

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

AGENDA

Wednesday, February 1, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

RULE MATTERS

- Item 1. **Docket No. 2005-1234-RUL.** Consideration of the adoption of amended Sections 335.2 and 335.41 of **30 TAC Chapter 335**, Industrial Solid Waste and Municipal Hazardous Waste.

The adoption would implement Senate Bill 1281, 79th Legislature, 2005, Regular Session, and require commercial industrial solid waste management facilities that receive waste for discharge to a publicly owned treatment works to obtain an individual permit issued under Chapter 335 or an interim general permit issued under 30 TAC Chapter 205, until such time as the individual permit is issued. The proposed rules were published in the November 11, 2005, issue of the *Texas Register* (30 TexReg 7372). (Lynn Bell, Anthony Tatu) (Rule Project No. 2005-045-335-PR)

Approve the adoption of amendments to 30 TAC Chapter 335 with the Executive Director's proposed changes and addition of preamble language that the Executive Director will consider the status of permit applications pending at SOAH when reviewing an application to extend the general permit. KW/RM; all agree.

- Item 2. **Docket No. 2005-1767-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 30**, Occupational Licenses and Registrations, Sections 30.340, 30.342, and 30.350; **30 TAC Chapter 55**, Requests for Reconsideration and Contested Case Hearings; Public Comment, Sections 55.101, 55.150, and 55.200; **30 TAC Chapter 281**, Applications Processing, Sections 281.2, 281.5, and 281.121; **30 TAC Chapter 305**, Consolidated Permits, Sections 305.1, 305.2, 305.41, 305.45, 305.121, 305.123, 305.125, and 305.127; **30 TAC Chapter 309**, Domestic Wastewater Effluent Limitation and Plant Siting, Sections 309.3 and 309.4; and **30 TAC Chapter 331**, Underground Injection Control, Sections 331.2, 331.7, 331.9, and 331.132. The commission also proposes sections in new **Chapter 222**, Subsurface Area Drip Dispersal System.

Proposed new Chapter 222 would implement House Bill (HB) 2651, 79th Legislature, 2005, Regular Session. HB 2651 amended the Texas Water Code by adding Chapter 32, Subsurface Area Drip Dispersal Systems. The proposed rulemaking would regulate

subsurface area drip dispersal systems associated with industrial wastewater treatment facilities of any capacity and certain domestic wastewater treatment facilities. In addition, the proposed rulemaking would provide a permitting procedure and scientifically based requirements for siting, design, and operation of these systems. (Sherry Smith, Michael Northcutt) (Rule Project No. 2005-050-222-PR)

Approve publication of, and hearing on, proposed amendments to 30 TAC Chapter 30, Occupational Licenses and Registrations, Sections 30.340, 30.342, and 30.350; 30 TAC Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment, Sections 55.101, 55.150, and 55.200; 30 TAC Chapter 281, Applications Processing, Sections 281.2, 281.5, and 281.121; 30 TAC Chapter 305, Consolidated Permits, Sections 305.1, 305.2, 305.41, 305.45, 305.121, 305.123, 305.125, and 305.127; 30 TAC Chapter 309, Domestic Wastewater Effluent Limitation and Plant Siting, Sections 309.3 and 309.4; and 30 TAC Chapter 331, Underground Injection Control, Sections 331.2, 331.7, 331.9, and 331.132, and sections in new Chapter 222, Subsurface Area Drip Dispersal System. KW/RM; all agree.

Item 3. **Docket No. 2005-1083-RUL.** Consideration of the adoption of amended, new, and repealed sections of **30 TAC Chapter 330**, Municipal Solid Waste.

The adoption would: 1) provide an overall topic reorganization; 2) streamline low-risk waste activities to lower agency authorizations, including allowing permits by rule and registrations by rule for certain low-impact waste management activities; 3) decrease regulatory requirements for small rural transfer stations; 4) increase ease or desirability for counties to license certain municipal solid waste (MSW) activities, within statutory constraints (see Texas Health and Safety Code, Sections 361.154 - 361.160); 5) streamline and clarify MSW transporter requirements; 6) allow a permit by rule for persons that compact or transport waste in enclosed containers or enclosed vehicles to Type IV landfills; 7) decrease regulatory requirements for medical waste management between hospitals and associated clinics; 8) revise the requirements for detecting and measuring landfill gas to establish more enforceable language; 9) establish basic levels of quality assurance and quality control reporting to be included in sampling and laboratory analysis reports submitted to the TCEQ; 10) harmonize with the commercial industrial nonhazardous waste landfill rules; 11) clarify construction activities that are allowed prior to authorization; 12) remove the ban on trench burners at MSW facilities and establish requirements for trench burners (Air Curtain Incinerators) at MSW facilities, consistent with the TCEQ permit by rule allowed by 30 TAC Section 106.496; 13) add appropriate professional geoscientist language; 14) revise the MSW permit and registration application format to ease the council of governments application reviews of MSW facility siting and compatibility with surrounding land use; 15) revise the annual/quarterly maintenance fee for transporters with a special collection route permit for enclosed containers or enclosed vehicles transported to Type IV landfills so that municipal and other transporters are required to pay the same fee; 16) add new buffer zone requirements for landfills; 17) add new groundwater monitoring well spacing requirements for landfills; 18) harmonize the MSW landfill operational requirements for claiming the standard air permit under 30 TAC Section 116.621; 19) establish an MSW standard air permit for landfills and transfer stations; 20) incorporate changes from House Bills 1053 and 1609, 79th Legislature, Regular Session, 2005; 21) improve readability, correct citations and cross-references, delete obsolete requirements, make other changes as specified in the preamble, and update the agency name; 22) remove the permit exemption for Type V processing facilities that recycle 10% of material for

beneficial use; and 23) add a new standard permit and registration condition that requires the executive director to review the permit or registration every five years. The proposed rules were published in the September 9, 2005, issue of the *Texas Register* (30 TexReg 5545). (Richard Carmichael, Todd Galiga) (Rule Project No. 2004-031-330-WS)

Continue Agenda Item Nos. 3, 4, and 5 until March 1, 2006 Agenda. Allow interested stakeholders an additional informal opportunity to file additional written comments on the Ch. 330 rules, as well as provide an additional stakeholder meeting to allow any interested stakeholders to submit additional oral comments on the Ch. 330 rules. The additional comments are preferably limited to changes made to the rules published in the *Texas Register* on September 9, 2005 as a result of comments received during the formal comment period which ended October 31, 2005 and those issues recognized as outstanding by the Municipal Solid Waste Management and Resource Recovery Advisory Council in its Resolution adopted during its meeting on January 27, 2006. Additional written comments must be filed by 5:00 P.M., Friday, February 10, 2006. The additional stakeholder meeting will be held Friday, February 10, 2006. Staff will file with the Chief Clerk their written analysis and recommendations on any comments received in this additional informal comment process by 5:00 P.M., Friday, February 17, 2006, and post the same on the TCEQ website. LS/RM; all agree.

Item 4. **Docket No. 2005-1084-RUL.** Consideration of the adoption of the repeal of Section 116.621 of **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification and the amendment of Section 106.534 of **30 TAC Chapter 106**, Permits by Rule.

The rulemaking would repeal the current standard permit authorizing air emissions from municipal solid waste landfills in conjunction with the adoption of a new standard permit in 30 TAC Chapter 330, Municipal Solid Waste. The adoption would withdraw the September 11, 2000, submittal of Section 116.621 to the United States Environmental Protection Agency as a revision to the state implementation plan. This action would also amend the permit by rule applicable to air emissions from municipal solid waste landfills to limit the authorization of air emissions to small landfills and solid waste transfer stations. The proposed rules were published in the September 9, 2005, issue of the *Texas Register* (30 TexReg 5539, 5543). (Beecher Cameron, John Minter) (Rule Project No. 2003-066-116-PR)

Refer to the marking for Item #3.

Item 5. **Docket No. 2005-1359-RUL.** Consideration for publication of proposed amendments to **30 TAC Chapter 39**, Public Notice, Sections 39.501, 39.503, and 39.651. The proposed rulemaking would implement the requirements of Sections 1, 2, and 3 of House Bill 1609, 79th Legislature, 2005, Regular Session.

The proposed rulemaking would make public meetings for solid waste applications discretionary rather than mandatory. (John E. Williams) (Rule Project No. 2005-068-039-LS)

Refer to the marking for Item #3.

EXECUTIVE SESSION

- Item 6. **Docket No. 2006-0001-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 Commission did not meet in Executive Session.

- Item 7. **Docket No. 2006-0002-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 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 Commission did not meet in Executive Session.

- Item 8. **Docket No. 2006-0003-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 Commission 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/ Matt Beeter
Assistant General Counsel,
Matt Beeter

3/28/2006
Date