

Federal Clean Air Act Section 185 Fee Informational Meeting

March 4, 2009, 2:00 p.m.

Houston-Galveston Air Council Building, Room A; 3555 Timmons Lane; Houston, TX

Moderator: Terry Salem, Office of Legal Services, Texas Commission on Environmental Protection (TCEQ)

Attendees: See below

Terry Salem presented opening remarks with background on the *South Coast v. EPA* court decision vacating the United States Environmental Protection Agency's (EPA) rule that allowed areas to not implement the penalty fee requirement for the one-hour ozone standard. The Federal Clean Air Act (FCAA), in Section 185, requires each state to impose a requirement for the assessment and collection of a fee for major stationary sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) located in a severe or extreme nonattainment area if the area fails to attain the ozone NAAQS by the applicable attainment date. Comment on, or suggestions for, potential alternatives to a fee-based system is being sought from the public. The public is invited to comment on the anticipated proposed rulemaking and provide suggestions for potential alternatives and justification for how any alternatives to a fee-based system will or will not be equivalent to a fee-based program.

Presentation: Kathy Pendleton, P.E., Air Quality Division, TCEQ

Kathy Pendleton summarized the FCAA, § 185 fee requirement, the current EPA guidance regarding calculation of the emissions baseline, provided information on emissions trends for VOC and NO_x, and provided an overview of issues associated with the FCAA, § 185 fee requirement and potential alternative equivalent programs. Information regarding the anticipated rulemaking schedule was also provided.

Discussion:

One individual commented that some combustion-only sources may not be able to achieve further emissions reductions, and wondered how the rule would handle sources that cannot reduce any further.

One individual was concerned that the rule applies only to major sources and they are not the only contributors to the nonattainment status in the Houston-Galveston-Brazoria area. He recommended the TCEQ should take a leadership role and ask EPA to extend the rule requirements to non-major sources or not implement the rule.

One individual questioned how the TCEQ or EPA would handle or view any retroactive fees should an alternative program be revoked at a later date.

Several comments were received in favor of aggregation of pollutants in the fee calculation.

Several individuals supported the maximum flexibility in choosing alternatives to a fee based program.

One individual commented that entities should have a menu of alternative options to select from, instead of paying a fee.

Two individuals questioned whether fees paid would be available to the TCEQ to fund emissions reduction projects in the HGB area, or whether fees would be directed to General Revenue.

One individual questioned how current limitations on generation of Emissions Reduction Credit and the Discrete Emissions Reduction Credit Program would impact any fees due.

Aggregation of sources was also of interest to several individuals. This aggregation would allow sources to distribute benefits across multiple sites, should one site reduce more than others.

One individual requested that the baseline determination should be flexible enough to allow sites to recalculate which baseline emissions as needed to be most beneficial to the regulated entity.

Many individuals suggested targeting revenues from the fee payments to activities that will benefit Houston area such as the Supplemental Environmental Projects.

Closing Remarks:

The meeting attendees were thanked for their attendance and participation, and reminded that written comment would be accepted until March 18, 2009, for consideration by TCEQ staff in developing draft rule language. TCEQ staff will provide draft rule language and accept additional informal comment for consideration during development of a final draft for TCEQ management review prior to commission consideration of a rule proposal.

Section 185 Rulemaking Participant List

Houston Texas March 4, 2009

Name	Company
Ashley Wadick	TCEQ
Bruce Jones	U.S. EPA
Calvin Greene	Sunoco Chemicals
Carl Young	EPA Dallas
Casey Kelley	Exelon Power
Catarina Cron	Harris County
Charles Bates	Enbridge
Charles Rivette	Waste Management
Chock Ganapathy	INEOS
Chris Amandes	Rinson Elkins
Chris Benton	URS
Christopher Sterling	Bigler LP
Clayton Curbs	Oiltanking
Clint Cowan	ETC
Colin Moore	Koch
Craig Elam	Citizen
Cynthia DeWitt	BP SHGP
Cynthia Williams	TCEQ
D Parnish	IEA
Dave Oldaker	RMT
Doug Jordan	Zephyr
Doug Thompson	Albemarle Corp
Emily Boyd	TCEQ
Floyd Dickerson	Rhodia
Frederick G. Fedri	Occidental Chemical
Gary McDonald	Magellan Midstream
Gilbert Alfaro	High Tech Finishing
Graciela Lubertino	H-GAC
Harless Benthul	Attorney
Jan Stavinoha	Calpine
Jason Frederick	Total Petrochemicals USA,Inc.
Jason Graver	Waid
Jason Moore	Baker Botts
Jed Anderson	Attorney
Jeff Saitas	Saitas & Seales
Jessica Keiser	Targa
Jim Cesario	Trans Montaigne
Joan Bins	Trinity
Judy Bigon	Exxon Mobil
Julie Woodard	DOW
Kara Haney	ABC
Karen Hill-Pratt	Exxon Mobil
Kesha Ragin	Kinder Morgan
Kevin Barnard	Wood Group

Kim Morales	TCEQ
Kip Klee	Goodyear
Leslie Wong	Waste Management
Louis Dunham	Spectra Energy
Lynn Rentzel	Vision Monitor
Marise Textor	Texas Petrochemicals
Matthew Tejada	GHASP
Melanie Roberts	Targa
Michael Otool	GLM
Mike Pitta	
Moraima Grinnell	Exxon Mobil
Patrich Blanchard	Calpine
Paul Ajibogun	INEOS
Phyllis Frank	GCA
Renee Keys	Entergy
Rohit Sharma	Lyondell Basell
Ryan Perna	TCEQ Region 12
Sabino Gomez	Spectra Energy
Shawn Haven	IEA Environ sus
Stan Lewis	Kuraray America
Susan Moore	BP
Terri Seales	Saitas & Seales
Todd Huddleson	TCEQ