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Backup documents filed with the OCC and distributed to the Commissioners will be added to this document daily until 5:00 p.m. Wednesday before the given work session date. Updates to backup documents will be noted by a purple indicator. Documents filed less than two days before the work session date will not be added to this document. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white.

Chairman H.S. Buddy Garcia
Commissioner Larry Soward

MARKED AGENDA

Friday, October 12, 2007

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

12100 Park 35 Circle
Room 201S, Building E

This meeting is a work session for discussion between Commissioners and staff. Public comment will be accepted at the discretion of the Commissioners. The Commissioners may take action on items posted for consideration. The Commissioners will not take action on items posted for discussion only. The Commissioners may discuss or consider posted items in an order other than the order posted. The Commissioners may recess for a lunch break and may not meet in Open Session from 12:00 pm to 1:00 pm. Unfinished items will be continued to the afternoon.

Item 1. Discussion of the Monthly Enforcement Report.

Item presented by Anne Dobbs, Program Specialist with the Enforcement Division, and John Racanelli, Manager of the Revenue Section in the Financial Administration Division.

No action taken.

Item 2. Discussion and the consideration of proposed 24-hour PM_{2.5} national ambient air quality standard (NAAQS) designation recommendations for submittal to the Governor for his consideration and transmittal to the United States Environmental Protection Agency (EPA). The EPA will utilize state recommendations in making revised 24-hour PM_{2.5} NAAQS designations and area boundary determinations. On December 18, 2006, the EPA revised the 24-hour PM_{2.5} NAAQS from 65 micrograms per cubic meter to 35 micrograms per cubic meter. The EPA recommends that states identify violating areas using the

most recent three years of air quality data and submit to the EPA no later than December 18, 2007. The EPA recommended factors that states should consider when assessing whether to include an area in the designated nonattainment area boundary. Areas attaining the PM2.5 NAAQS must be identified.

Item presented by Kelly Keel, SIP Team Leader, Air Quality Division, Terry Salem, Attorney, Environmental Law Division and Bryan Lambeth, Monitoring Operations Division.

Adopt the proposed resolution concerning recommended designations for the 24-hour fine particulate matter national ambient air quality standard.

LS/BG; all agree.

Item 3. Discussion and consideration of the development by the Executive Director of an advisory group with regard to the public notice and hearing requirements for water right applications subject to Texas Water Code Section 11.122(b).

Item presented by Todd Chenoweth, Director, Water Supply Division and Robin Smith, Attorney, Environmental Law Division.

The Commissioners expressed their concern that while the advisory group should work expeditiously, they should also be granted enough time to develop recommendations with a goal of completing their work so as to allow the Commission to make a decision by the end of 2007.

Item 4. Discussion and consideration of guidelines for implementation of the Texas Emissions Reduction Plan (TERP), including implementation of provisions of Senate Bill 12 of the 80th Regular Legislative Session.

Item presented by Steve Dayton, Air Quality Division and Brad Patterson, Attorney, Environmental Law Division.

Authorize staff to publish the proposed revisions to the TERP guidelines and make any non-substantive changes necessary while incorporating the guidance received from the Commissioners to add federal highways 281 and 77 to the list of highways and roadways designated for travel by grant-funded vehicles to count towards the 75 percent usage requirement.

LS/BG; all agree.

Additionally, the Commissioners requested that this item be brought back to the December 19, 2007 Commissioners' Agenda. The Commissioners also discussed plans for implementing the TERP in fiscal year (FY) 2008. In that discussion, Commissioner Soward commented that the cost per ton limit for on-road vehicle projects in the FY 2008 grant round should be raised to \$10,000 per ton of nitrogen oxide emissions reduced.

Registrants: Bob Stewart representing BNSF Railway Company.
Brian Faulkner representing Union Pacific.

Item 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 states' participation in federal legislative and regulatory activities.

This item was not presented.

Item 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.

Registrants: There were no registrants for this item.

Item 7. Closed Session.

a. Docket No. 2007-0001-EXE. The Commission will conduct a closed meeting 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 meeting 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 closed session.

b. Docket No. 2007-0002-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 meeting to take action on 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 closed session.

c. Docket No. 2007-0003-EXE. The Commission will conduct a closed meeting 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 meeting 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 closed session.

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 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 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.

THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: <http://www.texasadmin.com/cgi-bin/tnrcc.cgi>