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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., P.E.  
Commissioner Toby Baker  
Commissioner Jon Niermann

## **AGENDA**

June 22, 2016

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

### **USE DETERMINATION MATTERS**

Item 1 **[Docket No. 2016-0544-MIS-U.](#)**

Consideration of the appeal filed by Capitol Chevrolet with regard to the Executive Director's Partial Negative Use Determination on Application No. 19881, dated April 8, 2016, for certain property at its automobile dealership in Travis County, Texas. The Commission will also consider the application and all timely responses and reply briefs. (Don Redmond, Ron Hatlett)

Deny Capitol Chevrolet's appeal and affirm the Executive Director's Negative Use Determination on Application No. 19881. JN/TB; all agree.

Item 2 **[Docket No. 2016-0545-MIS-U.](#)**

Consideration of the appeal filed by WMCI Austin II LLC with regard to the Executive Director's Partial Negative Use Determination on Application No. 19883, dated April 8, 2016, for certain property at the Bexley Anderson Mills Apartments in Williamson County, Texas. The Commission will also consider the application and all timely responses and reply briefs. (Don Redmond, Ron Hatlett)

Deny WMCI Austin II LLC's appeal and affirm the Executive Director's Negative Use Determination on Application No. 19883. TB/JN; all agree.

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 3 **[Docket No. 2015-1459-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Air Liquide Large Industries U.S. LP in Harris County; RN100233998; for 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 Tex. Admin. Code ch. 60. (Eduardo Heras, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 4 **[Docket No. 2015-1378-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Marathon Oil EF LLC in Live Oak County; RN106168206; 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 Tex. Admin. Code ch. 60. (Eduardo Heras, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 5 **[Docket No. 2015-0869-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Nelson Gardens Energy, LLC in Bexar County; RN106307663; 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 Tex. Admin. Code ch. 60. (Eduardo Heras, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 6 **Docket No. 2015-1207-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Owens Corning Insulating Systems, LLC in Ellis County; RN100223585; 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 Tex. Admin. Code ch. 60. (Amancio Gutierrez, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 7 **Docket No. 2015-1636-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of 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 Tex. Admin. Code ch. 60. (Rajesh Acharya, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 8 **Docket No. 2015-1559-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Targa Midstream Services LLC in Wise County; RN100238716; 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 Tex. Admin. Code ch. 60. (Amancio R. Gutierrez, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 9 [\*\*Docket No. 2015-1568-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Targa Midstream Services LLC in Wise County; RN100238716; 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 Tex. Admin. Code ch. 60. (Eduardo Heras, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 10 [\*\*Docket No. 2015-1410-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Texas Barge & Boat, Inc. in Brazoria County; RN102037959; 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 Tex. Admin. Code ch. 60. (Rajesh Acharya, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 11 [\*\*Docket No. 2015-1292-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Wolf Hollow I Power, LLC in Hood County; RN100219195; 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 Tex. Admin. Code ch. 60. (Eduardo Heras, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

**INDUSTRIAL AND/OR HAZARDOUS WASTE  
ENFORCEMENT AGREED ORDER**

Item 12 [\*\*Docket No. 2015-0298-IHW-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Legacy Metals LLC in Liberty County; RN101618031; for industrial solid and/or hazardous 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. (Elizabeth Carroll Harkrider, Lena Roberts)

Adopt the Agreed Order. JN/TB; all agree.

**MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 13 **Docket No. 2014-1016-MLM-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jesus Espinoza dba Champion Stone Quarry in Williamson County; RN107326126; for aggregate production operation, water quality, and Edwards Aquifer violations pursuant to Tex. Water Code chs. 7, 26, and 28A and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Cheryl Thompson, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 14 **Docket No. 2015-0150-MLM-E.**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Servando Rivera in Hidalgo County; RN106177249; for municipal solid waste and air quality 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. (Elizabeth Carroll Harkrider, Lena Roberts)

Adopt the Agreed Order. JN/TB; all agree.

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER**

Item 15 **Docket No. 2015-1161-MSW-E.**

Consideration of an Agreed Order assessing administrative penalties against Margarito Mendez in Nacogdoches County; RN106668684; 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. (J. Amber Ahmed, Lena Roberts)

Adopt the Agreed Order. JN/TB; all agree.

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 16 [Docket No. 2015-1598-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Odessa in Midland County; RN101614261; 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. (Ross Luedtke, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 17 [Docket No. 2015-0921-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Paul Mauricio Sr. in Medina County; RN105528111; 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. (Holly Kneisley, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 18 [Docket No. 2015-0904-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Hub City Convenience Stores, Inc. dba Chisum 35 in Hockley County; RN103154621; 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. (Ryan Rutledge, Lena Roberts)

Adopt the Agreed Order. JN/TB; all agree.

**PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 19 [\*\*Docket No. 2015-0803-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Devine Convenience LLC d/b/a Super Mart in Medina County; RN101856219; 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. (Meaghan M. Bailey, Lena Roberts)

Adopt the Default Order. JN/TB; all agree.

Item 20 [\*\*Docket No. 2015-1056-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties against SUPERIOR LUBRICANTS TRANSPORT, INC. d/b/a Superior Transport in Tarrant County; RN103026993; 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. (Tracy Chandler, Lena Roberts)

Remand to the Executive Director. JN/TB; all agree.

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

Item 21 [\*\*Docket No. 2015-1374-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties against and requiring certain actions of D&D INTERNATIONAL, INC. dba Handi Stop 72 in Brazoria County; RN102471661; 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. (Ryan Rutledge, Lena Roberts)

Adopt the Default and Shutdown Order. JN/TB; all agree.

**PUBLIC WATER SUPPLY ENFORCEMENT AGREED ORDERS**

Item 22

**[Docket No. 2015-1647-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Adrian in Oldham County; RN101188621; 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, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 23

**[Docket No. 2015-1621-PWS-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; RN101417541; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Montgomery, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 24

**[Docket No. 2015-1726-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SHIN-ETSU SILICONES OF AMERICA, INC. in Brazoria County; RN102877768; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Farhaud Abbaszadeh, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

**PUBLIC WATER SUPPLY ENFORCEMENT DEFAULT ORDERS**

Item 25

**[Docket No. 2015-0666-PWS-E.](#)**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of James L. Oxford, Trustee of Country Villa Trust d/b/a Country Villa Mobile Home Park in Bee County; RN101441764; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas



Commission on Environmental Quality. (Elizabeth Carroll Harkrider, Lena Roberts)

Adopt the Default Order. JN/TB; all agree.

Item 26 **Docket No. 2015-1383-PWS-E.**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Randall & Spencer, LLC dba 2 Cousins Gas & Grocery in Jack County; RN106852346; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ryan Rutledge, Lena Roberts)

Adopt the Default Order. JN/TB; all agree.

Item 27 **Docket No. 2015-1551-PWS-E.**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Eddie Douglas in Lubbock County; RN108091729; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ryan Rutledge, Lena Roberts)

Adopt the Default Order. JN/TB; all agree.

**WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 28 **Docket No. 2015-1342-WQ-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Craig's Dirt Service, L.L.C. in Smith County; RN105917041; for aggregate production operation and water quality violations pursuant to Tex. Water Code chs. 7, 26 and 28A and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alejandro Laje, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

Item 29 [\*\*Docket No. 2015-1412-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Jean Landess dba Landess Sand & Soil in Dallas County; RN105637391; for aggregate production operation violations pursuant to Tex. Water Code chs. 7 and 28A and the rules of the Texas Commission on Environmental Quality. (Jill Russell, Melissa Cordell)

Remand to the Executive Director. JN/TB; all agree.

Item 30 [\*\*Docket No. 2015-0783-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of NEW NGC, INC. in Fisher and Stonewall Counties; RN105854335 and RN101294973; for aggregate production operation violations pursuant to Tex. Water Code chs. 7 and 28A and the rules of the Texas Commission on Environmental Quality. (Had Darling, Melissa Cordell)

Adopt the Agreed Order. JN/TB; all agree.

**RULE PETITION**

Item 31 [\*\*Docket No. 2016-0597-PET.\*\*](#)

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 (commission) on April 25, 2016, by Harris County, Texas (petitioner). The petitioner requested that the commission amend Section 321.212 of 30 TAC Chapter 321, Control of Certain Activities by Rule, Subchapter L, Discharges to Surface Waters from Motor Vehicles Cleaning Facilities, to remove minimum flow requirements for the motor vehicle cleaning facility permit. (Laurie Fleet, Hollis Henley) (Project No. 2016-036-PET-NR)

Petition withdrawn on June 20, 2016.

**RULE MATTERS**

Item 32 [\*\*Docket No. 2016-0336-RUL.\*\*](#)

Consideration for publication of, and hearing on, amended Sections 9.11 - 9.13 and 9.15 - 9.17 of 30 Texas Administrative Code (TAC) Chapter 9, Training. The proposed rulemaking would implement

House Bill 3337, 84th Texas Legislature, 2015, Regular Session, by updating training and education procedures for agency administrators and employees. (Yen Tran, Amber Kaskie) (Rule Project No. 2015-039-009-AD)

Approve the publication of, and hearing on, the proposed amendments to 30 Texas Administrative Code Chapter 9, Sections 9.11 - 9.13 and 9.15 - 9.17 as recommended by the Executive Director. TB/JN; all agree.

Item 33 **Docket No. 2016-0408-RUL.**

Consideration for publication of, and hearing on, proposed repeal of Sections 116.130 - 116.134, 116.136, and 116.137 of 30 Texas Administrative Code (TAC) Chapter 116, Control of Air Pollution by Permits for New Construction or Modification; and corresponding revisions to the state implementation plan. The proposed rulemaking would remove from Chapter 116 obsolete notification and comment procedural rules, which have been superseded by portions of 30 TAC Chapter 39, Public Notice. (Tasha Burns, Janis Hudson) (Rule Project No. 2016-026-116-AI)

Approve the publication of, and hearing on, the repeal of 30 Texas Administrative Code Sections 116.130 - 116.134, 116.136, and 116.137 and the corresponding revisions to the state implementation plan as recommended by the Executive Director. JN/TB; all agree.

**STATE IMPLEMENTATION PLANS**

Item 34 **Docket No. 2016-0308-SIP.**

Consideration for publication of, and hearing on, a proposed revision to the State Implementation Plan (SIP) for removal of 30 Texas Administrative Code (TAC) Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, Sections 116.120 - 116.123, 116.125, and 116.126 from the SIP. Sections 116.120 - 116.123, 116.125, and 116.126 were repealed on August 7, 2002. (Becky Southard, Janis Hudson) (Project No. 2016-028-SIP-NR)

Approve the publication of, and hearing on, the proposed revision to the State Implementation Plan for removal of 30 Texas Administrative Code Sections 116.120 - 116.123, 116.125, and 116.126 as recommended by the Executive Director. TB/JN; all agree.

Item 35      **Docket No. 2016-0307-SIP.**

Consideration of the withdrawal from consideration by the United States Environmental Protection Agency of 30 Texas Administrative Code (TAC) Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, Subchapter B, Section 116.110(a)(5), concerning de minimis authorization of facilities as a revision to the State Implementation Plan. (Mandolin Shannon, Janis Hudson) (Project No. 2016-029-SIP-NR)

Adopt the Executive Director's Order withdrawing 30 Texas Administrative Code Section 116.110(a)(5) from submission to the EPA as a revision to the State Implementation Plan. JN/TB; all agree.

**EXECUTIVE MEETING**

Item 36      **Docket No. 2016-0001-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 Executive Meeting.

Item 37      **Docket No. 2016-0002-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 Executive Meeting.

Item 38      **Docket No. 2016-0003-EXE.**

