

**Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward**

**MARKED AGENDA**

Friday, March 11, 2005

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

**Item 1. Consideration of issues recommended by the Pollution Prevention Advisory Committee.**

The issue was presented by Melanie Barnes, Co-chair, Pollution Prevention Advisory Committee (PPAC), and Luke Metzger, Co-Chair, Mercury Subcommittee (PPAC). Ms. Barnes presented a summary of recent committee activities, including the efforts related to the Environmental Monitoring and Response System (EMRS). Mr. Metzger presented the results of the Automotive Mercury Switch Roundtable meeting held on March 1, 2005, including a possible voluntary switch recovery pilot program. The Executive Director reported he had been contacted by regulated community to discuss recently filed legislation. The commission encouraged the PPAC to continue to meet with the stakeholders. Ms. Barnes indicated the PPAC will be scheduling a retreat in June to develop the PPAC work plan and will report back to the commission.

No action taken.

**Item 2. Consideration of issues relating to the definitions of “affected persons” in HB 801, the Texas Water Code and the Administrative Procedure Act.**

The issue was presented by Stephanie Bergeron Perdue, Director of the Environmental Law Division. Ms. Bergeron Perdue briefed the commissioners on issues relating to the definitions of “affected persons” from the back up material. Lydia Gonzalez Gromatsky, Deputy Director of the Office of Legal Services; Celeste Baker, Assistant General Counsel; and Blas Coy, Public Interest Counsel of the TCEQ also participated in the discussion on this matter.

The following individuals commented on this issue:

Rick Lowerre, Attorney  
Chris Brown, Attorney  
John Vay, Attorney  
Bill Newchurch, SOAH Administrative Law Judge

No action taken.

**Item 3. Discussion of state and federal legislative issues potentially affecting the TCEQ. The commission may consider legislative proposals and federal rulemakings, as well as other state actions and state’s participation in federal legislative and regulatory activities. The commission may also meet in closed meeting to receive legal advice regarding these matters, or any of the**

**above matters, as authorized by Section 551.071 of the Open Meetings Act, Chapter 551 of the Government Code. Any commission action, decision, or vote on these matters will be made in open meeting in accordance with Section 551.102 of the Open Meetings Act, Chapter 551 of the Government Code.**

This issue was presented by Leonard Olson, Director of Intergovernmental Relations. He updated the commissioners on bills that had been filed up to that date. The commission also noted the filing of Senate Bill 2758, relating to public participation.

No action taken.

**Item 4. 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.**

No registrants; no action taken.

**Item 5. Planning for the next Commissioners' Work Session.**

Brian Christian announced that the next work session is scheduled for Friday, April 15, 2005. In addition to the standing issues regarding state and federal legislation, the enforcement report, public comment session, and planning for subsequent work sessions, the April 15 work session will also include an update on the EMRS Program and the adoption of the Houston/Galveston/Brazoria transportation control measure substitution package.

**Item 6. Closed Session:**

- a. **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.

No action taken.

- b. **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 matter 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. 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.

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 PAUL MUNGIA IN 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 PAUL MUNGIA IN 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.)**