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Chairman H.S. Buddy Garcia                      OLD BUSINESS AGENDA  
Commissioner Larry R. Soward  
Commissioner Bryan W. Shaw, Ph.D.    Wednesday, January 30, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the October 24, 2007 agenda.

Item 1. [Docket No. 2006-0685-SLG-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Paul Mullin dba Paul Mullin's Septic Tank Service in Angelina County**; RN103150629; for water quality violations pursuant to Tex. Health & Safety Code ch. 361, 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. (Audra Ruble, David Van Soest)

Approve the Agreed Order. BS/BG; LS oppose.

Item continued from the October 24, 2007 agenda.

Item 2. [Docket No. 2006-1958-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ahmad B. Goushey in Collin County**; RN102224888; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, 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. (Judy Kluge, Steven Lopez)

Approve the Agreed Order. BS/BG; LS oppose.

## AGENDA

Wednesday, January 30, 2008

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

- Item 1. [Docket No. 2007-1144-IWD](#). **Interstate Southwest, Ltd**, which operates an iron and steel forge facility, has applied for a major amendment to TPDES Permit No. WQ0004073000 to authorize the discharge of process wastewaters from iron and steel forging operations via Outfall 001. The current permit authorizes the discharge of once through cooling water, boiler blowdown, wash down water and storm water at a daily average (dry weather) flow not to exceed 500,000 gallons per day and a daily maximum (dry weather) not to exceed 1,000,000 gallons per day via Outfall 001. The facility is located adjacent to the west side of the Texas and New Orleans Railroad, with an entrance roadway off State Highway 508, approximately one mile south of the intersection of State Highway 508 and Farm-to-Market Road 379, and approximately three miles south of the City of Navasota, **Grimes County**, Texas.

Grant the hearing requests of Benjamin F. Swank III and Sharon Swank Backhus on the issues of: whether the Applicant's compliance history warrants the issuance of major amendment to the permit; whether the proposed discharge will have an adverse effect on Sandy Creek and the Brazos River; and whether the proposed discharge would adversely effect the use and enjoyment of the requesters property including adverse effect of cattle raising and vegetation. Refer the matter to SOAH with a maximum hearing duration of nine months and direct the Executive Director to participate in the hearing. LS/BS; all agree.

- Item 2. [Docket No. 2007-1496-AGR](#). Consideration of the application by **Jewel Alt and Oene Keuning, dba O-Kee Dairy** for a major amendment of TPDES No. WQ0004108000, for a Concentrated Animal Feeding Operation (CAFO), to authorize the applicant to expand an existing dairy facility from 690 head to a maximum capacity of 999 head. The facility is located at 4745 County Road 207, Hico, Texas 76457 in **Hamilton County**, Texas. The Commission will also consider hearing requests, related responses and replies, public comment and the Executive Director's response to comments. (Robert Brush, Charles Maguire)

Deny the hearing request, adopt the Executive Director's Response to Comments, approve the major amendment, and issue the draft permit. BS/LS; all agree.

- Item 3. [Docket No. 2007-1302-MSW](#). Consideration of an application by **IESI TX Landfill, LP** for a permit to authorize the Jacksboro Landfill, a Type I Municipal Solid Waste Landfill Facility (Proposed Permit No. 2332). The proposed facility will be accepting waste consisting of household solid waste, commercial solid waste, rubbish, yard waste, construction/demolition waste, Class 2 and Class 3 non-hazardous industrial solid waste and certain special wastes. The waste acceptance rate into the landfill will be an initial rate of approximately 500 tons per day (tpd), (based on 312 days-per-year of operation), and increasing to a maximum acceptance rate of

approximately 3,035 tpd. The proposed facility will be located approximately 13 miles southeast of the City of Jacksboro and approximately 1.25 miles south of the intersection of State Highway 199 and Farm to Market Road 1156 in **Jack County**, Texas. The Commission will also consider requests for hearing or reconsideration and related responses and replies and public comment and the Executive Director's Response to Comments. (Ron Olson/Teres Jimenez)

Grant the hearing requests of Dr. James Henderson, Gloria Sprencel, and Two Bush Community Action Group on the issues of: whether there was proper notice of the landfill application; whether the site operation plan provides adequate controls for fire protection; odors, dust and air criteria; landfill gas; vectors; scavenging; windblown waste; screening of prohibited waste; ponded water; and site access, and is adequate to train employees and guide day-to-day operations of the facility; whether operation of the landfill will adversely affect the health of the requestors and the requestors' families; whether the proposed landfill is compatible with surrounding land uses and residential growth trends; whether the proposed buffer zones and screening are adequate; whether the application includes adequate transportation information; whether the Applicant properly evaluated and presented information on the vertical and horizontal flow characteristics of groundwater; whether the proposed groundwater monitoring system includes the proper number and location of wells, screened at the proper depths, for adequate monitoring; whether the liner and leachate system are adequate to protect against groundwater contamination; whether the geotechnical evaluation is adequate to ensure the stability of slopes and materials used for sidewalls; whether the proposed landfill is compatible with the Regional Solid Waste Management Plan; whether the landfill application provides adequate geologic and hydrologic information; whether the application includes the required information on soils; whether the Applicant provided adequate information regarding proposed surface water controls, floodplains, drainage route runoff from the facility, and off-site storm water contamination, including Jasper Creek; whether the appropriate rainfall data was used in the calculation of surface drainage; whether the proposed landfill is located in a wetland or an area with faults and fractures; whether the Applicant adequately provides for closure and post closure plans and proposes adequate financial assurance; whether the Applicant adequately evaluated the presence of and potential adverse effects of the landfill on endangered and threatened species; whether the proposed permit is adequately protective to prevent nuisance conditions; whether the Applicants compliance history warrants the granting of the permit; whether the application includes adequate proof of property interests; whether the application adequately identifies and evaluates all springs, water wells, oil and gas wells, homes, churches, and other site specific issues requiring special consideration under Commission rules; and whether the permit term should be for life of the facility. Deny the remaining hearing requests and issues. Refer the matter to SOAH for a maximum hearing duration of nine months, direct the Executive Director to participate in the hearing, deny the requests for reconsideration; and request that the ALJ submit along with the Proposal for Decision a draft order with Findings of Fact, Conclusions of Law and Ordering Provisions. BS/LS; all agree.

#### **AGRICULTURAL ENFORCEMENT AGREED ORDERS**

Item 4. [Docket No. 2005-1654-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Adolfo Tapia** in **Tom Green County**; TCEQ ID No. RN102953007; for a dairy operation water quality violation 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. (Kari L. Gilbreth, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

Item 5. [Docket No. 2007-1168-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy in Comanche County**; RN103769881; 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. (Samuel Short, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 6. [Docket No. 2007-1213-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Optimum Calves, L.L.C. and Roger Gomez dba Optimum Calves in Bailey County**; RN104925334; 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. (Lynley Doyen, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

#### **AGRICULTURAL ENFORCEMENT DEFAULT ORDER**

Item 7. [Docket No. 2004-1637-AGR-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Mid-West Feed Yards, Inc. in Tom Green County**; TCEQ ID No. RN101519486; for dairy operation water quality violations pursuant to Tex. Water Code ch. 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

Approve the Default Order. BS/BG; all agree.

#### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 8. [Docket No. 2007-0400-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Bayer MaterialScience LLC in Chambers County**; RN100209931; 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. (Nadia Hameed, David Van Soest)

Approve the Agreed Order. BS/BG; all agree.

Item 9. [Docket No. 2007-1217-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Bruce's, Inc. in Jasper County**; RN102541794; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 10. [Docket No. 2007-1432-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Baylor College of Medicine in Harris County**; RN100216324; 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. (Libby Hogue, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 11. [Docket No. 2007-1190-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enterprise Products Operating LLC in Sutton County**; RN102615465; 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. (Audra L. Ruble, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 12. [Docket No. 2007-0771-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Formosa Plastics Corporation, Texas in Calhoun County**; RN100218973; 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. (Samuel Short, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 13. [Docket No. 2007-1255-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Love's Travel Stops & Country Stores, Inc. dba Love's Country Store 214 in El Paso County**; RN102879442; 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. (Harvey Wilson, Steven Lopez)

Approve the Agreed Order. BS/BG; all agree.

Item 14. [Docket No. 2007-1161-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Water World Fiberglass Pools (U.S.A.) Inc. in Guadalupe County**; RN104314273; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 15. [Docket No. 2007-1130-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Viking Pools, LLC in Midland County**; RN101061844; 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. (Lindsey Jones, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 16. [Docket No. 2007-0909-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Transcontinental Gas Pipe Line Corporation** in **Matagorda County**; RN100242494; 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. (Audra L. Ruble, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 17. [Docket No. 2007-1406-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Tige Boats, Inc.** in **Taylor County**; RN104316500; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 18. [Docket No. 2007-1330-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **The Hertz Corporation dba Hertz Car Rental 2183 11** in **El Paso County**; RN100821040; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 19. [Docket No. 2007-0484-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Sunoco, Inc. (R&M)** in **Harris County**; RN102888328; 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. (Nadia Hameed, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 20. [Docket No. 2007-1099-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Red Ewald, Inc.** in **Karnes County**; RN100212612; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 21. [Docket No. 2007-1237-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **NRG Texas LP** in **Limestone County**; RN100542927; 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. (Samuel Short, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 22. [Docket No. 2007-1135-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Merisol USA LLC in Harris County**; RN100214576; 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. (James Nolan, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 23. [Docket No. 2007-1280-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ya Razzak, Inc. dba Fast Trak in El Paso County**; RN100814342; 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. (Bryan Elliott, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 24. [Docket No. 2007-1389-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Fritz Industries, Inc. in Dallas County**; RN100218023; 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. (Libby Hogue, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 25. [Docket No. 2007-1095-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Flint Hills Resources, LP in Nueces County**; RN100235266; 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. (Rebecca Johnson, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

#### **DRY CLEANER ENFORCEMENT AGREED ORDERS**

Item 26. [Docket No. 2006-0695-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties against **Kelvin Ho aka Toan A. Ho dba Crystals Cleaners & Alterations in Tarrant County**; TCEQ ID No. RN104959929; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Mary E. Coleman, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

Item 27. [Docket No. 2006-1643-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jose B. Juarez dba JB Cleaners in Harris County**; TCEQ ID No. RN104028014; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Tracy Chandler, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

- Item 28. [Docket No. 2006-0994-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aguas Mart, L.L.C. dba A1 Dry Cleaners in Webb County**; RN104967260; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Rajesh Acharya, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

- Item 29. [Docket No. 2006-1476-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties against **Summit Dry Cleaners, Inc. dba Summit Cleaners in Harris County**; TCEQ ID Nos. RN102167004 and RN104097712; for dry cleaner registration violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Dinniah M. Chahin, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

- Item 30. [Docket No. 2006-0891-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties against **Abdulaziz Ibrahim dba Specialty Cleaners in Dallas County**; TCEQ ID No. RN103955332; for dry cleaner registration violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Mary E. Coleman, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

- Item 31. [Docket No. 2006-1389-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Canyon Cleaners, Inc. dba Sienna Cleaners in Fort Bend County**; RN104996137; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Rajesh Acharya, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

#### **DRY CLEANER ENFORCEMENT DEFAULT ORDER**

- Item 32. [Docket No. 2006-1213-DCL-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Zul Noorane dba Best Cleaners in Harris County**; TCEQ ID No. RN104209259; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Jacquelyn Boutwell, Jennifer Cook)

Approve the Default Order. BS/BG; all agree.

#### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS**



Item 33. [Docket No. 2007-1091-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Common Development Group 06, LTD.** in **Bexar County**; RN105135354; for Edwards Aquifer 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 34. [Docket No. 2007-1199-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Forestar (USA) Real Estate Group Inc.** in **Bexar County**; RN102759537; for Edwards Aquifer 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. (Lynley Doyen, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

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

Item 35. [Docket No. 2007-0807-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Charley's Concrete Co., Ltd.** in **Wise County**; RN102776549; 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. (Jorge Ibarra, P.E., David Van Soest)

Approve the Agreed Order. BS/BG; all agree.

Item 36. [Docket No. 2007-1098-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chusei (U.S.A.), Inc. dba Quest Separation Technologies, Inc.** in **Harris County**; RN100660612; 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. (Samuel Short, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 37. [Docket No. 2007-1083-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **P Chem, Inc.** in **Houston County**; RN101514164; 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. (Samuel Short, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 38. [Docket No. 2007-1112-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houston Marine Services, Inc.** in **Harris County**; RN102074739; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

- Item 39. [Docket No. 2007-1070-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Printpack, Inc. in Orange County**; RN102076163; 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. (Heather Brister, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

- Item 40. [Docket No. 2007-0819-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Tejas Industries, Ltd. in Deaf Smith County**; RN102287257; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

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

- Item 41. [Docket No. 2003-0051-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Webb County in Webb County**; TCEQ ID Nos. RN102286986 and RN102698719; for public drinking water and water quality violations pursuant to Texas Health & Safety Code ch. 341, Texas Water Code chs. 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. BS/BG; all agree.

- Item 42. [Docket No. 2006-0999-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hartley County in Hartley County**; RN102215324; for occupational licensing and municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 37, 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. BS/BG; all agree.

#### **MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

- Item 43. [Docket No. 2004-0191-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Waco in McLennan County**; Municipal Solid Waste Permit No. 948-A; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, 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, Steven Lopez)

Approve the Agreed Order. BS/BG; all agree.

Item 44. [Docket No. 2007-1187-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Custom Crushed Stone, Inc.** in **Bexar County**; RN104159934; 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. (Clinton Sims, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 45. [Docket No. 2007-0808-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **K&M Broussard Co.** in **Jefferson County**; RN104859376; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 371, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Clinton Sims, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

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

Item 46. [Docket No. 2007-1050-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bloomington Independent School District** in **Victoria County**; RN101274140; 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. (Harvey Wilson, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 47. [Docket No. 2005-0502-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Collinsville** in **Grayson County**; Texas Pollutant Discharge Elimination System Permit No. 10151001 and RN101919959; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 48. [Docket No. 2007-1101-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Orange County Water Control and Improvement District No. 1** in **Orange County**; RN102183035; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 49. [Docket No. 2007-1025-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Moscow Water Supply Corporation** in **Polk County**; RN102340627; 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, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 50. [Docket No. 2007-0520-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Mexia in Limestone County**; RN101918076; 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 Shelton, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 51. [Docket No. 2005-0492-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lorena in McLennan County**; Texas Pollutant Discharge Elimination System Permit No. 12195-001 and RN101917870; 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. (Michael Meyer, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 52. [Docket No. 2007-1635-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **LGI HOMES, LTD. (formerly known as JTM Housing, Ltd.) in Fort Bend County**; RN104443551; 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. (Heather Brister, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 53. [Docket No. 2007-0990-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houston Oaks Golf Management Company, L.P. in Waller County**; RN102681483; 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. (Libby Hogue, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 54. [Docket No. 2007-0772-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Brookeland Fresh Water Supply District in Jasper County**; RN101519635; 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. (Samuel Short, Steve Lopez)

Approve the Agreed Order. BS/BG; all agree.

Item 55. [Docket No. 2007-0371-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Benbrook, LLC in Tarrant County**; RN102963238;

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. (Cheryl Thompson, Bryan Sinclair)

Approve the Agreed Order. BS/BG; LS oppose.

#### **ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT DEFAULT ORDER**

Item 56. [Docket No. 2006-0377-OSS-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Mario Ramos and Olga Ramos in Jim Hogg County**; TCEQ ID No. RN104298245; for on-site sewage facility violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Robert R. Ivisley, Jennifer Cook)

Approve the Default Order. BS/BG; all agree.

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

Item 57. [Docket No. 2005-1053-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kuang Phou dba Ken's Minit Market 3 in Nacogdoches County**; TCEQ ID Nos. 27911 and RN102964624; 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 M. Combs, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

Item 58. [Docket No. 2004-1701-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Momentum Investment, Inc. dba Angels Gas & Grocery in Chambers County**; TCEQ ID No. RN102011566; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, 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. BS/BG; all agree.

Item 59. [Docket No. 2007-0043-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Zulfiqar Ali dba Fuel Express 4 in Harris County**; RN101894178; 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. (Rajesh Acharya, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 60. [Docket No. 2007-0266-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sam W. McWhorter in Culberson County**; TCEQ ID No. RN101655462; 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. (Anna Cox, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

Item 61. [Docket No. 2007-1147-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Town & Country Food Stores, Inc. dba Town & Country 267 in Sutton County**; RN102022829; 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. (Judy Kluge, Steve Lopez)

Approve the Agreed Order. BS/BG; all agree.

Item 62. [Docket No. 2007-0958-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Steven L. Robinson in Hardin County**; RN101747012; 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. (Thomas Greimel, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 63. [Docket No. 2007-1193-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hina Enterprises, Inc. dba OJS Mobil Mart in Orange County**; RN101914026; 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. (Thomas Greimel, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 64. [Docket No. 2007-0597-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ernest Hogue in El Paso County**; RN101656460; 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. (Thomas Greimel, Bryan Sinclair)

Approve the Agreed Order. BS/BG; LS oppose.

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

Item 65. [Docket No. 2007-0082-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Point in Rains County**; TCEQ ID No. RN101391407; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Dinniah M. Chahin, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

Item 66. [Docket No. 2005-1798-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Dorothy L. Kranz dba Seven Bluff Cabins** in **Uvalde County**; TCEQ ID No. RN102819810; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca M. Combs, Jennifer Cook)

Approve the Agreed Order. BS/BG; all agree.

Item 67. [Docket No. 2007-0916-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Gustine** in **Comanche County**; RN101384204; for public water supply violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 68. [Docket No. 2007-1370-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **David E. Shivers dba Shan D Water Supply** in **Rusk County**; RN101189058; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 69. [Docket No. 2007-1116-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Occidental Permian Ltd.** in **Yoakum County**; RN102686094; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

#### **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 70. [Docket No. 2007-1170-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **James W. Clark II** in **Coryell County**; RN105214894; 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. (Thomas Jecha, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 71. [Docket No. 2007-0861-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes** in **Wichita County**; RN104016746; 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. (Rajesh Acharya, David Van Soest)

Approve the Agreed Order. BS/BG; all agree.

Item 72. [Docket No. 2007-1047-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harbenger Enterprises, Inc.** in **Parker County**; RN105232508; 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. (Michael Meyer, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

Item 73. [Docket No. 2007-0241-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Leeco Properties, Inc.** in **Ector County**; RN105154686; 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. (Yuliya Dunaway, Bryan Sinclair)

Approve the Agreed Order. BS/BG; all agree.

### **EMERGENCY ORDER**

Item 74. [Docket No. 2007-1862-UCR-E](#). Consideration of whether to modify, affirm, or set aside the Emergency Order issued on December 14, 2007, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality to address the abandonment of a retail public utility (Utility) by **Bert Dickens, Inc. dba Vista Ranch Water System** in **Fayette County**; TCEQ ID No. RN101220911; CCN No. 12927; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order appointed Aqua Water Supply Corporation as temporary manager of the Utility. (Dinniah M. Chahin)

Grant the withdrawal of the Respondent's hearing request, affirm the ED's emergency order, but modify Findings of Fact #7 as proposed by the Chairman at the dais. BS/LS; all agree.

### **GIFTS AND DONATIONS**

Item 75. [Docket No. 2007-1910-MIS](#) Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (David Timberger)

Approve staff recommendations as reflected in the adopted [Resolution including Exhibit A](#), which contains the names of the donors and descriptions and statements of the purposes of the gifts and which is attached to and incorporated in these minutes. LS/BS; all agree.

### **MISCELLANEOUS**

Item 76. [Docket No. 2007-1872-RUL](#). Consideration of the issuance of a new air quality standard permit for sawmills under **30 TAC Chapter 116**, Subchapter F, Standard Permits. The new standard permit would authorize sawmills with a maximum yearly production of 25 million board-feet of



lumber. The new standard permit would replace the current permit by rule, 30 TAC Section 106.223, Saw Mills. Notice of the proposed standard permit was published in the September 14, 2007, issue of the Texas Register. (Beecher Cameron, Brad Patterson)

Grant the issuance of a new air quality standard permit for sawmills under 30 TAC Chapter 116. BS/LS; all agree.

### **STATE IMPLEMENTATION PLAN**

Item 77. [Docket No. 2007-0692-SIP](#). Consideration for adoption of a revised maintenance plan in the state implementation plan (SIP) supporting the request to redesignate the **El Paso County carbon monoxide** (CO) nonattainment area to attainment. The maintenance plan includes an adjustment of the horizon year of 2015 to 2020, adds a safety margin to the motor vehicle emission budget, clarifies the use of on-board diagnostic (OBD) testing in the vehicle inspection / maintenance (I/M) control measure, retains the oxygenated fuel program as a control measure, and contains a commitment for providing a second ten-year maintenance plan two years prior to the end of this plan. (Keith Mars, Terry Salem) (Project No. 2007-014-SIP-NR)

Adopt the revised El Paso carbon monoxide redesignation maintenance plan and the corresponding revisions to the state implementation plan and direct the ED to determine whether or not to seek the future removal the El Paso oxygenated fuels program requirements from the Commission's rules and the maintenance plan. BS/LS; all agree.

### **RULE MATTERS**

Item 78. [Docket No. 2007-1808-RUL](#). Consideration for publication of, and hearing on, the proposed repeal of **30 TAC Chapter 106**, Permits by Rule, Sections 106.142, Rock Crushers, 106.147, Asphalt Concrete Plants, and 106.223, Saw Mills. The proposed rulemaking would repeal the permits by rule (PBRs) for rock crushers, asphalt concrete plants and sawmills. The asphalt concrete plant PBR has not been available for use since 2003, and the sawmill PBR is being replaced with a standard permit. (Blake Stewart, Tim Eubank) (Rule Project No. 2007-011-106-PR)

Approve for publication of, and hearing on, the proposed repeal of 30 TAC Chapter 106. BS/LS; all agree.

Item 79. [Docket No. 2007-1029-RUL](#). Consideration for publication of, and hearing on, amended sections 337.3, 337.4, 337.11, 337.13, 337.14, 337.31, 337.32 and 337.51; and new sections 337.16, 337.17, 337.18, 337.52, 337.53 and 337.64 of **30 TAC Chapter 337**, Dry Cleaner Environmental Response. The proposed rulemaking would implement House Bill 3220, 80th Legislature, 2007, Regular Session. The proposed rulemaking would establish new registration requirements for owners and preceding owners of real property on which a dry cleaning facility or drop station is or was located, who wish to obtain eligibility for Dry Cleaning Facility Release Fund benefits; would establish procedures for an owner of a non-participating drop station to move the business to another location and retain the drop station's non-participating status; and would provide that, following the completion of corrective action at a site under 30 TAC Chapter 337, a written notice will be filed in the real property records of the county or counties in which the site is located to notify future property owners that, pursuant to Texas Health and Safety Code, Section 374.1535, perchloroethylene may not be used at that site. In addition, certain rule

amendments are being proposed to facilitate more efficient administration and enforcement of Texas Health and Safety Code, Chapter 374. (Don Kennedy, Barbara Watson) (Rule Project No. 2007-035-337-PR)

Approve for publication of, and hearing on, amended sections 337.3, 337.4, 337.11, 337.13, 337.14, 337.31, 337.32 and 337.51; and new sections 337.16, 337.17, 337.18, 337.52, 337.53 and 337.64 of 30 TAC Chapter 337 with modified language to the preamble provided by Commissioner Soward at the dais. LS/BS; all agree.

Item 80. [Docket No. 2008-1928-RUL](#). Consideration for publication of, and hearing on, proposed repealed Sections 335.401, 335.403 and 335.405, 335.413 and proposed new Sections 335.401, 335.403, 335.405, 335.407, 335.409, 335.411, 335.413, 335.415, 335.417, and 335.419. The proposed rulemaking would change the name of the subchapter; add and expand exclusions; allow the executive director to waive requirements if needed for disasters or emergencies; update requirements for notifications to the commission on collections; require reports on waste collected; remove the requirement to submit operation plans to the commission and require that the plans be followed during collections and used for training; specify who is responsible for meeting certain requirements; update provisions for proper transportation and disposal of wastes; provide provisions for the use of mobile collection units, and revise provisions for point of generation pick-up services; note other federal and state regulations that may apply to collections; clarify and augment training requirements for specific collection duties; restrict shipment of household hazardous waste to facilities that are authorized to accept it, and remove requirements on how those facilities handle the waste; and clarify that household hazardous waste that is offered for reuse remains household hazardous waste if it is disposed rather than accepted for reuse. (Joseph Thomas, Diane Goss) (Rule Project No. 2007-005-335-AD)

Approve for publication of, and hearing on, proposed repealed Sections 335.401, 335.403 and 335.405, 335.413 and proposed new Sections 335.401, 335.403, 335.405, 335.407, 335.409, 335.411, 335.413, 335.415, 335.417, and 335.419. LS/BS; all agree.

Item 81. [Docket No. 2007-0991-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter J, Operational Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.512 and 114.517 and corresponding revisions to the state implementation plan. The rulemaking would implement Senate Bill 12, Article 4, 80th Legislature, 2007. The adoption would extend the expiration of prohibitions on the commission adopting rules restricting certain vehicle idling activities from September 1, 2007, to September 1, 2009. Additionally, the adopted rulemaking would prohibit idling within 1,000 feet of a hospital and in residential areas. Finally, vehicles with sleeper berths would be prohibited from idling if an electrification facility that provides external heat and air conditioning hook-ups is located within two miles of their stop. The proposed rules were published in the October 5, 2007, issue of the *Texas Register* (32 TexReg 6992). (Theodore Kosub, John Minter) (Rule Project No. 2007-041-114-EN)

Adopt amendments to 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. BS/LS; all agree.

## **EXECUTIVE MEETING**

Item 82. **Docket No. 2008-0001-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 and General Counsel, 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 Commission did not meet in an executive meeting.

Item 83. **Docket No. 2008-0002-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 Commission did not meet in an executive meeting.

Item 84. **Docket No. 2008-0003-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 Commission did not meet in an executive meeting.

**(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.**

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: [HTTP://WWW.TEXASADMIN.COM/cgi-bin/tnrcc.cgi](http://www.texasadmin.com/cgi-bin/tnrcc.cgi)**

OLD BUSINESS AGENDA

Wednesday, January 30, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

Item continued from the December 19, 2007 agenda.

- Item 1. [Docket No. 2007-1020-RUL](#). Consideration for adoption of amendments to **30 TAC Chapter 336**, Radioactive Substance Rules, Sections 336.1, 336.5, 336.105, 336.201, 336.203, 336.207, 336.211, 336.213, 336.601, 336.613, 336.619; proposed new Sections 336.1101, 336.1103, 336.1105, 336.1107, 336.1109, 336.1111, 336.1113, 336.1115, 336.1117, 336.1119, 336.1121, 336.1123, 336.1125, 336.1127, 336.1129, 336.1131, 336.1133, 336.1135, 336.1201, 336.1203, 336.1205, 336.1207, 336.1209, 336.1211, 336.1213, 336.1215, 336.1217, 336.1219, 336.1221, 336.1223, 336.1225, 336.1227, 336.1229, 336.1231, 336.1233, 336.1235; and proposed repeal of Section 336.11. The commission also adopts amendments to **30 TAC Chapter 281**, Applications Processing, Section 281.19; **30 TAC Chapter 39**, Public Notice, Sections 39.702, 39.703, 39.707, 39.709; and **30 TAC Chapter 37**, Financial Assurance, Sections 37.9001, 37.9030, 37.9035, 37.9040, 37.9045. The rulemaking would implement Senate Bill (SB) 1604, 80th Legislature, 2007, Regular Session, relating to transfer of certain regulatory responsibilities for radioactive waste from the Texas Department of State Health Services (DSHS) to the TCEQ. SB 1604 transfers regulatory authority to the TCEQ for commercial radioactive waste processing, source material recovery, and by-product disposal. SB 1604 addresses the process for TCEQ's continued review of a pending application submitted by Waste Control Specialists LLC (WCS) to DSHS for a by-product disposal facility proposed for Andrews County. SB 1604 also addresses the TCEQ's underground injection control program for regulation of in situ uranium mining and requires the TCEQ to establish and administer a new state fee for the disposal of radioactive wastes other than low-level radioactive waste. In addition, the rulemaking would establish technical requirements, application processing requirements, public notice requirements, licensing and application fees, and financial assurance requirements for the licensing programs transferred from the DSHS to the TCEQ. The proposed rules were published in the September 7, 2007, issue of the *Texas Register* (32 TexReg 6045). (Susan Jablonski, Don Redmond, Amie Richardson) (Rule Project No. 2007-028-336-PR)

Adopt amendments to 30 TAC Chapter 336, Chapter 281, and Chapter 39 with the deletion of all references to 30 TAC Chapter 37 within those Chapters. Instruct the Executive Director to begin rulemaking on proposed amendments to Chapter 37 and bring the proposed rules back to the Commission as soon as possible. LS/BS; all agree.

Item continued from the May 9, 2007 agenda.

- Item 2. [TCEQ Docket No. 2004-1663-PST-E; SOAH Docket No. 582-06-3270](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties of **Mohammad Adil Aqil** in **Harris County**, Texas; TCEQ ID Registration No. 60355; regarding

petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality (Justin Lannen)

Adopt the Executive Director's proposed Order incorporating his exceptions to the PFD, but include the ALJ's proposed Findings of Fact #18 from his reply to exceptions. LS/BS; all agree.

## AGENDA

Wednesday, January 30, 2008

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

Item 1. [TCEQ Docket No. 2007-0599-MSW](#). Consideration of the Motion to Overturn filed by the Texas Campaign for the Environment and Community Inpower and Development Association, concerning the Executive Director's November 28, 2007, temporary authorization for acceptance of Newpark Waste as alternate daily cover by the **City of Port Arthur Landfill**, MSW Permit No. 1815A, in **Jefferson County**, Texas. The Commission will also consider timely responses and replies to the Motion to Overturn. (Steve Shepherd)

Item continued to the February 13, 2008 agenda. BS/LS; all agree.

Item 2. [TCEQ Docket No. 2004-0555-PST-E; SOAH Docket No. 582-06-2248](#). Consideration of the Administrative Law Judge's Proposal for Decision and Default Order assessing administrative penalties and requiring certain actions of **Ammar Food, Inc., dba Sunrise Food Mart** in Bexar County, Texas; TCEQ ID No. 30828; regarding petroleum storage tank violations pursuant to Texas Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider any timely filed exceptions and replies. (James Sallans)

Adopt the ALJ's Order. BS/LS; all agree.

Item 3. [Docket No. 2005-1042-OSS-E; SOAH Docket No. 582-06-1637](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Doris Bullock dba Bullock's Mobile Home Park** in **Hardin County**; RN101274389; for on-site sewage facility violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider timely filed exceptions and replies. (Dinniah Chahin).

Adopt the ALJ's Order with the Executive Director's exceptions. BS/LS: all agree.

**(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 12:30 P.M. UNTIL 1:00 P.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

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/s/ John Sedberry  
Assistant General Counsel,  
John Sedberry

April 4, 2008  
Date