

Federal Clean Air Act Section 185 Informational Meeting

June 12, 2009, 9:30 a.m.

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

Presentations: Kathy Pendleton, P.E., Air Quality Division, TCEQ
Susana Hildebrand, P.E., Director Air Quality Division, TCEQ
Diane Mazuca, Legislative Liaison, Intergovernmental Relations Division, TCEQ

Presentations:

Kathy Pendleton presented a summary of the Texas's proposed draft rule language to implement the Federal Clean Air Act (FCAA), Section 185 fee requirement. The outline of the draft rule was described. A new Subchapter B: Failure to Attain Fee and Equivalent Alternative Obligation would be added under 30 Texas Administrative Code Chapter 101, General Air Quality Rules. The new rule will be drafted with two divisions. The first division outlines the fee portion of the rule. The second division proposes an alternative program as allowed under FCAA Section 172(e). The presentation outlined the draft rule and presented each section's intent.

As drafted the rule would require baseline calculations for each major source in the Houston- Galveston- Brazoria (HGB) nonattainment area. Sources may be allowed to aggregate volatile organic compounds (VOC) and nitrogen oxides (NO_x) pollutants at site or across multiple sites, as limited by the requirements outlined in the draft rule language.

Susana Hildebrand provided an update from the Clean Air Act Advisory Committee (CAAAC) meeting where a letter regarding Section 185 to the Environmental Protection Agency (EPA) Administrator Elizabeth Craig was recently drafted. In the letter, the CAAAC urged the EPA to provide prompt guidance to the States regarding the following question arising under the Clean Air Act:

Is it legally permissible under either section 185 or 172(e) for a State to exercise the discretion identified in Options A-J?

The CAAAC letter dated May 15, 2009, with the options was distributed.

Diane Mazuca presented an update on Texas's legislative action addressing the deposit and appropriation of any revenue collected under section 185. House Bill 1796 authorizes the deposit of these revenues to Clean Air Account Number 151. A contingency rider in Senate Bill 1, Article IX, Section 17.81 also appropriates any revenues collected under Section 185, of the FCAA to the TCEQ. Based on the contingency rider, these funds are to be used to support activities associated with the state's efforts to comply with federal air quality standards and to address air pollution issues in the HGB nonattainment area.

Discussion:

Comments were solicited from attendees. One individual stated that the agency (TCEQ) should allow additional alternatives to fines, such as for mobile sources. This individual also requested the ability to use the latest emissions factors to update historical emissions inventories. The commenter also suggested the baseline determination was too complicated and should be simplified.

Another individual did not believe the rule should allow aggregation of VOC and NOx when calculating the baseline emissions. This attendee also said the language used by the TCEQ referencing the Prevention of Significant Deterioration language on the 24-month average annual calculation was in error.

A commenter raised an issue regarding the baseline year definition for the 8-hour ozone standard. The rule defines the baseline year as the previous calendar year.

Closing Remarks:

The meeting attendees were thanked for their attendance and participation, and reminded that written comment would be accepted until June 26, 2009, for consideration by TCEQ in developing rule language.

Attendees:

Name	Company
Adolph Suasez	COH legal intern
Barry Christen	OxyChem
Benoit Lamarche	Targaresources
Brian Freqdman	Albemarle
Carl Young	EPA Dallas
Catarina Cron	Harris County Judge's office
Christina Harris	Kinder Morgan
Cynthia Williams	TCEQ
Claudio Galli	TCEQ
Colin Moore	Koch Industries
Dan Hunter	Conoco Phillips
Diana Phelps	Spectra Energy
Ed Fiesinger	Zephyr Environmental Corp
Elena Craft	EDF
Fariba Mehdizader	URS
Frocuele Lubertino	H-GAC
Gary Aman	Enorteck
Gary McDonald	Magellan Midstream
Gary Williamson	Praxair, Inc
Glenn Schneider	Enerteck
James Smith	ERM
Jaron Bergin	calpine
Jeff Saitas	Saitas & Seales
Joe Layden	Lyondell
Joseph Simonson	Element Markets
Judy Bigon	Exxon Mobil

Name	Company
Julie Burrows	Kuraray America
Julie Woodard	DOW
Ken Jackson	Enerteck
Kesha Ragin	Kinder Morgan
Mark Allen	BASF
Matt Boyer	TCEQ
Mike Pitta	Kinder Morgan
Mike Tomerlin	Enterprise
Paul Ajibogun	INEOS
Paulete Woodm	COH
Phyllis Frank	GCA
Ralph Chalet	O'Brien's Response Mgmt
Robert Doremus	Dupont
Robert Steaples	Waid Environmental
Ray Terrazas	
Rohit Sharma	Lyondell Basell
Ruben I. Velasquez	PBSJ
Ryan Perna	TCEQ Region 12
Sabino Gomez	Spectra Energy
Scott Greene	Lubrizol
Shawn Haven	IEA Environ
Stan Lewis	Kuraray America
Susan Moore	BP
Terri Seales	Saitas & Seales
Tracy Hester	Bracewell & Givliari
Thuy Mai	Dupont
Todd Palmer	Marathon
Vivian H. Aucoin	Louisiana DEQ
Zhamnk Kogan	TECO