

Commissioner Ralph Marquez  
Commissioner Larry Soward

## AGENDA

Wednesday, March 8, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

- Item 1. **Docket No. 2005-1620-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 39**, Public Notice, Sections 39.403, 39.411, 39.419, and 39.420, the repeal of Section 39.404, and new Section 39.404; amendments to **30 TAC Chapter 50**, Action on Applications and Other Authorizations, Section 50.113; 30 TAC Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment, Section 55.201; **30 TAC Chapter 331**, Underground Injection Control, Section 331.11; new **30 TAC Chapter 91**, Alternative Public Notice and Public Participation Requirements for Specific Designated Facilities, Sections 91.10, 91.20, 91.30, 91.100, 91.110, and 91.120; and **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification; new Subchapter L, Permits for Specific Designated Facilities, Sections 116.1400, 116.1402, 116.1404, 116.1406, 116.1408, 116.1410, 116.1414, 116.1416, 116.1418, 116.1420, 116.1422, 116.1424, 116.1426, and 116.1428. Section 39.403(b)(8) - (10) and new (f), the repeal of Section 39.404, and new Section 39.404 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP). The commission also would withdraw Sections 39.411, 39.419, and 39.420, as submitted to EPA on July 31, 2002, and submit Sections 39.411(a), (b)(1) - (6) and (8) - (10), (c)(1) - (6), and (d); 39.419(a), (b), (d), and (e); and 39.420(a), (b), and (c)(3) and (4) as a revision to the SIP. Chapter 116, new Subchapter L will also be submitted as a revision to the SIP.

The rulemaking would implement provisions of House Bill (HB) 2201, 79th Legislature, 2005, Regular Session. HB 2201 identifies the United States Department of Energy's FutureGen research and creates a new set of permitting actions for FutureGen projects, specifically that permits for FutureGen projects are not subject to the contested case hearing process. Chapter 91 would address existing statutory requirements for the permitting and public participation process still applicable to FutureGen projects but eliminate the requirement of a contested case hearing. Chapter 116, new Subchapter L, would eliminate the requirement of a contested case hearing and address existing statutory requirements for the permitting and public participation process not affected by HB 2201 but still applicable to FutureGen projects. The proposed rules were published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7810) and the December 16, 2005, issue of the *Texas Register* (30 TexReg 8401). (Michael Wilhoit, Booker Harrison) (Rule Project No. 2005-053-091-PR)

Item not considered by commissioners at this agenda.

Item 2. **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)

Item not considered by commissioners at this agenda.

Item 3. **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)

Item not considered by commissioners at this agenda.

Item 4. **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)

Item not considered by commissioners at this agenda.

#### **HEARING REQUEST(S)/REQUEST(S) FOR RECONSIDERATION**

Item 5. **Docket No. 2005-2082-AIR.** Consideration of application by **Hydro Conduit of Texas, LP** for a New Air Quality Standard Permit to authorize the construction and operation of a concrete batch plant. The proposed facility is to be located at 700 South Main Street, in Baytown, **Harris County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Helga Chatelle/Brad Patterson)

Continued to the April 12, 2006 agenda.

Item 6. **Docket No. 2006-0038-AIR.** Consideration of application by **Levelland/Hockley County Ethanol, LLC** for New Air Quality Permit No. 74278 to authorize the construction of an ethanol production plant. The proposed plant will be located at the southeast corner of the intersection of Highway 114 and FM 2646, approximately three miles east of the city of Levelland, **Hockley County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Tony Ionescu/Brad Patterson)

Continued to the April 26, 2006 agenda.

#### **AGRICULTURAL ENFORCEMENT AGREED ORDER**

Item 7. **Docket No. 2005-1270-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harmen Waterlander dba Linquenda Dairy** in **Erath County**; RN102670114; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

## AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 8. **Docket No. 2005-1481-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Baylor University in McLennan County**; RN100215813; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Miriam Hall, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 9. **Docket No. 2004-1993-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Industrial Models, Inc. in Cooke County**; Air Account No. CV0058H, RN100225952; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brian Lehmkuhle, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 10. **Docket No. 2005-1303-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Millennium Petrochemicals Inc. in Harris County**; RN100224450; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Daniel Siringi, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 11. **Docket No. 2004-1661-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **E.I. Dupont De Nemours and Company in Victoria County**; RN102663671; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Tel Croston, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 12. **Docket No. 2005-1203-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Kippur Corporation in El Paso County**; RN101694933; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 13. **Docket No. 2005-1541-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Union Tank Car Company in Liberty County**; RN100224575; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7,

and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Daniel Siringi, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 14. **Docket No. 2005-0489-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, LP in Hemphill County**; RN100216407; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward Moderow, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 15. **Docket No. 2005-1705-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Public Service Company of Oklahoma in Wilbarger County**; RN101062255; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Colin Barth, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 16. **Docket No. 2005-1111-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Diamond Shamrock Refining Company, L.P. in Moore County**; RN100210517; for air quality violations pursuant to Tex. Health & Safety Code chs. 382 and 341, Tex. Water Code chs. 5, 7, and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 17. **Docket No. 2005-1253-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Sand & Gravel Co., Inc. in Oldham County**; RN104556030; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 18. **Docket No. 2005-1124-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Fernando Munoz, Jr. dba Zapata Ready Mix, Inc. in Zapata County**; RN102199460; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 19. **Docket No. 2005-1900-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tiffany Brick Co., L.P. dba Hanson Brick in Bastrop County**; RN100212034; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Daniel Siringi, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 20. **Docket No. 2005-1492-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Marathon Ashland Petroleum LLC in Galveston County**; RN100210608; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kimberly Morales, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 21. **Docket No. 2005-1669-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **United Equipment Rentals Gulf, L.P. in El Paso County**; RN100810977; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ruben Soto, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 22. **Docket No. 2005-1011-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Port Elevator-Brownsville, L.C. in Cameron County**; RN100841535; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

#### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 23. **Docket No. 2005-1475-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Air Liquide Large Industries U.S. LP in Harris County**; RN100233998; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 24. **Docket No. 2005-1460-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harlingen Shrimp Farms, Ltd. in Cameron County**; RN102341146; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality,

including specifically 30 Texas Administrative Code ch. 60. (Joseph Daley, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 25. **Docket No. 2005-1533-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **David Starnes dba Dr. Detail in Montgomery County**; RN104676325; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Catherine Albrecht, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

### **LICENSED IRRIGATOR ENFORCEMENT AGREED ORDER**

Item 26. **Docket No. 2003-0648-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Randy Sweetland in Harris and Montgomery Counties**; TCEQ ID No. None; for licensing violations pursuant to Tex. Water Code chs. 7 and 34 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

### **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 27. **Docket No. 2004-0856-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Cisco in Eastland County**; RN101389104; for water quality and drinking water quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 28. **Docket No. 2004-1026-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Samuel Holcomb dba Holcomb Oil Recycling in Harris County**; Solid Waste Registration No. 66471, Used Oil Transporter No. A85038, RN102777174; for industrial & hazardous waste, used oil, and used oil filter violations pursuant to Tex. Health & Safety Code chs. 361 and 371, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 29. **Docket No. 2004-1438-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Onyx Environmental Services LLC in Jefferson County**; Air Account No. JE0024D; RN102599719; for air quality and industrial & hazardous waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental

Quality, including specifically 30 Texas Administrative Code ch. 60. (Daniel Siringi, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

### **MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER**

Item 30. **Docket No. 2005-1830-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Wright Materials, Inc.** in **San Patricio County**; RN103371134; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Howard G. Willoughby, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 31. **Docket No. 2005-1125-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Aqua Utilities, Inc.** in **Rockwall County**; RN101513109; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 32. **Docket No. 2005-0870-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Arcola** in **Fort Bend County**; RN102096815; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 33. **Docket No. 2002-1167-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Galveston County WCID No. 1** in **Galveston County**; RN102181377; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 34. **Docket No. 2005-1663-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Double Diamond Utilities Co.** in **Hill County**; RN102329802; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Miriam Hall, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 35. **Docket No. 2005-0901-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Stanley Lake Municipal Utility District in Montgomery County**; RN102076338; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 36. **Docket No. 2005-0443-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **David Joseph Sorrell in Wood County**; RN101520013; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ruben Soto, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 37. **Docket No. 2005-1239-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Bandera Independent School District in Bandera County**; RN101635688; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ruben Soto, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

#### **PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 38. **Docket No. 2005-1167-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Commercial Lubricants Corporation in Dallas County**; RN100525344; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Howard Willoughby, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 39. **Docket No. 2005-1296-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **GK Singh Enterprises, L.L.C. dba Express EZ Mart in Grayson County**; RN102347879; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jaime Garza, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 40. **Docket No. 2005-0395-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **MK Family Limited Partnership dba Jiffy Mart 1 in Williamson County**; Petroleum Storage Tank Facility ID No. 22736, RN102713831; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas

Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 41. **Docket No. 2005-1591-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Luling Mini Mart, Inc. in Guadalupe County**; RN103001848; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 42. **Docket No. 2005-1458-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lakshmi Balaji Inc. dba Lockhart Xpress FFP 3298 in Caldwell County**; RN102346202; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 43. **Docket No. 2005-1680-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **MSC Group, Inc. in Dallas and Wichita Counties**; RN103112678; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7, 37, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ruben Soto, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 44. **Docket No. 2005-0618-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Amirali Ladhani and Fatima Ladhani dba Rick's Drive In in Atascosa County**; RN101907780; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Howard G. Willoughby, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 45. **Docket No. 2005-1486-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Willtex Stores, L.P. dba BIG'S 301 and BIG'S 302 in La Salle County**; RN101908465, RN102272697; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Anita Keese, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 46. **Docket No. 2005-1626-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sha Investment Corp. dba Diamond Shamrock 0758 in Dallas County**;

RN102402542; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jaime Garza, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 47. **Docket No. 2005-1587-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kwang Ho Park dba Oak Tree Texaco in Harris County**; RN101891141; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cari-Michel La Caille, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 48. **Docket No. 2005-1730-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Saidul Kabir dba Quick Shop in Nacogdoches County**; RN102438835; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Marlin Bullard, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 49. **Docket No. 2005-1803-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **LH Texas OpCo, LP dba The Richardson Hotel in Dallas County**; RN101538767; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Shontay Wilcher, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 50. **Docket No. 2005-1127-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **H&H Snacks, Inc. dba Snack and Save 2, Snack and Save 9, and So-Lo Grocery 101 in Tom Green County**; RN101431831, RN101432581, RN101894889; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Amy Burgess, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 51. **Docket No. 2004-2001-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Army & Air Force Exchange Service in McLennan County**; Petroleum Storage Tank Registration No. 56883, RN103185112; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Colin Barth, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 52. **Docket No. 2004-1622-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **ZAK Business Inc. dba Kountry Mart in Liberty County**; TCEQ ID Nos. 67946 and RN102434842; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Jennifer Cook)

Approve the Agreed Order. LS/RM; all agree.

Item 53. **Docket No. 2004-0462-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Ennis West End, Inc. dba Speedmax 1 in Dallas County**; TCEQ ID Nos. 0043275 and RN101538007; for petroleum storage tank violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

Approve the Agreed Order. LS/RM; all agree.

Item 54. **Docket No. 2004-1246-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hurein S. Corporation dba BS Quick Stop Grocery 2 in Montgomery County**; TCEQ ID Nos. 44259 and RN101866978; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Justin Lannen, Jennifer Cook)

Approve the Agreed Order. LS/RM; all agree.

Item 55. **Docket No. 2003-1113-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Steve Eller dba Spencer Mobil in Harris County**; TCEQ ID Nos. 32214 and RN101847168; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Shannon Strong, Jennifer Cook)

Approve the Agreed Order. LS/RM; all agree.

#### **PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 56. **Docket No. 2004-1971-PST-E.** Consideration of a Default Order assessing administrative penalties against **Dexter Simpson dba Overton Road Chevron in Dallas County**; TCEQ ID Nos. 75267 and RN102835766; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Davis, Jennifer Cook)

Item remanded to the Executive Director.

Item 57. **Docket No. 2004-1970-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Abel Montes dba Sunrise 2 in Hidalgo County**; TCEQ ID Nos. 61947 and RN102719200; for petroleum storage tank violations pursuant to

Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Davis, Jennifer Cook)

Item remanded to the Executive Director.

Item 58. **Docket No. 2005-0891-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Moghul Empire Inc. dba Kolkhorst - Ali 12** in **McLennan County**; TCEQ ID Nos. 29158 and RN102044096; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Davis, Jennifer Cook)

Item remanded to the Executive Director.

### **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 59. **Docket No. 2005-1489-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Camp Red Oak Springs** in **Newton County**; RN101377745; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sandy VanCleave, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 60. **Docket No. 2005-1527-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Sabine Mining Company** in **Harrison County**; RN101256451; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jaime Garza, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 61. **Docket No. 2005-1019-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Moody** in **McLennan County**; RN102678406; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 62. **Docket No. 2005-1162-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Trinity Bay Conservation District Industrial Development Corporation** in **Chambers County**; RN101277101, RN101276129, RN101278489; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 63. **Docket No. 2005-0854-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Romeo Garza dba TS Lonesome Dove Saloon** in **Harris County**; RN101196145; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Catherine Albrecht, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 64. **Docket No. 2005-1077-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Robert Heiner dba HHH Water System** in **Limestone County**; RN104443734; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 65. **Docket No. 2005-1528-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hudson Water Supply Corporation** in **Angelina County**; RN101455954; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 66. **Docket No. 2005-1348-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rio Hondo** in **Cameron County**; RN101209195; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 67. **Docket No. 2005-1216-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Joann Hendon dba Bandera Pass Water System** in **Bandera County**; RN101220192; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 68. **Docket No. 2005-0904-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Walnut Creek Special Utility District** in **Parker County**; RN101190056; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Cheryl Thompson, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 69. **Docket No. 2005-1737-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Limestone Marina, Inc.** in **Limestone County**;

RN102684321; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 70. **Docket No. 2005-1423-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Groesbeck in Limestone County**; RN101384741; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 71. **Docket No. 2005-1921-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Flagstop Enterprises, Inc. dba Flagstop in Bexar County**; RN101283083; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Dana Shuler, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 72. **Docket No. 2005-1022-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Elm Ridge Water Company, Inc. in Comal County**; RN101210672; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sandy VanCleave, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 73. **Docket No. 2005-1911-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bandera County Fresh Water Supply District 1 in Bandera County**; RN101209468; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Trina Grieco, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 74. **Docket No. 2005-1391-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Hamlin in Jones County**; RN101392504; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Tel Croston, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

Item 75. **Docket No. 2005-1505-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Ronald Yeates in Harris County**; RN101232684; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the

rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

Approve the Agreed Order. LS/RM; all agree.

### **PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 76. **Docket No. 2005-0238-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Don English dba English Acres in Jim Wells County**; TCEQ ID Nos. 1250033 and RN102670783; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Davis, Jennifer Cook)

Approve the Default Order. LS/RM; all agree.

### **MISCELLANEOUS AGENDA ITEMS**

Item 77. **Docket No. 2004-0660-UCR.** Consideration of a request for a Commission order approving a contract designating service areas between the **City of Bulverde**, water CCN No. 12864 and **Lomas Water Company, Inc.**, water CCN No. 12867, in **Comal County**, Texas, pursuant to Section 13.248 of the Texas Water Code. The agreement stipulates that Lomas and Bulverde will be dually-certificated to provide water service to the Comal Trace Subdivision. (Todd Galiga, Brian Dickey)

Approve the order approving the contract designating service areas between the City of Bulverde and Lomas Water Company, Inc. LS/RM; all agree.

Item 78. **Docket No. 2005-1451-WTR.** Consideration of a Resolution to extend the existence of the **Water Utility Operator Licensing Advisory Committee** of the Texas Commission on Environmental Quality (the Committee) until August 31, 2009 and to appoint five members to the Committee. The Committee is an advisory committee that advises and assists the Texas Commission on Environmental Quality on matters related to training and licensing of water and wastewater operators. These new members would replace five members whose terms expired on August 31, 2005. (Noreen Helmle, Ross Henderson)

Adopt the Executive Director's proposed resolution appointing five individuals to the Committee and extending the existence of the Committee until August 31, 2009. LS/RM; all agree.

Item 79. **Docket No. 2006-0115-MIS.** Consideration of nominations and appointment of an "elected official from a municipality with a population between 25,000 and 100,000" to serve on the **Municipal Solid Waste Management and Resource Recovery Advisory Councils**. (Jackie S. Hardee and Gary W. Trim)

Adopt the Executive Director's appointment of the Honorable James S. Wyatt to the council. LS/RM; all agree.

Item 80. **Docket No. 2006-0104-MIS.** Approval of the recertification of the **Houston-Galveston Area Emission Reduction Credit Organization** (AERCO) for another twelve-year term.

Senate Bill 513 73<sup>rd</sup> R.S.(1993) (Texas Health and Safety Code, Sections 384.001-018) gave the council of governments in an ozone nonattainment area the authority to establish an AERCO with the commission's approval. The purpose of the Houston-Galveston AERCO is to promote air quality improvement and economic development through the reduction of ozone precursor emissions and by generation of emission reduction credits certifiable by the TCEQ's bank for the nonattainment area. The Houston-Galveston AERCO was approved on March 23, 1994 and is due for recertification on March 23, 2006. Upon approval, the AERCO exists for a twelve-year term or in the absence of recertification, dissolution, pursuant to the Texas Health and Safety Code Section 384.018. The recertification would prevent dissolution of the Houston-Galveston AERCO. (Steve Sun, Pinar Dogru)

Grant the Executive Director's motion for continuance to May 17, 2006 agenda and authorize the Executive Director to conduct a public meeting in Houston. LS/RM; all agree.

### **RULE MATTERS**

Item 81. **Docket No. 2006-0055-RUL.** Consideration of a petition for rulemaking under 30 TAC Section 20.15.

The petition was filed on January 11, 2006, by L&W Innovations, LLC. The petitioner requests that the portable fuel container rule in **30 TAC Chapter 115**, be modified to allow unfilled, emergency portable fuel containers that are not intended for reuse to be sold in Texas. (Ashley Forbes, Les Trobman) (Rule Project No. 2006-020-PET-NR)

Adopt the Executive Director's recommendation to initiate rulemaking to amend Chapter 115. LS/RM; all agree.

Item 82. **Docket No. 2005-2016-RUL.** Consideration for publication of proposed amendments to **30 TAC Chapter 37**, Financial Assurance, Subchapter C, Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action, Section 37.271, Local Government Financial Test; Subchapter D, Wording of the Mechanisms for Closure, Post Closure, and Corrective Action, Section 37.371, Local Government Financial Test; and Subchapter R, Financial Assurance for Municipal Solid Waste Facilities, Section 37.8011, Definitions.

The proposed rulemaking would implement House Bill 2131, 79th Legislature, 2005, Regular Session. The proposed rulemaking would expand the definition of local government to include local government corporations and conservation and reclamation districts and expand the type of bonds that may be used as part of the local government financial test. (Rob Norris, Susan White) (Rule Project No. 2005-075-037-AS)

Approve publication of proposed amendments to 30 TAC Chapter 37. LS/RM; all agree.

Item 83. **Docket No. 2005-1963-RUL.** Consideration for publication of proposed amendments to **30 TAC Chapter 25**, Environmental Testing Laboratory Accreditation and Certification, Section 25.9 and Section 25.62.

The proposed rulemaking would update a reference to the agency's laboratory accreditation standards and add another potential source of proficiency test samples for drinking water laboratories. (Steve Stubbs, Kathy Brown) (Rule Project No. 2006-014-025-CE)

Approve publication of proposed amendments to 30 TAC Chapter 25. LS/RM; all agree.

- Item 84. **Docket No. 2005-1767-RUL.** Consideration for publication of, and hearing on, proposed new Subchapter H, Quarry Discharges to the John Graves Scenic Riverway, Sections 311.71 - 311.82 of **30 TAC Chapter 311**, Watershed Protection; and proposed new Subchapter W, Financial Assurance for Quarries, Sections 37.9160, 37.9165, 37.9170, 37.9175, 37.9180, 37.9185, 37.9190, 37.9195, 37.9200, 37.9205, 37.9210, 37.9215, 37.9220, 37.9230, 37.9235, and 37.9240 of **30 TAC Chapter 37**, Financial Assurance.

The proposed rulemaking would implement Senate Bill (SB) 1354, 79th Legislature, 2005, Regular Session. SB 1354 amended the Texas Water Code by adding Chapter 26, Subchapter M, Water Quality Protection Areas. The proposed rulemaking under Chapter 311, Subchapter H, addresses permitting and financial responsibility for quarries located within a water quality protection area in the John Graves Scenic Riverway. The proposed rulemaking under Chapter 37, Subchapter W, establishes additional financial assurance requirements for quarries located within a water quality protection area in the John Graves Scenic Riverway. (Kimberly Wilson, Michael Northcutt) (Rule Project No. 2005-051-037-PR)

Approve publication of, and hearing on, proposed new Subchapter H of 30 TAC Chapter 311 and new Subchapter W of 30 TAC Chapter 37. LS/RM; all agree.

- Item 85. **Docket No. 2005-1480-RUL.** Consideration for publication of proposed amendments to Sections 335.1, 335.10 - 335.12, 335.15, 335.41, 335.67 - 335.69, 335.76, 335.112, and 335.152 of **30 TAC Chapter 335**, Industrial Solid Waste and Municipal Hazardous Waste.

The proposed rulemaking would implement the United States Environmental Protection Agency's new uniform manifest form, continuation sheet, and instructions for completing the form, as published in the March 4, 2005, issue of the *Federal Register* (70 FR 10776), and amended in the June 16, 2005, issue of the *Federal Register* (70 FR 35034). The proposed rulemaking would also add three definitions, change when a container is empty, and modify placarding requirements. Manifesting requirements for Texas Class 1 wastes are proposed to conform to the new hazardous waste manifest requirements. The new form would standardize the content and appearance; enhance reporting of international waste shipments (imports and exports); establish processing procedures for rejected waste shipments and shipment container residues; and reduce or eliminate many of the variabilities in state manifest requirements. (Ellette Vinyard, Daniel Long) (Rule Project No. 2005-060-335-PR)

Approve publication of proposed amendments to 30 TAC Chapter 335. LS/RM; all agree.

## **EXECUTIVE SESSION**

- Item 86. **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 Commissioners did not meet in executive session.

Item 87. **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 Commissioners did not meet in executive session.

Item 88. **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 Commissioners 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.**

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, March 8, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

Item continued from the January 25, 2006 agenda.

- Item 1. **TCEQ Docket No. 2004-0539-PST-E; SOAH Docket No. 582-05-2744.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Johnny M. Craven dba Craven Truck Center in Gonzales County, Texas**; TCEQ Petroleum Storage Tank Facility ID No 20129; regarding petroleum storage tank violations pursuant to 30 Tex. Admin. Code §§334.49(c)(4), 334.49(c)(2)(C), 334.50(b)(1)(A), and 334.50(b)(2)(A)(ii), 334.50(b)(2)(A)(i)(III), and Tex. Water Code §§ 26.3475(d), 26.3475(a), 26.3475(c)(1), and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's Order with the following substitute corrective action measures: (1) surrender his delivery certificate; (2) certify the underground tanks are empty; and (3) meet ongoing requirements for ownership of empty underground storage tanks. KW/RM, LS opposed.

AGENDA

Wednesday, March 8, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

Item 1. **TCEQ Docket No. 2005-0073-PWS-E, SOAH Docket No. 582-06-0297.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Mark Stewart dba Stewart Water and Dona Stewart dba Stewart Water in Cass County**; TCEQ ID No. PWS-0340019; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 5 and 13, and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's Order with the exceptions noted by the Executive Director at agenda. LS/KW; all agree.

Item 2. **Docket No. 2002-0842-PST-E. SOAH Docket No. 582-05-3371.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Rafati, Inc. dba El Paso Convenience Store in Bexar County**; TCEQ PST Registration No. 28954; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, specifically including ch. 60.

Adopt the ALJ's Order with the Executive Director's exceptions. LS/RM; all agree.

/s/ Anne Rowland  
Assistant General Counsel,  
Anne Rowland

4-14-2006  
Date