

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

June 18, 2013

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

PROPOSAL FOR DECISION

Item 1 [**Docket No. 2012-0160-PWS-E.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of Custom Water Co., L.L.C. in Montague County, Texas; RN101260115; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Peipey Tang)

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2 [**Docket No. 2013-0775-MWD.**](#)

Hyperlink
Update
6/10/2013
4:02 PM

Consideration of the application by Tall Timbers Utility Company, Inc. for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013000001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 445,000 gallons per day. The facility is located on Country Road 128, approximately 2,800 feet north and 6,500 feet west of the intersection of Highway 69 South and Farm-to-Market Road 2813 and 6.1 miles south-southwest of the City of Tyler in Smith 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/Julian Centeno, Jr.)

Item 3 [**Docket No. 2013-0854-AIR.**](#)

Consideration of the application by Michael Bradley Smith to renew a registration for the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 51836, which would authorize the continued operation of a permanent concrete batch plant. The plant site is located at 834 Farm-to-Market Road 2296, Huntsville, Walker 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. (Don Nelon / Amy Browning)

Item 4 [**Docket No. 2013-0589-MWD.**](#)

Hyperlink
Update
6/10/2013
4:02 PM

Consideration of the application by Chappell Hill Service Company, LLC for a new permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015031001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day. The facility will be located approximately 0.25 mile north and 0.35 mile east of the intersection of Farm-to-Market Road 1155 and Highway 290 in Washington 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/Dex Dean)

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 5 [**Docket No. 2012-2063-IWD-E.**](#)

Hyperlink
Update
6/11/2013
4:50 PM

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of McWane, Inc. dba Tyler Pipe Company in Smith County; RN102679867; 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)

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDERS

Item 6 [**Docket No. 2012-1948-MSW-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Jack Calhoun in Hamilton County; RN106329873; 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. (Phillip M. Goodwin, P.G., Lena Roberts)

Item 7 [**Docket No. 2011-0311-MSW-E.**](#)

Hyperlink
Update
6/17/2013
2:36 PM

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Precision Processing, Inc., Michael Smith, and Teresa Smith in Hutchinson County; RN101479178; for municipal solid waste violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jeffrey Huhn, Lena Roberts)

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 8 [**Docket No. 2012-0658-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Cushing in Nacogdoches County; RN101917151; 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 9 [**Docket No. 2011-2070-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Aqua Utilities, Inc. in Rockwall County; RN101513109; 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 10 [**Docket No. 2012-2451-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Rogers in Bell County; RN102184678; 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, Debra Barber)

Item 11 [**Docket No. 2012-2427-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Montgomery County Utility District No. 2 in Montgomery County; RN103794178; 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, Debra Barber)

Item 12 [**Docket No. 2012-2730-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Moulton in Lavaca County; RN102916129; 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, Debra Barber)

MUNICIPAL WASTE DISCHARGE ENFORCEMENT DEFAULT ORDER

Item 13 [**Docket No. 2012-1001-MWD-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of MANKI LLC in Polk County; RN103759106; 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. (Tammy L. Mitchell, Lena Roberts)

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS

Item 14 [**Docket No. 2012-2526-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Alldoc's, Inc. dba All Doc's in Harrison County; RN101750776; 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. (Sarah Davis, Debra Barber)

Item 15 [**Docket No. 2012-2334-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Asmara Enterprises, Inc. dba Country Express Exxon in Morris County; RN102457231; 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. (Jill Russell, Debra Barber)

Item 16 [**Docket No. 2012-2697-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MLK Retail Corporation dba MLK Food Mart in

Bexar County; RN101846152; 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. (Keith Frank, Debra Barber)

Item 17 [**Docket No. 2012-1793-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206 in Travis County; RN101499267; 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 18 [**Docket No. 2012-2665-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against TA Operating LLC dba Petro Stopping Center 350 in El Paso County; RN102418142; 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. (Joel McAlister, Debra Barber)

Item 19 [**Docket No. 2012-2130-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CAR SPA, INC. dba Car Spa 022 in Harris County; RN101435535; 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. (Had Darling, Debra Barber)

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDER

Item 20 [**Docket No. 2012-1881-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Melva Ramirez in Nueces County; RN101730497; 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)

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDERS

Item 21 [**Docket No. 2012-2192-PST-E.**](#)

Hyperlink
Update
6/17/2013
3:42 PM

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Alberto Suarez dba Berts Quik Stop in Jim Wells County; RN102433745; 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 22 [**Docket No. 2012-1732-PST-E.**](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of JNK 1ST FOOD, INC. d/b/a 1st Food & Bakery in Rusk County; RN102283959; 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 23 [**Docket No. 2012-1439-PST-E.**](#)

Hyperlink
Update
6/11/2013
9:08 PM

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of J.S. BASSI ENTERPRISES INC d/b/a OAK GROVE STORE 2 in Fannin County; RN101444545; 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)

Item 24 [**Docket No. 2012-1307-PST-E.**](#)

Hyperlink
Update
6/11/2013
3:11 PM

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of RAHIYA HILLCREST, INC. d/b/a Single Tree 3 in Liberty County; RN102434651; 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)

Item 25 [**Docket No. 2012-2129-PST-E.**](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Mustafa Chagani d/b/a Daghlas Mart in Tarrant County; RN102457850; 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 26

[Docket No. 2012-2347-PWS-E.](#)

Hyperlink
Update
6/7/2013
2:00 PM

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Pyote in Ward County; RN101389179; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jim Fisher, Debra Barber)

Item 27

[Docket No. 2012-2575-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of TEMPE WATER SUPPLY CORPORATION in Polk County; RN101456762; 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 ORDER

Item 28

[Docket No. 2012-2128-PWS-E.](#)

Hyperlink
Update
6/10/2013
3:45 PM

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Randy L. Snapp d/b/a Fredericksburg Kampgrounds Of America in Gillespie County; RN101257129; 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. (Phillip M. Goodwin, P.G., Lena Roberts)

SLUDGE ENFORCEMENT DEFAULT ORDER

Item 29

[Docket No. 2012-1756-SLG-E.](#)

Hyperlink
Update
6/17/2013
2:36 PM

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Dustin Borrego dba Apache Services in Montgomery County; RN105029417; for water quality and municipal solid waste violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

RULE PETITIONS

Item 30

[Docket No. 2013-0939-RUL.](#)

Hyperlink
Update
6/17/2013
9:51 AM

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 May 13, 2013, by an individual on behalf of landowners and citizens of Ellis County (Petitioner). The petitioner requested that the commission amend 30 TAC Chapter 312, Sludge Use, Disposal and Transportation, to prohibit the application of sewage sludge in, or within three miles of a city limit in a county with a population of 140,000 or more that is

located adjacent to a county with a population between 2,000,000 and 4,000,000. (Laurie Fleet, Michael Parr) (Project No. 2013-033-PET-NR)

Item 31 **Docket No. 2013-1045-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 May 22, 2013, by the University of Texas Regulatory Oversight Group (petitioner). The petitioner requested that the commission amend 30 TAC Chapter 36, Suspension or Adjustment of Water Rights during Drought or Emergency Water Shortage, to: redefine "drought" and "emergency shortage of water;" require that the drought be in effect for no more than 30 days at the time of issuance of an executive director (ED) order unless the commissioners have made a finding that the conditions warrant empowering the ED to issue an order and limiting this finding to six months unless renewed by the commissioners; normally require 30 days notice before the ED proposes to issue an order, allow for water rights holder to request a hearing, and if requested require the Commission to hold a hearing to affirm, modify or set aside before the proposed order takes effect; and require that junior water rights holders who are not suspended must provide water use and alternative information and must go to more restrictive levels in their drought contingency and water conservation plans when an ED order is issued. (Robin Smith, James Aldredge) (Project No. 2013-034-PET-NR)

STATE IMPLEMENTATION PLAN MATTER

Item 32 **Docket No. 2013-0595-SIP.**

Consideration for publication of, and hearing on, proposed 2014 Five-Year Regional Haze State Implementation Plan Revision. The proposed SIP revision would satisfy the federal Regional Haze Rule, which requires states to submit progress reports for each mandatory Class I federal area in the state in the form of SIP revisions every five years [40 CFR Section 51.308(g)]. According to the rule, the deadline for Texas to submit a five-year regional haze SIP revision is March 19, 2014, five years after submittal of the initial regional haze SIP revision. The report must evaluate improvement towards the reasonable progress goal for each mandatory Class I federal area located within the state and in each Class I area outside the state that may be affected by emissions from within the state. The state is required to compare data from the baseline years (2000 through 2004) to the most current available five years (2005 through 2009) provided by the Interagency Monitoring of Protected Visual Environments network. (Margaret Earnest, John Minter) (Project No. 2013-013-SIP-NR)

RULE MATTERS

Item 33 **Docket No. 2012-2573-RUL.**

Consideration of the adoption of new Section 336.227 of 30 TAC Chapter 336,

Radioactive Substance Rules. The rulemaking exempts minimal amounts of licensed radioactive tracers used in the exploration, development or production of oil and gas resources from TCEQ low-level radioactive waste licensing and disposal requirements. The proposed rule was published in the February 15, 2013, issue of the *Texas Register* (38 TexReg 779). (Hans Weger, Don Redmond) (Project No. 2013-010-336-WS)

Item 34 **Docket No. 2012-2126-RUL.**

Consideration of the adoption of the amendment to 30 TAC Chapter 297, Water Rights, Substantive. The adoption would amend the definition of "Municipal Use" in Section 297.1(32) to allow use of return flows authorized under Texas Water Code, Section 11.042 for watering of parks, golf courses, and parkways as a municipal use, after that use of return flows has been authorized by the commission. The rulemaking would also expand the authorized uses to include the watering of other public or recreational spaces. The proposed rule was published in the February 15, 2013 issue of the *Texas Register* (38 TexReg 773). (Jennifer Allis, James Aldredge) (Rule Project No. 2012-039-297-OW)

Item 35 **Docket No. 2013-0711-RUL.**

Consideration for publication of proposed amended Section 336.1115 of 30 TAC Chapter 336, Radioactive Substance Rules. The proposed rulemaking would amend requirements for the release for unrestricted use of outdoor areas at source material recovery sites or by-product disposal sites. The proposed 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. (Tony Gonzalez, Don Redmond) (Rule Project No. 2013-029-336-WS)

EXECUTIVE MEETING

Item 36 **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 37 **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 38 **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 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)**