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Updates to backup documents will be noted by a purple indicator. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white. Finally, parties are still required to submit an original and 7 copies of documents filed for Commission consideration (30 TAC § 1.10(d)).

Chairman Bryan W. Shaw, Ph.D.
Commissioner H.S. Buddy Garcia
Commissioner Carlos Rubenstein

AGENDA
February 10, 2010

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

PROPOSALS FOR DECISION

- Item 1. [TCEQ Docket No. 2007-1867-UCR; SOAH Docket No. 582-08-1023](#). Consideration of the Administrative Law Judge's Proposal for Decision and proposed Order regarding the applications of **Texas Landing Utilities** to change its water rates and tariff charges under water Certificate of Convenience and Necessity ("CCN") No. 11997 in **Polk** and **Montgomery Counties**, Texas, and to change its sewer rates and tariff charges under sewer CCN No. 20569 in **Polk County**, Texas, pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 291 and Texas Water Code Chapter 13. The Commission will also consider the application, related filings, record evidence and exhibits, exceptions and replies. (Ron Olson)

Remand the matter to the ALJ in order to: 1) take necessary evidence and complete the blank information regarding Texas Landing Utilities' ("TLU's") total allowable rate case expenses through the Commission's February 10, 2010 Agenda; 2) determine the proper rate case expense surcharge amount and time of collection; 3) include a finding on the Public Utility Commission's 2010 refund interest rate of 0.61%, fill in the time limit on completing the credit/refund in Ordering Provision No. 2, and specify 0.61% interest in Ordering Provision No. 2; 4) implement the ALJ's recommended typographical changes to Findings of Fact Nos. 28 and 46 and Conclusion of Law No. 15; 5) include a finding and ordering provision that denies TLU's requested tap fee and other tariff charge increases; 6) include a finding and ordering provision regarding the amount of transcript costs and that TLU pay 100% of that amount; and 7) take necessary evidence and provide further analysis of the line loss issue, the appropriate mechanism to handle the issue, and the implication of different gallonage amounts used for the variable cost portion of the rate design. BG/CR; all agree.

- Item 2. [TCEQ Docket No. 2008-1940-WR; SOAH Docket No. 582-09-2350.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the Executive Director's report and petition for recommendation to add three noncontiguous areas within the **Dallam County Priority Groundwater Management Area** to the North Plains Groundwater Conservation District pursuant to Chapter 35 and 36 of the Texas Water Code and the rules of the Texas Commission on Environmental Quality, specifically 30 TAC Chapter 293. The proposed addition of the three areas to the North Plains Groundwater Conservation District would be in the Dallam County Priority Groundwater Management Area in **Dallam County, Texas**. The Commission will also consider related filings, exceptions and replies. (Peggy Hunka, Christiaan Siano)

Adopt the ALJ's proposed Order as modified by the Exceptions accepted by the ALJ in his January 15, 2010, Response to Exceptions and Replies. BG/BS; CR abstained.

- Item 3. [TCEQ Docket No. 2008-1684-WQ-E; SOAH Docket No. 582-09-3658.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Dale Werlinger** in **Robertson County, Texas**; TCEQ ID No. RN105488662; regarding water quality violations pursuant to Tex. Water Code Chapters 7 and 26, 30 Tex. Admin. Code Chapter 281, and the rules of the Texas Commission on Environmental Quality. The Commission will also consider timely filed exceptions and replies. (Phillip M. Goodwin)

Adopt the Executive Director's revised proposed Order which contains the Executive Director's exceptions to the ALJ's proposed Order. CR/ BG; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

- Item 4. [Docket No. 2009-1866-DIS.](#) Consideration of an application by **Polk County Fresh Water Supply District No. 2** for approval of a standby fee. The District's application requests approval to levy a uniform annual standby fee to supplement its operations and maintenance account pursuant to Texas Water Code, Section 49.231. The Commission will consider the application, timely public comments, hearing requests, responses and replies. (Skip Ferris, Jose L. Caso)

Grant the hearing requests of Malcolm David Wyatt and Steve Zhanel and refer the matter to the State Office of Administrative Hearings, with the referral to ADR for the time period that runs concurrent with the scheduling period for the SOAH preliminary hearing. BG/CR; all agree.

EMERGENCY ORDERS

- Item 5. [Docket No. 2009-2077-PWS-E.](#) Consideration of whether to modify, affirm, or set aside the Emergency Order issued on December 29, 2009, 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 public water system by **Don English dba English Acres aka Coyote Water** in **Jim Wells County**; TCEQ ID No. RN102670783; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order appointed Lonzo Gale as temporary manager of the Utility. (Jim Sallans)

Affirm the Executive Director's Emergency Order against Don English dba English Acres aka Coyote Water and appointing Lonzo Gale as temporary manager. CR/BG; all agree.

- Item 6. [Docket No. 2009-1069-UCR-E.](#) Consideration of whether to modify, affirm, or set aside the Emergency Order issued on January 7, 2010, 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 **Cain Addition Homeowners Association CAHA and John Lamar Cain in Kleberg County**; TCEQ ID No. RN105504567; to ensure continued operation of the Utility, and to provide continuous and adequate service to the customers. The Emergency Order renewed the appointment of Rio Bravo Resource Conservation & Development Corporation (RC&D) as temporary manager of the Utility. (Peipey Tang)

Affirm the Executive Director's Emergency Order against Cain Addition Homeowners Association CAHA and John Lamar Cain with the Executive Director's requested modification. BG/BS; CR abstained.

SUPERFUND

- Item 7. [Docket No. 2009-1706-SPF.](#) Consideration of a Final Administrative Order (Final Order) pursuant to Texas Health and Safety Code Sections 361.188 and 361.272 for the **Voda Petroleum, Inc.** State Superfund Site, RN101639649, which is located north-northeast of Clarksville City, Texas, near the intersection of FM 2275 and FM 3272, **Gregg County**. The Final Order includes the listing of the Site on the state registry of Superfund sites, a description of the selected remedial action, and determination of responsible parties. The Order also orders the responsible parties to remediate the Site. The Site is contaminated with the following chemicals of concern: Dichloroethylene, cis-1,2-; benzene; propylbenzene, n-; MTBE (methyl tertiary-butyl ether); tetrachloroethylene; toluene; trichloroethane, 1,1,1-; trichloroethylene; trimethylbenzene 1,2,4-; trimethylbenzene, 1,3,5-; vinyl chloride; xylene, m-; xylene, o-; xylene, p-; dichloroethylene, 1,1-; and dichloroethane, 1,2-. The proposed remedy for the soil at this Site includes excavation and off-site disposal of the contaminated soil. The proposed remedy for the groundwater at the Site includes installation of reactive biobarriers to decontaminate groundwater. (Charmaine Backens, Carol Boucher P.G.)

Adopt the Administrative Order proposed by the Executive Director. CR/BS; BG opposed.

MISCELLANEOUS MATTER

- Item 8. [Docket No. 2009-1934-UCR.](#) Consideration of a request for a Order approving a contract designating service areas between the **City of Gunter**, water Certificate of Convenience and Necessity ("CCN") No.13105, and **Marilee Special Utility District (SUD)** (formerly known as Gunter SUD), water CCN No.10150, in **Grayson County**, Texas pursuant to Texas Water Code Section 13.248. Under the agreement, Marilee SUD will transfer approximately 382.477 acres of its water CCN to the City of Gunter. (Erin Selvera, Heidi Graham)

Approve the agreement designating service areas between Marilee Special Utility District and the City of Gunter under TWC Section 13.248 and issue the Executive Director's revised proposed Order. BG/CR; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 9. [Docket No. 2009-0219-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Equistar Chemicals, LP** in **Harris County**; RN102926920; 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, Cari-Michel La Caille)

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

Item 10. [Docket No. 2009-1564-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rio Grande Valley Sugar Growers, Inc.** in **Hidalgo County**; RN100825405; 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. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 11. [Docket No. 2009-1597-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Frontera Generation Limited Partnership** in **Hidalgo County**; RN102344645; 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. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 12. [Docket No. 2009-1417-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Cabot Corporation** in **Gray County**; RN100210582; 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. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 13. [Docket No. 2009-1420-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Clearstream Wastewater Systems, Incorporated** in **Hardin County**; RN100214659; 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, Cari-Michel La Caille)

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

Item 14. [Docket No. 2009-1386-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BASF Corporation** in **Harris County**; RN100225689; 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, Cari-Michel La Caille)

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

- Item 15. [Docket No. 2009-0822-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **W & W Fiberglass Tank Company in Gray County**; RN102004314; 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. (Suzanne Walrath, Cari-Michel La Caille)

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

- Item 16. [Docket No. 2009-1335-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Flint Hills Resources, LP in Jefferson County**; RN100217389; 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 Benoit, Cari-Michel La Caille)

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

- Item 17. [Docket No. 2009-1230-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **E. I. du Pont de Nemours and Company in Jefferson County**; RN100216035; 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 Benoit, Cari-Michel La Caille)

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

- Item 18. [Docket No. 2009-1394-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **GB Biosciences Corporation in Harris County**; RN100238492; 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. (Roshondra Lowe, Cari-Michel La Caille)

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

- Item 19. [Docket No. 2009-0994-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DCP Midstream, LP in Crockett County**; RN100219278; 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, Cari-Michel La Caille)

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

- Item 20. [Docket No. 2007-0580-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Zoltek Corporation in Taylor County**; TCEQ ID No. RN100543867; for air quality 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. (Laurencia Fasoyiro, Lena Roberts)

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

- Item 21. [Docket No. 2009-1380-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Georgia-Pacific Wood Products LLC** in **Newton County**; RN102433299; 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. (Suzanne Walrath, Cari-Michel La Caille)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS

- Item 22. [Docket No. 2008-1495-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Charles Knight and Nancy Knight** in **Williamson County**; TCEQ ID Nos. RN105532782 and RN104671565; 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 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

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

- Item 23. [Docket No. 2009-1404-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Shavano Park** in **Bexar County**; RN105749592; 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. (Harvey Wilson, Cari-Michel La Caille)

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

FIELD CITATIONS

- Item 24. [Docket No. 2009-1822-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Dwayne Stailey** in **Collin County**; RN103406575; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Cari-Michel La Caille)

Approve the Field Citation. CR/BG; all agree.

- Item 25. [Docket No. 2009-1823-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Bobby G. Addington** in **Collin County**; RN105734057; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Cari-Michel La Caille)

Approve the Field Citation. CR/BG; all agree.

Item 26. [Docket No. 2009-1837-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Maxwell Barker** in **Brown County**; RN103286522; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Cari-Michel La Caille)

Approve the Field Citation. CR/BG; all agree.

Item 27. [Docket No. 2009-1830-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Jeremy King** in **Harris County**; RN103358636; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Cari-Michel La Caille)

Approve the Field Citation. CR/BG; all agree.

Item 28. [Docket No. 2009-1838-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Don W. Bynum dba American Auto Salvage** in **Jefferson County**; RN101951366; 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. (Jordan Jones, Cari-Michel La Caille)

Approve the Field Citation. CR/BG; all agree.

Item 29. [Docket No. 2009-1719-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Daniels Building & Construction Inc.** in **Jefferson County**; RN105793731; 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, Cari-Michel La Caille)

Approve the Field Citation. CR/BG; all agree.

Item 30. [Docket No. 2009-1745-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Joe Williamson Construction Company** in **Hidalgo County**; RN105794705; 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. (Jordan Jones, Cari-Michel La Caille)

Approve the Field Citation. CR/BG; all agree.

INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 31. [Docket No. 2009-0475-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MULTI-CHEM GROUP, LLC** in **Sutton County**; RN103948733; for industrial and hazardous 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. (Michael Meyer, Cari-Michel La Caille)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 32. [Docket No. 2009-0649-IWD-E.](#) Consideration of an Agreed Order assessing administrative penalties against **DuPont Performance Elastomers L.L.C. and Lucite International, Inc.** in **Jefferson County**; RN100218239 and RN100216035; 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., Cari-Michel La Caille)

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

LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER

Item 33. [Docket No. 2009-1552-LII-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Taylor B. McLemore** in **Wise County**; RN105700843; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Cari-Michel La Caille)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 34. [Docket No. 2009-1178-MLM-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Curtis Evans** in **Jeff Davis County**; RN103000006; for municipal solid waste and air quality 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. (Clinton Sims, Cari-Michel La Caille)

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

Item 35. [Docket No. 2008-1136-MLM-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Mark Forster and Linda Forster** in **Johnson County**; TCEQ ID No. RN104947023; for air quality and municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna M. Treadwell, Lena Roberts)

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

Item 36. [Docket No. 2009-1261-MLM-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wesley Vanderpool** in **Starr County**; RN104159264; for municipal solid waste and 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. (John Shelton, Carimichel La Caille)

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

- Item 37. [Docket No. 2008-1521-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Corpus Christi in Nueces County**; TCEQ ID No. RN101385151; for public drinking water and 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 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Lena Roberts)

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

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

- Item 38. [Docket No. 2009-0569-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Terry L. Babb, Sr. dba Twin Oaks Mobile Home Park in Henderson County**; TCEQ ID No. RN101192995; for public drinking water and water rights violations pursuant to Tex. Water Code chs. 5 and 11, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

- Item 39. [Docket No. 2008-0115-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Marvin Wayne Taylor in Shelby County**; TCEQ ID No. RN105362701; for municipal solid waste and used oil violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 371, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia N. Fasoyiro, Lena Roberts)

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

- Item 40. [Docket No. 2007-1197-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties against **N. E. Construction, LLP in Dallas County**; TCEQ ID No. RN105242549; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

- Item 41. [Docket No. 2009-0812-MSW-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Santos Barcenas dba Tyre King Recycling in Hale**

County and Swisher County; TCEQ ID No. RN102954625; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Gary K. Shiu, Lena Roberts)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 42. [Docket No. 2009-1034-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Bridgeport in Wise County**; RN102740230; 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. (Tom Jecha, Cari-Michel La Caille)

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

Item 43. [Docket No. 2009-1132-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Brazoria in Brazoria County**; RN101613552; 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., Cari-Michel La Caille)

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

Item 44. [Docket No. 2009-1648-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Red River Authority of Texas in Hall County**; RN101702256; 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, Cari-Michel La Caille)

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

Item 45. [Docket No. 2009-0968-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City Public Service of San Antonio in Bexar County**; RN100217975; 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. (Carlie Konkol, Cari-Michel La Caille)

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

Item 46. [Docket No. 2009-1054-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Spring Center, Inc. in Harris County**; RN102076825; 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, Cari-Michel La Caille)

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

Item 47. [Docket No. 2005-1335-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Western Trails Water Supply Corporation in Bexar County**; TCEQ ID No. RN102096526; 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 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Lena Roberts)

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

Item 48. [Docket No. 2009-0998-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **North Texas District Council Assemblies of God in Ellis County**; RN101513554; 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, Cari-Michel La Caille)

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

Item 49. [Docket No. 2009-0671-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Laxmiben Lalbhai Patel, Maganbhai Ranchlodbhai Patel, Bhagubhai Bhulo Patel, and Vinubhai Bhulo Patel dba Holiday Motel in Liberty County**; RN101518843; 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, Cari-Michel La Caille)

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

Item 50. [Docket No. 2009-0995-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Sinton in San Patricio County**; RN101916740; 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. (Carlie Konkol, Cari-Michel La Caille)

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

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS

Item 51. [Docket No. 2009-1601-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **STELLA LINK BUSINESS, LLC dba Corner Drive in Grocery in Harris County**; RN102036225; for petroleum storage tank 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. (Brianna Carlson, Cari-Michel La Caille)

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

Item 52. [Docket No. 2009-1212-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **FASTRAC FOOD STORE'S INC. dba Fastrac 280 in Harris County**; RN101782233; for petroleum storage tank 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. (Mike Pace, Cari-Michel La Caille)

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

Item 53. [Docket No. 2009-0617-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Petrocapital Management, LLC dba Hitchcock Chevron in Galveston County**; RN101762698; for petroleum storage tank 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. (Brianna Carlson, Cari-Michel La Caille)

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

Item 54. [Docket No. 2009-1151-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hempstead Independent School District in Waller County**; RN102027091; 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, Cari-Michel La Caille)

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

Item 55. [Docket No. 2009-1238-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SHAWNA INC. in Eastland County**; RN102911591; 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. (Keith Frank, Cari-Michel La Caille)

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

Item 56. [Docket No. 2008-1254-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Salim Aziz Dossani dba Short Trip Food Mart in Harris County**; TCEQ ID No. RN100860626; 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. (Tammy L. Mitchell, Lena Roberts)

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

Item 57. [Docket No. 2009-1367-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Adan O'Campo dba Adam Auto Service in Tarrant County**; RN101573566; 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. (Mike Pace, Cari-Michel La Caille)

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

Item 58. [Docket No. 2009-1109-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Freeport in Brazoria County**; RN102027752; 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. (Wallace Myers, Cari-Michel La Caille)

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

Item 59. [Docket No. 2009-1272-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **OXFORD CONVENIENCE, INC dba Oxford Convenience Store in Denton County**; RN101553634; for petroleum storage tank 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. (Judy Kluge, Cari-Michel La Caille)

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

Item 60. [Docket No. 2009-0273-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Star Fuels, Inc. dba Crosstimbers Citgo in Harris County**; TCEQ ID No. RN100606276; 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. (Laurencia Fasoyiro, Lena Roberts)

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

Item 61. [Docket No. 2009-1358-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **N#1 Airline Center, Inc. dba #1 Airline Food Store in Harris County**; RN101432367; for petroleum storage tank 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. (Judy Kluge, Cari-Michel La Caille)

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

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDER

Item 62. [Docket No. 2009-0970-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **James Kaufman in Jefferson County**; TCEQ ID No. RN101835395; 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. (Phillip M. Goodwin, P.G., Lena Roberts)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 63. [Docket No. 2009-0355-PWS-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **River Bend Water Services, Inc.** in **Matagorda County**; TCEQ ID No. RN102681467; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Barham A. Richard, Lena Roberts)

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

Item 64. [Docket No. 2009-0836-PWS-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Slaton** in **Lubbock County**; RN101202604; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Cari-Michel La Caille)

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

Item 65. [Docket No. 2009-0804-PWS-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mardoche Abdelhak dba Big Trees Trailer City** in **Bexar County**; RN101652048; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Cari-Michel La Caille)

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

Item 66. [Docket No. 2009-0952-PWS-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mirando City Water Supply Corporation** in **Webb County**; RN101195360; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Cari-Michel La Caille)

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

Item 67. [Docket No. 2008-1488-PWS-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Highland Park Water Supply Corporation** in **Bosque County**; TCEQ ID No. RN101254407; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

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

Item 68. [Docket No. 2009-0817-PWS-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Palestine** in **Anderson County**; RN101384576; 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, Cari-Michel La Caille)

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

Item 69. [Docket No. 2009-1242-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brandon-Irene Water Supply Corporation in Hill County**; RN101437325; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, Cari-Michel La Caille)

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

Item 70. [Docket No. 2009-0369-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Barranca Corporation in El Paso County**; RN101268043; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Cari-Michel La Caille)

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

Item 71. [Docket No. 2009-1260-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Fort Gates Water Supply Corporation in Coryell County**; RN101216257; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Cari-Michel La Caille)

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

Item 72. [Docket No. 2009-1268-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lake Palo Pinto Area Water Supply Corporation in Palo Pinto County**; RN101456911; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Cari-Michel La Caille)

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

Item 73. [Docket No. 2009-1589-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Conference Association of Seventh-Day Adventists in Harris County**; RN104387543; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Cari-Michel La Caille)

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

Item 74. [Docket No. 2009-1125-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ha Van Nguyen dba Austin Aqua System in Burnet County**; RN101197986; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Cari-Michel La Caille)

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

Item 75. [Docket No. 2009-1065-PWS-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Parks and Wildlife Department in Hamilton County**; RN101255545; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Yuliya Dunaway, Cari-Michel La Caille)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 76. [Docket No. 2009-0917-PWS-E.](#) Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Moore's Water System of Beaver Lake, Inc. in McLennan County**; TCEQ ID No. RN102682291; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephanie J. Frazee, Lena Roberts)

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

SLUDGE ENFORCEMENT AGREED ORDER

Item 77. [Docket No. 2009-0938-SLG-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Leonard D. Olivares dba Olivares Pumping & Septic Tank Cleaning in Bee County**; RN103147559; 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. (Jeremy Escobar, Cari-Michel La Caille)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 78. [Docket No. 2009-1241-WQ-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Draper Construction & Land Development, LLC in Harrison County**; RN105324099; 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, Cari-Michel La Caille)

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

Item 79. [Docket No. 2009-0056-WQ-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Kimball Hill Homes Austin, L.P. in Hays County**; TCEQ ID No. RN105519490; 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 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

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

Item 80. [Docket No. 2007-1634-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Micah Mosonyi dba Shenandoah Corp International** in **Tarrant County**; TCEQ ID No. RN104990445; 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 Tex. Admin. Code ch. 60. (Barham A. Richard, Lena Roberts)

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

Item 81. [Docket No. 2009-1165-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Adrian Gomez** in **Palo Pinto County**; RN105670137; 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, Cari-Michel La Caille)

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

STATE IMPLEMENTATION PLANS AND RULE MATTERS

Item 82. [Docket No. 2008-0335-SIP](#). Consideration of the adoption of revisions to the state implementation plan to implement revisions of the federal **Clean Air Interstate Rule (CAIR)** and Senate Bill (SB) 1672 of the 80th Texas Legislature, Regular Session, 2007. The revisions incorporate federal changes to the CAIR program; methodology for allocation of CAIR nitrogen oxides (NOX) allowances as specified by SB 1672; and non-substantive administrative changes. (Melissa Kuskie, Terry Salem) (Project No. 2007-051-SIP-NR)

Adopt the proposed amendments to 30 TAC Sections 101.502, 101.504 and 101.506 and the corresponding modification of the SIP. BG/CR; all agree.

Item 83. [Docket No. 2008-0334-RUL](#). Consideration of the adoption of amendments to **30 Texas Administrative Code (TAC) Chapter 101**, General Air Quality Rules, Subchapter H, Emissions Banking and Trading, Division 7, Clean Air Interstate Rule, Sections 101.502, 101.504, and 101.506, and corresponding revisions to the state implementation plan. The adoption will implement revisions to Texas Health and Safety Code, Section 382.0173 as required by Senate Bill 1672 from the 80th Legislature, 2007, Regular Session, which revises the methodology for allocation of Clean Air Interstate Rule nitrogen oxides allowances. The adoption will also incorporate federal changes to the Clean Air Interstate Rule and make non-substantive administrative changes. The proposed rules were published in the September 25, 2009, issue of the *Texas Register* (34 TexReg 6599). (Brandon Greulich, Amy Browning) (Rule Project No. 2007-053-101-EN)

Adopt the proposed amendments to 30 TAC Sections 101.502, 101.504 and 101.506 and the corresponding modification of the SIP. BG/CR; all agree.

Item 84. [Docket No. 2009-0845-RUL](#). Consideration for adoption of the repeal of **30 TAC Chapter 101**, General Air Quality Rules, Subchapter H, Emissions Banking and Trading, Division 8, Clean Air Mercury Rule, Sections 101.601 and 101.602; the amendments to **30 TAC Chapter 122**, Federal Operating Permits, Subchapter A, Definitions, Sections 122.10, and 122.12, and

Subchapter B, Permit Requirements, Section 122.120; and the repeal of Chapter 122, Federal Operating Permits, Subchapter E, Acid Rain Permits, Clean Air Interstate Rule, Clean Air Mercury Rule, Sections 122.440, 122.442, 122.444, 122.446, and 122.448; and the corresponding repeal of the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule. The adoption will repeal the state Clean Air Mercury Rule requirements that incorporated by reference the federal Clean Air Mercury Rule. The federal Clean Air Mercury Rule, cited in Texas Health and Safety Code, Section 382.0173, promulgated by House Bill 2481, 79th Legislature, 2005, was vacated by the courts and is no longer an enforceable federal requirement. Also, a letter from the Commission will notify the United States Environmental Protection Agency (EPA) of the withdrawal from consideration of the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule, which was previously adopted by the Commission on July 12, 2006. Because the rule is no longer enforceable and is being repealed, the Texas State Plan for mercury must also be repealed and withdrawn from consideration of approval by the EPA. The proposed repealed and amended sections were published in the September 25, 2009, issue of the *Texas Register* (34 TexReg 6607). (Brandon Greulich, Amy Browning) (Rule Project No. 2007-054-101-EN)

Adopt the proposed repeal of Sections 101.601, 101.602, 122.440, 122.442, 122.444, 122.446 and 122.448; Adopt the proposed amendments to Sections 122.10, 122.12 and 122.120; and Adopt the proposed repeal of the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule. BG/CR; all agree

Item 85. [Docket No. 2009-0744-SIP](#). Consideration for the adoption of a revision to the state implementation plan (SIP) concerning repeal of the **Texas portable fuel container (PFC)** rule. This adoption of the Texas PFC Rule Repeal SIP Revision will remove Texas PFC regulations from the control strategy for the State of Texas Air Quality Implementation Plan for the Control of Ozone Air Pollution for all affected 1997 eight-hour ozone standard nonattainment and near nonattainment areas in Texas. This adoption to the SIP revision will incorporate rulemaking repealing state PFC rules and demonstrate that federal PFC standards promulgated in 2007 provide replacement emission reductions. Because those emission reductions are estimated to be equal to or greater than those derived from the state regulations, the repeal of the Texas PFC rule will not negatively impact the State of Texas Air Quality Implementation Plan for the Control of Ozone Air Pollution. (Lisa Shuvalov, Chrissie Angeletti) (Project No. 2009-024-SIP-NR)

Adopt the repeal of 30 Texas Admin. Code Sections 115.620 – 115.622, 115.626, 115.627 and 115.629 concerning portable fuel containers and the corresponding revisions to the State Implementation Plan as recommended by the Executive Director. CR/BG; all agree.

Item 86. [Docket No. 2008-1401-RUL](#). Consideration of the adoption of **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification, Subchapter A, Definitions, new Section 116.20, Portable Facilities Definitions; and Subchapter B, New Source Review Permits, new Division 8, Portable Facilities, new Section 116.178, Relocations and Changes of Location of Portable Facilities, and corresponding revisions to the state implementation plan. The adoption of new sections in Subchapters A and B and the corresponding state implementation plan revision would provide guidance regarding the proper procedures for

movement of portable facilities. The new rules would affect the public notice requirements for the relocation or change of location of a portable facility. The new rules would also incorporate existing guidance issued by the Air Permits Division into the TCEQ's rules. Some of EPA's comments resulted in changes to requirements and rule references within the rule. The proposed rules were published in the September 11, 2009 issue of the *Texas Register* (34 TexReg 6281). (Becky Southard, Booker Harrison) (Rule Project No. 2008-031-116-PR)

Adopt 30 TAC Sections 116.20 and 116.178 and corresponding revisions to the State Implementation Plan. BG/CR; all agree.

Item 87. **Docket No. 2009-0542-RUL.** Consideration for the adoption to repeal Sections 115.620 - 115.622, 115.626, 115.627, and 115.629 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, and corresponding revisions to the state implementation plan. The proposed adoption will address adopted federal standards for Portable Fuel Containers (PFC). Specifically, the United States Environmental Protection Agency adopted a federal PFC rule (72 Federal Register 8432, February 26, 2007) that set a national standard for gasoline, diesel, and kerosene PFCs. All PFCs manufactured on or after January 1, 2009, are required to comply with the federal standards. The federal standards promulgated are more stringent than the current state PFC regulations. Therefore, it is necessary to repeal the state PFC regulations. The proposed repealed sections were published in the September 11, 2009, issue of the *Texas Register* (34 TexReg 6279). (Lisa Shuvalov, Chrissie Angeletti) (Rule Project No. 2008-032-115-EN)

Adopt the repeal 30 Texas Admin. Code Sections 115.620 – 115.622, 115.626, 115.627 and 115.629 concerning portable fuel containers and the corresponding revisions to the State Implementation Plan as recommended by the Executive Director. CR/BG; all agree.

EXECUTIVE MEETING

Item 88. **Docket No. 2010-0001-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.

No action taken.

Item 89. **Docket No. 2010-0002-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.

No action taken.

Item 90. **Docket No. 2010-0003-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.

No action taken.

(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. AND WILL CONTINUE 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)

/s/ John Sedberry
Assistant General Counsel,
John Sedberry

2/17/10
Date