

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)).

AGENDA

Chairman Bryan W. Shaw, Ph.D.
Commissioner Toby Baker

October 23, 2013

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUEST/REQUEST FOR RECONSIDERATION

Item 1

[Docket No. 2013-1280-MWD.](#)

Consideration of the application by Walton Texas, LP for renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014439001 which authorizes the discharge of treated domestic wastewater with a daily average flow not to exceed 700,000 gallons per day. The wastewater treatment facility will be located approximately 7,000 feet southwest of the intersection of State Highway 21 and Farm-to-Market Road 2720 in northwest Caldwell County, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Kathy Humphreys, Larry Diamond)

Deny the hearing requests pursuant to Texas Water Code Section 26.028(d), issue the Executive Director's draft permit to Walton Texas, LP and adopt the Executive Director's Response to Comments. TB/BS; all agree.

MOTION TO OVERTURN

Item 2 **Docket No. 2013-1488-SLG.**

Consideration of the Motion to Overturn (“Motion”) filed on August 16, 2013, by James, Amy, Jim & Joanne Story; Los Sendaros Ranch LTD; Eddie Moore; Cal Taylor; Evergreen UWCD; City of Nixon; and George & Maria Blanch (“Movants”), which requests that the Commission overturn the Executive Director’s approval of the application by Gordon Clifford Swenson (“Applicant”) for Registration No. 710926 in Wilson County under Texas Health and Safety Code Chapter 361 and 30 Texas Administrative Code Chapter 312. The Commission will also consider the Response briefs filed by the Applicant, the Executive Director, and the Office of Public Interest Counsel and the Reply brief filed by the Movants. (Stefanie Skogen)

Grant the Motion to Overturn as it relates to the Registration's Attachment A map and reissue the Executive Director's Registration with the corrected Attachment A map filed with the Executive Director's brief in response to the Motion. BS/TB; all agree.

MISCELLANEOUS MATTER

Item 3 **Docket No. 2012-2137-RAW.**

In compliance with 30 Texas Administrative Code (TAC) Section 336.736 (c), Waste Control Specialist's financial assurance mechanisms and cost estimates are reviewed to assure that sufficient funds are available for completion of the low level radioactive waste disposal site closure plan, assuming that the work has to be performed by an independent contractor. (Charles Maguire)

Approve Waste Control Specialists’ financial assurance mechanisms and cost estimates, as recommended by the Executive Director. TB/BS; all agree.

GENERAL PERMIT

Item 4 **Docket No. 2013-1046-MIS.**

Consideration of the adoption of the renewal with amendment of general permit number WQG200000, authorizing the disposal of wastewater by evaporation or beneficial irrigation adjacent to water in the state from livestock manure compost operations. Public notice of the proposed draft permit was published in the June 7, 2013 issue of the *Texas Register* (38 TexReg 3685). (Laurie Fleet, Robert Brush) (Non-Rule Project No. 2013-027-OTH-NR)

Instruct the Executive Director to include the following language in Part II.B.7 of the general permit: "The executive director shall deny or suspend a facility's authorization for disposal under this general permit based on a rating of ‘unsatisfactory performer’ according to commission rules in 30 TAC Section 60.3, *Use of Compliance History*. An applicant who owns or operates a facility classified as an ‘unsatisfactory performer’ is entitled to a hearing before the commission prior to having its coverage denied or suspended, in accordance with Texas Water Code Section 26.040(h). Denial of authorization for disposal under this general permit will be done according to commission rules in 30 TAC Chapter 205, *General Permits for Waste Discharges*"; and adopt the resolution providing for the issuance of the amended and renewed general permit as modified by the Commission. BS/TB; all agree.

MISCELLANEOUS MATTERS

Item 5 **Docket No. 2013-1509-MIS.**

Consideration of the adoption of revisions to The New Technology Implementation Grant Program: Guidelines for Grants (RG-484). The New Technology Implementation Grant (NTIG) program is established under Texas Health and Safety Code (THSC), Chapter 391. The commission is to adopt guidelines and criteria consistent with the statutory requirements. The commission adopted the current NTIG guidelines in 2010. The revisions to the guidelines implement changes to THSC, Chapter 391, by House Bill (HB) 2446 and Senate Bill (SB) 1727, 83rd Texas Legislature, 2013. Eligible project categories under the NTIG program include Advanced Clean Energy Projects as defined by THSC, Section 382.003. HB 2446 amended the definition of an Advanced Clean Energy Project to include projects involving natural gas. The revisions to the guidelines incorporate this change. The eligible project categories also include New Technology Projects that reduce emissions of regulated pollutants from point sources. The original provisions in THSC, Section 391.002(b)(1), required that projects under this category involve capital expenditures that exceed \$500 million. SB 1727 removed the capital expenditure limitation. The revisions to the guidelines remove this requirement to be consistent with the statutory requirements. (Jody Ibarguen, Ross Henderson)

Adopt the revisions to The New Technology Implementation Grant Program: Guidelines for Grants, along with the changes as discussed today, as recommended by the Executive Director. TB/BS; all agree.

Item 6 **Docket No. 2013-1391-MIS.**

Consideration of the adoption of the designation recommendation for the 2012 primary annual fine particulate matter (PM2.5) National Ambient Air Quality Standard (NAAQS) for submittal to the governor for his consideration and transmittal to the United States Environmental Protection Agency (EPA). The EPA will consider the state recommendation in making final 2012 PM2.5 NAAQS designations and area boundary determinations. The EPA revised the primary annual PM2.5 NAAQS on December 14, 2012 strengthening the standard from 15.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 12.0 $\mu\text{g}/\text{m}^3$. The EPA recommends that states identify violating areas using the most recent three years of certified air quality data (2010 through 2012) and submit a recommendation to the EPA no later than December 13, 2013. Staff recommends that all counties in the State of Texas with PM2.5 monitors meeting the revised NAAQS be designated attainment with all other counties of the state designated as unclassifiable/attainment. (Kristin Jacobsen, Alexis Lorick)

Approve the designation recommendation for the 2012 primary annual fine particulate matter National Ambient Air Quality Standard for submittal to the Governor, as recommended by the Executive Director. BS/TB; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 7

[Docket No. 2013-0405-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of FRP Storage Solutions Co. in Harris County; RN106587009; 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. (Rachel Bekowies, Candy Garrett)

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

Item 8

[Docket No. 2013-0411-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CITGO Refining and Chemicals Company L.P. in Nueces County; RN102555166; 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, Candy Garrett)

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

Item 9

[Docket No. 2013-0304-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Motiva Enterprises LLC in Jefferson County; RN100209451; 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, Candy Garrett)

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

Item 10

[Docket No. 2013-0588-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Valero Refining-Texas, L.P. in Galveston County; RN100238385; 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. (Amancio R. Gutierrez, Candy Garrett)

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

Item 11

[Docket No. 2013-0760-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DCP Midstream, LP in Fayette County; RN100213776; 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. (Jessica Schildwachter, Candy Garrett)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 12 [**Docket No. 2013-0837-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Michael A. Lewis dba Los Paisanos Rural Trash Service in Atascosa County; RN106639362; for air quality and municipal solid waste 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. (Keith Frank, Candy Garrett)

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

Item 13 [**Docket No. 2010-1244-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Queen City in Cass County; RN101388858 and RN101918910; 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 Texas Administrative Code ch. 60. (Heather Brister, Candy Garrett)

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

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 14 [**Docket No. 2012-1480-MLM-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Leo Graves d/b/a Graves Tire Service in Panola County; RN106449002; 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. (Rudy Calderon, Lena Roberts)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

Item 15 [**Docket No. 2013-0057-MSW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Tom Click d/b/a TBC Recycle Services and Transport, and Amanda Click in Victoria County; RN106303886; 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/BS; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 16 [**Docket No. 2011-2285-MSW-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Jose Garcia in Starr County; RN106247869; 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.
(Rudy Calderon, Lena Roberts)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 17 [**Docket No. 2013-0741-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Brenham in Washington County; RN101721355; 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. (Jill Russell, Candy Garrett)

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

Item 18 [**Docket No. 2013-0794-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Austin in Travis County; RN101607794; 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. (Remington Burklund, Candy Garrett)

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

Item 19 [**Docket No. 2013-0223-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Kingsville in Kleberg County; RN101612976; 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. (Nicholas Nevid, Candy Garrett)

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

Item 20 [**Docket No. 2013-0555-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Rockdale in Milam County; RN101388288; 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. (Jacquelyn Green, Candy Garrett)

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

Item 21 [**Docket No. 2012-2638-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Sadler in Grayson County; RN101917714; 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. (Christopher Bost, Candy Garrett)
Approve the Agreed Order. TB/BS; all agree.

Item 22 **Docket No. 2012-2670-MWD-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Dodd City in Fannin County; RN101608867; 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. (Remington Burklund, Candy Garrett)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 23 **Docket No. 2012-2629-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of G Jubilee Enterprises, Inc d/b/a Short Stop in Jefferson County; RN101872182; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Texas Health & Safety Code ch. 382, 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 Agreed Order. TB/BS; all agree.

Item 24 **Docket No. 2012-2698-PST-E.**

Consideration of an Agreed Order assessing administrative penalties against PRODUCERS COOPERATIVE ELEVATOR in Floyd County; RN102789062; 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 Agreed Order. TB/BS; all agree.

Item 25 **Docket No. 2013-0190-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MSSS ENTERPRISES INC. d/b/a S K Food Mart in Bexar County; RN102046737; 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. (Joel Cordero, Lena Roberts)

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

Item 26 **Docket No. 2013-0105-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of OCHO NLSS MG CORPORATION dba Sam's Food Mart 4 in Harris County; RN101378792; 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. (Theresa Stephens, Candy Garrett)

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

Item 27 **[Docket No. 2013-0528-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SR & East Texas Journey, LLC dba One Stop in Red River County; RN102356953; 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. (Steven Van Landingham, Candy Garrett)

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

Item 28 **[Docket No. 2013-0610-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against HANK'S CLEAN-UP & ROLL-OFF SERVICE, INC. in Tarrant County; RN102467347; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Candy Garrett)

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

Item 29 **[Docket No. 2013-0108-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of R & S Brothers LLC d/b/a Discount Self Service 2 in Tarrant County; RN101444628; 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. (Jacquelyn Boutwell, Lena Roberts)

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

Item 30 **[Docket No. 2012-2374-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Joel S. Mattson d/b/a Buttermans Grill in Callahan County; RN101845832; 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. (David Terry, Lena Roberts)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER

Item 31 **[Docket No. 2013-0395-PST-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of D & D INTERNATIONAL, INC. d/b/a Handi Stop 86 in Fort Bend County; RN100699016; 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. TB/BS; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 32 **[Docket No. 2013-0768-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Southside Place in Harris County; RN101178978; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sam Keller, Candy Garrett)

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

Item 33 **[Docket No. 2013-0827-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Star Harbor in Henderson County; RN101392025; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lisa Arneson, Candy Garrett)

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

Item 34 **[Docket No. 2013-0139-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION in Polk County; RN101201960; 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, Candy Garrett)

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

Item 35 **[Docket No. 2013-0637-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Rickey Repka and Barbara Repka dba Repka's Grocery in Waller County; RN101211670; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sam Keller, Candy Garrett)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDERS

Item 36 **[Docket No. 2012-2141-PWS-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of SAVS Investments, Inc. d/b/a Friday's General Store in Blanco County; RN104711163; 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)

Remanded to the Executive Director.

Item 37 **[Docket No. 2012-1237-PWS-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of FLETCHER ANIMAL CLINIC, P.C. and Donald S. Fletcher, dba Cattail Creek Mobile Home Park in Erath County; RN102672854;

for public drinking water violations pursuant to Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Jennifer Cook, Lena Roberts)

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

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 38 [Docket No. 2013-0208-WQ-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of HD Recycling, LLC in Parker County; RN106327521; 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)

Remanded to the Executive Director.

PETITION FOR RULEMAKING

Item 39 [Docket No. 2013-1612-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 by the Dallas County Medical Society on August 28, 2013. The petitioner is requesting amendments to 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds, Subchapter E, Multi-Region Combustion Control, Division 1, Utility Electric Generation in East and Central Texas. The petitioner is requesting a rulemaking that further limits nitrogen oxides (NOX) emissions from electric generating units in East and Central Texas by requiring that certain coal-fired power plants in East Texas meet more stringent NOX emission standards based on selective catalytic reduction technology within five years, specifically the eight coal-fired electric generating units located at Big Brown Steam Electric Station (Freestone County), Monticello Steam Electric Station (Titus County), and Martin Lake Electrical Station (Rusk County). The petitioner is also requesting that the commission hold a public hearing to accept comments on this rulemaking. (Javier Galván, Terry Salem) (Project No. 2013-060-PET-NR)

Deny the petition for rulemaking filed by the Dallas County Medical Society concerning amendments to 30 Texas Administrative Code Chapter 117 for the reasons recommended by the Executive Director; and 2) Issue the Executive Director's Proposed Order. BS/TB; all agree.

RULE MATTERS

Item 40 [Docket No. 2013-0413-RUL.](#)

Consideration for adoption of an amendment to Section 115.453 of 30 TAC Chapter 115, Control of Air Pollution from Volatile Organic Compounds, and corresponding revisions to the state implementation plan. The adopted rulemaking will allow the use of airless and air-assisted airless spray application systems for the coating of miscellaneous metal parts and products, miscellaneous plastic parts and products, and automotive/transportation and

business machine plastic parts, and for the application of motor vehicle materials in the Dallas-Fort Worth and Houston-Galveston-Brazoria 1997 eight-hour ozone nonattainment areas. The adopted rulemaking implements reasonably available control technology requirements consistent with the United States Environmental Protection Agency's 2008 Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines recommendations. The proposed rules were published in the June 07, 2013 issue of the *Texas Register* (38 TexReg 3499). (Frances Dowiak, Amy Browning) (Rule Project No. 2013-012-115-AI)

Adopt the amendment to 30 TAC 115.453 and the corresponding revisions to the SIP, as recommended by the Executive Director. TB/BS; all agree.

Item 41 **[Docket No. 2013-1342-RUL.](#)**

Consideration for publication of, and hearing on, proposed new and amended Sections of 30 TAC Chapter 39, Public Notice; Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; Chapter 101, General Air Quality Rules; Chapter 106, Permits by Rule; Chapter 116, Control of Air Pollution by Permits for New Construction or Modification; and Chapter 122, Federal Operating Permits Program and corresponding revisions to the State Implementation Plan (SIP). New and amended Sections 39.411(e)(11), (15) and (16), and (f)(4) and (8), 39.412(a) - (d), 39.419(e)(1), 39.420(e)(4), 101.1, 101.10, 101.201, 106.2, 106.4, 116.12, 116.111, 116.160, 116.164, 116.169, 116.610, 116.611, and 122.122 would be submitted to the United States Environmental Protection Agency as revisions to the SIP. The proposed rulemaking implements House Bill 788, 83rd Legislature, 2013, Regular Session, which requires that the commission adopt rules for the authorization of emissions of greenhouse gases (GHGs) to the extent required under federal law. The proposed rules establish GHGs thresholds for Title V and Prevention of Significant Deterioration (PSD) permits, clarify how emissions of GHGs are implemented in the emissions inventory and emissions fee rules, specify the PSD GHG permit applications are not subject to requirements regarding a contested case hearing, and specify that GHGs do not have a reportable quantity (RQ) for emissions event reporting purposes. The proposed rules also address a rulemaking petition from 3M Company to establish an RQ of 5,000 pounds for C6 Fluoroketone, a fire protection fluid. (Tasha Burns, John Minter) (Rule Project No. 2013-040-116-AI)

Approve the publication of, and hearing on, proposed new and amended Sections of 30 TAC Chapters 39, 55, 101, 106, 116, and 122, and corresponding revisions to the State Implementation Plan, as recommended by the Executive Director. BS/TB; all agree.

Item 42 **[Docket No. 2013-0711-RUL.](#)**

Consideration for adoption of amended Section 336.1115 of 30 TAC Chapter 336, Radioactive Substance Rules. The adoption would amend requirements for the release for unrestricted use of outdoor areas at source material recovery sites or by-product disposal sites. The adopted rulemaking would also remove existing language in Section 336.1115(e) to eliminate the uranium soil concentration standard, leaving a radium soil concentration limit coupled with

the radium benchmark dose approach method for the release of outdoor areas. The proposed rule was published in the July 5, 2013 issue of the *Texas Register* (38 TexReg 4300). (Tony Gonzalez, Don Redmond) (Rule Project No. 2013-029-336-WS)

Adopt amendments to 30 Texas Administrative Code Section 336.1115 as recommended by the Executive Director. TB/BS; all agree.

PUBLIC COMMENT SESSION

Item 43 The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ, with the exception of pending permitting matters or other contested cases which are subject to the ex parte prohibition found in Texas Government Code §2001.061. In the interest of time, speakers will be limited to three minutes each, with the total time for public comment limited to one hour.

No Action Taken.

EXECUTIVE MEETING

Item 44 **Docket No. 2013-0001-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.

Appoint Anne Idsal as General Counsel in accordance with Section 5.110 of the Water Code effective November 1st. BS/TB; all agree.

Item 45 **Docket No. 2013-0002-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 46 **Docket No. 2013-0003-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.)

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/Barham Richard
Assistant General Counsel
Barham Richard

10/29/13
Date