

Tax Relief for Pollution Control Property

2013 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-l 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 how much of a piece of property is pollution control versus production when the property serves both functions. This method was called the Cost Analysis Procedure or CAP and was 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, i.e., (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

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

² TTC, §11.31(c) & (d).

³ TTC, §11.31(i).

⁴ TTC, §11.31(g).

specific equipment added to TTC, §11.31 was primarily energy production-related equipment such as heat recovery steam generators 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 and 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 Cost Analysis Procedure or 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, 2013, a total of 16,853 applications have been received.

Table 1: *Total Number of Applications Filed since Program Inception (November 1994 – December 2013)* 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 2013)

Status	Tier I	Tier II	Tier III	Tier IV ⁵	Total
Approved	14,908	411	231	25	15,575
Denied	230	39	26	40	335
Withdrawn	867	30	32	14	963
Total	16,005	480	289	79	16,853

Table 2: *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. While this report is primarily for Calendar Year 2013 application activities, Calendar Year 2012 information is also provided for comparison purposes.

Table 2. 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

Table 3: *Number of Applications Received During 2012* shows the number of applications received during Calendar Year 2012, categorized by tier level and by approval status. A total of 726 applications were received during 2012 and of those, 88% were approved, 10% were withdrawn, and 2% denied.

Table 3. Number of Applications Received During 2012

Status	Tier I	Tier II	Tier III	Total
Approved	596	26	16	638
Denied	9	0	5	14
Withdrawn	69	1	4	74
Total	674	27	25	726

Fees Received

The estimated fees received during Calendar Years 2013 and 2012 were \$123,450 and \$190,600, respectively. Table 4: *Application Fees Collected by Tier Level for Years 2012 and 2013* shows fee collections by tier level for years 2012 and 2013. The decrease in total fees between 2012 and 2013 is attributable to a decrease in the number of Tier II and Tier III applications received. Under TTC, §11.31(f), the

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

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 2012 and 2013

Calendar Year	Tier I	Tier II	Tier III	Year Total
2012	\$101,100	\$27,000	\$62,500	\$190,600
2013	96,450	\$7,000	\$20,000	\$123,450

Total Tier III and IV Applications

Because of the complexity, Tier III and Tier IV applications require the most review time. The Tier IV level was established in February 2008 for applications containing only items listed in TTC, §11.31(k). In December 2010 Chapter 17 was amended to allow applications containing subchapter (k) items to be filed as Tier I, II, or III application depending on their eligibility. There has been an increase in the number of Tier III applications received due to the elimination of the Tier IV category and the removal of partial use determinations from the Tier I Table. The Tier I Table was previously known as the Predetermined Equipment List and the Equipment and Categories List.

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.

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

Calendar Year	Number of Applications	Estimated Dollar Value of Projects
2006	4	\$138,094,437
2007	11	\$64,352,866
2008	5	\$75,293,379
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
Total	289	\$5,951,478,672

Table 6: *Number of Tier IV Applications Received by Year* shows that a total of 79 Tier IV applications were received during the three years the category existed. The majority of Tier IV applications were filed for heat recovery steam generators (HRSG). The negative use determinations issued for sixteen of these applications were under appeal when this report was written.

Table 6. Tier IV Applications Received by Year

Calendar Year	Number of Applications	Estimated Dollar Value of Projects
2008	53	\$2,792,204,237
2009	19	\$575,948,114
2010	7	\$291,688,663
Total	79	\$3,659,841,014

Applications Received in 2013 - County Information

Around one-third of the applications received during Calendar Year 2013 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 65% of the total estimated dollar value in the use determination applications. Over 47% of the applications, containing 83% of the estimated dollar value, were from entities located in counties within TCEQ Regions 5 (Tyler), 10 (Beaumont), 12 (Houston), and 14 (Corpus Christi).

Applications have been received from 231 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, King, Kinney, Lynn, Menard, Mills, Motley, Presidio, Real, San Saba, and Throckmorton Counties. These counties 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 2013 Grouped by County shows the distribution, by county, of all Tier I-III applications received during Calendar Year 2013 and the total estimated dollar value. Appendix A includes a table that shows the distribution, by county, of all Tier I-III applications received between November 1994 and December 2013 and the total estimated dollar value.

Table 5. 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
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

County Name	Number of Applications in 2013	2013 Total Estimated Dollar Value
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
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

County Name	Number of Applications in 2013	2013 Total Estimated Dollar Value
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
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

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

County Name	Number of Applications in 2013	2013 Total Estimated Dollar Value
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

Table 8: *Applications Received for Calendar Year 2012 Grouped by County* shows the distribution, by county, of all Tier I-III applications received during Calendar Year 2012 and the total estimated dollar value.

Table 8. Applications Received for Calendar Year 2012 Grouped by County

County Name	Number of Applications in 2012	Total Estimated Dollar Value
Andrews	4	\$285,811
Angelina	2	\$751,566
Archer	1	\$15,089
Atascosa	6	\$3,831,142
Austin	6	\$8,400,498
Bexar	6	\$1,953,317
Borden	1	\$586,900
Bosque	1	\$44,903,977
Bowie	1	\$34,600
Brazoria	13	\$36,273,138
Brown	1	\$5,670,619
Calhoun	8	\$9,815,907
Callahan	2	\$336,601
Cass	11	\$15,375,588
Chambers	10	\$6,728,319
Cherokee	2	\$35,332
Collin	10	\$8,555,528
Comal	9	\$5,377,504
Comanche	1	\$55,000
Crane	1	\$338,900

County Name	Number of Applications in 2012	Total Estimated Dollar Value
Crockett	1	\$17,237
Culberson	1	\$777,100
Dallam	13	\$3,630,515
Dallas	27	\$3,015,913
Deaf Smith	1	\$28,990,000
Denton	1	\$289,549
Dewitt	16	\$10,478,072
Dimmit	10	\$14,186,638
Duval	2	\$808,674
Eastland	5	\$409,754
Ector	6	\$1,655,304
El Paso	9	\$12,387,377
Ellis	4	\$2,971,029
Erath	1	\$119,700
Fayette	1	\$51,769
Fort Bend	13	\$20,899,224
Freestone	9	\$1,796,889
Frio	1	\$777,100
Gaines	3	\$3,869,420
Galveston	3	\$6,260,600
Glasscock	1	\$28,225
Gonzales	14	\$11,602,246
Gray	4	\$7,026,819
Grayson	1	\$24,475
Gregg	3	\$3,190,669
Guadalupe	1	\$806,640
Hale	73	\$38,838,788
Hansford	7	\$672,725
Hardin	1	\$92,576
Harris	90	\$186,012,846
Harrison	7	\$8,281,853
Hemphill	2	\$688,781
Henderson	3	\$69,092
Hill	1	\$12,546
Hockley	1	\$630,400
Hood	3	\$833,770
Howard	4	\$953,580
Hutchinson	3	\$67,462,791

County Name	Number of Applications in 2012	Total Estimated Dollar Value
Jack	1	\$78,575,488
Jefferson	45	\$728,168,822
Jim Wells	4	\$3,092,200
Johnson	4	\$807,906
Jones	1	\$107,881
Karnes	8	\$5,129,866
La Salle	15	\$13,157,351
Lamar	1	\$43,315
Lamb	5	\$7,705,671
Lavaca	3	\$1,528,299
Leon	1	\$14,328
Liberty	1	\$129,258
Limestone	4	\$17,983,125
Live Oak	4	\$41,715,012
Loving	2	\$1,349,700
Marion	1	\$584,282
Martin	4	\$242,296
Matagorda	2	\$135,915
McLennan	2	\$6,149,588
McMullen	14	\$7,938,171
Midland	7	\$983,089
Mitchell	3	\$124,067
Montague	1	\$825,862
Montgomery	4	\$1,736,267
Moore	2	\$57,408,784
Navarro	5	\$313,051
Newton	3	\$63,286,624
Nolan	2	\$285,225
Nueces	3	\$34,007,858
Ochiltree	1	\$2,731,800
Orange	2	\$9,707,322
Palo Pinto	3	\$222,745
Panola	5	\$3,617,766
Parker	5	\$281,468
Polk	1	\$14,729
Potter	2	\$346,631
Reagan	2	\$1,287,500
Reeves	6	\$44,960,943

County Name	Number of Applications in 2012	Total Estimated Dollar Value
Refugio	3	\$2,048,373
Robertson	1	\$170,005,823
Runnels	1	\$141,038
Rusk	3	\$1,573,360
San Augustine	2	\$1,554,200
San Patricio	2	\$15,869,850
Scurry	6	\$363,018
Smith	1	\$49,251
Tarrant	17	\$5,109,270
Taylor	3	\$3,793,940
Titus	3	\$6,735,923
Travis	4	\$7,712,830
Upton	1	\$17,237
Victoria	9	\$46,256,585
Ward	2	\$1,302,000
Webb	17	\$46,181,359
Wheeler	3	\$522,000
Wichita	5	\$837,634
Williamson	1	\$83,424
Wilson	6	\$7,416,504
Winkler	4	\$9,527,598
Wise	1	\$26,172
Yoakum	6	\$8,595,205
Young	2	\$62,201
Totals	726	\$2,062,524,253

Rules Cited

Each use determination application submitted to the TCEQ must list which rule(s) or regulation(s) are being met or exceeded by having certain pollution prevention property/equipment. State rules are cited in the majority of applications. For example, 69% of the rules cited in applications received during 2013 were rules that have been adopted by the TCEQ and other Texas state agencies.

The majority of 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 2013.

- 16 Texas Administrative Code (TAC) §3.8: Water Protection Texas Railroad Commission;
- 40 Code of Federal Regulations(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.

In 2012, the five most frequently cited rules in applications for which a positive use determination was granted are as follows:

- 40 CFR §112: Oil Pollution Prevention;
- 16 TAC §3.8: Water Protection Texas Railroad Commission;
- 30 TAC 116: Control of Air Pollution by Permits for New Construction or Modification;
- 40 CFR §60: Standards of Performance for New Stationary Sources; and
- 49 CFR 192: Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.

Type of Facilities

Each year about 70% of the applications received by the TCEQ are submitted by entities that own the following 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 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.

During Calendar Year 2012, 29% were from electricity generating facilities; 27% were from natural gas processing, storage, and transportation facilities; 11% of the applications received were for drilling rigs; 10% were from chemical manufacturing facilities; 4% 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 2013* shows a list of the types of equipment that have been included in applications received during Calendar Year 2013. 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. The majority 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 2013

Type of Equipment	Quantity of Equipment Listed in Calendar Year 2013 Applications
Air Emission Controls - Various	42
Continuous Emission Monitoring Systems	11
Double Hulled Barge	8
Drilling Rigs - MUD Recycling/Blow Out Prevention	242
Dust/Particulate Collection Devices	82
Electrostatic Precipitator	5
Flue Gas Desulphurization	13
Flare	29
Flare Gas Recovery	1
Internal/External Floating roofs	6
HRSG	0
Injection Well	27

Type of Equipment	Quantity of Equipment Listed in Calendar Year 2013 Applications
Low NOx Burner	6
Monitoring Equipment	19
Other	10
Pipeline Equipment	8
Selective/Nonselective Catalytic Reduction	9
Scrubber	12
Service Station Equipment	79
Spill Containment	97
Stack	2
Stormwater Controls	59
Thermal Oxidizer	13
Vapor Control	5
Waste Treatment	14
Wastewater Treatment System	88

Application Processing

The average administrative processing time in 2013 was 22 days. During 2012, the average administrative processing time was 35 days.

By rule, staff has a 60-day time frame after an application is declared administratively complete to complete the technical review. In 2013, the average technical review time was four days with all but two of technical reviews being completed in 60 or fewer days. During 2012, the average technical review time was 15 days with 95% of technical reviews being completed in 60 or fewer days.

Appeals

On July 10, 2012, negative determinations were issued for the 38 open applications containing heat recovery steam generators (HRSG). During early August 2012, applicants appealed 24 of the negative determinations. Subsequently one of the appeals was withdrawn. On December 5, 2012, the commission considered the remaining 23 appeals and remanded the applications to the ED 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. A second TNOD was issued to applicants between December 2013 and February 2014. Responses to these TNODs were received during the spring of 2014. During June of 2014 negative determinations were issued for the remaining 21 HRSG related applications. The negative determinations were appealed and the appeals are pending at the time of this report.

On May 28, 2013, a negative determination was issued to Air Products, LLC (Air Products) for use determination application 16632. Air Products had requested a positive use determination for a carbon sequestration system installed in Jefferson County, Texas. The negative determination was based on the equipment having not been installed to meet or exceed an adopted environmental law, rule or regulation. The appeal was heard during the September 24, 2013 agenda. The commission found that the negative determination was appropriate and rejected the appeal.

On October 29, 2013 a negative determination was issued to Chevron USA, Inc (Chevron) for use determination application 17618. Chevron had requested a positive use determination for stormwater control equipment used to capture runoff and test for contamination. The application listed Texas Water Code (TWC) §26.121 as the rule citation and stated that the equipment is necessary in order to meet the neighboring facilities TPDES permit. Since Chevron is not a party to the permit a negative determination was issued based on the applicant not providing an appropriate rule citation. On November 14, 2013 Chevron appealed the negative determination stating that the citations to TWC §26.121 and the TPDES permit were appropriate. While preparing briefing materials for the appeal agenda staff requested that the negative determination be remanded for additional technical review. The remand was granted on March 31, 2014. Subsequent discussion with the applicant led to the rule citation being changed to 30 TAC §335.4 and the issuance of a positive use determination on April 18, 2014.

Appendix A

Applications Received between November 1994 and December 2013, Sorted by County

Applications Received between November 1994 and December 2013, Sorted by County

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Anderson	35	\$57,830,623
Andrews	23	\$14,941,088
Angelina	120	\$192,038,620
Aransas	1	\$1,484,000
Archer	1	\$15,089
Armstrong	1	\$6,387
Atascosa	38	\$60,386,442
Austin	15	\$21,960,810
Bastrop	28	\$182,955,912
Bee	8	\$2,602,123
Bell	101	\$34,258,520
Bexar	237	\$330,854,562
Borden	7	\$3,392,642
Bosque	21	\$148,278,611
Bowie	26	\$13,025,425
Brazoria	1111	\$2,445,075,866
Brazos	33	\$17,138,513
Brooks	19	\$12,971,376
Brown	28	\$52,793,951
Burleson	23	\$8,885,464
Burnet	17	\$10,693,830
Caldwell	3	\$3,143,971
Calhoun	170	\$440,672,321
Callahan	7	\$355,201
Cameron	27	\$4,862,391
Camp	1	\$32,934
Carson	5	\$621,455
Cass	37	\$84,906,696
Castro	3	\$2,523,897
Chambers	184	\$710,713,959
Cherokee	32	\$20,924,197
Childress	1	\$15,558
Clay	9	\$391,735
Cochran	1	\$141,000

⁷ Estimated value provided by applicants.

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Coke	5	\$2,075,603
Coleman	2	\$30,800
Collin	205	\$87,809,708
Colorado	11	\$3,917,324
Comal	71	\$124,233,782
Comanche	15	\$845,018
Concho	4	\$773,378
Cooke	44	\$2,221,808
Coryell	10	\$149,702
Cottle	3	\$723,616
Crane	9	\$5,754,136
Crockett	35	\$30,147,155
Culberson	7	\$23,766,954
Dallam	16	\$15,511,344
Dallas	844	\$266,218,230
Dawson	1	\$103,050
Deaf Smith	13	\$88,890,892
Delta	1	\$20,400
Denton	184	\$102,258,940
DeWitt	29	\$30,541,847
Dimmit	21	\$22,124,263
Donley	1	\$13,316
Duval	17	\$9,957,622
Eastland	24	\$844,679
Ector	189	\$384,026,454
Edwards	12	\$6,035,282
El Paso	391	\$699,072,510
Ellis	223	\$656,646,961
Erath	17	\$5,518,152
Falls	8	\$1,127,571
Fannin	17	\$31,399,038
Fayette	17	\$15,776,844
Fisher	4	\$140,391
Floyd	1	\$429,800
Fort Bend	286	\$407,839,913
Franklin	2	\$25,858
Freestone	124	\$401,188,072

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Frio	4	\$17,788,595
Gaines	12	\$24,789,415
Galveston	367	\$1,985,908,385
Garza	1	\$25,000
Gillespie	1	\$31,800
Glasscock	9	\$2,997,129
Goliad	21	\$80,715,800
Gonzales	26	\$18,600,190
Gray	43	\$45,520,007
Grayson	87	\$36,776,277
Gregg	131	\$48,270,830
Grimes	29	\$125,260,522
Guadalupe	38	\$295,878,134
Hale	79	\$52,804,718
Hall	1	\$10,229
Hamilton	1	\$18,771
Hansford	27	\$5,894,829
Hardeman	1	\$2,441
Hardin	44	\$55,774,935
Harris	3711	\$7,993,785,992
Harrison	209	\$296,217,064
Haskell	9	\$3,218,472
Hays	49	\$167,161,182
Hemphill	44	\$32,067,275
Henderson	60	\$9,015,812
Hidalgo	83	\$212,444,997
Hill	39	\$11,489,114
Hockley	17	\$9,648,090
Hood	35	\$59,982,404
Hopkins	23	\$15,636,729
Houston	24	\$11,032,043
Howard	23	\$117,140,211
Hudspeth	1	\$1,657
Hunt	29	\$10,256,944
Hutchinson	93	\$255,469,729
Irion	14	\$3,791,855
Jack	12	\$106,368,469

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Jackson	6	\$12,882,078
Jasper	19	\$71,700,259
Jefferson	812	\$5,672,708,353
Jim Hogg	7	\$3,230,776
Jim Wells	68	\$69,955,801
Johnson	188	\$226,336,690
Jones	13	\$630,614
Karnes	23	\$17,164,001
Kaufman	72	\$188,389,709
Kendall	1	\$6,272
Kenedy	6	\$2,501,300
Kent	7	\$3,226,030
Kerr	2	\$131,392
King	1	\$18,175
Kleberg	8	\$444,993
Knox	1	\$109,007
La Salle	30	\$24,430,887
Lamar	31	\$118,490,066
Lamb	58	\$27,119,181
Lampasas	4	\$1,062,765
Lavaca	18	\$12,460,824
Lee	13	\$21,267,133
Leon	27	\$45,916,326
Liberty	42	\$49,101,073
Limestone	129	\$162,064,505
Lipscomb	14	\$4,710,879
Live Oak	28	\$162,775,281
Llano	2	\$24,921
Loving	21	\$22,753,486
Lubbock	50	\$16,704,282
Madison	16	\$31,407,139
Marion	21	\$19,756,507
Martin	10	\$3,699,889
Mason	1	\$3,315,303
Matagorda	86	\$499,395,414
Maverick	1	\$18,175
McCulloch	6	\$4,907,760

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
McLennan	111	\$633,295,098
McMullen	27	\$18,707,630
Medina	7	\$908,559
Midland	37	\$28,170,822
Milam	131	\$1,112,669,339
Mitchell	15	\$6,194,646
Montague	20	\$9,152,788
Montgomery	137	\$105,967,251
Moore	36	\$327,098,975
Morris	16	\$3,647,294
Nacogdoches	89	\$41,473,893
Navarro	49	\$20,380,286
Newton	7	\$134,350,028
Nolan	31	\$9,969,720
Nueces	219	\$1,364,320,741
Ochiltree	20	\$40,710,454
Oldham	2	\$1,364,000
Orange	151	\$344,863,098
Palo Pinto	28	\$6,934,121
Panola	120	\$233,933,398
Parker	66	\$56,401,141
Parmer	6	\$9,317,474
Pecos	44	\$92,154,152
Polk	26	\$23,145,410
Potter	135	\$120,603,337
Rains	2	\$194,078
Randall	7	\$602,248
Reagan	7	\$2,423,262
Red River	11	\$968,236
Reeves	21	\$79,922,945
Refugio	10	\$13,873,063
Roberts	5	\$2,247,189
Robertson	95	\$907,881,215
Rockwall	29	\$3,509,165
Runnels	6	\$2,624,118
Rusk	126	\$601,234,029
Sabine	3	\$1,394,385

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
San Augustine	6	\$4,545,395
San Jacinto	14	\$18,970,731
San Patricio	39	\$188,862,955
Schleicher	12	\$1,112,663
Scurry	18	\$8,468,803
Shackelford	5	\$1,278,966
Shelby	51	\$24,995,066
Sherman	39	\$14,786,338
Smith	200	\$225,924,779
Somervell	13	\$12,781,201
Starr	33	\$29,469,326
Stephens	8	\$260,626
Sterling	11	\$6,599,814
Stonewall	1	\$93,429
Sutton	44	\$19,802,712
Swisher	1	\$76,240
Tarrant	639	\$450,662,377
Taylor	54	\$102,861,620
Terrell	11	\$9,521,589
Terry	3	\$79,422
Titus	90	\$395,122,506
Tom Green	17	\$35,764,040
Travis	346	\$465,745,286
Trinity	5	\$23,007,565
Tyler	14	\$15,558,724
Upshur	10	\$20,228,280
Upton	26	\$16,299,288
Uvalde	2	\$991,244
Val Verde	6	\$4,485,968
Van Zandt	10	\$597,680
Victoria	76	\$281,198,369
Walker	7	\$3,540,199
Waller	16	\$13,643,888
Ward	21	\$13,599,869
Washington	15	\$10,877,437
Webb	67	\$89,916,636
Wharton	34	\$174,697,187

County	Number of Applications Received	Total Estimated Dollar Value of Projects⁷
Wheeler	69	\$69,529,224
Wichita	42	\$45,278,887
Wilbarger	50	\$21,799,593
Willacy	5	\$4,906,064
Williamson	127	\$19,267,947
Wilson	9	\$8,772,229
Winkler	11	\$17,175,815
Wise	148	\$210,520,436
Wood	20	\$5,948,468
Yoakum	18	\$115,308,705
Young	18	\$7,685,059
Zapata	44	\$27,002,047
Zavala	1	\$1,346,000
Total	16,853	\$37,525,245,156