

*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**

February 8, 2012

### **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

#### **PROPOSAL FOR DECISION**

Item 1 **[TCEQ Docket No. 2010-1326-PST-E; SOAH Docket No. 582-11-3204.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of Ali Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102 in Galveston County, Texas; RN102714474; 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. The Commission will also consider the record, timely related filings, exceptions and replies. (Stephanie Frazee)

#### **HEARING REQUEST/REQUEST FOR RECONSIDERATION**

Item 2 **[Docket No. 2011-2107-IWD.](#)**

Consideration of the application by United States Department of Energy and Babcock & Wilcox Technical Services Pantex, LLC for a renewal of TCEQ Permit No. WQ0002296000. The current permit authorizes the discharge of domestic effluent and industrial effluent at a daily average flow not to exceed 560,000 gallons per day. The facility is located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson 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. (Robert Brush, Michael Sunderlin)

**TMDL MATTER**

Item 3 **[Docket No. 2011-0722-TML.](#)**

Consideration for final adoption of Eight Total Maximum Daily Loads for Indicator Bacteria in Dickinson Bayou and Three Tidal Tributaries, Segments 1103, 1103A, 1103B, 1103C, and 1104, in Galveston and Brazoria Counties. Project No. 2011-021-TML-NR (Ron Stein, Robert Brush)

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 4 **[Docket No. 2011-1080-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Magnum Blue Ribbon Feeds, Inc. in Deaf Smith County; RN101925196; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Debra Barber)

Item 5 **[Docket No. 2011-0541-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Exxon Mobil Corporation in Harris County; RN102574803; 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)

Item 6 **[Docket No. 2011-0841-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against ISP Technologies Inc. in Galveston County; RN100825272; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Debra Barber)

Item 7 **[Docket No. 2011-1328-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ConocoPhillips Company in Hutchinson County; RN102495884; 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. (Heather Podlipny, Debra Barber)

Item 8      [\*\*Docket No. 2011-0860-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. (Heather Podlipny, Debra Barber)

Item 9      [\*\*Docket No. 2011-1355-AIR-E.\*\*](#)

Hyperlink  
Updated  
2/3/2012  
3:30 PM

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Premcor Refining Group Inc. in Jefferson County; RN102584026; 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)

Item 10     [\*\*Docket No. 2011-1286-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Martech, LLC in Ellis County; RN101469146; 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)

Item 11     [\*\*Docket No. 2011-1412-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against VirTex Operating Company, Inc. in Atascosa County; RN100209626; 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)

Item 12     [\*\*Docket No. 2011-1021-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Strand Energy, L.C. in Waller County; RN106130131; 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. (Miriam Hall, Debra Barber)

Item 13     **[Docket No. 2011-0341-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Square Mile Energy, L.L.C. in Brazoria County; RN106074818; 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)

Item 14     **[Docket No. 2011-1501-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of 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)

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 15     **[Docket No. 2011-0954-MSW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Whole Woman's Health of Austin, LLC in Travis County; RN106143704; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Debra Barber)

Item 16     **[Docket No. 2011-1157-MSW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against STERICYCLE, INC. in Bastrop County; RN102942885; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Debra Barber)

Item 17     **[Docket No. 2011-0955-MSW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Whole Woman's Health of McAllen, LLC in Hidalgo County; RN106097959; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Debra Barber)

## **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

**Item 18     [Docket No. 2011-0886-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Santa Rosa in Cameron County; RN101918696; 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. (Jennifer Graves, Debra Barber)

**Item 19     [Docket No. 2011-0342-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of C & R WATER SUPPLY INC. in Montgomery County; RN102181765; 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)

**Item 20     [Docket No. 2010-1373-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of La Coste in Medina County; RN101916617; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, Debra Barber)

**Item 21     [Docket No. 2011-0731-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Aqua Development, Inc. in Wise County and Tarrant County; RN102343290; 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. (Jeffrey Huhn, Lena Roberts)

**Item 22     [Docket No. 2008-1629-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of City of Kosse in Limestone County; RN101919702; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

Item 23     **[Docket No. 2011-1595-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Fort Worth in Tarrant County; RN100942259; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, Debra Barber)

Item 24     **[Docket No. 2011-0896-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Syed Nooruddin Hyder in Brazos County; RN102097789; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Debra Barber)

**PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

Item 25     **[Docket No. 2011-1459-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CUSA GCT, LLC dba Gulf Coast Transportation in Harris County; RN102475993; 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. (Kimberly Walker, Debra Barber)

Item 26     **[Docket No. 2011-1050-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against MOOSA INC. LLC dba GM Shell in Harris County; RN101841278; 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. (Thomas Greimel, Debra Barber)

Item 27     **[Docket No. 2011-1262-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against RAHIL, INCORPORATED dba Valero Food Mart 2 in Bexar County; RN101865830; 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. (Andrea Park, Debra Barber)



## **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDERS**

Item 28

**[Docket No. 2011-0567-PST-E.](#)**

Hyperlink  
Updated  
2/7/2012  
10:00 AM

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Hernandez Petroleum, Inc. d/b/a Quality Discount Fuel & Convenient Store in Webb County; RN103769717; 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. (Xavier Guerra, Lena Roberts)

Item 29

**[Docket No. 2011-0678-PST-E.](#)**

Hyperlink  
Updated  
2/7/2012  
10:00 AM

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Quickways inc d/b/a Quickway Mart in Tarrant County; RN103020871; 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. (Xavier Guerra, Lena Roberts)

## **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 30

**[Docket No. 2011-0721-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Pratap Desai in Harris County; RN101249498; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Katy Schumann, Debra Barber)

Item 31

**[Docket No. 2011-0941-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kenneth D. Densman dba Telferner Grocery in Victoria County; RN102490455; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Debra Barber)

## **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 32

**[Docket No. 2011-1433-WQ-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Union Pacific Railroad Company in Dallas County; RN106172166; 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. (Lanae Foard, Debra Barber)

Item 33 [\*\*Docket No. 2010-1491-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Westex Capital, LTD. in Kendall County; RN102785805; 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)

**RULE MATTERS**

Item 34 [\*\*Docket No. 2011-2046-RUL.\*\*](#)

Consideration for publication of, and hearing on, amended Sections 331.2, 331.14, 331.17, 331.18, 331.42 - 331.47, 331.61, 331.121, 331.142, 331.161, 331.162, 331.165, 331.168, 331.170, 331.171, and 331.206 and the titles of Subchapters D and J; new Sections 331.241 - 331.251; and the repeal of Section 331.120 of 30 Texas Administrative Code (TAC) Chapter 331, Underground Injection Control. The proposed rulemaking would amend existing rules and add new rules pertaining to the use of a Class I well for disposal of nonhazardous drinking water treatment residuals (DWTR) into a salt cavern in horizontally bedded or non-domal salt. This includes disposal of nonhazardous DWTR that contain naturally occurring radioactive material (NORM). For commercial disposal of DWTR containing NORM, a Class I well permit would be accompanied by a radioactive materials license. The proposed rules would provide a disposal alternative within Texas for public water systems to dispose of their treatment residuals containing NORM in a manner that is protective of human health and safety and the environment. Currently, the only facilities licensed to dispose of these wastes are landfills located out-of-state. The proposed rules include repeal of an obsolete rule and editorial clarifications and corrections. (Kathryn Flegal, Diane Goss, Don Redmond) (Rule Project No. 2011-023-331-WS)

Item 35 [\*\*Docket No. 2011-0997-RUL.\*\*](#)

Consideration for adoption of new Section 116.128, Permit Amendment Application, Public Notice and Contested Case Hearing Procedures for Certain Electric Generating Facilities, of 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, and corresponding revisions to the state implementation plan. The rulemaking would implement House Bill 2694, Sections 4.27 and 4.30, 82nd Legislature, 2011, Regular Session, by establishing public notice, comment, and contested case hearing procedures for permit amendment applications for electric generating facilities to comply with Federal Clean Air Act, Section 112. The proposed rule was published for comment in the October 21, 2011, issue of the *Texas Register* (36 TexReg 7128). (Beecher Cameron, Janis Hudson) (Rule Project No. 2011-029-116-AI)

Item 36 [\*\*Docket No. 2011-1223-RUL.\*\*](#)

Consideration for publication of, and hearing on, proposed 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 proposed 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 proposed rulemaking would also correct the spelling of the word "willfully;" 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. (Justin Taack, Ruth Takeda) (Rule Project No. 2011-039-293-OW)

Item 37      **Docket No. 2011-1064-RUL.**

Consideration for publication of, and hearing on, the proposed amendments to Sections 285.11 and 285.21 and new Section 285.38 of 30 TAC Chapter 285, On-Site Sewage Facilities. The proposed rulemaking would implement House Bill (HB) 2694, 82nd Legislature, 2011, Regular Session. HB 2694 abolished the Texas On-Site Wastewater Treatment Research Council (Council). This rulemaking will remove references to the Council from Chapter 285. The proposed rulemaking would also implement HB 240, 82nd Legislature, 2011, Regular Session. This rulemaking will require all On-Site Sewage Facilities, including risers and covers, installed after September 1, 2012, to be designed to prevent access by anyone other than the system's owner and licensed OSSF installers or maintenance providers. (Candy Garrett, Kathy Humphreys) (Rule Project No. 2011-040-285-CE)

Item 38      **Docket No. 2011-1266-RUL.**

Consideration for publication of, and hearing on, the proposed amendment to Section 330.7 of 30 TAC Chapter 330, Municipal Solid Waste. The proposed rulemaking would implement Senate Bill 1258, 82nd Legislature, 2011, Regular Session, which authorizes the commission to issue a permit by rule to a county or a municipality with a population of 10,000 or less in arid-exempt areas for disposal of demolition waste from abandoned or nuisance buildings. (Steve Odil, Anthony Tatu) (Rule Project No. 2011-048-330-WS)

**EXECUTIVE MEETING**

Item 39      **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.

**Item 40     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.

**Item 41     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.

**(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)**