

The Agenda document below includes hyperlinks (docket numbers highlighted in blue) that enable the user to view agenda backup documents [documents pertaining to a particular matter that have been filed with the Office of the Chief Clerk (OCC)]. To view all agenda backup in person including those documents not found in the hyperlinks below, please visit OCC at 12100 Park 35 Circle, Building F, Suite 1101 (30 TAC § 1.10).

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

December 15, 2016

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

RULE MATTER

Item 1 **[Docket No. 2016-0956-RUL.](#)**

Consideration of the adoption of amended Sections 115.112, 115.114, 115.118, and 115.119 of 30 TAC Chapter 115, Control of Air Pollution from Volatile Organic Compounds; and corresponding revisions to the state implementation plan. The adoption updates the reasonably available control technology requirements for fixed roof storage tanks in the Houston-Galveston-Brazoria 2008 eight-hour ozone nonattainment area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties). The adopted rule changes include: updating the control efficiency requirement for control devices other than vapor recovery units or flares; expanding the applicability to include the aggregate of fixed roof storage tanks at a pipeline breakout station into the control requirements prescribing flashed gas controls; and adding inspection, repair, and recordkeeping requirements for consistency with existing requirements in the Dallas-Fort Worth area. The adopted rulemaking would also include other revisions to conform

to Texas Register style and formatting requirements. The proposed rules were published in the October 7, 2016, issue of the *Texas Register* (41 TexReg 7934). (Graham Bates, Amy Browning) (Rule Project No. 2016-039-115-AI)

Adopt the amended Sections of 30 Texas Administrative Code Chapter 115 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. TB/JN; all agree.

STATE IMPLEMENTATION PLANS

Item 2 [Docket No. 2016-1243-SIP.](#)

Consideration for adoption of the Houston-Galveston-Brazoria (HGB) Attainment Demonstration State Implementation Plan (SIP) revision to meet the 2008 Eight-Hour Ozone National Ambient Air Quality Standard. To meet Federal Clean Air Act requirements, the SIP revision includes a photochemical modeling analysis, a weight of evidence analysis, a reasonably available control technology (RACT) analysis, a reasonably available control measures analysis, a motor vehicle emissions budget for 2017, and a contingency plan. This SIP revision also includes revisions to the 30 Texas Administrative Code Chapter 115 rules to update RACT for volatile organic compound storage tanks in the HGB area. (Lola Brown, John Minter) (Non-Rule Project No. 2016-016-SIP-NR)

Joint Motion for Items 2 and 3.

Adopt the Houston-Galveston-Brazoria Attainment Demonstration State Implementation Plan and the Reasonable Further Progress State Implementation Plan revisions, as recommended by the Executive Director. JN/TB; all agree.

Item 3 [Docket No. 2016-1244-SIP.](#)

Consideration for adoption of the Houston-Galveston-Brazoria (HGB) Reasonable Further Progress (RFP) State Implementation Plan (SIP) revision to meet the 2008 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS). To meet Federal Clean Air Act requirements, the SIP revision includes an analysis of reasonable further progress toward attainment of the 2008 eight-hour ozone NAAQS, demonstrating a 15% emissions reduction in ozone precursors from the 2011 base year through the 2017 attainment year, a 3% emissions reduction for contingency in 2018, and updated RFP motor

vehicle emissions budgets. (Dan Robicheaux, Terry Salem) (Non-Rule Project No. 2016-017-SIP-NR)

Joint Motion for Items 2 and 3.

Adopt the Houston-Galveston-Brazoria Attainment Demonstration State Implementation Plan and the Reasonable Further Progress State Implementation Plan revisions, as recommended by the Executive Director. JN/TB; all agree.

PETITIONS FOR RULEMAKING

Item 4 **Docket No. 2016-1878-PET.**

Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality (commission) on October 28, 2016, by Lloyd Gosselink on behalf of the Owner/Operator Members of the Uranium Committee of the Texas Mining and Reclamation Association (TMRA-UC). TMRA-UC requested that the commission revise rules in 30 TAC Section 305.62 (Amendments); 30 TAC Section 331.84 (Monitoring Requirements); 30 TAC Section 331.105 (Monitoring Standards); 30 TAC Section 331.107 (Restoration); 30 TAC Section 336.109 (Fees after Request for Termination of License); and 30 TAC Section 336.208 (Radiation Safety Officer). The requested revisions to the commission's rules address requirements for both injection well permitting and radioactive materials licensing for uranium mining operations, including: license amendment categories; the timing of monitor well sampling; the criteria for establishing a detected excursion; the selection of groundwater constituents monitored during the restoration period and stability demonstration; the timing of the submission of Production Area Authorization amendment applications for restoration table value revisions; provisions for the proration or waiver of annual licensing fees; and the training requirements for Radiation Safety Officers. (Alisha Stallard, Don Redmond) (Project No. 2017-005-PET-NR)

Initiate rulemaking in response to the petition filed on behalf of the Owner/Operator Members of the Uranium Committee of the Texas Mining and Reclamation Association concerning amendments to 30 Texas Administrative Code Chapters 305, 331, and 336 for the reasons stated in the Executive Director's memorandum. TB/JN; all agree.

Item 5 **Docket No. 2016-1896-PET.**

Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petition was filed with the Texas

Commission on Environmental Quality (commission) on November 3, 2016, by Texas Septic Systems Council (TSSC). TSSC requested that the commission revise rules in 30 TAC: Chapter 30, Occupational Licenses and Registrations, Sections 30.3 (Purpose and Applicability), 30.7 (Definitions), 30.10 (Administration), 30.20 (Examinations), 30.231 (Purpose and Applicability), 30.240 (Qualifications for Initial License); and 30.242 (Qualifications for License Renewal); and Chapter 285, On-Site Sewage Facilities, Sections 285.1 (Purpose and Applicability), 285.2 (Definitions), 285.3 (General Requirements), 285.4 (Facility Planning), 285.5 (Submittal Requirements for Planning Materials), 285.32 (Criteria for Sewage Treatment Systems), 285.40 (OSSFs on the Recharge Zone of the Edwards Aquifer), 285.50 (General Requirements), 285.62 (Duties and Responsibilities of Designated Representatives), and 285.91 (Tables). TSSC requested that the commission repeal existing Section 285.65 (Suspension or Revocation of License or Registration) and renumber it into a new 30 TAC, Section 285.66 and add new Section 285.65 (Duties and Responsibilities of Certified Designers). TSSC requested revisions to the commission's rules to create a new occupational certification called a "certified designer," needed to design certain on-site sewage facilities (OSSFs). The new certification would be an additional requirement for a Registered Professional Sanitarian and a Registered Professional Engineer who design OSSFs. (James McCaine, Kathy Humphreys) (Project No. 2017-006-PET-NR)

Deny the petition for rulemaking filed by the Texas Septic Systems Council concerning amendments to 30 Texas Administrative Code Chapters 30 and 285 for the reasons stated in the Executive Director's response memorandum; and Issue the Executive Director's Proposed Order, but Modify the decision to deny the Petition by: 1) Modifying the second sentence of the second paragraph of the Order by removing the period and replacing it with a comma and adding the following: "as expressed in the Executive Director's response memorandum to the Petition dated November 22, 2016." and 2) adding an additional sentence which states: "The Commission believes the comprehensive regulatory program for the management of OSSFs in 30 TAC Chapter 285 and the occupational licensing requirements in 30 TAC Chapter 30, Subchapter G, are appropriate for the protection of human health and the environment." JN/TB; all agree.

Item 6 **Docket No. 2016-1877-PET.**

Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality by Dr. Richard C. Bonart, D.V.M. (petitioner) on October 27, 2016. The petitioner is requesting amendments to 30 TAC Chapter 111, Control of Air Pollution from Visible Emissions and Particulate Matter, Subchapter A, Visible

Emissions and Particulate Matter, Division 4, Materials Handling, Construction, Roads, Streets, Alleys, and Parking Lots. The petitioner is requesting to revise Section 111.149(b) to exclude temporary parking lots used less than five days from the rule that requires the application of water, oil, or chemicals for dust suppression. (Kimberly Johnson, Nimasha Weliwitigoda) (Project No. 2017-004-PET-NR)

Deny the rulemaking petition submitted by Dr. Richard C. Bonart to amend 30 TAC Section 111.149(b) to exclude temporary parking lots used less than five days from the rule that requires the application of water, suitable oil, or chemicals for dust suppression; Issue the Executive Director's Proposed Order, but Modify the decision to deny the Petition by adding the following to the end of the second paragraph of the Order: "The decision to deny the petition is based on the Commission's conclusion that current 30 Texas Administrative Code Section 111.149(b) was evaluated as part of the attainment demonstration State Implementation Plan for the El Paso area and the controls were considered technologically and economically feasible. Further, petitioner's proposed rule revision would constitute a revision to the El Paso State Implementation Plan for PM₁₀ that may not be approvable by the United States Environmental Protection Agency as Section 110(l) of the Federal Clean Air Act states that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. In addition, as the rule language is currently written, it allows broad latitude in implementing dust suppression-control measures and the Commission favors this flexibility to accommodate the undoubtedly wide variety of temporary parking lots in El Paso. The Commission further interprets 111.149(b) to require watering of temporary parking lots only as necessary to prevent visible emissions." TB/JN; all agree.

EXECUTIVE MEETING

Item 7 **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.

No action taken.

Item 8 **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.

No action taken.

Item 9 **Docket No. 2016-0003-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 SIX (6) 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.)

SECTION 46.035 OF THE TEXAS PENAL CODE PROHIBITS HANDGUN LICENSEES FROM CARRYING THEIR HANDGUNS AT GOVERNMENT MEETINGS SUCH AS THIS ONE. THIS PROHIBITION APPLIES TO BOTH CONCEALED CARRY AND OPEN CARRY BY HANDGUN LICENSEES.

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/ Ron Olson
Assistant General Counsel
Ron Olson

12/16/2016
Date