

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 Jon Niermann
Commissioner Emily Lindley

AGENDA

October 17, 2018

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. 2018-0959-AIR.](#)**

Consideration of application by BC MATERIALS, L.L.C. for the approval of a registration to use the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 151460L001, which would authorize the construction and operation of a temporary concrete batch plant. The site for the plant is located at the following driving directions: from the intersection of Highway 87 and Memory Lane, travel 0.1 mile north along Highway 87 and site will be located on the west side of Highway 87, Brady, McCulloch County, Texas 76825. 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 Nelson, Sierra Redding)

Deny the hearing request of Randy Young; Issue Air Quality Standard Permit for Concrete Batch Plant, Registration No. 151460L001 to BC MATERIALS, L.L.C. as

recommended by the Executive Director; and Adopt the ED's Response to Comments. EL/JN; all agree.

MISCELLANEOUS MATTER

Item 2 [**Docket No. 2018-0853-MIS.**](#)

Consideration of the adoption of the Draft 2016 Texas Integrated Report, for the federal Clean Water Act Sections 305(b) and 303(d), which is a compilation of documents and information which provides an overview of the state's surface water quality. The Draft 2016 Texas Integrated Report would inform the regulated community and the public of water quality status. The Draft 2016 Texas Integrated Report would also provide agencies with information to enable informed permitting decisions, resource allocations, and to determine where total maximum daily loads, watershed actions plans, and other water quality improvement efforts are needed. The proposed Draft 2016 Texas Integrated Report Notice was published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2815). The proposed Draft 2016 Texas Integrated Report was posted on the Commission's Water Quality Planning Division's website on May 4, 2018. (Michele Blair, Robert Brush) (Non-Rule Project No. 2016-015-OTH-NR)

Adopt the Draft 2016 Texas Integrated Report for submittal to the US EPA as required by the Clean Water Act Sections 305(b) and 303(d) as recommended by the Executive Director. EL/JN; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 3 [**Docket No. 2017-1227-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Enterprise Products Operating LLC in Chambers County; RN102984911; 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. (Abigail Lindsey, Michael Parrish)

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

Item 4 [**Docket No. 2017-0941-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Equistar Chemicals LP in Victoria County; RN100215276; 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. (Abigail Lindsey, Michael Parrish)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 5 [Docket No. 2017-1012-EAQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MILO DRIVE, INC. in Bexar County; RN105116677; for Edwards Aquifer 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. (Alejandro Laje, Michael Parrish)

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

LANDSCAPE IRRIGATION LICENSING ENFORCEMENT DEFAULT ORDER

Item 6 [Docket No. 2018-0097-LII-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Michael Lehr in Henderson County and Smith County; RN103816815; 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. (Logan Harrell, Janice Hernandez)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 7 [Docket No. 2017-1281-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Quinn Marshall Smith in Knox County; RN109823229; 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. (Ryan Rutledge, Janice Hernandez)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 8 [Docket No. 2017-1473-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Austin in Travis County; RN101607794; 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. EL/JN; all agree.

Item 9 [Docket No. 2016-2037-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Emory in Rains County; RN102916822; 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. EL/JN; all agree.

Item 10 [Docket No. 2017-0983-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Pasadena in Harris County; RN101609774; 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. EL/JN; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 11 [**Docket No. 2017-0689-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DIXIE GAS STATION, INC. in Dallas County; RN101953925; 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. (Stephanie McCurley, Michael Parrish)

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

Item 12 [**Docket No. 2017-1368-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of HERLISCO INC dba MS EXPRESS in Bexar County; RN101893485; 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. (Isaac Ta, Janice Hernandez)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 13 [**Docket No. 2017-1089-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Benjamin in Knox County; RN101390169; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Steven Hall, Michael Parrish)

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

Item 14 [**Docket No. 2018-0086-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Chillicothe in Hardeman County; RN101389542; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Boyle, Michael Parrish)

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

Item 15 [**Docket No. 2017-1510-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Rosebud in Falls County; RN101392322; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Boyle, Michael Parrish)

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

Item 16 [**Docket No. 2017-0506-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Colleen Ortiz dba River Oaks Water System and Gerard Ortiz dba River Oaks Water System in Burnet County; RN101189348; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sarah Kim, Michael Parrish)

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

Item 17 [**Docket No. 2017-1499-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jack Turner dba Cherokee Mobile Home Park in Kerr County; RN102324324; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sarah Kim, Michael Parrish)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 18 [**Docket No. 2018-0143-PWS-E.**](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Charles M. Watts dba Island View Landing in Marion County; RN101239606; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Logan Harrell, Janice Hernandez)

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

WASTE DISPOSAL WELL ENFORCEMENT AGREED ORDER

Item 19 **[Docket No. 2017-1357-WDW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Solvay Specialty Polymers USA, L.L.C. in Hutchinson County; RN107829640; for waste disposal well violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 27, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Epi Villarreal, Michael Parrish)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 20 **[Docket No. 2017-1336-WQ-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Hilario Soto in El Paso County; RN106957913; for water quality 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. (Sandra Douglas, Michael Parrish)

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

RULE MATTERS

Item 21 **[Docket No. 2017-1640-RUL.](#)**

Consideration of the adoption of amended Sections 336.356, 336.1301, 336.1305, 336.1307, 336.1309 - 336.1311, and 336.1317; and the repeal of Section 336.1313 of 30 TAC Chapter 336, Radioactive Substance Rules. The adoption would add a requirement for licensees to minimize the introduction of residual radioactivity into the site, including the subsurface; adjust the surcharge fees for compact waste disposal; and remove the annual requirement for rate adjustment for disposal of Low-Level Radioactive Waste to allow flexibility to incorporate rate adjustments on an as-needed basis. The proposed rules were published in the June 8, 2018, issue of the *Texas Register* (43 TexReg 3725). (Hans Weger, Shannon Love) (Rule Project No. 2016-034-336-WS)

Adopt the amendments and repeal to 30 Texas Administrative Code Chapter 336 as recommended by the Executive Director. EL/JN; all agree.

Item 22 **[Docket No. 2018-0375-RUL.](#)**

Consideration of the adoption of amended Section 11.1 and Section 11.3 of 30 Texas Administrative Code (TAC) Chapter 11, Contracts. The adoption would update TCEQ's rules under Chapter 11 to correctly reference recent updates by the Texas Comptroller of Public Accounts to their Historically Underutilized Businesses (HUB) rules and their Bid Opening and Tabulation rules. (Claribel Diaz, Amy Mendez) (Rule Project No. 2018-018-011-AD)

Adopt amended Sections 11.1 and 11.3 of 30 Texas Administrative Code Chapter 11, relating to Agency Contracts as recommended by the Executive Director. JN/EL; all agree.

STATE IMPLEMENTATION PLANS

Item 23 **[Docket No. 2018-1318-SIP.](#)**

Consideration for publication of, and public hearing on, the proposed Beaumont-Port Arthur (BPA) Redesignation Request and Maintenance Plan for the One-Hour Ozone Nonattainment Area and Second 10-Year Maintenance Plan for the 1997 Eight-Hour Ozone Nonattainment Area State Implementation Plan (SIP) revision. The proposed SIP revision would include a request that the United States Environmental Protection Agency (EPA) redesignate the BPA area (Hardin, Jefferson, and Orange Counties) to attainment for the one-hour ozone National Ambient Air Quality Standard (NAAQS) and provide a maintenance plan that will ensure the area remains in attainment of the NAAQS through 2032. The SIP revision would include a request that the EPA also consider this plan as a second 10-year maintenance plan for the one-hour standard. The proposed SIP revision would also include a second 10-year maintenance plan for the 1997 eight-hour ozone NAAQS. (Alison Stokes, Amy Browning) (Non-Rule Project No. 2018-027-SIP-NR)

Approve for publication of, and hearing on, the proposed Beaumont-Port Arthur Redesignation Request and Maintenance Plan for the One-Hour Ozone Nonattainment Area and Second 10-Year Maintenance Plan for the 1997 Eight-Hour Ozone Nonattainment Area State Implementation Plan revision as recommended by the Executive Director. EL/JN; all agree.

Item 24 **Docket No. 2018-0111-SIP.**

Consideration of the adoption of a revision of the State Implementation Plan (SIP) concerning 30 Texas Administrative Code (TAC) Chapter 114, Subchapter B, Motor Vehicle Anti-tampering Requirements and Section 114.86, Low Income Repair Assistance Program (LIRAP) for Participating Early Action Compact Counties. The SIP revision removes Chapter 114, Subchapter B, and Section 114.86 from the SIP. Neither set of rules is a Federal Clean Air Act SIP requirement, and neither was adopted into the SIP with associated emissions reductions. Along with the SIP revision, the action withdraws from consideration four adopted amendments to the anti-tampering rules that are still pending action by the United States Environmental Protection Agency. (Alison Stokes, Sierra Redding) (Non-Rule Project No. 2018-006-SIP-NR)

Adopt the State Implementation Plan revision that removes 30 Texas Administrative Code Chapter 114, Subchapter B and Section 114.86 from the State Implementation Plan as recommended by the Executive Director. EL/JN; all agree.

EXECUTIVE MEETING

Item 25 **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 26 **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 27 **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 28 **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 TCEQ MEETINGS ON THE TCEQ YOUTUBE CHANNEL AT NO COST, AT:

[HTTPS://WWW.TCEQ.TEXAS.GOV/AGENCY/DECISIONS/AGENDAS/WEBCASTS.HTML](https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html)

Barham Richard
Assistant General Counsel
Barham Richard

October 24, 2018
Date