

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

March 7, 2012

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

PROPOSALS FOR DECISION

Item 1 **[TCEQ Docket No. 2008-0767-UTL-E; SOAH Docket No. 582-09-2571.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding an enforcement action against Aqua Utilities, Inc. a/k/a Aqua Texas, Inc. in Anderson, Bandera, Bastrop, Bexar, Bosque, Brazoria, Burnet, Camp, Chambers, Cherokee, Comal, Cooke, Denton, Erath, Fort Bend, Grayson, Gregg, Grimes, Harris, Hays, Henderson, Hood, Hunt, Jefferson, Johnson, Kendall, Kerr, Llano, Liberty, Live Oak, Marion, McLennan, Medina, Montgomery, Nueces, Orange, Parker, Polk, Rockwall, San Jacinto, Smith, Somervell, Tarrant, Taylor, Travis, Trinity, Victoria, Wharton, Williamson, Wilson, Wise, and Wood Counties, Texas; RN102674215 and RN102674504; pursuant to Tex. Water Code chs. 5, 7 and 13 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Jennifer N. Cook)

Item 2 **[TCEQ Docket No. 2010-0503-PST-E; SOAH Docket No. 582-11-1709.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of

Mohamed Basheer d/b/a EXXON 45 in Galveston County, Texas; RN101814010; 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. The Commission will also consider the record, timely related filings, exceptions and replies. (Tammy L. Mitchell)

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 3 [Docket No. 2011-2114-AIR.](#)

Consideration of the application by P & L Cast Stone, Inc. for the issuance of Air Quality Standard Permit for Concrete Batch Plants, Registration No. 93109 to construct a permanent concrete batch plant. The P & L Cast Stone, Inc. site is located at 4000 Haslet-Roanoke Road, in the Fort Worth Extra-Territorial Jurisdiction, Tarrant 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. (Donald Nelon, Betsy Peticolas)

Item 4 [Docket No. 2011-1215-AIR.](#)

Consideration of the application by Sherwin Alumina Company, LLC for the renewal of Air Quality Permit No. 46868 which authorizes the red scale handling and stockpiles at their alumina facility located at 4633 Highway 361, Gregory, San Patricio 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. (Bill Moody, Betsy Peticolas)

Item 5 [Docket No. 2011-2199-IWD.](#)

Consideration of the application by Southwestern Electric Power Company for renewal and major amendment to TPDES Permit No. WQ0002496000 to authorize: (a) an increase in the capacity of the existing Landfill Pond, (b) the diversion of wastewater from the Ash Pond into the Landfill Pond on an infrequent basis, (c) a reduction in the monitoring frequency for total suspended solids at Outfalls 004 and 005 from once per month to once per quarter, (d) a reduction in the monitoring frequency for oil and grease at Outfall 006 from once per month to once per quarter, (e) a reduction in the monitoring frequency for oil and grease at Outfall 102 from once per quarter to once per year, (f) a reduction in monitoring frequency for biochemical oxygen demand (5-day) at Outfall 302 from once per two months to once per quarter, and (g) a temporary reduction in the two-foot freeboard requirement for ponds during storm events. The facility is located adjacent to Red Oak Road at a point approximately six miles southeast of the City of Hallsville, Harrison 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. (D.A. Chris Ekoh, Satya Dwivedula)

Item 6 **Docket No. 2011-2316-IWD.**

Consideration of the application by Synagro of Texas - CDR, Inc. for a new permit, Proposed TCEQ Permit No. WQ0004941000, to authorize the land application of sewage sludge for beneficial use on 635.06 acres. This permit will not authorize a discharge of pollutants into waters in the State. The sewage sludge land application site will be located at 510 Empedrado Drive, at the intersection of Highway 71 and Empedrado Drive, approximately 10 miles east of the Austin-Bergstrom International Airport, in Bastrop and Travis Counties, 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. (Timothy Reidy, Brian Sierant)

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 7 **Docket No. 2010-1235-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Arkema Inc. in Jefferson County; RN100216373; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna Treadwell, Lena Roberts)

Item 8 **Docket No. 2010-1402-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ash Grove Texas, L.P. in Ellis County; RN100225978; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna M. Treadwell, Lena Roberts)

Item 9 **Docket No. 2011-0570-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties against Zack Burkett Co. in Shackelford County; RN105013239; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna M. Treadwell, Lena Roberts)

Item 10 **Docket No. 2011-1608-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties against Merisol USA LLC in Harris County; RN100214576; 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 11 [**Docket No. 2011-1418-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Georgia-Pacific Gypsum LLC in Hardeman County; RN100216209; 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 12 [**Docket No. 2011-1311-AIR-E.**](#)

Remanded
to the
Executive
Director

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shell Oil Company 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 13 [**Docket No. 2011-1522-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Explorer Pipeline Company in Jefferson County; RN101954394; 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 14 [**Docket No. 2011-0831-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Exxon Mobil Corporation in Harris County; RN102212925; 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)

INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 15 [**Docket No. 2011-1144-IHW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BASF CORPORATION in Harris County;

RN100225689; for industrial and hazardous 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. (Michael Meyer, Debra Barber)

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

Item 16 **[Docket No. 2010-1844-MLM-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Mart in McLennan County; RN101388544; 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. (Andrea Linson-Mgbeoduru, Debra Barber)

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 17 **[Docket No. 2010-1697-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Tyler in Smith County; RN101611150 and RN102916459; 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 18 **[Docket No. 2011-1644-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Mexia in Limestone County; RN101918076; 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, Debra Barber)

Item 19 **[Docket No. 2011-1284-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Robert Jarvis d/b/a Forestaire Estates in Harris County; RN104090998; 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)

Item 20 **[Docket No. 2011-1426-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jasper County Water Control and Improvement

District No. 1 in Jasper County; RN101610673; 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)

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDER

Item 21 **[Docket No. 2011-1078-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Suny Singh d/b/a Center Drive In 2 in Washington County; RN101676856; 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. (Kari L. Gilbreth, Lena Roberts)

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDER

Item 22 **[Docket No. 2011-0165-PST-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Thakoor Chatarpal in Harris County; RN101827533; 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. (Stephanie J. Frazee, Lena Roberts)

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 23 **[Docket No. 2011-0957-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Elizabeth Perez dba JD's Kwik Stop in Webb County; RN105486518; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Bridgett Lee, Debra Barber)

Item 24 **[Docket No. 2011-1312-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of THE UNIVERSAL CHURCH in El Paso County; RN103991980; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Steve Villatoro, Debra Barber)

Item 25 **[Docket No. 2011-1174-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Deanville Water Supply Corporation in Burleson County; RN101442085; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Debra Barber)

Item 26 **[Docket No. 2011-1509-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CHARLIE BROWN'S LEARNING CENTER in Lubbock County; RN102678430; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Schumann, Debra Barber)

Item 27 **[Docket No. 2010-1807-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Peach Creek Dam & Lake Club in Montgomery County; RN101193027; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephanie J. Frazee, Lena Roberts)

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 28 **[Docket No. 2010-1405-PWS-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of AMK Properties L L C in Bexar County; RN102404399; 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. (Stephanie J. Frazee, Lena Roberts)

RULE MATTERS

Item 29 **[Docket No. 2009-2039-RUL.](#)**

Consideration for publication of, and hearing on, amended Sections 114.6, 114.312, and 114.314 - 114.319, repealed Section 114.313, and new Section 114.313 of 30 Texas Administrative Code (TAC), Chapter 114, Control of Air Pollution from Motor Vehicles, and corresponding revisions to the state implementation plan. The proposed rulemaking would revise definitions; establish new designated alternative limits for Texas low emission diesel fuel properties; remove expired registration requirements and establish new registration requirements for identifying production and import facilities; revise approval procedures for alternative diesel fuel formulations; specify that the approvals of all additive-based alternative diesel fuel formulations would be subject to revocation if the composition of the additive is found to be altered; allow all alternative diesel formulations approved by the Texas Commission on Environmental Quality prior to April 1, 2012, to remain in effect; revise reporting requirements to include production and import facility data; require alternative emission reduction plans using the Unified Model to determine compliance each calendar quarter; remove expired early gasoline sulfur reduction credits provisions; and make other clarifying changes as needed for accuracy and consistency. (Morris Brown, John Minter) (Rule Project No. 2009-001-114-EN)

Item 30 **Docket No. 2011-1685-RUL.**

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

Item 31 **Docket No. 2011-1224-RUL.**

Consideration for publication of, and hearing on, proposed amendments to 30 TAC Chapter 293, Water Districts, Sections 293.19, 293.20, 293.22 and 293.23, and Chapter 294, Priority Groundwater Management Areas, Sections 294.30 and 294.40 - 294.44. The proposed rulemaking would implement Senate Bills 313 and 660 from the 82nd Legislature, 2011, Regular Session, relating to the creation of groundwater conservation districts in priority groundwater management areas that were designated before September 1, 1997; the study and designation of new priority groundwater management areas; the creation of groundwater conservation districts in new priority groundwater management areas; the definition of an affected person; and, the reasons that an affected person may petition the commission for an inquiry of a groundwater conservation district in a groundwater management area. (Michael Chadwick, James Aldredge) (Rule Project No. 2011-054-294-OW)

EXECUTIVE MEETING

Item 32 **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 33 **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 34 **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)