

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)).

OLD BUSINESS AGENDA

April 11, 2012

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the March 28, 2012 agenda.

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 1 **[Docket No. 2011-0764-PWS-E.](#)**

Remanded
to the
Executive
Director

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Ms. Molly's LLC in Colorado County; RN104909882; 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)

AGENDA

April 11, 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. 2010-1087-PST-E; SOAH Docket No. 582-11-2028.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of Edward Ratliff in Montague County, Texas; RN102057775; 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. (Mike Fishburn)

Item 2 **[TCEQ Docket No. 2011-0912-OSS; SOAH Docket No. 582-11-7315.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the denial for cause of the application of Eli Espinoza, CN601958408, in Bexar County, Texas, for a Class C Water Distribution Operator License, pursuant to Tex. Water Code Chapter 37 and the rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 30. The Commission will also consider the record, timely related filings, exceptions and replies. (Kathy Humphreys)

TMDL MATTERS

Item 3 **[Docket No. 2011-2091-TML.](#)**

Consideration for approval to publish and solicit public comment on Three Total Maximum Daily Loads for Indicator Bacteria corresponding to three assessment units (AUs) in three segments in the Carters Creek watershed (1209C, 1209D, and 1209L), of the Brazos River Basin, in Brazos County. (Ron Stein, Robert Brush) Project No. 2012-013-TML-NR

Item 4 **[Docket No. 2011-2092-TML.](#)**

Consideration for approval to publish and solicit public comment on a draft

Implementation Plan for three TMDLs for bacteria in the Carters Creek watershed (Segments 1209C, 1209D, and 1209L), in Brazos County. (Ron Stein, Robert Brush) Project No. 2012-014-TML-NR

MISCELLANEOUS MATTER

Item 5

[Docket No. 2012-0257-MIS.](#)

Hyperlink
Updated
4/10/2012
11:00 AM

Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (Elizabeth West)

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 6

[Docket No. 2011-1904-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kinder Morgan Tejas Pipeline LLC in Brazoria County; RN100217629; 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 7

[Docket No. 2011-1562-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Flint Hills Resources Port Arthur, LLC in Jefferson County; RN100217389; 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 8

[Docket No. 2011-1886-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Air Products LLC in Harris County; RN100221324; 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 9

[Docket No. 2010-1555-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; RN100238799; 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. 2011-1808-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ascend Performance Materials LLC in Brazoria County; RN100238682; 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 11 **[Docket No. 2011-1714-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ONEOK Hydrocarbon Southwest, LLC in Chambers County; RN100209949; 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. (Allison Fischer, Debra Barber)

INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 12 **[Docket No. 2011-1713-IHW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Triumph Structures - East Texas, Inc. in Gregg County; RN101059459; 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. (Philip Aldridge, Debra Barber)

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 13 **[Docket No. 2011-1806-IWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Igloo Products Corp. in Waller County; RN101919280; 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. (Cheryl Thompson, Debra Barber)

Item 14 **[Docket No. 2011-1583-IWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Texas Tile Manufacturing LLC in Harris County; RN100896729; 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. (JR Cao, Debra Barber)

Item 15 [**Docket No. 2011-1347-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Cargill Meat Solutions Corporation in Hale County; RN101634368; 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. (Merrilee Hupp, Debra Barber)

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 16 [**Docket No. 2011-0947-MLM-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Louis O'Connor in Galveston County; RN105924336; for municipal solid waste and air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rudy Calderon, Lena Roberts)

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 17 [**Docket No. 2010-1380-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Teen Challenge of Texas in Nueces County; RN102179124; 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. (Xavier Guerra, Lena Roberts)

Item 18 [**Docket No. 2011-1529-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Brazoria in Brazoria County; RN101613552; 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. (Cheryl Thompson, Debra Barber)

Item 19 [**Docket No. 2011-1679-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Roxton in Lamar County; RN101920759; 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 20 **[Docket No. 2011-1699-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Lovelady in Houston County; RN102185543; 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 ORDER

Item 21 **[Docket No. 2011-1391-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of WALNUT HILL I-35 ENTERPRISES, L.L.C. dba Flash Mart in Dallas County; RN102713377; 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, Debra Barber)

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS

Item 22 **[Docket No. 2011-0298-PST-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of LAPORTE INDUSTRIES, L.L.C. in Harris County; RN102855053; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Sharesa Alexander, Lena Roberts)

Item 23 **[Docket No. 2011-1206-PST-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Guadalupe Rodriguez in La Salle County; RN101764223; 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. (Steven M. Fishburn, Lena Roberts)

Item 24 **[Docket No. 2011-1374-PST-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of B. K. TRADING, INC. d/b/a Speedy Stop 11 in Lamar County; RN101434983; 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)

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 25 [**Docket No. 2011-1993-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Al's Investments, Inc. DBA Al's North Texas Property Management, Inc. in Wise County; RN104709803; 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 26 [**Docket No. 2011-1173-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Seaboard International Inc. in Harris County; RN102316213; 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)

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDERS

Item 27 [**Docket No. 2011-1315-PWS-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Cecil D. Hutcheson d/b/a Elm Grove Mobile Home Park in Lubbock County; RN101438380; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sharesa Alexander, Lena Roberts)

Item 28 [**Docket No. 2011-1040-PWS-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of HIGH GABRIEL WATER SUPPLY CORPORATION in Williamson County; RN101224699; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sharesa Alexander, Lena Roberts)

WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT DEFAULT ORDER

Item 29 [**Docket No. 2011-1652-WOC-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Carlos R. Lopez in Concho County; RN103617619; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Sharesa Alexander, Lena Roberts)

STATE IMPLEMENTATION PLAN

Item 30 [**Docket No. 2012-0147-SIP.**](#)

Consideration for publication of, and hearing on, a revision to the Stage II

Vapor Recovery Program State Implementation Plan and the submittal of a request to the United States Environmental Protection Agency to waive the Stage II requirements in the following counties in the Dallas-Fort Worth 1997 eight-hour ozone nonattainment area: Ellis, Johnson, Kaufman, Parker, and Rockwall Counties. (Lisa Shuvalov, Chrissie Angeletti) (SIP Project No. 2012-003-SIP-NR)

RULE MATTERS

Item 31 [Docket No. 2012-0196-RUL.](#)

Consideration for publication of proposed amendments to Sections 305.50, 305.64, 305.69, and 305.122; and new Section 305.176 of 30 Texas Administrative Code (TAC) Chapter 305, Consolidated Permits; amendments to Sections 324.1 - 324.7, and 324.11 - 324.16 of 30 TAC Chapter 324, Used Oil Standards; and amendments to Sections 335.1, 335.2, 335.6, 335.10 - 335.13, 335.19, 335.24, 335.31, 335.61, 335.62, 335.67, 335.69, 335.71, 335.73, 335.76, 335.78, 335.94, 335.111, 335.112, 335.115, 335.151, 335.152, 335.155, 335.168, 335.170, 335.211, 335.213, 335.222, 335.241, 335.251, 335.431, 335.503, and 335.504; and new Section 335.79 of 30 TAC Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste. The proposed rulemaking would establish notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, establish an alternative set of generator requirements applicable to laboratories owned by eligible academic entities and address the specific nature of hazardous waste generation and accumulation in these laboratories, make a number of technical corrections to the hazardous waste regulations in numerous final rules previously published in the Federal Register, such as typographical errors, incorrect or outdated citations, and omissions, remove "saccharin and its salts" from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded, incorporate technical corrections from 40 Code of Federal Regulations Part 262, Subpart K, include corrections to existing Used Oil Rules in 30 TAC Chapter 324, include corrections to existing Manifest Rules in 30 TAC Chapter 335, include corrections to previously adopted language from Checklists: 208, 213, 214, 215 and require a new permit owner to provide acceptable financial assurance on the date of a permit transfer. (Cynthia Palomares, P.G., P.E., Susan White) (Rule Project No. 2011-025-335-WS)

Item 32 [Docket No. 2011-1249-RUL.](#)

Consideration of the adoption of amendments to Section 50.139 in Chapter 50, Action on Applications and Other Authorizations; Sections 55.103, 55.201, 55.203, and 55.256 in Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; and Sections 80.17, 80.108, 80.109, 80.115, 80.117, 80.131, 80.151, 80.257, and 80.261 in Chapter 80, Contested Case Hearings, of 30 TAC. The adopted rules would implement House Bill 2694, Article 10, Contested Case Hearings, 82nd Legislature, 2011, Regular Session, which amends the Texas Water Code by adding new Section 5.315, amending

Section 5.115(b) and Section 5.228(c) and (d), and by repealing Section 5.228(e), and revises the contested case hearings process. The proposed rules were published in the November 18, 2011 issue of the *Texas Register*. (36 Tex Reg 7764) (Janis Hudson) (Rule Project No. 2011-030-080-LS)

Item 33

Docket No. 2011-1252-RUL.

Hyperlink
Updated
4/9/2012
9:30 AM

Consideration of the adoption of new 30 TAC Chapter 36, Suspension or Adjustment of Water Rights During Drought or Emergency Water Shortage. The adoption would implement House Bill 2694, Section 5.03, 82nd Legislature, 2011, Regular Session, relating to the Executive Director's suspension or adjustment of water rights during drought or emergency water shortage. The rulemaking would define "drought" and "emergency shortage of water," set out procedures for the Executive Director's order under this chapter, provide the terms of the order and conditions that must be met before an order can be issued, and establish an appeal of the Executive Director's order to the Commission. The proposed rules were published in the November 4, 2011, issue of the *Texas Register*. (36 TexReg 7463). (Robin Smith) (Rule Project No. 2011-033-036-LS)

EXECUTIVE MEETING

Item 34

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 35

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 36

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)