

*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)).*

Chairman Bryan W. Shaw, Ph.D., P.E.  
Commissioner Toby Baker  
Commissioner Zak Covar

## **OLD BUSINESS AGENDA**

April 30, 2014

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item Continued from the April 9, 2014 Commissioners' Agenda.

Item 1      **[Docket No. 2013-1140-RUL.](#)**

Consideration of the adoption of amended Sections 114.610 – 114.612, 114.616, and repeal of Section 114.619 of 30 Texas Administrative Code Chapter 114, Subchapter K, Division 2. The adoption would implement provisions of Senate Bill 1727, 83rd Legislature, 2013, Regular Session, by modifying the types of vehicles that qualify for the Light-Duty Motor Vehicle Purchase or Lease Incentive Program, establishing the maximum number of vehicles that may qualify for the incentive, establishing an incentive amount of \$2,500 per eligible vehicle, establishing the process for applying for the incentive, and modifying manufacturer reporting requirements. The proposed rules were published in the November 22, 2013, issue of the *Texas Register* (38 TexReg 8387). (Steve Dayton, Terry Salem) (Rule Project No. 2013-039-114-AI)

Adopt amended 30 Texas Administrative Code Sections 114.610-114.612, 114.616 and repeal of Section 114.619 as recommended by the Executive Director. ZC/TB; all agree.

# AGENDA

April 30, 2014

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

### **HEARING REQUESTS/REQUESTS FOR RECONSIDERATION**

Item 1 **Docket No. 2014-0084-DIS.**

Consideration of an application by Lake Cities Municipal Utility Authority (Authority) for approval of impact fees in Denton County, Texas. The Authority's application requests approval to increase its impact fees from \$1,619 to up to \$4,257 per equivalent single-family connection for new connections to its water facilities, and from \$1,730 to up to \$3,415 per equivalent single-family connection for new connections to its wastewater facilities. The Authority has proposed the impact fee to fund capital improvements pursuant to Texas Water Code, Section 49.212(d), Texas Local Government Code Chapter 395, and Title 30, Chapter 293 of the Texas Administrative Code. The Commission will also consider requests for hearing or reconsideration, and related responses and replies. (Dinniah Tadema, Prabin Basnet)

Grant the hearing requests of Sharon S. Babb, Barbara Ruth Miller, Payne Victor Rucker, Jr., Gayle Rumbeck and Carl R. Stapp; refer the matter to SOAH for a contested case hearing. TB/ZC; all agree.

Item 2 **Docket No. 2013-2062-IWD.**

Consideration of the application by Steely Lumber Co., Inc., to renew TPDES Permit No. WQ0004249000 authorizing the discharge of wet decking wastewater, utility wastewater, and stormwater runoff on an intermittent and flow-variable basis. The facility is located at 1405 Southwood Drive, approximately 1.5 miles east of the intersection of U.S. Highway 75 and Southwood Drive and approximately 2.5 miles southeast of the City of Huntsville, Walker County, Texas. The Commission will also consider requests for reconsideration, responses, replies, and the Executive Director's Response to Comment. (Stefanie Skogen, Timothy Janke)

Grant the request for reconsideration filed by George Russell; issue the Executive Director's revised draft permit which includes Other Requirement No. 13 addressing NORM as recommended by the Executive Director in his Supplemental Response; adopt the Executive Director's Response to Comments. ZC/TB; all agree.

## **EMERGENCY ORDER**

### Item 3 [\*\*Docket No. 2014-0438-WR.\*\*](#)

Consideration of whether to affirm, modify, or set aside the Emergency Order issued by the Executive Director (ED) on April 15, 2014, under Tex. Water Code §§ 11.148 and 5.506 to the Lower Colorado River Authority (LCRA). The ED's Emergency Order grants LCRA's request for an emergency order by partially suspending a requirement of its 2010 Water Management Plan (WMP), Permit No. 5838 to maintain a minimum streamflow of 500 cubic feet per second (cfs) for six weeks in between March and May from Bastrop to Eagle Lake for the Blue Sucker. Specifically, the Emergency Order reduces the minimum streamflow requirement to 300 cfs. Without the Emergency Order this requirement could necessitate a release of stored water of approximately 21,000 acre feet (AF) by the end of May 2014. By granting LCRA's requested relief, the Emergency Order will prevent approximately 17,000 AF from being released from 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. Written public comment may be filed with the Office of the Chief Clerk through 5:00 p.m. Tuesday, April 29, 2014. The Commission will not accept additional public comment at the hearing. (Robin Smith, Kathy Alexander)

Affirm the Emergency Order issued by the Executive Director on April 15, 2014 which partially suspends the Lower Colorado River Authority's requirement to release stored water for instream flows for the Blue Sucker; modify Finding of Fact No. 50 to remove the words " to 20" so that it reads: "20 percent reduction goals by asking firm customers to implement their own mandatory water use reduction measures when combined storage levels fall below 900,000 AF;". TB/ZC; all agree.

## **AIR QUALITY ENFORCEMENT AGREED ORDERS**

### Item 4 [\*\*Docket No. 2008-0890-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Western Refining Company, L.P. in El Paso County; RN100213016; 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. (Amancio Gutierrez, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

### Item 5 [\*\*Docket No. 2013-1730-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Akzo Nobel Polymer Chemicals LLC in Harris County; RN102177391; 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)

Approve the Agreed Order. ZC/TB; all agree.

Item 6 **Docket No. 2013-1215-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of INVISTA S.a r.l. in Victoria County; RN102663671; 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)

Approve the Agreed Order. ZC/TB; all agree.

Item 7 **Docket No. 2013-1670-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Republic Corporation in Harrison County; RN100219997; 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. (Katie Hargrove, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

Item 8 **Docket No. 2013-1731-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Atmos Energy Corporation in Henderson County; RN100542505; 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)

Approve the Agreed Order. ZC/TB; all agree.

Item 9 **Docket No. 2008-0439-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Western Refining Company, L.P. in El Paso County; RN100213016; 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. (Amancio Gutierrez, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

**DRY CLEANER ENFORCEMENT DEFAULT ORDER**

Item 10 [Docket No. 2013-1527-DCL-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Gerardo Salas d/b/a Dry Clean Super Center in Collin County; RN104111158; for dry cleaner registration violations pursuant to Tex. Water Code chs. 5 and 7, Tex. Health & Safety Code ch. 374, and the rules of the Texas Commission on Environmental Quality. (Steven M. Fishburn, Lena Roberts)

Approve the Default Order. ZC/TB; all agree.

**INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 11 [Docket No. 2013-1501-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Gulbrandsen Technologies Inc. in Harris County; RN101720035; 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)

Approve the Agreed Order. ZC/TB; all agree.

**IRRIGATION LICENSING ENFORCEMENT DEFAULT ORDER**

Item 12 [Docket No. 2013-0924-LII-E.](#)

Consideration of a Default Order assessing administrative penalties against Robert Lewis McAllister in Tarrant County; RN103473872; for landscape irrigation installation violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Ryan Rutledge, Lena Roberts)

Approve the Default Order. ZC/TB; all agree.

**MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER**

Item 13 [Docket No. 2012-0396-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of O'Donnell in Lynn County; RN101918548; for water quality and municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, 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 Green, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 14 [Docket No. 2012-0750-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Meadowland Utility Corporation in Brazoria County; RN102815198; for water quality 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. (Jeffrey J. Huhn, Lena Roberts)

Approve the Agreed Order. ZC/TB; all agree.

#### **PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 15 [\*\*Docket No. 2013-0518-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shmoni Barsoum d/b/a Z Kwik Stop and John Barsoum d/b/a Z Kwik Stop in Rockwall County; RN101443562; 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)

Approve the Agreed Order. ZC/TB; all agree.

Item 16 [\*\*Docket No. 2013-0209-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Khalid Ali d/b/a Valley Food Mart 7 in Hidalgo County; RN102352358; 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)

Approve the Agreed Order. ZC/TB; all agree.

Item 17 [\*\*Docket No. 2013-1617-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BENGAL MART INC. dba Sunmart 154 in Harris County; RN102027331; for petroleum storage tank 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. (Danielle Porras, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

Item 18 [\*\*Docket No. 2013-1187-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of A & K ENTERPRISES, INC. d/b/a Country Food Store in Wharton County; RN101183861; 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)

Approve the Agreed Order. ZC/TB; all agree.

Item 19 [\*\*Docket No. 2013-0480-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Chahid El-Bayeh d/b/a McQueeney Chevron in Guadalupe County; RN102462892; 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)

Approve the Agreed Order. ZC/TB; all agree.

Item 20 [\*\*Docket No. 2012-2308-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SOUTHEAST OIL COMPANY dba Sealy Shell in Austin County; RN104502943; 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. (Jim Sallans, Lena Roberts)

Approve the Agreed Order. ZC/TB; all agree.

Item 21 [\*\*Docket No. 2013-1763-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Virginia Cover dba Mr. C Food Mart 1 in Bexar County; RN101872927; 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. (Keith Frank, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

**PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 22 [\*\*Docket No. 2013-1128-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties against USMAN INC. d/b/a Craven Foodmart in McLennan County; RN102368081; 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)

Approve the Default Order. ZC/TB; all agree.

Item 23 [\*\*Docket No. 2013-1420-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties against TNC Enterprises Inc. d/b/a AN Food Mart in Travis County; RN103190633; 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)

Approve the Default Order. ZC/TB; all agree.

Item 24 [\*\*Docket No. 2013-1116-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of STAR TEX DISTRIBUTORS INC. in Fort Bend County and Montgomery County; RN103004578; 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)

Approve the Default Order. ZC/TB; all agree.

**PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT AND SHUTDOWN ORDER**

Item 25 [\*\*Docket No. 2013-0630-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Darlene Chappell d/b/a Big Red Barn in Irion County; RN102063575; 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)

Approve the Default and Shutdown Order. ZC/TB; all agree.

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDER**

Item 26 [\*\*Docket No. 2013-1658-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of JUSRYN COMPANY, INC. in Hood County; RN101276806; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Montgomery, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

**WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 27 [\*\*Docket No. 2013-1681-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against San Antonio River Authority in Bexar County; RN101514560; 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. (Cheryl Thompson, Candy Garrett)

Approve the Agreed Order. ZC/TB; all agree.

Item 28 [\*\*Docket No. 2013-1941-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Richardson in Dallas County; RN101386696; 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)

Approve the Agreed Order. ZC/TB; all agree.

### **PUBLIC COMMENT SESSION**

- Item 29 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.

No Action Taken.

### **EXECUTIVE MEETING**

- Item 30 **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.

No Action Taken.

- Item 31 **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.

No Action Taken.

- Item 32 **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.

No Action Taken.

**(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)**

/s/ Tracy H. Gross  
Assistant General Counsel  
Tracy H. Gross

5/7/2014  
Date