

*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 27, 2013

### **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. 2011-1786-DIS; SOAH Docket No. 582-12-5103.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application for the Creation of South Port Alto Municipal Utility District in Calhoun County, Texas, pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 293 and Texas Water Code Chapters 49 and 54. The proposed District would contain approximately 52.5 acres and would be located just east of the intersection of State Highway 172 and County Road 314 on the western shore of Carancahua Bay. It is approximately 17 miles east of the City of Port Lavaca and 43 miles southeast of the City of Victoria. The proposed District is not located within the limits or extraterritorial jurisdiction of any municipality. The Commission will also consider the application, record, timely related filings, exceptions and replies. (Kayla Murray, Randy Nelson)

#### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 2 **[Docket No. 2012-1093-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Total Petrochemicals & Refining USA, Inc. in Harris County; RN100212109; 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. (Audra Benoit, Debra Barber)

Item 3 [\*\*Docket No. 2012-1006-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Valero Refining-Texas, L.P. in Harris County; RN100219310; 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. (Kimberly Morales, Debra Barber)

**EDWARDS AQUIFER ENFORCEMENT DEFAULT ORDER**

Item 4 [\*\*Docket No. 2012-0733-EAQ-E.\*\*](#)

Hyperlink  
Update  
2/21/2013  
8:43 AM

Consideration of a Default Order assessing administrative penalties and requiring certain actions of River Chase Subdivision II, Ltd. in Williamson County; RN102791662; 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. (Jim Sallans, Lena Roberts)

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 5 [\*\*Docket No. 2012-0997-MSW-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of David Fogle dba Enviro Waste Systems in San Jacinto County; RN104557343; 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. (Thomas Greimel, Debra Barber)

Item 6 [\*\*Docket No. 2011-1216-MSW-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kelly Harris DBA Kelly Harris Tire Wrecker and Quick Lube in Henderson County; RN106144421; 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. (Tammy L. Mitchell, Lena Roberts)

**MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

Item 7 [\*\*Docket No. 2012-0803-MSW-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Ken Russell in Medina County; RN106332471; 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)

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

Item 8 [\*\*Docket No. 2012-0646-MWD-E.\*\*](#)

Remanded  
to the  
Executive  
Director

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Edcouch in Hidalgo County; RN101916377; 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 9 [\*\*Docket No. 2012-0595-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against C & R WATER SUPPLY INC. in Montgomery County; RN102763208; 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. (Jeremy Escobar, Debra Barber)

Item 10 [\*\*Docket No. 2012-1365-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Hallsville in Harrison County; RN102181872; 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, Debra Barber)

Item 11 [\*\*Docket No. 2012-0634-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Big Lake in Reagan County; RN101611820; 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, Debra Barber)

Item 12 [\*\*Docket No. 2012-0048-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Naples in Morris County; RN101918779; 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 13 **[Docket No. 2012-0858-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Aqua Utilities, Inc. in Hays County; RN102956448; 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 14 **[Docket No. 2012-0276-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Gunter in Grayson County; RN101917904; 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. (Stephen Thompson, Debra Barber)

Item 15 **[Docket No. 2012-1632-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Orange County Water Control Improvement District No. 1 in Orange County; RN102183035; 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 16 **[Docket No. 2012-1233-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jim Hogg County Water Control & Improvement District No. 2 in Jim Hogg County; RN101523512; 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 17 **[Docket No. 2012-1415-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Gulf Marine Fabricators, L.P. in San Patricio County; RN101513406; 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. (Nick Nevid, Debra Barber)

Item 18 **[Docket No. 2012-1224-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of FOREST GLEN, INC. in Walker County; RN103015376; 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)

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 19 **[Docket No. 2012-1497-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Presbyterian Village North in Dallas County; RN102990561; 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. (Jessica Schildwachter, Debra Barber)

Item 20 **[Docket No. 2012-1078-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of TEXAS NEW HORIZON, INC. dba Merito Food Mart in Harris County; RN101881084; 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)

Item 21 **[Docket No. 2012-0340-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Khaled Karim and Shaki Pyakurel dba Kwick Korner Shell in Angelina County; RN102012473; 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. (Maggie Dennis, Debra Barber)

Item 22 [\*\*Docket No. 2012-0379-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DEVELOPMENT II PARTNERS, INC. dba Katy on the Run in Harris County; RN101889301; 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. (Jason Fraley, Debra Barber)

Item 23 [\*\*Docket No. 2012-0428-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against TERRILL PETROLEUM CO., INC. in Sabine County; RN101724318, RN101757151, and RN101907335; 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. (Jacquelyn Green, Debra Barber)

Item 24 [\*\*Docket No. 2011-1492-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SABITHA NIMMA DBA KENS MINIT MARKET 3 in Nacogdoches County; RN102964624; 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. (Mike Fishburn, Lena Roberts)

Item 25 [\*\*Docket No. 2012-0590-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against AMTUL ENTERPRISES, INC. d/b/a Corner Market 102 in Cherokee County; RN101734101; 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. (Rebecca M. Combs, Lena Roberts)

Item 26 [\*\*Docket No. 2012-1203-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CLJS, Inc. dba Speedmax 6 in Dallas County; RN101569010; 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)

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDER**

Item 27

**[Docket No. 2012-0979-PST-E.](#)**

Hyperlink  
Update  
2/20/2013  
1:28 PM

Consideration of a Default Order assessing administrative penalties and requiring certain actions of B F Beverage, Inc dba NRH Shell in Tarrant County; RN101550713; 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. (Jennifer Cook, Lena Roberts)

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

Item 28

**[Docket No. 2012-1088-PST-E.](#)**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of HH&K, LLC d/b/a Get N Go in Newton County; RN102281870; 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)

Item 29

**[Docket No. 2012-1238-PST-E.](#)**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of FIRST GOLDEN JUBILEE ENT., INC. d/b/a SNS Food Mart in San Jacinto County; RN101739977; 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)

Item 30

**[Docket No. 2012-0795-PST-E.](#)**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of FASS INC. d/b/a Bunnys CT in Panola County; RN101871572; 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)

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDER**

Item 31

**[Docket No. 2012-1266-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of S.L.C. WATER SUPPLY CORPORATION in

Limestone County; RN101265908; 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)

### **RULE PETITION**

Item 32 [\*\*Docket No. 2013-0175-RUL.\*\*](#)

Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality on January 18, 2013 by Dr. Lynn Drawe. The petitioner requested that the Commission add “hazard mitigation” to the list of exceptions for prescribed burning. (Candy Garrett, Becky Petty) (Project No. 2013-018-PET-NR)

### **RULE MATTERS**

Item 33 [\*\*Docket No. 2011-1227-RUL.\*\*](#)

Consideration for publication of, and hearing on, proposed amendments to 30 TAC Chapter 290, Public Drinking Water, Sections 290.42, 290.44, and 290.109. The proposed rulemaking would implement House Bill (HB) 3372, Section 3 of HB 3391, and Senate Bill 1073, 82nd Legislature, 2011, Regular Session, for structures that are connected to a public water system (PWS) and have a rainwater harvesting system (RWHS). The proposed rulemaking would allow a RWHS that is connected to a PWS to be used for indoor potable purposes, and would establish minimum requirements for a PWS that allows the connection of a RWHS used for indoor potable purposes to its distribution system. The proposed rulemaking would also make other non-substantive changes to reflect existing agency practices, conform with grammar, sequencing, and formatting requirements, and correct a typographical error. (Linda Brookins, Kayla Murray) (Rule Project No. 2011-057-290-OW)

Item 34 [\*\*Docket No. 2012-2076-RUL.\*\*](#)

Consideration for publication of, and hearing on, proposed amendments to 30 TAC Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants, Subchapter C, National Emission Standards for Hazardous Air Pollutants for Source Categories (FCAA, §112, 40 CFR Part 63); new Sections 113.1130, 113.1300, 113.1320, 113.1340, 113.1350, 113.1370, 113.1380, 113.1425, 113.1435, 113.1445, 113.1450, 113.1455, 113.1460, 113.1465, 113.1470, 113.1475, 113.1480, 113.1485, 113.1495, 113.1500, 113.1505, 113.1510, 113.1515, 113.1520, 113.1525, 113.1530, 113.1535, and 113.1555; and the repeal of Sections 113.150, 113.1190, and 113.1200. The proposed amendments include updates to existing maximum achievable control technology (MACT) and generally available control technology (GACT) standards. The proposed rulemaking would amend numerous existing sections of 30 TAC Chapter 113 containing federal MACT standards to incorporate changes made by the United States Environmental Protection Agency (EPA), and would incorporate by

reference 28 new MACT and GACT standards that have been recently promulgated by the EPA. (Michael Wilhoit, Terry Salem) (Rule Project No. 2013-004-113-AI)

Item 35 **[Docket No. 2012-2017-RUL.](#)**

Hyperlink  
Update  
2/21/2013  
1:10 PM

Consideration for publication of, and hearing on, proposed new Section 106.359 of 30 TAC Chapter 106, Permits By Rule. The proposed rulemaking would add a new permit by rule Section 106.359, to authorize emissions from planned maintenance, startup, and shutdown (MSS) at oil and gas handling and production facilities. The proposed PBR requires that the permit holder keep records, develop and implement a maintenance program, and use best management practices to minimize emissions from planned MSS activities. (Tasha Burns, Betsy Peticolas) (Rule Project No. 2012-030-106-AI)

**PUBLIC COMMENT SESSION**

Item 36 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.

**EXECUTIVE MEETING**

Item 37 **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.

Item 38 **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.

Item 39 **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.

**(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 TEN (10) 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/cgi-bin/tnrcc.cgi](http://www.texasadmin.com/cgi-bin/tnrcc.cgi)