

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 Jon Niermann
Commissioner Emily Lindley

AGENDA

August 22, 2018

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. 2016-1668-WQ-E; SOAH Docket No. 582-17-4917.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order assessing administrative penalties against Larry Polinard in DeWitt County, Texas; RN108734732; regarding an aggregate production operation violation pursuant to Tex. Water Code chs. 7 and 28A and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Isaac Ta)

Adopt the ALJ's Proposed Order with the following changes: Adopt the docket number correction to Ordering Provision No. 2, as recommended by the Executive Director's second exception and supported in the ALJ's Reply. JN/EL; all agree.

MISCELLANEOUS MATTERS

Item 2 **[Docket No. 2018-0815-MIS.](#)**

Consideration of the Executive Director's findings and recommendation on whether a watermaster should be appointed for the Trinity River, San Jacinto River, Trinity-San Jacinto Coastal or Neches-Trinity Coastal Basins. Texas Water Code, Section 11.326(g) requires that in river basins where no watermaster has been appointed, the executive director shall evaluate the river basin at least once every 5 years to determine whether a watermaster should be appointed, and report the findings and make recommendations to the commission. The commission shall include the findings and recommendations in the commission's biennial report to the Legislature. (Amy Settemeyer, Dinniah Tadema)

No action taken.

Item 3 **[Docket No. 2018-0647-AUD.](#)**

Consideration and Approval of the TCEQ Chief Auditor's Office Fiscal Year 2019 Audit Plan. (Michael K Hardison, Carlos Contreras)

Approve the Audit Plan for Fiscal Year 2019. EL/JN; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 4 **[Docket No. 2017-1100-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BASF Corporation in Brazoria County; RN100218049; 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. (Shelby Orme, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 5 **[Docket No. 2017-1358-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Garland Power & Light in Denton County; RN100214766; 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. (David Carney, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 6 **Docket No. 2017-1099-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Equistar Chemicals, LP in Harris County; RN100210319; 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. (Raime Hayes-Falero, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 7 **Docket No. 2017-0736-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of INEOS USA LLC in Harris County; RN100229905; 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. (Shelby Orme, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 8 **Docket No. 2017-0991-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties against The Chemours Company FC, LLC in Jefferson County; RN100216035; 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. (Austin Henck, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

**INDUSTRIAL AND/OR HAZARDOUS WASTE
ENFORCEMENT AGREED ORDERS**

Item 9 **Docket No. 2017-0018-IHW-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lazarus Refining & Marketing, LLC in Wilson County; RN105094031; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Epifanio Villarreal, Michael Parrish)

Remanded to the Executive Director on August 20, 2018.

Item 10 [Docket No. 2017-0066-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Go Frac, LLC in Parker County; RN106493190; for industrial solid and/or hazardous 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. (Ryan Rutledge, Janice Hernandez)

Adopt the Agreed Order. JN/EL; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 11 [Docket No. 2016-1883-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Southwestern Electric Power Company in Harrison County; RN100214287; 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. (James Boyle, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 12 [Docket No. 2017-1515-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties against John Muhich in Hays County; RN109947994; for Edwards Aquifer and 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. (Steven Van Landingham, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 13 **Docket No. 2017-0200-MLM-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of San Miguel Electric Cooperative, Inc. in Atascosa County; RN100226539 and RN102342961; for air quality and water quality violations pursuant to Tex. Health & Safety Code ch. 382, 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 Van Landingham, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 14 **Docket No. 2017-0284-MLM-E.**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Tiller Family, L.P. in El Paso County; RN105440085; for industrial solid waste, municipal solid waste, and air quality violations pursuant to Tex. Water Code ch. 7 and 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. (Elizabeth Lieberknecht, Janice Hernandez)

Adopt the Agreed Order. JN/EL; all agree.

Item 15 **Docket No. 2014-0506-MLM-E.**

Consideration of an Agreed Order assessing administrative penalties against E. I. du Pont de Nemours and Company in Jefferson County; RN100216035; for industrial and hazardous waste and waste disposal well violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7, 26, and 27, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Danielle Porras, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 16

[Docket No. 2017-1412-MLM-E.](#)

Consideration of a Default Order assessing administrative penalties against Effren Hernandez dba Fuerte Granite & Tile in Bexar County; RN109873273; for water quality and industrial and hazardous 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. (Adam Taylor, Janice Hernandez)

Adopt the Default Order. JN/EL; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 17

[Docket No. 2017-0787-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Menard in Menard County; RN102119443; 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 Tex. Admin. Code ch. 60. (Epifanio Villarreal, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 18

[Docket No. 2016-1922-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of C.C. Crawford Retreading Company, Inc. in Ellis County; RN103074746; for used tires 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. (Margarita Dennis, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 19

[Docket No. 2017-1495-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the Bell County Water Control & Improvement District No. 2 in Bell County; RN101610491; 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. (Larry Butler, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 20 **[Docket No. 2017-0519-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Junction in Kimble County; RN101920288; for water quality violations pursuant to Tex. Water Code chs. 7, 26, and 37 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Claudia Corrales, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 21 **[Docket No. 2017-0141-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Liberty Hill in Williamson County; RN104102132; 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. (Caleb Olson, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 22 **[Docket No. 2017-1324-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of New Home in Lynn County; RN101918787; 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. (Sandra Douglas, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 23 [Docket No. 2017-1567-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of The Colony in Denton County; RN102080157; 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, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 24 [Docket No. 2016-1728-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Rhome in Wise County; RN102701620; 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. (Caleb Olson, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDER

Item 25 [Docket No. 2017-1480-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Galena Park in Harris County; RN101701324; 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. (Tracy Chandler, Janice Hernandez)

Adopt the Agreed Order. JN/EL; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 26 [Docket No. 2017-0849-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Abril R. Medina in Nueces County; RN102783891; 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. (Ian Groetsch, Janice Hernandez)

Adopt the Default Order. JN/EL; all agree.

Item 27 **Docket No. 2017-1491-PST-E.**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Johnny Lee Graves in Hardeman County; RN101789675; 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. (Logan Harrell, Janice Hernandez)

Adopt the Default Order. JN/EL; all agree.

Item 28 **Docket No. 2017-0827-PST-E.**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Albert Aguero and Cynthia Aguero in La Salle County; RN101761872; 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. (Adam Taylor, Janice Hernandez)

Adopt the Default Order. JN/EL; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT AND SHUTDOWN ORDER

Item 29 **Docket No. 2017-0449-PST-E.**

Consideration of a Default and Shutdown Order assessing administrative penalties against and requiring certain actions of TOCOR ENTERPRISES LLC dba Snappys in Cameron County; RN102466687; 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. (Ian Groetsch, Janice Hernandez)

Adopt the Default and Shutdown Order. JN/EL; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDER

Item 30 **[Docket No. 2017-1133-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Raymond W. Blair, Jr. dba Last Resort Properties in Denton County; RN102689452; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jason Fraley, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 31 **[Docket No. 2017-1015-WQ-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ARNOLD TRUCKING, INC. in Harrison County; RN109813758; for water quality violations and aggregate production operation violations pursuant to Tex. Water Code chs. 7, 26, and 28A, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Larry Butler, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 32 **[Docket No. 2017-1411-WQ-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of White Oak in Gregg County; RN105499198; 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. (Austin Henck, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

Item 33 **[Docket No. 2017-0578-WQ-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Hills of Westlake, Ltd. in Montgomery County; RN108712167; 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. (Farhaud Abbaszadeh, Michael Parrish)

Adopt the Agreed Order. JN/EL; all agree.

MONTHLY ENFORCEMENT REPORT

Item 34 **Docket No. 2018-0610-MIS.**

Consideration of the Texas Commission on Environmental Quality Monthly Enforcement Report, submitted for discussion in accordance with Texas Water Code § 7.003. (Bryan Sinclair, Melissa Cordell)

No action taken.

PETITION FOR RULEMAKING

Item 35 **Docket No. 2018-0906-PET.**

Consideration of a petition for rulemaking pursuant to 30 Texas Administrative Code (TAC) Section 20.15. The petition was filed with the Texas Commission on Environmental Quality (TCEQ) on June 29, 2018, by the Bell County Fire Marshal (Petitioner). Petitioner requests that TCEQ amend 30 TAC Section 111.219(6)(B), General Requirements for Allowable Outdoor Burning by reducing the upper wind speed limit for permissible outdoor burning conditions from 23 miles per hour to 20 miles per hour. (Amancio Gutierrez, Amy Prescott) (Project No. 2018-025-PET-NR)

Instruct the Executive Director to initiate rulemaking to examine the issues raised in the petition for rulemaking filed by the Bell County Fire Marshal, and as articulated by the Commission today from the dais; and Adopt the Executive Director's Proposed Order, but revise the second paragraph to read: "It is therefore ordered by the Commission pursuant to the Administrative Procedure Act, Texas Government Code Section 2001.021 that the Executive Director initiate rulemaking." JN/EL; all agree.

MISCELLANEOUS MATTER

Item 36 **Docket No. 2018-0995-MIS.**

Discussion of the expedited air permitting program as a follow-up to the May 30, 2018 Commissioners' Work Session. (Mike Wilson)

No action taken.

EXECUTIVE MEETING

Item 37 Docket No. 2018-0001-EXE.

The Commission will conduct a closed meeting to receive legal advice from its attorney(s) and will discuss pending or contemplated litigation, and/or settlement offers, as permitted by Section 551.071 of the Texas Open Meetings Act, Chapter 551 of the Texas 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 Texas Government Code.

No action taken.

Item 38 Docket No. 2018-0002-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, General Counsel, Chief Clerk, Public Interest Counsel, or Chief Auditor as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Texas 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 Texas Government Code.

No action taken.

Item 39 Docket No. 2018-0003-EXE.

The Commission will conduct a closed meeting to discuss the employment, evaluation, reassignment, duties, discipline or dismissal of a specific Commission employee(s) as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Texas 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 Texas Government Code.

No action taken.

Item 40 Docket No. 2018-0004-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 Texas Open Meetings Act, Chapter 551 of the

Texas 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 Texas 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.

SECTION 46.035 OF THE TEXAS PENAL CODE PROHIBITS HANDGUN LICENSEES FROM CARRYING THEIR HANDGUNS AT GOVERNMENT MEETINGS SUCH AS THIS ONE. THIS PROHIBITION APPLIES TO BOTH CONCEALED CARRY AND OPEN CARRY BY HANDGUN LICENSEES.

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 Gross
Assistant General Counsel
Tracy Gross

08/28/2018
Date