

**TCEQ COMMISSION MEETING
AGENDA
NOVEMBER 17, 2021
9:30 A.M.**

In person/En persona: 12100 Park 35 Circle
Building E, Room 201S

By Computer/Por computadora: <https://www.gotomeeting.com/webinar/join-webinar>
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Chairman Jon Niermann
Commissioner Emily Lindley
Commissioner Bobby Janecka

AGENDA ITEMS/ELEMENTOS DE LA AGENDA

OLD BUSINESS AGENDA

AIR QUALITY ENFORCEMENT AGREED ORDER

Continued from the November 3, 2021 Agenda.

Item 1 [Docket No. 2020-1214-AIR-E](#).

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of TPC Group LLC in Harris County; RN100219526; 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. (Toni Red, Michael Parrish)

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

NEW BUSINESS AGENDA

PROPOSAL FOR DECISION

Item 1 [TCEQ Docket No. 2020-0973-MWD; SOAH Docket No. 582-21-0576](#).

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of Regal, LLC for new TPDES Permit No. WQ0015817001, to authorize the discharge of treated domestic wastewater from a proposed plant site at a daily average flow not to exceed

0.04 million gallons per day in the Interim Phase and 0.08 MGD in the Final Phase pursuant to rules of the Texas Commission on Environmental Quality and Texas Water Code chs. 5 and 26. The proposed facility will be located approximately 1.2 miles east of the intersection of Farm-to-Market Road 1978 and State Highway 123, Guadalupe County, Texas. The Commission will also consider the application; timely public comments and the Executive Director's Response to Comments; the record; and timely related filings, exceptions and replies. (Bobby Salehi)

Adopt the Administrative Law Judge's Proposed Order with the following changes: 1) Amend the ALJ's recommended edit of Finding of Fact 46 to read, "It is the Executive Director's practice to not request additional information to verify the truthfulness of an applicant's response to the question regarding existing waste water treatment facilities within a three mile radius;" 2) Delete Conclusions of Law 19 and 20; and 3) Decline to add proposed Conclusion of Law 20(a); Issue new TPDES Permit No. WQ0015817001 to Regal, LLC, as recommended by the Executive Director; and Adopt the Executive Director's Response to Comments. JN/EL; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2 [Docket No. 2021-0437-AIR.](#)

Consideration of the application by TotalEnergies PetroChemicals & Refining USA, Inc. (*formerly known as Total Petrochemicals & Refining USA, Inc.*) for the amendment of Air Quality Permit No. 46396 to include and increase particulate matter emissions, including particulate matter with diameters of 10 microns or less and 2.5 microns or less, (PM, PM₁₀, PM_{2.5}) and to increase the volatile organic compound (VOC) emission rates for the North Cooling Tower. The facility is located at the intersection of Highway 366 and 32nd Street, Port Arthur, Jefferson County, Texas 77642. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Ruth Alvarez, Ashley Rich)

Deny all hearing requests; Issue Air Quality Permit No. 46396, to TotalEnergies PetroChemicals & Refining USA, Inc., as recommend by the Executive Director; and Adopt the Executive Director's Response to Comments. BJ/EL; all agree.

Item 3 [Docket No. 2021-1364-AIR.](#)

Consideration of application by Texas Materials Group, Inc., for Air Quality Permit No. 8597, to authorize the renewal of a hot mix asphalt plant located at 14900 State Highway 121, Frisco, Collin 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. (Aine Carroll, Betsy Peticolas)

Find that there is no right to a hearing on this application pursuant to Texas Health and Safety Code § 382.056; Deny all hearing requests; Issue the renewal of Air Quality Permit No. 8597, to Texas Materials Group, Inc., as recommended by the Executive Director; and Adopt the Executive Director's Response to Comments. EL/BJ; all agree.

Item 4 [Docket No. 2021-1215-MWD.](#)

Consideration of the application by City of Brackettville and Fort Clark Municipal Utility District for renewal with a major amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0010194002 to authorize the addition of four holding ponds to attenuate effluent flow and to increase the irrigation area from 40 acres to 92 acres. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallon per day (gpd) (November-March) and 183,000 gpd (April-October). The draft permit also authorizes the disposal of treated domestic wastewater via irrigation of 92 acres. The facility and the disposal site are located approximately 2.3 miles south of the intersection of State Highway 131 and U.S. Highway 90 and 0.75 mile west of State Highway 131, in Kinney County, Texas 78832. The Commission will also consider requests for hearing or reconsideration,

related responses and replies, public comment, and the Executive Director's Response to Comments. (Deba P. Dutta, P.E., Hollis Henley)

Grant the hearing requests of Dos Palmas Ranch and David Conoly Ranch LLC; Deny the remaining requests for hearing; Refer the matter to the Commission's Alternative Dispute Resolution Program concurrently with the SOAH preliminary hearing scheduling process; Refer the application to SOAH for a contested case hearing on the following issues: a) Whether the draft permit includes adequate provisions to protect the health of the requestors and their families and aquatic and terrestrial wildlife, including endangered species; b) Whether the draft permit is protective of water quality and the existing uses of the receiving waters in accordance with applicable Texas Surface Water Quality Standards; c) Whether the draft permit complies with TCEQ's antidegradation policy and procedures; and d) Whether the draft permit contains sufficient provisions to ensure protection of water quality including sufficient monitoring and reporting requirements; and Set a hearing duration of 180 days from the date of the preliminary hearing until the Proposal for Decision is issued. BJ/EL; all agree.

MISCELLANEOUS MATTERS

Item 5 [Docket No. 2021-1325-RES.](#)

Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (Yen Tran)

Approve issuance of the Resolution acknowledging the Executive Director's acceptance of the gifts and donations contained in the TCEQ Interoffice Memorandum to the Commissioners dated October 29, 2021, Docket No. 2021-1325-RES. EL/BJ; all agree.

Item 6 [Docket No. 2021-1290-MIS.](#)

Consideration of material changes to contracts for goods and services awarded under Chapter 2155 of the Texas Government Code executed during the previous quarter. (Chris Gobert)

Approve issuance of the Executive Director's Proposed Resolution that acknowledges the material changes to contracts for goods and services in accordance with Texas Government Code § 2155.088, for the period of March 1, 2021 to May 31, 2021, as described in the TCEQ Interoffice Memorandum to the Commissioners and Executive Director dated November 17, 2021 and Docket No. 2021-1290-MIS. BJ/EL; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 7 [Docket No. 2020-1379-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Agrium U.S. Inc. in Hutchinson County; RN101865715; 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. (Danielle Porras, Michael Parrish)

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

Item 8 [Docket No. 2020-1222-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Apache Corporation in Reagan County; RN101943942; 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. (Yuliya Dunaway, Michael Parrish)

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

Item 9 [Docket No. 2020-1240-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Apache Corporation in Reagan County; RN101947216; 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. (Yuliya Dunaway, Michael Parrish)

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

Item 10 [Docket No. 2020-1242-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Apache Corporation in Reagan County; RN101946143; 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. (Yuliya Dunaway, Michael Parrish)

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

Item 11 [Docket No. 2019-1138-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Chevron Phillips Chemical Company LP in Jefferson County; RN100209857; 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. (Amanda Diaz, Michael Parrish)

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

Item 12 [Docket No. 2019-1644-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Enterprise Products Operating LLC in Chambers County; RN102323268; 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. (Amanda Diaz, Michael Parrish)

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

Item 13 [Docket No. 2020-1542-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Enterprise Products Operating LLC in Chambers County; RN102323268; 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. (Yuliya Dunaway, Michael Parrish)

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

Item 14 [Docket No. 2020-1475-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of INEOS Styrolution America LLC in Harris County; RN100542224; 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. (Amanda Diaz, Michael Parrish)

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

Item 15 [Docket No. 2020-1521-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kaneka North America LLC in Harris County; RN100218841; 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/BJ; all agree.

Item 16 [Docket No. 2020-1544-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lion Elastomers LLC in Jefferson County; RN100224799; 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. (Toni Red, Michael Parrish)

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

Item 17 [Docket No. 2020-1403-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lyondell Chemical Company in Harris County; RN102523107; 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. (Toni Red, Michael Parrish)

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

Item 18 [Docket No. 2020-1306-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against MarkWest Energy East Texas Gas Company, L.L.C. in Panola County; RN106407299; 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. (Rebecca Johnson, Michael Parrish)

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

Item 19 [Docket No. 2021-0112-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shell Chemical LP in Harris County; RN100211879; 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. (Johnnie Wu, Michael Parrish)

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

Item 20 [Docket No. 2020-1315-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Westlake Longview Corporation in Harrison County; RN105138721; 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. (Johnnie Wu, Michael Parrish)

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

Item 21 [Docket No. 2020-1378-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Targa Downstream LLC in Harris County; RN100214212; 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. (Danielle Porras, Michael Parrish)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 22 [Docket No. 2020-1513-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Whitmore Manufacturing, LLC in Rockwall County; RN102081007; 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. (Ken Moller, Michael Parrish)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

Item 23 [Docket No. 2020-0738-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of AAA NURSERY/SAND & STONE, INC. in Kaufman County; RN105950026; 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. (Stephanie McCurley, Michael Parrish)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDERS

Item 24 [Docket No. 2019-1085-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Dario Jaime Gonzalez in Hidalgo County; RN110811296; 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. (Roslyn Dubberstein, Katherine McKenzie)

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

Item 25 [Docket No. 2020-0755-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Lupe A. Gonzales in Atascosa County; RN111037842; 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. (Roslyn Dubberstein, Katherine McKenzie)

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

Item 26 [Docket No. 2020-0606-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Mark Corwin and Rosanna Corwin dba MC Tire Services aka Richard & Mark's 66 Service Station in Young County; RN102458429; 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. (Casey Kurnath, Katherine McKenzie)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 27 [Docket No. 2020-1584-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Grapevine in Tarrant County; RN101614352; 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. (Katelyn Tubbs, Michael Parrish)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 28 [Docket No. 2021-0107-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of FIVE MITRO LLC dba Shade Tree in Comanche County; RN101844611; 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. (Karolyn Kent, Michael Parrish)

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

Item 29 [Docket No. 2020-1592-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of WM. G. JOHNSON OIL CO. dba Tiger Tote 104 in Navarro County; RN106608821; for petroleum storage tank 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. (John Fennell, Michael Parrish)

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

Item 30 [Docket No. 2019-1051-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Raja Mahmood & Sons Enterprise LLC dba Shop Rite in Guadalupe County; RN101754307; 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. (Benjamin Warms, Katherine McKenzie)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 31 [Docket No. 2020-0534-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Arturo Armenta in Live Oak County; RN102027711; 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. (Benjamin Warms, Katherine McKenzie)

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

Item 32 [Docket No. 2020-0604-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of SPENCER & SPENCER LLC in Jack County; RN106852346; 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. (Benjamin Warms, Katherine McKenzie)

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

Item 33 [Docket No. 2020-0333-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Leldon B. Higgs in Waller County; RN101841609; 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. (Roslyn Dubberstein, Katherine McKenzie)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT AND SHUTDOWN ORDER

Item 34 [Docket No. 2019-1523-PST-E.](#)

Consideration of a Default and Shutdown Order assessing administrative penalties against and requiring certain actions of SHRI SULOCHANA INC dba 4 Seasons Food Mart in Denton County; RN100539907; 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. (Taylor Pearson, Katherine McKenzie)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 35 [Docket No. 2021-0110-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Beth Puryear dba Emerald Estates, Carol Decker dba Emerald Estates, and Wayne Williams dba Emerald Estates in San Jacinto County; RN102975778; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Miles Wehner, Michael Parrish)

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

Item 36 [Docket No. 2021-0231-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Trinity Presbyterian Church (PCA) of Boerne, Texas in Kendall County; RN108692708; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Conner, Michael Parrish)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 37 [Docket No. 2018-1404-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of NICO-TYME WATER CO-OP, INC. in Bexar County; RN101215788; for public drinking water violations pursuant to TEX. WATER CODE ch. 5, and Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Roslyn Dubberstein, Katherine McKenzie)

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

SLUDGE ENFORCEMENT AGREED ORDER

Item 38 [Docket No. 2020-0702-SLG-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of KG Company & Services, LLC in Polk and Harris Counties; RN110517398; 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. (Alyssa Loveday, Michael Parrish)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 39 [Docket No. 2020-0318-WO-E.](#)

Consideration of an Agreed Order assessing administrative penalties against R & T ELLIS EXCAVATING, INC. in Liberty County; RN109689497; 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/BJ; all agree.

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 40 [Docket No. 2020-1087-WO-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of ELARA HOMES INC in Walker County; RN107948721; 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. (Judy Bohr, Katherine McKenzie)

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

MONTHLY ENFORCEMENT REPORT

Item 41 [Docket No. 2021-0095-MIS.](#)

Consideration of the Texas Commission on Environmental Quality Monthly Enforcement Report, submitted for discussion in accordance with Texas Water Code § 7.003. (Susan M. Jablonski, P.E., Melissa Cordell)

No action taken.

RULE MATTERS

Item 42 [Docket No. 2021-0765-RUL.](#)

Consideration for publication of, and hearing on, proposed amendment of Section 7.103 of 30 TAC Chapter 7, Memoranda of Understanding. The proposed rulemaking would implement portions of Senate Bill 703, 87th Legislature, which removed the Texas Department of Agriculture's (TDA) roles and responsibilities related to regulation of the aquaculture industry, by amending the Memorandum of Understanding (MOU) to remove the TDA. The proposed rulemaking would also make additional updates to the MOU, based on rule changes related to the aquaculture industry since the MOU was last adopted. (Laurie Fleet, Jessie Spears) (Rule Project No. 2021-021-007- OW)

Approve the publication of, and hearing on, the proposed amendments to 30 Texas Administrative Code § 7.103, Memoranda of Understanding, relating to the regulation of the aquaculture industry, as recommended by the Executive Director. BJ/EL; all agree.

Item 43 [Docket No. 2021-1008-RUL.](#)

Consideration for publication of, and hearing on, an amendment to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter A, Definitions, Section 114.1, and Subchapter C, Vehicle Inspection and Maintenance; Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program; and Early Action Compact Counties, Sections 114.50 and 114.82. The proposed rulemaking would implement applicable sections of Senate Bill (SB) 604, 86th Legislature, 2019, relating to the display of a vehicle's registration insignia on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. (Nicholas Landuyt, Sierra Redding) (Rule Project No. 2021-029-114-AI)

Approve the publication of, and hearing on, the proposed amendments to 30 Texas Administrative Code Chapter 114, as recommended by the Executive Director. EL/BJ; all agree.

Item 44 [Docket No. 2021-0905-RUL.](#)

Consideration for publication of, and hearing on, proposed amended Section 336.357 of 30 TAC Chapter 336, Radioactive Substance Rules. The proposed rulemaking would modify the rules regarding physical protection of Category 1 and Category 2 quantities of radioactive materials in Section 336.357 to add "list of individuals that have been approved for unescorted access" to the list of information for which access must be controlled and to modify contact information (mail addresses, phone numbers, internet address, and department names) of the United States Nuclear Regulatory Commission. (Hans Weger, Amie Robinson, Clark Reeder) (Rule Project No. 2021-026-336-WS)

Approve the publication of, and hearing on, amended 30 Texas Administrative Code § 336.357, as recommended by the Executive Director. BJ/EL; all agree.

Item 45 [Docket No. 2021-0372-RUL.](#)

Consideration of the adoption of new Subchapter J, Best Management Practices for Sand Mining Facility Operations Within the San Jacinto River Basin, Sections 311.101- 311.103 of 30 TAC Chapter 311, Watershed Protection. The proposed rulemaking would require the executive director to develop and maintain a guidance document of best management practices and establish requirements for sand mining facilities in the San Jacinto River Watershed to implement the best management practices. In addition, the rulemaking would establish requirements for sand mining facilities in the San Jacinto River Watershed to develop and maintain onsite a Mine Plan before commencing or continuing operations at the site and to submit to the executive director a Final Stabilization Report for review and approval before terminating operations at the site or portion(s) of the site. This rulemaking is a follow up to petition requests by Texas Aggregates and Concrete Association, submitted on June 15, 2020, and Lake Houston Area Grassroots Flood Prevention Initiative, submitted on June 23, 2020 (Non-Rule Project Nos. 2020-042-PET-NR and 2020-044-PET-NR). The proposed rules were published in the June 25, 2021, issue of the *Texas Register* (46 TexReg 3846). (Macayla Coleman, Michael Parr) (Rule Project No. 2020-048-311-OW)

Continued to the December 15, 2021 Commissioners' Agenda.

EXECUTIVE MEETING

Item 46 **Docket No. 2021-0001-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.

The Commission did not meet in Executive Session.

Item 47 Docket No. 2021-0002-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.

The Commission did not meet in Executive Session.

Item 48 Docket No. 2021-0003-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.

The Commission did not meet in Executive Session.

Item 49 Docket No. 2021-0004-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.

The Commission did not meet in Executive Session.

GENERAL INFORMATION/LA INFORMACIÓN GENERAL

How to watch or listen to the meeting

Members of the public may listen to the meeting telephonically by calling, toll-free, (213) 929-4212 and entering Access Code 306-959-221. The public may also view live TCEQ meetings on the TCEQ YouTube Channel at no cost at:

<https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html>.

Cómo ver o escuchar la reunión

Los miembros del público pueden escuchar la reunión por teléfono llamando sin cargo al (213) 929-4212 e ingresando el código de acceso 306-959-221. El público también puede ver las reuniones de la TCEQ en vivo en el canal de YouTube de la TCEQ sin costo en:

<https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html>.

How to register and to address the Commission at the meeting

Members of the public who would like to address the Commission on an item for which the Commission is accepting comment, must register as indicated below and access the meeting via webcast by navigating to: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 911-823-235. Those without internet access may call (512) 239-3313 before the meeting begins for assistance in accessing the meeting telephonically.

To register, you may provide information via the Public Participation Form at: https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/AgendaRegistrationForm.docx. If you have challenges with the Public Participation Form, you may call (512) 239-3313 or email agenda@tceq.texas.gov and provide the following information: 1. Agenda item number; 2. Name; 3. Affiliation; 4. Address; 5. Phone number; 6. Whom you represent (self or company/client); and 7. Whether you wish to address the Commission, are available for questions from the Commission, or would like to be noted as present for the record.

Registration for Agenda will conclude at 9:30 a.m. Late registration could result in your missing the opportunity to comment on your item. Please note that the Commissioners may discuss or consider posted items in an order other than the order posted.

Cómo registrarse y dirigirse a la Comisión en la reunión

Los miembros del público que deseen dirigirse a la Comisión sobre un tema sobre el cual la Comisión está aceptando comentarios, deben registrarse como se indica a continuación y acceder a la reunión a través de un webcast navegando a: <https://www.gotomeeting.com/webinar/join-webinar> e ingresando el ID del seminario web 911-823-235. Aquellos sin acceso a Internet pueden llamar al (512) 239-3313 antes de que comience la reunión para recibir ayuda para acceder a la reunión por teléfono.

Para registrarse, puede proporcionar información a través del Formulario de participación pública en: https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/AgendaRegistrationForm.docx. Si tiene problemas con el Formulario de participación pública, puede llamar al (512) 239-3313 o enviar un correo electrónico a agenda@tceq.texas.gov y proporcionar la siguiente información: 1. Número de artículo de la agenda; 2. Nombre; 3. Afiliación; 4. Dirección; 5. Número de teléfono; 6. a quién representa (usted mismo o empresa / cliente); y 7. si desea dirigirse a la Comisión, si está disponible para las preguntas de la Comisión o si desea que se le anote como presente para que conste en acta.

El registro para la Agenda concluirá a las 9:30 a.m. El registro tardío podría resultar en que pierda la oportunidad de comentar sobre su artículo. Tenga en cuenta que los Comisionados pueden discutir o considerar los artículos publicados en un orden diferente al pedido publicado.

How to ask for accommodations

Persons with disabilities who may 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 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.

Cómo solicitar adaptaciones

Se solicita a las personas con discapacidades que planeen asistir a la Agenda de la TCEQ y que puedan necesitar ayudas o servicios auxiliares, como intérpretes para personas sordas o con problemas de audición, lectores, letra grande o braille, que se comuniquen con la Oficina del Secretario en Jefe al (512) 239-3300 al menos cinco (5) días hábiles antes de la agenda, para que se puedan hacer los arreglos apropiados.

How to ask for an interpreter

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 Chief Clerk at (512) 239-3300 at least five (5) work days prior to the Agenda so that appropriate arrangements may be made.

Cómo pedir un intérprete

Se solicita a las personas que deseen la asistencia de un intérprete junto con su presentación oral en esta Agenda de la TCEQ que se comuniquen con la Oficina del Secretario en Jefe al (512)

239-3300 al menos cinco (5) días hábiles antes de la Agenda para que los arreglos apropiados puede hacerse.

How to read the Agenda document

The Agenda document above 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)]. Updates to backup documents will be noted under the hyperlinks.

Cómo leer el documento de la Agenda

El documento de la Agenda anterior incluye hipervínculos (números de expediente resaltados en azul) que permiten al usuario ver los documentos de respaldo de la agenda [documentos relacionados con un asunto en particular que se han presentado en la Oficina del Secretario en Jefe (OCC)]. Las actualizaciones de los documentos de respaldo se anotarán debajo de los hipervínculos.

Weapons Prohibited

Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon into this meeting.

Armas prohibidas

En conformidad con la Sección 46.03, Código Penal (lugares con prohibición de armas), una persona no puede portar un arma de fuego u otra arma en esta reunión.

/s/ Greg Merrell
Assistant General Counsel
Greg Merrell

November 23, 2021
Date