

THURSDAY, JUNE 25

TCEQ HAPPENINGS:
REGULATORY UPDATES AND
LEGISLATIVE REVIEW

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Topics

- ▶ Regulatory Updates
 - ▶ Legislative Review and Implementation
 - ▶ PM 2.5 Standard and Impacts on Permitting
 - ▶ Sample of other priorities
 - ▶ Public Participation
 - ▶ Enforcement
 - ▶ Staff Retention and Turnover
- ▶ Legislative *Preview*



88th Texas Legislature

- ▶ What could have been...and what happened
 - ▶ A better budget than expected
 - ▶ TCEQ “Sunset Bill”
- ▶ 200+ TCEQ-related bills filed during the Regular Session



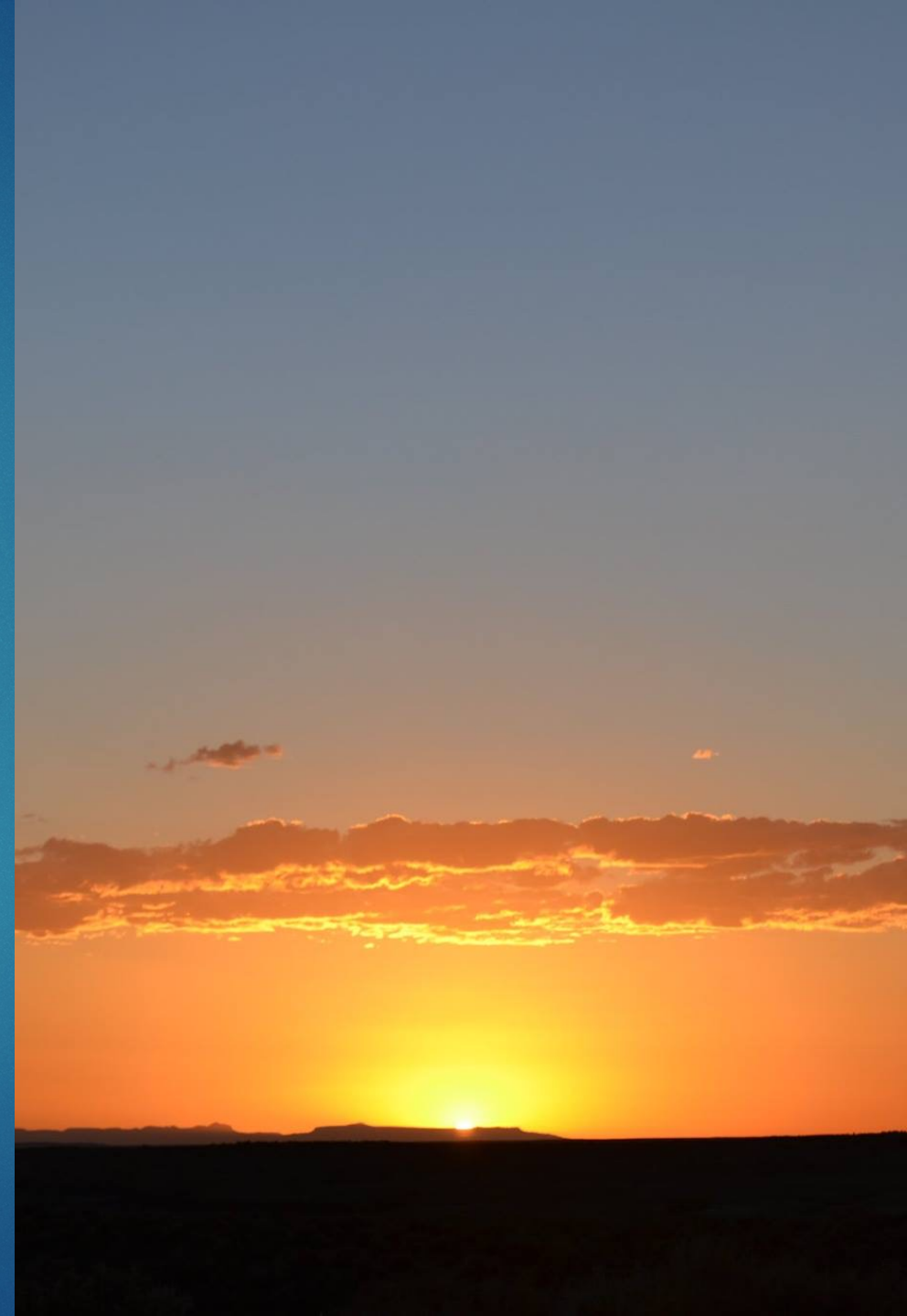
Key Legislation - TCEQ

House Bill 1--The State Budget

- \$321 billion biennial budget
- Natural Resources budgeted at \$8 billion
- \$700+ million to TCEQ, including \$26.3 million in new money for TCEQ staff retention

TCEQ Sunset Results

- “Management” Changes TCEQ can implement without a law change
- Senate Bill 1397
 - TCEQ continued until 2035
- Common themes included providing greater transparency at TCEQ



Major Sunset Provisions

- ▶ Higher penalties for egregious violations
- ▶ Public participation enhancements
 - ▶ Posting of applications online
 - ▶ Extension of comment period 36 hours past a public meeting for applications that go to “consolidated notice”
 - ▶ TCEQ guidance on “affected person” and public participation
 - ▶ Security at Public Meetings
- ▶ Small Business and Local Government Diversion Program
- ▶ Temporary and Indefinite Permit Annual Report
- ▶ Public works standard permit
- ▶ Compliance History/Repeat Violator
- ▶ Affirmative Defense Guidance and Centralized Committee

Legislative Implementation

- ▶ TCEQ updating complaint investigation guidance for vexatious complaints
- ▶ Annual reporting for temporary and indefinite authorizations will start this year, with first reports due December 31, 2024, and annually thereafter
 - ▶ ***Applies to PBRs as well***
- ▶ Public participation changes anticipated to require rule changes—no timeline yet
- ▶ Community outreach has begun, starting with a how-to video on commenting on concrete batch plant permit applications (***later pulled down***)

Legislative Implementation

- ▶ Compliance history and repeat violator changes will also require rulemaking
 - ▶ Some recordkeeping violations could become more important if based on potential risk and severity
- ▶ Enhanced penalty changes apply to violations occurring on or after September 1, 2023
 - ▶ Applies to most serious violations, such as an actual release that harms human health and the environment, was committed before, and could have been reasonably anticipated
 - ▶ Written to be relatively rare
 - ▶ None so far

EPA Promulgation of New PM 2.5 Standard

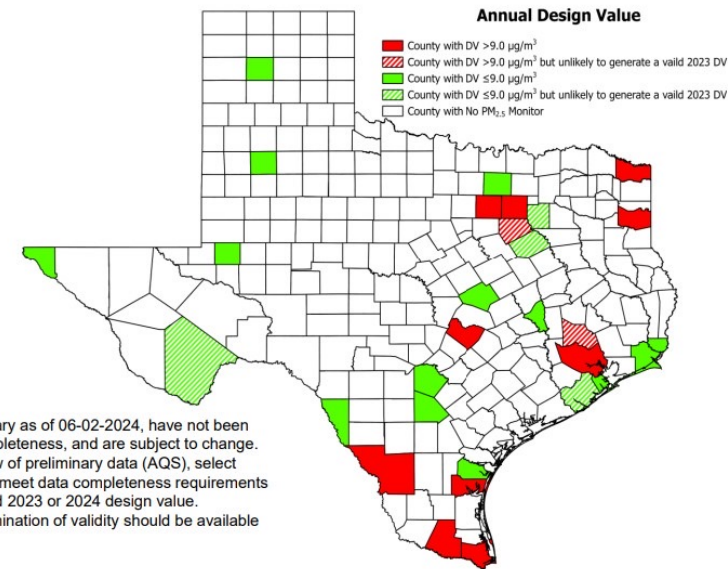
- ▶ 9.0 micrograms per cubic meter took effect May 6th
- ▶ Monitoring network design criteria to include EJ factor to account for proximity of populations at increased risk
- ▶ Map based on monitoring; nonattainment areas could be bigger
- ▶ Attainment date December 2032



PM 2.5 Implementation

- ▶ Permitting
 - ▶ SIL for PM 2.5 lowered from 0.2 micrograms per cubic meter to 0.13
 - ▶ Impact on individual and standard permits
 - ▶ EPA urging review of certain standard permits
- ▶ State Implementation Plan
 - ▶ Summer 2024: Informal comment on state designation recommendations
 - ▶ Fall/Winter 2024: TCEQ considers state designation recommendations
 - ▶ February 2025: Designation recommendations due to EPA
 - ▶ Early 2026: Final designations
 - ▶ Summer 2027: Nonattainment SIPs due
 - ▶ Winter 2032: Attainment dates

Potentially Affected Counties



Notes:

- Data are preliminary as of 06-02-2024, have not been screened for completeness, and are subject to change.
- Based on a review of preliminary data (AQS), select monitors may not meet data completeness requirements to generate a valid 2023 or 2024 design value.
- The formal determination of validity should be available by June of 2024.

County	Preliminary 2023 Annual DV (µg/m ³)
Harris	12.5
Cameron	11.0
Bowie	10.3
Montgomery	10.0*
Dallas	9.9
Kleberg	9.9
Hidalgo	9.7
Webb	9.7
Tarrant	9.6
Travis	9.6
Harrison	9.5
Ellis	9.2**
Atascosa	9.0
El Paso	9.0
Bexar	8.9
Jefferson	8.8
Navarro	8.7**
Nueces	8.4
Brazoria	8.3**
Galveston	8.3
Orange	8.3
Kaufman	8.1*
Brazos	8.0
Maverick	7.9
Denton	7.7
Bell	7.4
Ector	7.3
Brewster	6.2*
Potter	6.0
Lubbock	5.7

*unlikely to generate a valid 2023 DV but may generate a valid 2024 DV
 **unlikely to generate a valid 2023 or 2024 DV

Sample of Other Priorities

- ▶ Public participation
 - ▶ Sunset changes
 - ▶ Title VI Negotiated agreement with EPA
 - ▶ Plain language summaries
 - ▶ Public Involvement Plans for EJ communities
 - ▶ Seeing some changes in how the regulated community is responding
- ▶ Enforcement
 - ▶ Backlog of enforcement orders—at one point, 500+
 - ▶ TCEQ Commission getting regular updates on progress toward reducing
- ▶ Staff retention and turnover
 - ▶ Budget increases helped
 - ▶ Ongoing challenges

89th Legislative Session

- ▶ Primary election results and potential changes in the Legislature
- ▶ Interim Committee Charges (think homework assignments)
- ▶ Timeline
 - ▶ November 5, 2024—General Election Day
 - ▶ November 11, 2024—Pre-filing of legislation begins
 - ▶ January 14, 2025—89th Regular Session of the Texas Legislature begins
 - ▶ March 14, 2025—Deadline for bill filing
 - ▶ June 2, 2025—Regular Session Ends
 - ▶ June 22, 2025—Veto period ends



Committee Homework Assignments

- ▶ Senate Natural Resources and Economic Development
 - ▶ Study cement kiln permitting
 - ▶ Overcoming Federal “incompetence,” including LNG decision
- ▶ Senate Business and Commerce
 - ▶ Innovative power generation, such as small modular nuclear reactors
 - ▶ Grid and electricity market design
- ▶ House Environmental Regulation
 - ▶ Implementation of new federal air quality standards
 - ▶ Study the Texas Hydrogen Industry

Next Budget Cycle



- ▶ TCEQ will be working on its budget request for the next fiscal biennium starting September 1, 2025
 - ▶ Staff retention could remain a priority
 - ▶ Resources to respond to new federal standards

Issues We Could See

Eliminate the
Affirmative Defense for
Emissions Events

Permit Denial on the
Basis of Equity and
Justice

Ban Use of State Money
to Challenge Settled
Science and the
Federal Government

TCEQ role in land use

Expand Criteria for
Affected Persons and
Require Contested
Case Hearing Rules to
be Submitted to EPA for
Approval

Expand alternative
language requirements

But wait, there's more

TERP

- Some have suggested using unexpended money for environmental justice

Noise and Light

- One bill would have required TCEQ to regulate for aggregate operations
- Slippery slope?

MSS Regulation

- Past legislation would have required TCEQ to coordinate schedules for staggered shut-downs ahead of a “weather-related” disaster

Corporate Termination

- HB 3477 filed in 2021 would have allowed the Secretary of State to terminate corporate privileges for environmental violations

Environmental Justice

- Several bills would have created TCEQ offices with a say in permits

Questions and Contact Information

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