

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

**MARKED AGENDA**

Friday, June 24, 2005  
Texas Commission on Environmental Quality  
9:30 a.m.  
Room 201S, Building E  
12100 Park 35 Circle

**1. Discussion of the Monthly Enforcement Report.**

Presented by: Anne Dobbs, Enforcement Division, and Eddie Molina, Director, Financial Administration Division.

Chairman White requested the dates of the enforcement orders be included on delinquent accounts.

No action taken.

**2. Consideration of issues concerning implementation of Commission guidance resulting from the Enforcement Process Review.**

Presented by Paul Sarahan, Director, Litigation Division, Anna Rodriguez, Office of Compliance and Enforcement, John Sadlier, Director, Enforcement Division, Jennifer Sidnel, Director, Field Operations Division, Leroy Biggers, Regional Director, Region 5 - Tyler, and Matt Baker, Office of Permitting, Remediation and Registration.

Commissioners directed staff to present the Compliance History issues from the Enforcement Process Review at the August 12th Commissioner Work Session, and wait on the Penalty Policy stakeholder meetings until after the August 12th work session to address both topics (Compliance History and Penalty Policy) in one forum. The two rule packages will follow a parallel process that will conclude at or around the same time. The Commissioners also requested that the Field Citations Program, Enforcement Initiation Criteria, Supplemental Environmental Projects, and Fiscal Year 2006 Workplan be scheduled at an upcoming work session.

No action taken.

**3. Discussion of the agency's FY 2006 Preliminary Operating Budget.**

The item was presented by Linda Flores, Chief Financial Officer, and Becky O'Brien, Director of Budget and Planning.

Discussion of the FY 2006 Preliminary Operating Budget was held and the Commissioners requested a clarification of Rider 39 related to the River Compact Commission and the associated FTEs.

No Action Taken.

**4. Discussion of the status of implementation of the Texas Emissions Reduction Plan and consideration of future direction for the incentive programs.**

The item was presented by David Schanbacher, Chief Engineer and Steve Dayton, Team Leader, Texas Emissions Reduction Plan Team.

Discussion of the TERP was held. The commissioners discussed the new Clean School Bus Program requirements, and the schedule for implementation. The commissioners discussed whether there was a need to implement something quickly, possibly using guidelines and programs already in place established through the U.S. Environmental Protection Agency.

Commissioner Marquez discussed the need for good grant projects to meet the Austin and San Antonio emission reduction commitments. The commissioners also discussed the longer term needs for the Houston-Galveston and Dallas-Fort Worth areas, and Commissioner Soward encouraged third party contracts to encourage participation to get the funds dispersed. He also emphasized finding ways to get the funds out there and the possibility of flexibility on looking at the third party contracts. Chairman White asked for information about the school bus program and the qualifications for rebate program.

Question #1: All the commissioners agreed to Option 1. The commissioners also agreed that some funds should be set aside for the rebate grant process that is to be ready for implementation in January 2006.

Question 2: The commissioners agreed to Option 1, and asked staff to develop a proposal for using a sliding scale to link cost per ton with percentage of costs eligible for grant funding.

Question 3: The commissioners asked staff to develop a proposal for using a sliding scale to link cost per ton with percentage of costs eligible for grant funding.

Question 4: The commissioners agreed to Option 2.

Commentor: Karen Dzienkowski.

Discussed the differences between a project involving hybrid switcher locomotive technologies and regular switcher locomotives. Explained that the hybrid switcher locomotives can achieve more emission reductions for the cost, but that potential purchasers are reluctant to go forward with a new technology unless the grants will pay for the full costs. Encouraged the commission to not limit locomotive funding to 50% of the costs, or to use a different standard for hybrid technologies than used for other locomotive projects, in order to encourage broader use of the cleaner technology.

No action taken.

**5. 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 end of session report will be finished by July 1, 2005. The Implementation Report will be submitted July 7, 2005.

No action taken.

6. **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.

There were no registrants for this item.

No action taken.

7. **Planning for the next Commissioners' Work Session.**

Brent Wade announced that the next Commissioners' Work Session will be held August 12, 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 August 12, 2005 work session will also include the Water Rights Re-use and the Compliance Recommendation Issues.

8. **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) 239-1455 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) 239-1455 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.)**