technologies, require that test times be included in notifications of testing for equipment, require that testing requirements be included in the curriculum of approved Stage II training courses, and make other minor stylistic and grammatical changes. (Jason Harris, John Minter, Joseph Thomas) (Rule Project No. 2005-001-115-AI)

Approve publication of, and hearing on, proposed amendments to 30 TAC Chapter 115 and corresponding revisions to the state implementation plan. KW/RM; all agree.

- Item 10. **Docket No. 2004-0870-SIP.** Consideration for the adoption of a revision to the state implementation plan (SIP) concerning the attainment demonstration for the **Austin Early Action Compact area**. The adoption contains results of photochemical modeling and technical analyses in support of the demonstration of attainment of the 8-hour ozone standard by 2007 and maintenance of that standard through 2012. (Erik Gribbin, Daniel Long) (Project No. 2004-086-SIP-NR)

Approve Commissioner Marquez's additional language to the state implementation plan (SIP) concerning continued planning and the stakeholder process, and modeling idling credit. RM/KW; LS abstained.

Adopt proposed revision to the state implementation plan (SIP) concerning the attainment demonstration for the Austin Early Action Compact area, with additional changes as proposed by Commissioner Marquez and the Executive Director. KW/RM; all agree.

- Item 11. **Docket No. 2004-0873-SIP.** Consideration for the adoption of a revision to the state implementation plan (SIP) concerning the attainment demonstration for the **San Antonio Early Action Compact area**. The adoption contains results of photochemical modeling and technical analyses in support of the demonstration of

attainment of the 8-hour ozone standard by 2007 and maintenance of that standard through 2012. (Erik Gribbin, Daniel Long) (Project No. 2004-085-SIP-NR)

Adopt a revision to the state implementation plan (SIP) concerning the attainment demonstration for the San Antonio Early Action Compact area. KW/RM; all agree.

- Item 12. **Docket No. 2004-1483-SIP.** Consideration for proposal of a state implementation plan (SIP) to meet the **5% increment-of-progress (IOP) requirements for the Dallas/Fort Worth (DFW) eight-hour ozone nonattainment area.** The proposed SIP revision will establish the 2002 baseline emission inventories, 2007 projected emission inventories, IOP budgets, and motor vehicle emission budgets (MVEBs) to reflect the use of new EPA emission factor models (NONROAD and MOBILE6) and new motor vehicle activity estimates. (Erik Gribbin, Terry Salem) (Project Number 2004-096-SIP-NR)

Approve the proposal of a state implementation plan (SIP) to meet the 5% increment-of-progress (IOP) requirements for the Dallas/Fort Worth (DFW) eight-hour ozone nonattainment area. RM/KW; all agree.

#### **EXECUTIVE SESSION**

- Item 13. **Docket No. 1998-1154-EXE.** 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.

The Commissioners did not meet in executive session.

- Item 14. **Docket No. 1999-0024-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, 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 matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The Commissioners did not meet in executive session.

- Item 15. **Docket No. 1999-0025-EXE.** 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.

The Commissioners did not meet in executive session.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA 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 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 8:45 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.**

/s/ Greg Merrell  
Assistant General Counsel,  
Greg Merrell

1-18-2005  
Date