

Tax Relief for Pollution Control Property

2014 Annual Report

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Program Background

In 1993, the citizens of Texas voted to adopt a tax measure called Proposition 2 (Prop 2). Prop 2 was implemented when Article 8, §1-I was added to the Texas Constitution. The amendment allowed the legislature to “exempt from *ad valorem* taxation all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.”¹

The Texas Legislature in 1993 codified the constitutional amendment as Texas Tax Code (TTC), §11.31. The statute established a two-step process to obtain a tax exemption for pollution control property. First, a person seeking a tax exemption must obtain a positive use determination from the executive director of the Texas Commission on Environmental Quality (TCEQ) that the property is used wholly or partly for pollution control.² Second, once a person obtains a positive use determination, the person then applies to the appraisal district where the property is located to receive the actual tax exemption. This second step removes the property from the tax roll.³ The TCEQ adopted rules as required by the legislation to establish the procedures and mechanisms for obtaining a positive use determination. The TCEQ’s rules governing the program are contained in Chapter 17 of Title 30 of the Texas Administrative Code (TAC).

In 2001, House Bill (HB) 3121, 77th Texas Legislature, amended TTC, §11.31 requiring the TCEQ to adopt specific standards for evaluating applications and to provide a formal appeals procedure. To implement the changes, 30 TAC Chapter 17 was amended by the TCEQ in 2002. The amended rules established a standard method to determine the portion of a piece of property that is pollution control versus production when the property serves both functions. This method is called the Cost Analysis Procedure (CAP) and is required to be used for all equipment that is both pollution control and production equipment.⁴

In 2007, the 80th Texas Legislature enacted HB 3732, which amended TTC, §11.31 by adding three new subsections, (k), (l), and (m). Subsection (k) required the TCEQ to adopt a nonexclusive list of property that included 18 property categories. Subsection (l) required that the property list be reviewed at least once every three years and established a standard for removing property from the list. Subsection (m) established a 30-day review period for applications that contain property listed on the nonexclusive list. To implement these legislative changes, 30 TAC Chapter 17 was amended by the TCEQ in 2008. The specific equipment

¹ TEXAS CONSTITUTION, Article 8, §1-I(a), (November 2, 1993).

² TTC, §11.31(c) & (d).

³ TTC, §11.31(i).

⁴ TTC, §11.31(g).

added to TTC, §11.31 was primarily energy production-related equipment such as heat recovery steam generators (HRSG) and enhanced steam turbine systems. Due to the unconventional nature of the equipment from a pollution control perspective, TCEQ rules allowed for applicants to provide their own calculations for determining a partial use percentage rather than using the CAP.

In 2009, HB 3206 and HB 3544, 81st Texas Legislature, amended TTC, §11.31 to require the use of the same uniform review standards and methods for all applications including those containing property listed on the non-exclusive list of pollution control equipment contained in TTC, §11.31(k). The bills also require the establishment of a permanent advisory committee charged with providing advice to the TCEQ on implementing TTC, §11.31. On January 27, 2010 the commission created the permanent advisory committee. The commission adopted revisions to 30 TAC Chapter 17 on November 18, 2010.

In 2011, HB 2280, 82nd Texas Legislature, amended TTC, §11.31(n) by adding: “At least one member of the advisory committee must be a representative of a school district or junior college district in which property is located that is or previously was subject to an exemption under this section.” The commission appointed a school district representative on December 7, 2011.

In 2013, HB 1897, 83rd Texas Legislature, amended TTC, §11.31 by adding (e-1). New §11.31(e-1) requires the executive director to issue a final determination and the commission to take final action on an initial appeal not later than the first anniversary of the application being declared to be administratively complete. The commission adopted revisions to 30 TAC Chapter 17 to implement this requirement on August 6, 2014. The revisions limit the review process to a total of 230 days by limiting the number of deficiency letters to two administrative and two technical.

General Program Information

In order to qualify as pollution control property, the property must have been used, constructed, acquired, or installed after January 1, 1994, wholly or partly to meet or exceed an adopted federal, state, or local environmental law, rule, or regulation. Property includes both real and personal property and can consist of devices, equipment, methods, or land that are used to prevent, monitor, control, or reduce air, water or land pollution. If the TCEQ determines that property qualifies as pollution control property, a positive use determination will be sent to the applicant and the appropriate appraisal district.

There are several categories of property that are excluded from eligibility for a positive use determination:

- motor vehicles, except for dedicated service motor vehicles used solely for pollution control;

- residential property and property used for recreational, park, or scenic uses;
- property subject to a tax agreement before January 1, 1994;
- property used to manufacture or produce a product or provide a service that prevents, monitors, controls, or reduces air, water, or land pollution; and
- property where the environmental benefit associated with the property is derived from the use or characteristics of the good or service produced by the property.

The TCEQ has established three tier levels for processing applications: Tier I, Tier II, and Tier III. The levels are based on the anticipated processing time related to the application. The tier levels are defined as follows:

- Tier I is for eligible property that is listed on the Tier I Table specified in 30 TAC §17.14(a). The Tier I Table lists specific property that the TCEQ has determined can be used wholly for pollution control. Tier I applications require a \$150 fee.
- Tier II is for eligible property that an applicant believes is used 100% for pollution control but is not listed on the Tier I Table. A Tier II application may include eligible property on the Expedited Review List specified in 30 TAC §17.17(b) only if such property is used 100% for pollution control. Tier II applications require a \$1,000 fee.
- Tier III is for property that has both a pollution control and a production benefit. This type of equipment may be eligible for a partial use determination. Partial percentages are calculated using the CAP, which is a calculation designed to determine the portion of the property that is for pollution control. Tier III applications require a \$2,500 fee.

Program Statistics

Number of Applications

The first application for pollution control property tax exemption was received on November 21, 1994. As of December 31, 2014, a total of 17,960 applications have been received.

Table 1: *Total Number of Applications Filed since Program Inception (November 1994 – December 2014)* shows the total number of applications received since the inception of the program, categorized by tier level and by approval status.

Table 1. Total Number of Applications Filed Since Program Inception (November 1994 – December 2014)

Status	Tier I	Tier II	Tier III	Tier IV ⁵	Total
Approved	15,579	447	236	25	16,287
Denied	232	39	28	40	339
Under Review	272	0	0	0	272
Withdrawn	976	40	32	14	1,062
Total	17,059	526	296	79	17,960

Table 2: *Number of Applications Received During 2014* shows the number of applications received during Calendar Year 2014, categorized by tier level and by approval status. A total of 1,107 applications were received during 2014 and, of those, 64% were approved, 24% were still under review on January 1, 2015, 11% were withdrawn, and less than 1% were denied. While this report is primarily for Calendar Year 2014 application activities, Calendar Year 2013 information is also provided for comparison purposes.

Table 2. Number of Applications Received During 2014

Status	Tier I	Tier II	Tier III	Total
Approved	671	36	5	712
Denied	2	0	2	4
Under Review	272	0	0	272
Withdrawn	109	10	0	119
Total	1,054	46	7	1,107

Table 3: *Number of Applications Received During 2013* shows the number of applications received during Calendar Year 2013, categorized by tier level and by approval status. A total of 668 applications were received during 2013 and, of those, 87% were approved, 13% were withdrawn, and less than 1% were denied.

Table 3. Number of Applications Received During 2013

Status	Tier I	Tier II	Tier III	Total
Approved	566	6	8	580
Denied	4	0	0	4
Withdrawn	83	1	0	84
Total	653	7	8	668

Fees Received

The estimated fees received during Calendar Years 2014 and 2013 were \$221,600 and \$124,950, respectively. Table 4: *Application Fees Collected by Tier Level for*

⁵ Tier IV level was created February 7, 2008 and was combined with the Tier III level effective December 13, 2010.

Years 2014 and 2013 shows fee collections by tier level for years 2014 and 2013. The increase in total fees between 2013 and 2014 is attributable to an increase in the number of Tier I and Tier II applications received. Under TTC, §11.31(f), the TCEQ may charge an applicant a fee for processing the information, making the determination, and issuing the required use determination letters. Under Article VI, Commission on Environmental Quality, Rider 6, of the General Appropriations Act for the 2014-15 Biennium, enacted by the 83rd Texas Legislature, the TCEQ has been appropriated \$221,000 from collected fee revenue for each fiscal year for the purpose of determining whether pollution control equipment is exempt from taxation.

Table 4. Application Fees Collected by Tier Level for Years 2014 and 2013

Calendar Year	Tier I	Tier II	Tier III	Year Total
2013	\$97,950	\$7,000	\$20,000	\$124,950
2014	\$158,100	\$46,000	\$17,500	\$221,600

Total Tier III Applications

Because of the complexity, Tier III applications require the most review time. Table 5: *Tier III Applications Received Each Calendar Year* shows that the number of Tier III applications processed each year has varied from as few as one to as many as 42. While Tier III applications represent less than 2% of the total applications processed the applications total estimated dollar value is 16% of the total estimated dollar value listed on applications.

Table 5. Tier III Applications Received Each Calendar Year

Calendar Year	Number of Applications	Estimated Dollar Value of Projects
1994	10	\$119,281,203
1995	42	\$243,277,607
1996	27	\$237,640,204
1997	32	\$185,440,379
1998	12	\$192,263,569
1999	13	\$258,992,370
2000	22	\$777,291,784
2001	12	\$332,414,314
2002	13	\$265,667,023
2003	10	\$57,371,097
2004	5	\$67,154,491
2005	1	\$22,765,000
2006	4	\$138,094,437
2007	11	\$64,352,866
2008	5	\$75,293,379

Calendar Year	Number of Applications	Estimated Dollar Value of Projects
2009	8	\$125,717,478
2010	10	\$333,305,478
2011	19	\$1,071,732,138
2012	25	\$894,318,780
2013	8	\$489,105,075
2014	7	\$157,826,363
Total	296	\$6,109,305,035

Applications Received in 2014 – County Information

Around 46% of the applications received during Calendar Year 2014 were from entities located in counties within the Dallas-Fort Worth and Houston-Galveston-Brazoria nonattainment areas and the Beaumont-Port Arthur area. These applications also represent 51% of the total estimated dollar value in the use determination applications. Over 64% of the applications, containing 72% of the estimated dollar value, were from entities located in counties within TCEQ Regions 4 (Dallas/Fort Worth), 5 (Tyler), 10 (Beaumont), 12 (Houston), and 14 (Corpus Christi).

Applications have been received from 233 of Texas' 254 counties. Applications have not been received from the following counties: Bailey, Bandera, Baylor, Blanco, Brewster, Briscoe, Collingsworth, Crosby, Dickens, Foard, Hartley, Jeff Davis, Kimble, Lynn, Menard, Mills, Motley, Presidio, Real, San Saba, and Throckmorton. These counties are all located west of Interstate 35 and are primarily located in the Panhandle and West Texas. As of 2014, the population of these counties represents less than 0.5% of the population of Texas.

Table 7: *Applications Received for Calendar Year 2014 Grouped by County* shows the distribution, by county, of all Tier I, II, and III applications received during Calendar Year 2014 and the total estimated dollar value. Appendix A includes a table that shows the distribution, by county, of all applications received between November 1994 and December 2014 and the total estimated dollar value.

Table 5. Applications Received for Calendar Year 2014 Grouped by County

County Name	Number of Applications in 2014	2014 Total Estimated Dollar Value
Anderson	3	\$1,849,349
Andrews	9	\$5,161,119
Aransas	3	\$232,533
Atascosa	6	\$12,548,167
Bastrop	2	\$1,036,030
Bee	5	\$2,139,048

County Name	Number of Applications in 2014	2014 Total Estimated Dollar Value
Bell	19	\$28,287,453
Bexar	5	\$7,904,351
Borden	2	\$71,112
Bosque	16	\$47,606,903
Brazoria	10	\$23,996,239
Brazos	2	\$937,046
Brown	4	\$555,927
Burleson	1	\$70,372
Burnet	2	\$105,430
Calhoun	13	\$1,743,146
Callahan	3	\$836,165
Castro	1	\$76,240
Chambers	9	\$11,101,466
Clay	3	\$2,085,015
Coke	1	\$69,546
Coleman	1	\$486,094
Collin	46	\$6,175,146
Comal	6	\$8,131,580
Comanche	2	\$286,121
Cooke	5	\$2,150,637
Coryell	6	\$792,475
Crane	2	\$1,357,640
Crockett	11	\$11,998,996
Dallas	140	\$27,899,169
Denton	27	\$4,691,489
Dewitt	3	\$3,441,600
Dimmit	5	\$2,298,600
Eastland	2	\$715,202
Ector	15	\$9,093,167
Edwards	5	\$8,671,212
El Paso	3	\$968,053
Ellis	9	\$76,398,091
Erath	1	\$134,098
Fannin	3	\$1,209,203
Fayette	1	\$1,212,400
Fisher	1	\$335,014
Fort Bend	1	\$3,219,000
Franklin	1	\$114,535
Freestone	2	\$608,418
Frio	6	\$5,634,318

County Name	Number of Applications in 2014	2014 Total Estimated Dollar Value
Gaines	2	\$584,240
Galveston	3	\$682,000
Glasscock	11	\$4,637,727
Goliad	6	\$5,921,705
Gonzales	3	\$2,298,200
Grayson	11	\$52,342,986
Gregg	7	\$4,434,855
Grimes	2	\$1,089,107
Guadalupe	1	\$7,455,206
Hamilton	1	\$91,729
Harris	158	\$400,109,180
Harrison	11	\$22,654,979
Haskell	1	\$701,216
Henderson	8	\$4,880,595
Hidalgo	1	\$1,104,396
Hill	2	\$524,004
Hopkins	2	\$604,260
Houston	2	\$1,257,526
Howard	1	\$220,000
Hunt	5	\$4,375,698
Hutchinson	5	\$375,940
Jackson	20	\$20,224,956
Jefferson	18	\$48,867,242
Jim Wells	3	\$2,501,500
Johnson	2	\$586,075
Jones	2	\$601,897
Karnes	2	\$2,367,200
Kaufman	3	\$591,783
King	2	\$634,000
Kinney	6	\$8,502,514
Knox	1	\$182,589
La Salle	11	\$8,848,898
Lamar	3	\$1,852,786
Lamb	1	\$648,569
Lavaca	3	\$16,806,393
Leon	1	\$126,782
Limestone	3	\$1,166,799
Live Oak	6	\$2,977,821
Llano	1	\$243,610
Loving	3	\$3,608,400

County Name	Number of Applications in 2014	2014 Total Estimated Dollar Value
Lubbock	3	\$100,362
Madison	2	\$1,218,318
Marion	1	\$1,212,400
Martin	1	\$1,114,600
Matagorda	9	\$8,520,604
Maverick	5	\$1,942,901
McLennan	24	\$36,653,911
McMullen	7	\$5,862,551
Midland	12	\$6,782,620
Milam	2	\$221,013
Mitchell	2	\$600,900
Montague	6	\$2,643,822
Nacogdoches	3	\$10,624,802
Navarro	4	\$1,538,819
Nolan	5	\$4,915,040
Nueces	9	\$5,432,615
Ochiltree	1	\$50,000
Oldham	1	\$1,281,400
Palo Pinto	3	\$36,111
Panola	8	\$5,532,900
Parker	1	\$242,504
Pecos	2	\$958,184
Potter	6	\$4,819,225
Reagan	6	\$4,985,868
Red River	1	\$927,743
Reeves	5	\$5,271,000
Roberts	1	\$717,100
Robertson	1	\$109,532
Rockwall	5	\$2,717,766
Runnels	2	\$992,153
Rusk	2	\$1,879,904
San Augustine	1	\$1,183,600
Schleicher	5	\$106,720
Scurry	2	\$1,127,571
Shackelford	1	\$386,426
Shelby	3	\$652,400
Smith	2	\$1,028,445
Sutton	7	\$8,413,584
Tarrant	71	\$29,644,631
Taylor	4	\$24,574,395

County Name	Number of Applications in 2014	2014 Total Estimated Dollar Value
Titus	2	\$24,520,209
Tom Green	4	\$536,941
Travis	27	\$3,942,071
Upton	10	\$8,183,078
Van Zandt	1	\$96,943
Victoria	9	\$29,944,394
Waller	5	\$3,609,129
Ward	8	\$3,928,084
Washington	2	\$1,233,500
Webb	2	\$1,362,968
Wharton	5	\$4,490,581
Wheeler	2	\$1,211,500
Wichita	3	\$719,233
Wilbarger	8	\$3,377,385
Williamson	14	\$1,872,885
Wilson	1	\$1,212,400
Wise	6	\$1,687,315
Zavala	5	\$7,192,059
Grand Total	1,107	\$1,250,265,395

Table 8: Applications Received for Calendar Year 2013 Grouped by County shows the distribution, by county, of all Tier I, II, and III applications received during Calendar Year 2013 and the total estimated dollar value.

Table 8. Applications Received for Calendar Year 2013 Grouped by County

County Name	Number of Applications in 2013	2013 Total Estimated Dollar Value
Anderson	5	\$3,034,200
Andrews	3	\$657,446
Angelina	2	\$42,627
Atascosa	10	\$7,843,708
Bastrop	1	\$83,561
Bee	4	\$1,865,281
Bell	5	\$370,069
Bexar	2	\$128,243
Bosque	4	\$18,506,064
Brazoria	6	\$36,685,025
Brazos	1	\$78,200
Brown	2	\$155,721
Burleson	3	\$2,298,300

County Name	Number of Applications in 2013	2013 Total Estimated Dollar Value
Burnet	1	\$227,916
Calhoun	17	\$60,376,336
Cass	1	\$3,513,000
Cherokee	1	\$21,619
Collin	6	\$807,441
Comal	3	\$408,128
Comanche	1	\$47,837
Coryell	1	\$17,848
Crane	1	\$630,400
Crockett	3	\$3,054,212
Dallas	17	\$12,615,766
Denton	2	\$1,207,566
Dewitt	1	\$777,100
Dimmit	7	\$4,255,563
Ector	14	\$5,751,067
El Paso	5	\$6,155,573
Ellis	2	\$49,581
Fayette	1	\$744,100
Fort Bend	6	\$8,012,924
Freestone	4	\$7,888,833
Galveston	1	\$4,950,000
Glasscock	2	\$1,400,000
Gonzales	9	\$5,758,133
Grayson	1	\$6,733
Gregg	5	\$2,329,173
Hansford	11	\$1,526,270
Harris	100	\$404,733,544
Harrison	7	\$11,928,882
Hays	3	\$307,245
Hemphill	9	\$7,939,324
Henderson	3	\$50,549
Hidalgo	1	\$670,000
Hill	3	\$115,820
Hopkins	2	\$49,468
Hunt	2	\$47,732
Hutchinson	5	\$1,636,000
Irion	1	\$521,449
Jackson	3	\$1,791,546
Jefferson	36	\$636,505,090

County Name	Number of Applications in 2013	2013 Total Estimated Dollar Value
Jim Wells	22	\$12,917,300
Johnson	4	\$5,154,150
Karnes	6	\$2,543,958
Kaufman	2	\$837,507
La Salle	9	\$6,058,800
Lamb	3	\$896,985
Lampasas	2	\$108,233
Lavaca	1	\$85,360
Leon	3	\$46,483
Limestone	2	\$78,281
Lipscomb	1	\$13,130
Live Oak	1	\$700,600
Loving	3	\$826,979
Lubbock	1	\$264,069
Madison	1	\$1,475,000
Marion	1	\$76,210
Martin	3	\$2,260,537
Matagorda	7	\$1,589,147
McCulloch	1	\$2,034,418
McLennan	3	\$97,480
McMullen	5	\$3,476,300
Midland	7	\$9,476,524
Milam	12	\$79,342,016
Montague	3	\$1,797,900
Montgomery	2	\$1,117,032
Moore	4	\$304,466
Nacogdoches	4	\$146,873
Navarro	4	\$832,232
Nolan	7	\$855,551
Nueces	3	\$9,820,529
Ochiltree	4	\$1,684,200
Oldham	2	\$1,364,000
Orange	10	\$19,464,265
Panola	5	\$3,922,845
Parmer	1	\$226,192
Pecos	2	\$590,385
Polk	9	\$1,545,805
Potter	2	\$1,260,000
Reeves	8	\$5,913,942

County Name	Number of Applications in 2013	2013 Total Estimated Dollar Value
Refugio	3	\$567,683
Robertson	7	\$23,643,326
Rusk	7	\$84,133,573
San Augustine	3	\$2,298,300
Scurry	2	\$869,821
Shelby	1	\$0 ⁶
Sherman	34	\$8,801,990
Smith	10	\$2,782,975
Sterling	2	\$2,440,639
Stonewall	1	\$93,429
Swisher	1	\$76,240
Tarrant	16	\$22,798,302
Taylor	2	\$8,400,000
Titus	7	\$107,463,159
Tom Green	1	\$212,422
Travis	4	\$652,735
Trinity	2	\$744,100
Upton	1	\$480,600
Victoria	3	\$35,225,226
Walker	1	\$777,100
Ward	7	\$3,566,789
Webb	1	\$777,100
Wheeler	12	\$12,629,548
Wichita	4	\$96,733
Wilbarger	7	\$3,954,390
Williamson	6	\$543,618
Wilson	2	\$1,227,100
Wise	5	\$1,895,822
Grand Total	668	\$1,778,936,619

Rules Cited

Each use determination application submitted to the TCEQ must list which rule(s) or regulation(s) are being met or exceeded by using certain pollution prevention property/equipment. State rules are cited in the majority of applications. For example, 58% of the rules cited in applications received during 2014 were rules that have been adopted by the TCEQ and other Texas state agencies.

⁶ Applicant did not provide estimated dollar value and the application was withdrawn.

Most applications submitted are for equipment intended to control or prevent water or land pollution. Traditionally, applications have listed rules regarding the control of air pollution, but with the increase in oil and gas activities, such as drilling, gathering, and processing, there has been a steady increase in applications for pollution prevention and control related to these activities.

The TCEQ's guidance requires rule citations to the subsection level. However, for ease of reading this report, these citations are listed only to the section level.

Below are the six rules most frequently cited in applications for which a positive use determination was granted during Calendar Year 2014.

- 49 Code of Federal Regulations(CFR) §192: Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards;
- 16 TAC §3.8: Water Protection Texas Railroad Commission;
- 40 CFR §112: Oil Pollution Prevention;
- 30 TAC §335: Industrial Solid Waste and Municipal Hazardous Waste;
- 40 CFR §280: Technical Standards and Corrective Action Requirements for Owners and Operators Of Underground Storage Tanks (UST); and
- 30 TAC §334: Underground and Aboveground Storage Tanks.

In 2013, the six most frequently cited rules in applications for which a positive use determination was granted are as follows:

- 16 TAC §3.8: Water Protection Texas Railroad Commission;
- 40 CFR §112: Oil Pollution Prevention;
- 30 TAC §335: Industrial Solid Waste and Municipal Hazardous Waste;
- 30 TAC §116: Control of Air Pollution by Permits for New Construction or Modification;
- 30 TAC §111: Control of Air Pollution from Visible Emissions and Particulate Matter; and
- 30 TAC §305: Consolidated Permits.

Type of Facilities

Prior to 2013 about 70% of the applications received each year by the TCEQ were submitted by entities that own the following types of facilities. Eighty percent of the applications received in 2013 and 90.5% of the applications received in 2014 were submitted by entities that own these types of facilities.

- electric generating facilities;

- natural gas processing, storage, and transportation facilities;
- drilling rigs;
- chemical manufacturing plants;
- manufacturers of building materials (cement, aggregate, wood, etc.); and
- oil refineries.

During Calendar Year 2014, 35% were from natural gas processing, storage, and transportation facilities; 30% were from service stations, 9% were for drilling rigs; 8% were from electricity generating facilities; 6% were from chemical manufacturing facilities; 2% were from manufacturers of building materials; and 0.5% were from oil refineries.

During Calendar Year 2013, 22% were from natural gas processing, storage, and transportation facilities; 19% were from electricity generating facilities; 15% were from chemical manufacturing facilities; 14% were for drilling rigs; 8% were from manufacturers of building materials; and 2% were from oil refineries.

Type of Equipment

Table 9: *Types and Quantities of Equipment Listed on Applications Received in Calendar Year 2014* shows a list of the types of equipment that have been included in applications received during Calendar Year 2014. Since more than one piece of equipment may be included on an application, the number of total pieces of equipment listed is higher than the number of applications received. Most of the listed equipment items were installed to control or prevent water or land pollution.

Table 9. Types and Quantities of Equipment Listed on Applications Received in Calendar Year 2014

Type of Equipment	Quantity of Equipment Listed in Calendar Year 2014 Applications
Air Emission Controls – Various	92
Continuous Emission Monitoring Systems	7
Double Hulled Barge	6
Drilling Rigs - Mud Recycling/Blow Out Prevention	102
Dust/Particulate Collection Devices	25
Electrostatic Precipitator	5
Flue Gas Desulphurization	3
Flare	17
Flare Gas Recovery	0

Type of Equipment	Quantity of Equipment Listed in Calendar Year 2014 Applications
Internal/External Floating Roofs	45
HRSG	2
Injection Well	7
Low NOx Burner	3
Monitoring Equipment	31
Other	85
Pipeline Equipment	170
Selective/Nonselective Catalytic Reduction	8
Scrubber	10
Service Station Equipment	290
Spill Containment	59
Stack	8
Stormwater Controls	62
Thermal Oxidizer	15
Vapor Control	8
Waste Treatment	5
Wastewater Treatment System	21

Application Processing

The average administrative processing time in 2014 was 16 days. During 2013, the average administrative processing time was 22 days.

By rule, staff has a 60-day time frame after an application is declared administratively complete to complete the technical review. In 2014, the average technical review time was six days with 98% of technical reviews being completed in 60 or fewer days. During 2013, the average technical review time was four days with all but two technical reviews being completed in 60 or fewer days.

Appeals

On July 10, 2012, negative determinations were issued for the 38 open applications containing HRSGs. During early August 2012, applicants appealed 24 of the negative determinations. One of the appeals was subsequently withdrawn. On December 5, 2012, the commission considered the remaining 23 appeals and remanded the applications to the executive director for additional consideration. Technical notices of deficiency (TNOD) letters were mailed with a response due date of March 26, 2013. On June 24, 2013, information was received from 21 of the applicants. Second TNODs were issued to applicants between December 2013 and February 2014. Responses to these TNODs were received during the spring of 2014. During June 2014, negative determinations were issued for the remaining 21 HRSG related applications. The negative

determinations were appealed. The commission heard the appeals on September 24, 2014 and upheld the negative use determinations. Subsequently 12 lawsuits were filed in Travis County District Court. TCEQ has filed Answers to all of the lawsuits.

On May 16, 2014, a 51% partial positive use determination was issued to Ash Grove Cement Company for the semi-dry cement manufacturing process consisting of kiln system, dryer-crusher, dedusting cyclone, preheater cyclone, in-line calciner for combusting secondary fuel, coal mill, main baghouse, clinker cooler and hot disc reactor located at its Midlothian, Texas plant. On June 2, 2014, Ellis County Appraisal District appealed the positive determination. The appraisal district raised several issues about the partial use determination calculation. On August 20, 2014, the TCEQ General Counsel remanded the matter to the executive director for additional review. On September 24, 2014, a request was mailed to the applicant asking them to address specific issues raised by the appraisal district and to provide an alternative Tier III calculation using variables defined by the TCEQ. A response to the request was received during January 2015. On January 26, 2015, a second information request asking for clarification on how marketable product value and production costs were calculated was sent to the applicant. A response was received on March 17, 2015. On July 15, 2015, the TCEQ received notice that a valuation agreement had been reached by the two parties. Ash Grove submitted a revised Tier III calculation requesting a 30.65% positive use determination. A positive use determination was issued on July 17, 2015. On July 20, 2015, the appraisal district requested that the appeal be withdrawn.

On October 8, 2014, a positive use determination was issued to Bayou on the Bend for stormwater quality features including an outfall interceptor, appurtenances, retention land, and vegetated surfaces. On October 31, 2014, the Harris County Appraisal District appealed the positive determination. The appeal raised issues about the eligibility of the property and the rule citation contained in the application. On November 12, 2014 the TCEQ General Counsel remanded the matter to the executive director for additional review. On December 22, 2014, a letter requesting a better rule citation, an explanation of the term “SWQ Retention Land”, and a plot plan was mailed to the applicant. On March 24, 2015, a response was received from the applicant. After reviewing the applicant’s response, a negative use determination was issued because the applicant failed to provide adequate responses for the issues raised in the December 22 letter. The negative use determination was issued on April 8, 2015.

On February 6, 2014, a 100% positive use determination was issued to DCP Sand Hills pipeline, LLC for nondestructive pipeline testing expenditures – radiography related to the construction of the Edwards County portion of the Sand Hills natural gas liquids 20 inch pipeline. On February 20, 2014, the Edwards County Appraisal District appealed the determination stating that it was granted for intangible property that is not taxable in Edwards County. The

commission heard the appeal on July 2, 2014. TCEQ program and legal staff explained that the TCEQ's responsibility under TTC, §11.31 is to determine if a piece of property is used to control, prevent, or monitor air, water, or waste pollution. The TCEQ does not make valuation determinations. The commission upheld the positive use determination.

On June 6, 2014, an application requesting a 100% positive use determination for the Turnings Facility including the roofs, walls, foundations, floors, containment walls, sump, tanks, piping, and pumps used to collect cutting fluids and water was received from Derichebourg Recycling USA, Inc. Between June 6 and December 11, 2014, four notice of deficiency letters requesting additional information about the Turnings building were mailed and four revised applications were received and processed. On February 13, 2015, a mixed use determination granting a 100% positive use determination for the containment walls, sump, tanks, piping, and pumps used to collect cutting fluids and water and a negative determination for the roofs, walls, foundations and floor was issued. On March 3, 2015, the applicant appealed the negative use determination portion of the mixed determination stating that all pollution control property included on the application is used as pollution control property. The commission heard the appeal on May 13, 2015 and upheld the negative use determination.

On March 10, 2014, a 100% positive use determination was issued to EQZ SWD, LLC for a noncommercial sour gas injection well located at its Garrison (Travis Peak) facility. On March 27, 2014, the Shelby County Appraisal District (SCAD) appealed the determination on the basis that the Texas Railroad Commission Permit for the well identified it as a commercial salt water disposal well. The applicant stated that due to increased production they no longer allowed disposal of others' waste in the well. The two parties negotiated a valuation agreement that provides the same appraised value for the facility as it would have received with the property tax exemption. The agreement allows the SCAD to verify on an annual basis that 3rd party waste is not being accepted. On May 19, 2014, the SCAD requested that the application be remanded to the executive director so that the applicant could withdraw the application. On May 23, 2014, a withdrawal request was received from the applicant. On May 27, 2014, the withdrawal request was granted and the appeal was closed.

On February 3, 2014, applications requesting positive use determinations for HRSGs were received from Panda Sherman Power, LLC and Panda Temple Power, LLC (Panda). The applications requested 66.27% positive use determinations based on the increased thermal efficiency from operating a combined-cycle generating station rather than a simple-cycle facility. A TNOD was mailed explaining that the only approved method for calculating a partial use determination is the CAP located in 30 TAC §17.17(c). The applicant filed revised applications using the CAP calculation and significantly larger estimated costs than were included in the initial application. On July 24, 2014, a second TNOD

was mailed requesting clarification of the new estimated cost number and a listing of the property included on the application. A second revised application was received. On October 8, 2014, a third TNOD was mailed informing the applicant of issues with the methods used to calculate various variables in the CAP equation. The letter required Panda to use the same method to calculate the partial determinations that the appellants of the previously discussed HRSG negative use determinations were required to submit. The revised applications received included requests for positive use determinations of 0% and listed estimated dollar values of \$0. On January 14, 2015, negative determinations were issued for the two applications. On February 2, 2015, the applicant appealed. The appeal contained similar arguments to those used in the previous HRSG appeals. The commission heard the appeals on April 1, 2015 and upheld the negative use determinations.

Appendix A

Applications Received between November 1994 and December 2014, Sorted by County

Applications Received between November 1994 and December 2014, Sorted by County

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Anderson	38	\$59,679,972
Andrews	32	\$20,102,207
Angelina	120	\$192,038,620
Aransas	4	\$1,716,533
Archer	1	\$15,089
Armstrong	1	\$6,387
Atascosa	44	\$72,934,609
Austin	15	\$21,960,810
Bastrop	30	\$183,991,942
Bee	13	\$4,741,171
Bell	120	\$62,545,973
Bexar	242	\$338,758,913
Borden	9	\$3,463,754
Bosque	37	\$195,885,514
Bowie	26	\$13,025,425
Brazoria	1,121	\$2,469,072,105
Brazos	35	\$18,075,559
Brooks	19	\$12,971,376
Brown	32	\$53,349,878
Burleson	24	\$8,955,836
Burnet	19	\$10,799,260
Caldwell	3	\$3,143,971
Calhoun	183	\$442,415,467
Callahan	10	\$1,191,366
Cameron	27	\$4,862,391
Camp	1	\$32,934
Carson	5	\$621,455
Cass	37	\$84,906,696
Castro	4	\$2,600,137
Chambers	193	\$721,815,425
Cherokee	32	\$20,924,197
Childress	1	\$15,558
Clay	12	\$2,476,750

⁷ Estimated value provided by applicants.

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Cochran	1	\$141,000
Coke	6	\$2,145,149
Coleman	3	\$516,894
Collin	251	\$93,984,854
Colorado	11	\$3,917,324
Comal	77	\$132,365,362
Comanche	17	\$1,131,139
Concho	4	\$773,378
Cooke	49	\$4,372,445
Coryell	16	\$942,177
Cottle	3	\$723,616
Crane	11	\$7,111,776
Crockett	46	\$42,146,151
Culberson	7	\$23,766,954
Dallam	16	\$15,511,344
Dallas	984	\$294,117,399
Dawson	1	\$103,050
Deaf Smith	13	\$88,890,892
Delta	1	\$20,400
Denton	211	\$106,950,429
DeWitt	32	\$33,983,447
Dimmit	26	\$24,422,863
Donley	1	\$13,316
Duval	17	\$9,957,622
Eastland	26	\$1,559,881
Ector	204	\$393,119,621
Edwards	17	\$14,706,494
El Paso	394	\$700,040,563
Ellis	232	\$733,045,052
Erath	18	\$5,652,250
Falls	8	\$1,127,571
Fannin	20	\$32,608,241
Fayette	18	\$16,989,244
Fisher	5	\$475,405
Floyd	1	\$429,800
Fort Bend	287	\$411,058,913
Franklin	3	\$140,393

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Freestone	126	\$401,796,490
Frio	10	\$23,422,913
Gaines	14	\$25,373,655
Galveston	370	\$1,986,590,385
Garza	1	\$25,000
Gillespie	1	\$31,800
Glasscock	20	\$7,634,856
Goliad	27	\$86,637,505
Gonzales	29	\$20,898,390
Gray	43	\$45,520,007
Grayson	98	\$89,119,263
Gregg	138	\$52,705,685
Grimes	31	\$126,349,629
Guadalupe	39	\$303,333,340
Hale	79	\$52,804,718
Hall	1	\$10,229
Hamilton	2	\$110,500
Hansford	27	\$5,894,829
Hardeman	1	\$2,441
Hardin	44	\$55,774,935
Harris	3,869	\$8,393,895,172
Harrison	220	\$318,872,043
Haskell	10	\$3,919,688
Hays	49	\$167,161,182
Hemphill	44	\$32,067,275
Henderson	68	\$13,896,407
Hidalgo	84	\$213,549,393
Hill	41	\$12,013,118
Hockley	17	\$9,648,090
Hood	35	\$59,982,404
Hopkins	25	\$16,240,989
Houston	26	\$12,289,569
Howard	24	\$117,360,211
Hudspeth	1	\$1,657
Hunt	34	\$14,632,642
Hutchinson	98	\$255,845,669
Irion	14	\$3,791,855

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Jack	12	\$106,368,469
Jackson	26	\$33,107,034
Jasper	19	\$71,700,259
Jefferson	830	\$5,721,575,595
Jim Hogg	7	\$3,230,776
Jim Wells	71	\$72,457,301
Johnson	190	\$226,922,765
Jones	15	\$1,232,511
Karnes	25	\$19,531,201
Kaufman	75	\$188,981,492
Kendall	1	\$6,272
Kenedy	6	\$2,501,300
Kent	7	\$3,226,030
Kerr	2	\$131,392
King	3	\$652,175
Kinney	6	\$8,502,514
Kleberg	8	\$444,993
Knox	2	\$291,596
La Salle	41	\$33,279,785
Lamar	34	\$120,342,852
Lamb	59	\$27,767,750
Lampasas	4	\$1,062,765
Lavaca	21	\$29,267,217
Lee	13	\$21,267,133
Leon	28	\$46,043,108
Liberty	42	\$49,101,073
Limestone	132	\$163,231,304
Lipscomb	14	\$4,710,879
Live Oak	34	\$165,753,102
Llano	3	\$268,531
Loving	24	\$26,361,886
Lubbock	53	\$16,804,644
Madison	18	\$32,625,457
Marion	22	\$20,968,907
Martin	11	\$4,814,489
Mason	1	\$3,315,303
Matagorda	95	\$507,916,018

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Maverick	6	\$1,961,076
McCulloch	6	\$4,907,760
McLennan	135	\$669,949,009
McMullen	34	\$24,570,181
Medina	7	\$908,559
Midland	49	\$34,953,442
Milam	133	\$1,112,890,352
Mitchell	17	\$6,795,546
Montague	26	\$11,796,610
Montgomery	137	\$105,967,251
Moore	36	\$327,098,975
Morris	16	\$3,647,294
Nacogdoches	92	\$52,098,695
Navarro	53	\$21,919,105
Newton	7	\$134,350,028
Nolan	36	\$14,884,760
Nueces	228	\$1,369,753,356
Ochiltree	21	\$40,760,454
Oldham	3	\$2,645,400
Orange	151	\$344,863,098
Palo Pinto	31	\$6,970,232
Panola	128	\$239,466,298
Parker	67	\$56,643,645
Parmer	6	\$9,317,474
Pecos	46	\$93,112,336
Polk	26	\$23,145,410
Potter	141	\$125,422,562
Rains	2	\$194,078
Randall	7	\$602,248
Reagan	13	\$7,409,130
Red River	12	\$1,895,979
Reeves	26	\$85,193,945
Refugio	10	\$13,873,063
Roberts	6	\$2,964,289
Robertson	96	\$907,990,747
Rockwall	34	\$6,226,931
Runnels	8	\$3,616,271

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Rusk	128	\$603,113,933
Sabine	3	\$1,394,385
San Augustine	7	\$5,728,995
San Jacinto	14	\$18,970,731
San Patricio	39	\$188,862,955
Schleicher	17	\$1,219,383
Scurry	20	\$9,596,374
Shackelford	6	\$1,665,392
Shelby	54	\$25,647,466
Sherman	39	\$14,786,338
Smith	202	\$226,953,224
Somervell	13	\$12,781,201
Starr	33	\$29,469,326
Stephens	8	\$260,626
Sterling	11	\$6,599,814
Stonewall	1	\$93,429
Sutton	51	\$28,216,296
Swisher	1	\$76,240
Tarrant	710	\$480,307,008
Taylor	58	\$127,436,015
Terrell	11	\$9,521,589
Terry	3	\$79,422
Titus	92	\$419,642,715
Tom Green	21	\$36,300,981
Travis	373	\$469,687,357
Trinity	5	\$23,007,565
Tyler	14	\$15,558,724
Upshur	10	\$20,228,280
Upton	36	\$24,482,366
Uvalde	2	\$991,244
Val Verde	6	\$4,485,968
Van Zandt	11	\$694,623
Victoria	85	\$311,142,763
Walker	7	\$3,540,199
Waller	21	\$17,253,017
Ward	29	\$17,527,953
Washington	17	\$12,110,937

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Webb	69	\$91,279,604
Wharton	39	\$179,187,768
Wheeler	71	\$70,740,724
Wichita	45	\$45,998,120
Wilbarger	58	\$25,176,978
Willacy	5	\$4,906,064
Williamson	141	\$21,140,832
Wilson	10	\$9,984,629
Winkler	11	\$17,175,815
Wise	154	\$212,207,751
Wood	20	\$5,948,468
Yoakum	18	\$115,308,705
Young	18	\$7,685,059
Zapata	44	\$27,002,047
Zavala	6	\$8,538,059
Total	17,960	\$38,775,510,551