

**TERP ADVISORY BOARD MEETING**

**Minutes**

**November 7, 2002**

10:00 am - 4:30 pm

I. Call to Order

Meeting was called to order at approximately 10:00 a.m.

II. Roll Call of Members Present

Members Present

Elizabeth Gunter  
Dr. Naomi Lede'  
Mark Rhea  
Michael Flores  
Tom Smith  
Jim Crites  
Clay Cash  
Dan Kelly  
Warren Chisum  
Dub Taylor  
Ty Embrey  
Guy Donaldson  
Heather Evans

Members Absent

Dr. Purnendu Dasgupta  
John Goodman  
John Mikolaitis  
Robert Lanham  
Reggie James  
Chuck Nash  
Bill Mason  
Bill Grimes

III. Approval of Minutes from the last meeting (Chairman)

The minutes from the previous meeting were approved as read.

## IV. Committee Reports and Program Updates

### A. Program Updates

#### 1. Comptroller

Dub Taylor of the State Energy Conservation Office gave an update on the light-duty incentive program. They have only received one application, for a vehicle that does not qualify. There were questions about the number of vehicles that may be eligible for the program.

#### 2. SECO

Dub Taylor from the State Energy Conservation Office provided an update of efforts to assist local governments that are impacted by the SB 5 programs and update of reporting information provided by local governments. He answered questions from the Board regarding the types of projects being implemented by the local governments.

#### 3. TCEQ

Steve Dayton of the Texas Commission on Environmental Quality discussed the status of the Emissions Reduction Incentive Grants Program, and the applications received under the latest application period.

#### 4. PUC

Theresa Gross of the Public Utility Commission provided an update of the PUC's energy efficiency grants program and the SB 7 energy efficiency programs.

#### 5. TCET

Dr. Jerry Matthews provided an update of the activities of the Texas Commission on Environmental Technology. He indicated that the TCET's report to the Legislature is available on the TCET Web site.

There were comments in support of a recommendation to change the statutory requirements to allow the institutions represented on the TCET to participate in the grants program.

He outlined the recommendations from the TCET for Legislative changes, as contained in the TCET's draft report to the Legislature:

- a. Allow state's universities to participate in the environmental technology development activities of the council;
- b. Permit the council to compete for federal and other funds;
- c. Use a portion of the funding available to the council for promoting regulatory approval and adoption of new technologies; requesting authorization to impose a 10% fee on the grant amounts that the council issues for management of those grants and facilitating the verification of the results of those grants; and

- d. Authorize council to enter into public/private partnerships to facilitate development of environmental technology infrastructure in Texas.

There was a question about whether the public/private partnerships would include state universities. Dr. Matthews indicated that the partnerships would still need to be defined and that universities could be part of those.

The Board approved adding the TCET recommendations to the Board's list of recommendations to the Legislature.

#### 6. Energy Systems Laboratory (Jeff Haberl)

Jeff Haberl of the Energy Systems Laboratory provided information on the activities of the Lab and discussed a number of issues related to energy efficiency. He discussed the use of the EGRID system. He then discussed an emissions calculator the Lab has developed, and the possibility of being able to issue certificates for use in emissions trading.

He discussed several program ideas, including:

- a. The potential effect of using compact fluorescent light bulbs and an idea for an emission fee on sale of light bulbs;
- b. A building tune-up program, including bringing a building into proper design specifications and ensuring the building controls are tuned properly.

#### B. Report on HVAC Industry and Energy Conservation

Gary Clark and Jeff Ellingham of Goodman Manufacturing provided information regarding the air conditioner industry and energy conservation.

There was discussion regarding costs for increasing the SEER levels for air conditioners. There was discussion on some of the requirements and incentives in place for SEER standards. It was discussed that federal law (12 SEER) prevails over local requirements, therefore, local governments must use incentives as the mechanism to increase the efficiency levels of the air conditioners installed in those areas.

There was also discussion on ensuring that the state gets credit for the emissions reductions from air conditioners above SEER 10 in the state that were not purchased as part of the PUCs incentive programs.

There was also discussion on the mark up on the costs of the units, and that if you can look at incentives at the manufacturer level, the cost effectiveness of the incentives may be much higher. Also, working with manufacturers or distributors reduces the number of entities that you must deal with. However, in order to get SIP credits, you need to look at the geographic distribution, which may mean that you still need to work at the distributor or installation level. There was discussion that some of those issues can be worked out in factoring those issues into an emissions calculator.

## V. Old Business

### A. TERP Report to the 78th Legislature

1. Report Overview
2. Summary of public comments and TCEQ response to comments

This topic was taken up under New Business.

## VI. New Business

### A. Discussion of TERP Issues and Recommendations

#### 1. TERP Funding Needs (TCEQ Chairman Huston)

Robert Huston, Chairman of the Texas Commission on Environmental Quality, presented information regarding the estimates of what is needed to restore TERP funding to the levels needed to achieve the required emission reductions.

He discussed the measures originally included in the SIPs for Houston-Galveston and Dallas-Fort Worth, and why use restrictions were included in the SIPs. He explained the reasons that the accelerated purchase and time restrictions were removed from the SIP, with TERP replacing those reductions. He indicated that restoring funding to the TERP is the single most important funding issue for the TCEQ going into the Legislative Session, and discussed what happens if EPA does not approve the DFW SIP and finds the HGA SIP not in compliance.

There was some discussion on SIP credit for energy efficiency, and the need to be able to apply the reductions from energy efficiency to a geographic area. There was also discussion on the caps on the energy producers in Houston, and that if there is room under the cap, the energy supplier may sell or transfer those credits.

#### 2. Discussion and Recommendations

##### a. Funding Issues

##### (1) Funding alternatives assessed by the Comptroller's office

John Heleman of the Comptroller's office presented a table of the fiscal implications of a list of possible TERP funding alternatives that were provided to them by Chairman Chisum. The Board discussed each item, and voted on those alternatives that the Board would propose to remove from the list. It was also discussed that these fees were evaluated at a uniform \$1 or 1% amount, and the actual fee imposed could be considered based on a factor of the amount used.

The list of recommendations is provided below, with notations for Board's vote on changes or removal of items from the list.

1. \$1 fee for annual air permit based on safety inspections sold in nonattainment or near-nonattainment areas.

2. \$1 fee for annual air permit based on safety inspections.
3. **(remove from the list)** ~~\$1 hotel occupancy air permit fee on persons staying in hotel in nonattainment or near-nonattainment area.~~
4. **(remove from the list)** ~~\$1 hotel occupancy air permit fee imposed on persons staying in hotels in other areas of the state.~~
5. **(remove from the list)** ~~\$1 air permit fee on registration renewal for motorboat operated primarily in nonattainment and near-nonattainment area.~~
6. **(remove from the list)** ~~\$1 air permit fee on registration renewal for motorboat operated primarily in other areas of the state.~~
7. **(remove from the list)** ~~\$1 surcharge for each taxi (and shuttle) fare to or from an airport in a nonattainment or affected county.~~
8. \$0.25 per gallon surcharge on bunker fuel for ocean-going vessels and boats sold by petroleum refineries.

It was discussed whether there was an alternative for a surcharge on diesel fuel. The response was that it is a constitution question, and that bunker fuel is viewed differently than diesel fuel.

9. \$1 for each one-year or \$2 for each two-year interstate motor carrier registration statewide.
10. Expand the 1% surcharge on new or used construction equipment sold, leased or rented in the state to include construction equipment “used” in the state, coupled with a clarification of the definition of “construction equipment” ~~to include all off-road, heavy-duty diesel equipment for implements of husbandry~~ **(remove the last part of sentence)**.
11. Expand the 2.5% surcharge on the retail sale, use, or lease of model year 1996 and newer on-road diesel vehicles to include all on-road diesel vehicles.

One idea was presented to make the surcharge apply to vehicles up to the 2003 model years, but not apply it to 2003 model years or beyond. This would cover the older vehicles, but would not impact the sales of “new” vehicles.

12. \$1 fee for each application for a vehicle title.
13. 1% surcharge on residential building or construction permits issued by a local government ~~anywhere in the state~~ **(corrected to say “in affected counties”)**.

**There was a question raised about the constitutionality of imposing a fee on only certain areas of the state. Chairman Chisum stated that he would discuss this recommendation with the Legislative Council and the**

**Council's opinion about the constitutionality of the recommendation.**

14. Impose a mitigation fee for on-road diesel vehicles currently exempt from emissions testing in nonattainment areas in the amount of the fee imposed on gasoline powered vehicles.
15. \$1 health related surcharge on the registration of any vehicle not meeting low-emission vehicles standards under Section 502.186 of the Transportation Code.
16. \$1 surcharge imposed on each port authority for each vessel docking in the port to load/unload cargo.
17. **(remove from the list)** ~~\$1 takeoff and \$1 landing fee imposed on the owner or operator of any private or public airport for commercial use or carrying passengers or cargo for profit.~~

(2) Following discussion of the list of recommendations evaluated by the Comptroller's office, additional revenue generation recommendations were presented and discussed. Those recommendations are outlined below, along with notation of any action taken by the Board regarding the recommendation.

1. Tom Smith presented a recommendation to assess a \$0.05 cent per barrel fee on high sulfur fuels at the wholesale level through the 2007 budget (to generate \$150 million per year).

No action was proposed on this recommendation. Chairman Chisum asked the Comptroller's staff to look at the revenue aspects of this recommendation, and indicated that the practicality of how this could work could be further evaluated.

2. Chairman Chisum proposed an environmental impact permit on all internal combustion engines. He discussed a permit level of \$5. This permit charge would be a single environmental impact charge on motorized vehicles of 50 hp and greater, with no exemptions. This would be similar to the wilderness permit imposed on off-road vehicles in Colorado. A sticker would be purchased and put on the vehicle. The TCEQ would make this available through various entities to sell the sticker. There may be a problem with imposing this only in the nonattainment areas, and Chairman Chisum indicated that the "equal and uniform" issue would need to be further evaluated. There was no action requested of the Board on this proposal. Chairman Chisum will work on getting a revenue estimate and will circulate that information to the Board members. The annual permit requirement would sunset in 2007, and could possibly fund the entire program.
3. Tom Smith proposed a sliding scale fee imposed at registration based on the relative cleanliness of a car, with the average being about \$11 on registration annually. It would be a \$22 fee on a large SUV and a \$0 fee on a zero-emission vehicle. The fee would be on new cars beginning in 2004.

Chairman Chisum asked Tom Smith to provide the recommendation in writing, and it would be looked at further.

b. Other (non-funding) Issues

(1) Presentation by Texas Clean Air Working Group (TCAWG)

Anne Culver of Greater Houston Partnership, representing Judge Harris of Collin County. She presented the TCAWG legislative recommendations (copies of slides included in the meeting packets). She also provided information on TCAWG's position on additional issues.

She invited Chairman Chisum and representatives of the Board to attend the Nov. 22 meeting of TCAWG to go over the recommendations that may be made by the Advisory Board.

(2) Railroad Commission Forklift Rebate Program

Dan Kelly of the Railroad Commission of Texas discussed a letter sent to Chairman Chisum by Commissioner Williams of the Railroad Commission (a copy of the letter was included in the meeting packets). The Railroad Commission recommended consideration of using TERP funding to provide incentives for retrofit of propane forklifts with electronic controls and catalysts to reduce NOx. The proposal also included incentives for the early purchase of newer model propane forklifts. The TERP statute would need to be changed to allow funding for propane equipment.

The Advisory Board voted to include this recommendation in the Board's list of additional legislative recommendations.

(3) TERP Report to the 78th Legislature

Steve Dayton of the TCEQ reviewed the recommendations in the TCEQ's TERP Report to the Legislature. He went over the comments received on the draft recommendations and the proposed response to those comments. Copies of the report and the comment summary were provided in the meeting packets.

The Advisory Board voted to adopt the TCEQ report and the recommendations included in the report. Chairman Chisum proposed that Recommendation 7 of the draft report be changed to give the TCEQ authority to amend the list of counties designated as "affected counties," as needed to reflect the counties included in the nonattainment and near-nonattainment areas.

(4) Tom Smith discussed a recommendation to change the Chapter 117 rules to address where there is confusion about requirements for no pilot lights on water heaters. He proposed that TCEQ staff look at those rules to see if there is a need for changes.

(5) Tom Smith discussed an issue with the Light-Duty Incentive Program, and the \$2 million remaining in the fund. The Board has the ability to recommend a change in

the focus of the incentive program. He recommended that the TCEQ do an outreach program to taxi owners and airport fleets to encourage them to use the incentives for the Crown Victoria included on the list of eligible vehicles. It was discussed that there was current authority for TCEQ to do this.

- (6) Tom Smith recommended that the Board include recommendations for a Building Tune-up program, similar to the Loan Star Program. This could be included in the list of programs funded by PUC. Chariman Chisum proposed to wait and see how the funding plays out, before recommending this type of program. In the alternative, it could be included as a lower level priority. The Board will look into this further before deciding to include this recommendation in the supplemental report.
- (7) Chairman Chisum discussed the Board providing a supplemental recommendations on the TERP. It was discussed that since there would not be another meeting before the Legislature meets, any information could be circulated to the Board members for review and input by E-mail.

## VII. Public Input

1. Tod Wickersham of Good Company Associates commented that some of the older gasoline powered vehicles and equipment could represent a substantial reduction. He proposed a pilot project under TERP to evaluate programs aimed at those vehicles and equipment. He indicated that the Texas Clean Air Working Group may be looking at this recommendation. He also supported the TCEQ having the flexibility to look at paying for more than the incremental costs, in cases where there are other types of costs that may need to be incurred by a company to retrofit a vehicle or piece of equipment. He also mentioned that Good Company Associates is holding a Clean Energy Forum on Dec. 4.
2. Daniel Sloan of Emission Reduction Specialists expressed concern about the support for natural gas vehicles. He indicated that there are many new technologies where the money could be better spent.
3. John Wilson of the Galveston-Houston Association for Smog Prevention commented that the Regional Air Quality Planning Council was working on a recommendation for a NOx emission reduction diesel fuel subsidy as a possible option for the TCEQ to use in TERP. He indicated that this may go through TCAWG. He also echoed support for some of the recommendation in the TERP Report. He indicated support for helping to support the indirect costs of a technology, beyond the current incentives for the incremental costs.

## VIII. Planning for next meeting, time and location

The next meeting time and location will be determined once there is something to discuss, based on how things proceed through the Legislature.

## IX. Adjourn (Chairman)

The meeting was adjourned at approximately 4:30 p.m.