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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 Carlos Rubinstein  
Commissioner Toby Baker

## **AGENDA**

August 8, 2012

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

#### **RULE PETITION**

Item 1 **Docket No. 2012-1262-RUL.**

Consideration of a petition for rulemaking under Section 20.15 of 30 Texas Administrative Code (TAC) Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality (TCEQ) on June 21, 2012 by the City of Irving. The petitioner requested that the Commission amend the definition of "Municipal Use" in Section 297.1(32) to allow indirect reuse of treated wastewater effluent for watering of parks, golf courses, and parkways as a municipal use, after that indirect reuse had been authorized by the commission. (Ron Ellis, James Aldredge) (Project No. 2012-034-PET-NR)

Instruct the Executive Director to initiate rulemaking to examine the issues raised in the petition for rulemaking filed by the City of Irving concerning an amendment to the definition of municipal uses as defined in 30 TAC Section 297.1(32) and issue the Executive Director's proposed Order. TB/CR; all agree.

**MISCELLANEOUS MATTER**

Item 2 **Docket No. 2011-0521-MIS.**

Consideration of adoption of an Agreed Order with Exide Technologies (Exide) in Collin County to require Exide to install and implement control strategies for lead emissions as part of the Collin County Attainment Demonstration State Implementation Plan (SIP) Revision for the 2008 Lead National Ambient Air Quality Standard (NAAQS). The Agreed Order also includes contingency measures that are required by the Federal Clean Air Act to be part of an attainment demonstration SIP revision. This Agreed Order with Exide will make legally enforceable control strategies and contingency measures for the Collin County Attainment Demonstration SIP Revision for the 2008 lead NAAQS. (Brian Foster, Amy Browning)

Joint Motion for Items 2 and 3

Adopt the proposed agreed Order between Exide Technologies and the TCEQ and the proposed Collin County Attainment Demonstration SIP Revision for the 2008 Lead NAAQS addressing lead emissions in Collin County, as recommended by the Executive Director. CR/TB; all agree.

**STATE IMPLEMENTATION PLAN**

Item 3 **Docket No. 2011-0282-SIP.**

Consideration of adoption of Collin County Attainment Demonstration State Implementation Plan (SIP) Revision for the 2008 Lead National Ambient Air Quality Standard (NAAQS). This SIP revision will meet the technical requirements of the Federal Clean Air Act (FCAA), Section 191(a) that requires states with lead nonattainment areas to submit to the United States Environmental Protection Agency an implementation plan. Section 110(a)(1) of the FCAA requires states to submit a SIP revision for areas that have been designated nonattainment to provide for the implementation, maintenance, and enforcement of the NAAQS. In accordance with FCAA, Section 172 and implementation guidance published with the November 12, 2008, final Lead NAAQS (73 FR 66964), the SIP revision contains a reasonably available control measure and a reasonably available control technology analysis, demonstration of attainment through air dispersion modeling, a control strategy demonstration, an emissions inventory, a demonstration of reasonable further progress, and contingency measures. (Brian Foster, Amy Browning) (Non-Rule Project No. 2011-001-SIP-NR)

Joint Motion for Items 2 and 3

Adopt the proposed agreed Order between Exide Technologies and the TCEQ and the proposed Collin County Attainment Demonstration SIP Revision for the 2008 Lead NAAQS addressing lead emissions in Collin County, as recommended by the Executive Director. CR/TB; all agree.

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 4 **Docket No. 2011-1945-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties against

Celanese Ltd. in Matagorda County; RN100258060; 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, Debra Barber)

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

Item 5 [\*\*Docket No. 2012-0632-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Magellan Pipeline Terminals, L.P. in Harris County; RN102186129; 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. (Anna M. Treadwell, Lena Roberts)

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

Item 6 [\*\*Docket No. 2011-2024-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Union Carbide Corporation in Galveston County; RN100219351; 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, Debra Barber)

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

Item 7 [\*\*Docket No. 2011-2362-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Occidental Chemical Corporation in San Patricio County; RN100211176; 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, Debra Barber)

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

Item 8 [\*\*Docket No. 2011-0621-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Gardner Glass Products, Inc. in Walker County; RN100242973; 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. (Jeffrey Huhn, Lena Roberts)

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

Item 9 [\*\*Docket No. 2011-2315-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BASF Corporation in Harris County; RN100223379; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, Debra Barber)

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

Item 10 [\*\*Docket No. 2011-2121-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shell Oil Company and Shell Chemical LP in Harris County; RN100211879; 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, Debra Barber)

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

**IRRIGATION LICENSING ENFORCEMENT DEFAULT ORDER**

Item 11 [\*\*Docket No. 2011-1878-LII-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties against Rod Darquea d/b/a Affordable Home Construction in Dallas County; RN106209687; for landscape irrigation installation violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Sharesa Y. Alexander, Lena Roberts)

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

**MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 12 [\*\*Docket No. 2011-0348-MLM-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Effective Environmental, Inc. in Navarro County; RN100567841; for industrial and hazardous waste and municipal solid waste violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, 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. TB/CR; all agree.

Item 13 [\*\*Docket No. 2011-2047-MLM-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Domino in Cass County; RN101388866; for water rights and public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 11, and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Debra Barber)

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

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 14 **[Docket No. 2011-1207-MSW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Cowtown Excavating Company in Tarrant County; RN102273950; 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. (Kari L. Gilbreth, Lena Roberts)

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

Item 15 **[Docket No. 2011-1989-MSW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Susan Pape d/b/a 3-S Construction and Shane Pape d/b/a 3-S Construction in Bexar County; RN106233125; 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. (Peipey Tang, Lena Roberts)

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

**MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

Item 16 **[Docket No. 2011-1053-MSW-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Penny Cable d/b/a HILLTOP TIRE SERVICE in Montague County; RN101896538; 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. (Tammy Mitchell, Lena Roberts)

Remanded to the Executive Director.

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 17 **[Docket No. 2011-0552-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of City of Orange in Orange County; RN101613644; 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. (Peipey Tang, Lena Roberts)

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

Item 18 [\*\*Docket No. 2011-2178-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Walnut Cove Water Supply Corporation in Montgomery County; RN103123279; 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, Debra Barber)

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

Item 19 [\*\*Docket No. 2011-2273-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Royse City in Rockwall County; RN102940087; 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. (Steve Villatoro, Debra Barber)

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

Item 20 [\*\*Docket No. 2011-1955-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Marine Quest - Hidden Cove, L.P. in Denton County; RN102094950; 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. (Rudy Calderon, Lena Roberts)

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

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

Item 21 [\*\*Docket No. 2011-1724-OSS-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Omar Salinas in Duval County; RN106097876; for on-site sewage facility violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Joel Cordero, Lena Roberts)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

Item 22 [\*\*Docket No. 2011-2038-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ray Rocha dba Paradise Point RV Marina in Sabine County; RN101910032; 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. (Rajesh Acharya, Debra Barber)

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

Item 23 **Docket No. 2011-2354-PST-E.**

Consideration of an Agreed Order assessing administrative penalties against F.T. WOODS CONSTRUCTION SERVICES, INC. in Williamson County; RN105058721; 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. (Cheryl Thompson, Debra Barber)

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

Item 24 **Docket No. 2011-2207-PST-E.**

Consideration of an Agreed Order assessing administrative penalties against H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C in Dallas County; RN101545218; 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. (Jorge Ibarra, P.E., Debra Barber)

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

Item 25 **Docket No. 2011-1856-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MC. D. C., INC. dba Honeys Drive In in Jefferson County; RN101840056; 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. (Michael Meyer, Debra Barber)

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

Item 26 **Docket No. 2012-0119-PST-E.**

Consideration of an Agreed Order assessing administrative penalties against WESTOVER AND WESTOVER GROUP, LLC dba Conoco Express in Dallas County; RN101570091; 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, Debra Barber)

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

Item 27 [Docket No. 2011-1870-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties against JIND INTERESTS LLC d/b/a YOURS CITGO MART in Harris County; RN105171110; 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. (Mike Fishburn, Lena Roberts)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 28 [Docket No. 2011-2015-PST-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Niranjana S. Patel d/b/a Aldine Express in Harris County; RN102431038; 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)

Remanded to the Executive Director. TB/CR; all agree.

Item 29 [Docket No. 2011-0942-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against GRIGGS SHELL ENTERPRISES, L.L.C. in Harris County; RN102713922; 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. (Jim Sallans, Lena Roberts)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDER**

Item 30 [Docket No. 2011-1241-PST-E.](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of TRISTAR CONVENIENCE STORES, INC. DBA Handi Stop 75 in Harris County; RN102446218; 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. (Jim Sallans, Lena Roberts)

Remanded to the Executive Director.

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 31 [Docket No. 2011-0982-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Leslie L. Morris d/b/a Space Estates Mobile Home Park in Harris County; RN103998811; for public drinking water violations pursuant to



Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

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

Item 32 **[Docket No. 2011-0764-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ms. Molly's LLC in Colorado County; RN104909882; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rudy Calderon, Lena Roberts)

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

Item 33 **[Docket No. 2011-1792-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Sam's Truck Stop Business, Inc. dba Plateau Truck Stop in Culberson County; RN101377620; 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, Debra Barber)

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

Item 34 **[Docket No. 2011-1270-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against K C Utilities, Inc. in Brazoria County; RN101243921; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Schumann, Debra Barber)

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

Item 35 **[Docket No. 2011-1067-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Paul Leggett d/b/a Country Lake Water Supply in Panola County; RN103196879; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Elizabeth Lieberknecht, Lena Roberts)

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

Item 36 **[Docket No. 2011-1281-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Henry M. Garza d/b/a Cielo Azul Ranch in Hays County; RN101217792; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sharesa Y. Alexander, Lena Roberts)

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

**PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDERS**

Item 37 [Docket No. 2012-0267-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Mostafa A. Soliman d/b/a Willowbrook Subdivision in Waller County; RN101256121; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jeffrey Huhn, Lena Roberts)

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

Item 38 [Docket No. 2011-1743-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Jasper Cindi, Inc. d/b/a Bullfrogs Bar and Grill in Jasper County; RN105973796; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

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

**SLUDGE ENFORCEMENT DEFAULT ORDER**

Item 39 [Docket No. 2011-1507-SLG-E.](#)

Consideration of a Default Order assessing administrative penalties against Shawn Kriese d/b/a Crosscreek Cycle Park in Bastrop County; RN106161755; for municipal solid waste and water quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Mike Fishburn, Lena Roberts)

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

**WATER RIGHT ENFORCEMENT AGREED ORDER**

Item 40 [Docket No. 2011-1453-WR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Canan Operating, Inc. in Clay County; RN106200694; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Jeremy Escobar, Debra Barber)

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

**RULE MATTERS**

Item 41 [Docket No. 2011-1253-RUL.](#)

Consideration of the adoption of amendments to Sections 70.1, 70.3, and 70.6; the repeal of Section 70.11; and new Sections 70.11 and 70.12 of 30 TAC Chapter 70,

Enforcement. The adoption would implement House Bill 2694 (Section 4.09), 82nd Legislature, 2011, Regular Session. Specifically, the rulemaking adopts a general enforcement policy that describes the Commission's approach to enforcement. The proposed rules were published in the April 13, 2012, issue of the *Texas Register* (37 TexReg 2518). (David Van Soest, Gitanjali Yadav) (Rule Project No. 2011-034-070-CE)

Adopt the new, amended, and repealed Sections of 30 TAC Chapter 70, as recommended by the Executive Director; but incorporate the changes to the preamble relative to speciation discussed from the dais that are more appropriately included in the penalty policy. CR/TB; all agree.

Item 42 **[Docket No. 2011-1260-RUL.](#)**

Consideration for publication of proposed amendment to Section 7.117 of 30 TAC Chapter 7, Memorandum of Understanding (MOU) and repeal of Sections 339.1 - 339.3 of 30 TAC Chapter 339, Groundwater Protection Recommendation Letters and Fees. The proposed rulemaking would implement Article 2 of House Bill 2694, 82nd Legislature, 2011, Regular Session, which transferred from the TCEQ to the Railroad Commission of Texas (RRC), effective September 1, 2011, those duties pertaining to responsibility of preparing groundwater protection advisory/recommendation letters and issuing to permit applicants for geologic storage of anthropogenic carbon dioxide a letter of determination stating that drilling and operating the carbon dioxide injection well for geologic storage or operating the geologic storage facility will not injure any freshwater strata and that the formation or stratum to be used for the geologic storage facility is not freshwater sand. The proposed rulemaking would adopt by reference a revised MOU between the RRC and TCEQ and repeal TCEQ rules pertaining to groundwater protection recommendation letters. (Kari Bourland, Don Redmond) (Rule Project No. 2011-037-007-WS)

Approve publication of, and hearing on, the proposed amendments to Section 7.117 of 30 TAC Chapter 7 and the repeal of 30 TAC Chapter 339, as recommended by the Executive Director. TB/CR; all agree.

Item 43 **[Docket No. 2011-1223-RUL.](#)**

Consideration of the adoption of repeal of Section 291.7 and amendment to Section 291.22 of 30 TAC Chapter 291, Utility Regulations; amendment to Section 293.94 of 30 TAC Chapter 293, Water Districts; and amendment to Section 297.1 of 30 TAC Chapter 297, Water Rights, Substantive. The adopted rulemaking would implement House Bill (HB) 2694, HB 3002, and Senate Bill 1361, 82nd Legislature, 2011, Regular Session, relating to water district audit report exemptions; the addition of the definition of aquaculture; utility application filing fees; and delivery of notice for certain utility applications. The adopted rulemaking would also amend the rule to reflect that the "Water District Financial Management Guide" is the only manual currently in use for the accounting and auditing of water districts; and make other non-substantive changes to comply with grammar, sequencing and formatting requirements. The proposed rules were published in the February 24, 2012, issue of the *Texas Register* (37 TexReg 1178)

for Chapter 291, (37 TexReg 1182) for Chapter 293, and (37 TexReg 1186) for Chapter 297. (Justin Taack, Ruth Takeda) (Rule Project No. 2011-039-293-OW)

Adopt the repeal of 30 TAC Section 291.7 and the amendments to 30 TAC Sections 291.22, 293.94, and 297.1, as recommended by the Executive Director. CR/TB; all agree.

Item 44 [\*\*Docket No. 2011-1685-RUL.\*\*](#)

Consideration of the adoption of amendments to 30 TAC Chapter 30, Occupational Licenses and Registrations, Subchapter A, Sections 30.24, 30.26, and 30.33. The adoption would implement House Bill (HB) 965, 82nd Legislature, 2011, Regular Session, relating to Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators being able to certify their continuing education, when renewing their license. The proposed rules also implement HB 1674, 82nd Legislature, 2011, Regular Session, relating to the issuance or renewal of a license or registration for applicants who have failed to pay child support for six months or more. Additionally, the proposed rules implement Senate Bill (SB) 1733, 82nd Legislature, 2011, Regular Session, relating to issuance of a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state. The proposed rules were published in the March 23, 2012, issue of the *Texas Register* (37 TexReg 2003). (Terry Thompson, Kathy Humphreys) (Rule Project No. 2011-044-030-WS)

Adopt the amendments to 30 TAC Chapter 30, Occupational Licenses and Registrations, as recommended by the Executive Director. TB/CR; all agree.

Item 45 [\*\*Docket No. 2011-1244-RUL.\*\*](#)

Consideration of the adoption of amended Section 298.290 and new Sections 298.300, 298.305, 298.310, 298.315, 298.320, 298.325, 298.330, 298.335, 298.340, 298.350, 298.355, 298.360, 298.365, 298.370, 298.375, 298.380, 298.385, and 298.390 of 30 TAC Chapter 298, Environmental Flow Standards for Surface Water. The adoption would implement House Bill 3 and Senate Bill 3, 80th Legislature, 2007, Regular Session, relating to the establishment of environmental flow standards included in a permit or amended water right in the river and bay systems consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays, and the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays. Additionally, the rulemaking will amend the schedule for the revision of standards for the Sabine and Neches Rivers and Sabine Lake Bay. The proposed rules were published in the April 13, 2012 issue of the *Texas Register* (37 TexReg 2521). (Ron Ellis, Robin Smith) (Rule Project No. 2011-059-298-OW)

Adopt the amended and new Sections of 30 TAC Chapter 298, Environmental Flow Standards for Surface Water, as recommended by the Executive Director but incorporating the revisions to Section 298.290, 298.375, and 298.380, as set forth in the document distributed to the Commission at agenda; instruct the Executive Director to make the necessary changes to the preamble to effectuate the rule revisions set forth in the distributed document. CR/TB; all agree.

Item 46 **Docket No. 2011-1639-RUL.**

Consideration of the adoption of an amendment 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, Section 114.517, and corresponding revisions to the state implementation plan. This rule revision will implement Senate Bill 493 from the 82nd Texas Legislature, 2011, Regular Session, by amending Section 114.517 to include an exemption for motor vehicles that have a gross vehicle weight rating greater than 14,000 pounds and are equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the United States Environmental Protection Agency or a state environmental agency to emit no more than 30 grams of nitrogen oxides emissions per hour when idling. The proposed rules were published in the March 9, 2012, issue of the *Texas Register* (37 TexReg 1656). (Holly Brightwell, Ross Henderson) (Rule Project No. 2011-060-114-EN)

Adopt the amendment to 30 TAC Section 114.517 concerning Locally Enforced Motor Vehicle Idling Limitations and the corresponding SIP revision, as recommended by the Executive Director. TB/CR; all agree.

**EXECUTIVE MEETING**

Item 47 **Docket No. 2012-0001-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 48 **Docket No. 2012-0002-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 49 **Docket No. 2012-0003-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. 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/tceqa.shtml](http://www.texasadmin.com/tceqa.shtml)**

/s/ Greg Merrell  
Assistant General Counsel  
Greg Merrell

8/14/2012  
Date