

*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 12, 2014

### **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. 2013-0657-AIR; SOAH Docket No. 582-13-4611.](#)**  
Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the application of ExxonMobil for Air Quality Permit No. 102982 to construct a new ethylene production unit in Harris County, Texas. The Commission will also consider timely public comments and the Executive Director's Response to Comments; the record, timely related filings, exceptions and replies. (Booker Harrison)
- Item 2     **[TCEQ Docket No. 2012-0971-AIR; SOAH Docket No. 582-12-6347.](#)**  
Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the application of EOG Resources, Inc. for Air Quality Permit No. 95412 to construct and operate an industrial sand processing plant in Cooke County, Texas. The Commission will also consider timely public comments and the Executive Director's Response to Comments; the record, timely related filings, exceptions and replies. (Douglas Brown)
- Item 3     **[Docket No. 2012-1867-PST-E; SOAH Docket No. 582-13-4345.](#)**  
Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of DEFY

INC. d/b/a Shop N Save Food Mart in Bexar County, Texas; RN102789591; 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. (Phillip M. Goodwin, P.G.)

## **EMERGENCY ORDER**

### **Item 4     [TCEQ Docket No. 2014-0124-WR.](#)**

Consideration of whether to affirm, modify, or set aside an Emergency Order issued by the Executive Director (ED) on January 27, 2014, under Tex. Water Code § 11.139, to the Lower Colorado River Authority (LCRA) to amend its 2010 Water Management Plan (WMP), Permit No. 5838. The Emergency Order grants LCRA's request to temporarily change the process required in its 2010 WMP for curtailment of interruptible stored water at higher levels of combined storage in Lakes Buchanan and Travis. LCRA has the right to divert and use up to 1.5 million acre feet from Lakes Buchanan and Travis, in Travis, Llano, and Burnet Counties, Texas, under Certificates of Adjudication Nos. 14-5478 and 14-5482. These certificates require LCRA to develop the WMP, Permit No. 5838, which provides how LCRA makes water available from these lakes to help meet "firm" water customer needs, downstream interruptible irrigation demands, and environmental flow needs of Matagorda Bay and the Lower Colorado River. The WMP also provides how LCRA will manage and curtail supplies from the lakes during times of drought including through a repeat of the Drought of Record. Due to the drought and continuing low inflows, on December 13, 2013, LCRA requested an emergency order to change the triggers for curtailment of interruptible water based upon the combined storage levels of Lakes Buchanan and Travis on March 1, 2014 at 11:59 p.m. The ED's Emergency Order temporarily amends the WMP by revising the trigger dates, combined storage levels, and release amounts for providing service to LCRA's interruptible customers for first crop irrigation, as was requested by LCRA. (Robin Smith, Kathy Alexander)

## **MISCELLANEOUS MATTER**

### **Item 5     [Docket No. 2013-1001-UCR.](#)**

Consideration of a request for a Commission Order approving a contract designating service areas between the City of Huntsville ("City"), water Certificate of Convenience and Necessity ("CCN") No. 12824, and Walker County Special Utility District ("District"), water CCN No. 11304, in Walker County, Texas pursuant to section 13.248 of the Texas Water Code. Currently, the District is singly certified to three portions of land consisting of approximately 216.18 acres. Under the Agreement, the District will transfer its certification to these three portions of land to the City, making those portions singly certified to the City. No customers or facilities are proposed to be transferred. (Jessica Rogers, Heidi Graham)

## **AIR QUALITY ENFORCEMENT AGREED ORDERS**

**Item 6     [Docket No. 2013-1463-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Gerdau Ameristeel US Inc. in Orange County; RN100226059; 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 Tex. Admin. Code ch. 60. (Rachel Bekowies, Candy Garrett)

**Item 7     [Docket No. 2013-1534-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Delek Refining, Ltd. in Smith County; RN100222512; 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 Tex. Admin. Code ch. 60. (Rachel Bekowies, Candy Garrett)

**Item 8     [Docket No. 2013-0889-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Owens Corning Insulating Systems, LLC in Ellis County; RN100223585; 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 Tex. Admin. Code ch. 60. (Kimberly Morales, Candy Garrett)

**Item 9     [Docket No. 2013-1157-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Bayer MaterialScience LLC in Chambers County; RN100209931; 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 Tex. Admin. Code ch. 60. (Heather Podlipny, Candy Garrett)

**Item 10    [Docket No. 2013-1465-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Wiley Lease Co., Ltd. in Atascosa County; RN104311501; 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 Tex. Admin. Code ch. 60. (Nadia Hameed, Candy Garrett)

## **AIR QUALITY ENFORCEMENT DEFAULT ORDERS**

Item 11     **[Docket No. 2013-0964-AIR-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Wes Granger in Orange County; RN106530454; for air quality violations pursuant to Tex. Health & Safety Code ch. 382 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

Item 12     **[Docket No. 2013-0752-AIR-E.](#)**

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Consideration of a Default Order assessing administrative penalties and requiring certain actions of Danny K. Gove d/b/a Pro Landscape Service in Brazos County; RN106472426; 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. (Rebecca M. Combs, Lena Roberts)

## **INDUSTRIAL AND HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

Item 13     **[Docket No. 2013-0848-IHW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DuraTherm, Inc. in Galveston County; RN100890235; 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 Tex. Admin. Code ch. 60. (Thomas Greimel, Candy Garrett)

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

Item 14     **[Docket No. 2013-1849-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Los Fresnos in Cameron County; RN102184207; 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. (Had Darling, Candy Garrett)

Item 15     **[Docket No. 2013-0973-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Refugio in Refugio County; RN103913935; 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. (Jill Russell, Candy Garrett)

Item 16     **[Docket No. 2013-1118-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Country Club Retirement Community, L.P. in Hill County; RN105460646; 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. (Remington Burklund, Candy Garrett)

**ON SITE SEWAGE FACILITY INSTALLERS ENFORCEMENT  
DEFAULT ORDERS**

Item 17     **[Docket No. 2013-0391-OSI-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Brian K. Gay in Brazoria County and Hardin County; RN103636262; for on-site sewage disposal system installation violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

Item 18     **[Docket No. 2012-2104-OSI-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Brian K. Gay in Brazoria County and Hardin County; RN103636262; for on-site sewage disposal system installation violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

**PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 19     **[Docket No. 2013-0420-PST-E.](#)**

Consideration of an Default Order assessing administrative penalties and requiring certain actions of BENGAL INVESTMENTS INC d/b/a Santa Fe Express 1 in Bosque County; RN102026853; 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 20     **[Docket No. 2013-0791-PST-E.](#)**

Consideration of a Default Order assessing administrative penalties against Paradise Management, Inc. d/b/a Guadalupe Express in Bexar County; RN101750925; 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. (Jeffrey J. Huhn,

Lena Roberts)

Item 21 [\*\*Docket No. 2013-0362-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Modesto Hernandez in Hidalgo County; RN101678274; 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 TANK ENFORCEMENT DEFAULT AND SHUTDOWN ORDER**

Item 22 [\*\*Docket No. 2013-1117-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Samay Piya Enterprise Inc d/b/a Seminary Food Mart in Tarrant County; RN102387107; 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. (Ryan Rutledge, Lena Roberts)

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 23 [\*\*Docket No. 2013-1361-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of COMMUNITY WATER SERVICE, INC. in Denton County; RN101268100; 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. (Lisa Westbrook, Candy Garrett)

Item 24 [\*\*Docket No. 2013-0682-PWS-E.\*\*](#)

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Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Duchman, Ltd. dba Duchman Family Winery in Hays County; RN106301245; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sam Keller, Candy Garrett)

Item 25 [\*\*Docket No. 2013-0723-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Annona in Red River County; RN101196640; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sam Keller, Candy Garrett)



## **PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 26     **[Docket No. 2013-1091-PWS-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Leroy Leonard Limas d/b/a Limas Mobile Home Park in El Paso County; RN101223741; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tammy Mitchell, Lena Roberts)

## **WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT DEFAULT ORDER**

Item 27     **[Docket No. 2013-0461-WOC-E.](#)**

Consideration of a Default Order assessing administrative penalties against Jorge Perez in Starr County; RN106555287; 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. (Ryan Rutledge, Lena Roberts)

## **RULE MATTERS**

Item 28     **[Docket No. 2013-1939-RUL.](#)**

Consideration for publication of, and hearing on, proposed amendments to Sections 116.13, 116.710, 116.711, 116.715, 116.716, 116.717, 116.718, 116.721, and 116.765 of 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification. Sections 116.13; 116.710; 116.711(1), (2)(A), (B) and (C)(i) and (ii), (D) – (J), and (L) – (N); 116.715(a) – (e) and (f)(1) and (2)(B); 116.716; 116.717; 116.718; 116.721; and 116.765, will be submitted to the United States Environmental Protection Agency (EPA) as revisions to the State Implementation Plan (SIP). The proposed rulemaking would revise the Flexible Permit Program (FPP) rules by deleting portions of rule language adopted in 2010 that are no longer necessary for SIP approval. The rule language proposed for deletion primarily relates to monitoring, recordkeeping, reporting, and applicability of federal major New Source Review (NSR) requirements. Select portions of the 2010 amendments which EPA has identified as necessary for SIP approval would remain. Once submitted to EPA, this rulemaking is expected to result in satisfying the condition for the approval of the FPP as a Texas minor NSR permitting program. (Michael Wilhoit, Janis Hudson) (Rule Project No. 2014-001-116-AI)

Item 29     **[Docket No. 2013-0544-RUL.](#)**

Consideration of the adoption of amended Sections 307.2 - 307.4, 307.6 - 307.10 of 30 TAC Chapter 307, Texas Surface Water Quality Standards. The adoption would provide revision of the State's surface water quality standards, as provided for in Section 26.023 of the Texas Water Code, and as required by Section 303(c) of the Federal Clean Water Act. The proposed rules were published in the September 13, 2013, issue of the *Texas Register* (38 TexReg

5998). (Debbie Miller, Robert Brush) (Rule Project No. 2012-001-307-OW)

Item 30 [\*\*Docket No. 2012-2484-RUL.\*\*](#)

Consideration of the adoption of new Sections 298.400, 298.405, 298.410, 298.415, 298.425, 298.430, 298.435, 298.440, 298.450, 298.455, 298.460, 298.465, 298.470, 298.475, 298.480, 298.485, 298.490, 298.500, 298.505, 298.510, 298.515, 298.520, 298.525, 298.530, 298.535, and 298.540 of 30 TAC Chapter 298, Environmental Flow Standards for Surface Water. The adoption would implement House Bill 3 and Senate Bill 3, 80th Legislature, 2007, Regular Session, relating to the establishment of environmental flow standards included in a permit or amended water right in the river and bay systems consisting of the Nueces River and Corpus Christi and Baffin Bays; the Rio Grande, Rio Grande estuary, and Lower Laguna Madre; and the Brazos River and its associated bay and estuary system. The proposed rules were published in the September 20, 2013, issue of the *Texas Register* (38 TexReg 6176). (Kathy Alexander, Robin Smith) (Rule Project No. 2013-009-298-OW)

Item 31 [\*\*Docket No. 2013-1109-RUL.\*\*](#)

Consideration of the adoption of amendments to Sections 114.1, 114.2, 114.21, 114.50, 114.53, 114.82 - 114.84, and 114.87 of 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, and corresponding revisions to the state implementation plan. The adoption will implement House Bill 2305 from the 83rd Texas Legislature, 2013, Regular Session, relating to replacing the dual windshield sticker system for vehicle inspection and registration with a single registration insignia sticker and modifying the method used to collect the state portion of the vehicle safety and emissions inspection fee in addition to minor non-programmatic updates to rule language to correct outdated references and for general clarity. The proposed rules were published in the October 11, 2013 issue of the *Texas Register* (38 TexReg 7067) (Edgar Gilmore, Terry Salem) (Rule Project No. 2013-035-114-AI)

**STATE IMPLEMENTATION PLAN MATTER**

Item 32 [\*\*Docket No. 2013-1108-SIP.\*\*](#)

Consideration for the adoption of a revision to the Texas Inspection and Maintenance (I/M) State Implementation Plan (SIP) and corresponding rule revisions. The adoption will implement House Bill 2305 from the 83rd Texas Legislature, 2013, Regular Session, replacing the dual windshield sticker system for vehicle inspection and registration with a single windshield sticker system and modifying the method used to collect the state portion of the vehicle safety and emissions inspection fee. The adoption includes minor non-programmatic updates to rule language to correct outdated references and for general clarity. (Mary Ann P. Cook, Terry Salem) (Project No. 2013-041-SIP-NR)



## **PUBLIC COMMENT SESSION**

- Item 34 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 35 **Docket No. 2014-0001-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 36 **Docket No. 2014-0002-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 37 **Docket No. 2014-0003-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)**