

TCEQ, Chief Engineer's Office  
Tax Relief for Pollution Control Property Advisory Committee  
March 26, 2010  
10:00A.M. – 3:00P.M.  
TCEQ, Austin Campus,  
Building E, Room 201S

Minutes

**I. Opening Remarks..... Bob Adair, Chair**

**A. Call to order and introduction of committee meeting for the record**

Mr. Bob Adair called the meeting to order at 10:02 a. m. with eleven members present. Mr. C. Wayne Frazell was absent due to out-of-town business engagement. Mr. Don Lee arrived later bringing the total present to twelve. Honorable Eddie Arnold left early due to a prior business engagement.

**B. Public comments policy discussion**

Mr. Adair re-stated the public comment policy. No action was taken.

**C. General comments from committee members and staff**

No action was taken.

**II. Approval or Revisions of March 12 Committee Minutes..... Bob Adair**

[Minutes](#) from the March 12, 2010, meeting were discussed and approved.

**III. Revisions of Rule .....Various**

**A. Environmental benefit at the site or alternative (Figure 30: TAC §17.15(a) & (b)) (Don Lee)**

Mr. Don Lee provided an updated version of the [resolution](#) presented during the March 12, 2010, meeting. Mr. Lee stated that keeping “environmental benefit at the site,” with refinements, as a gate keeper was acceptable. Mr. Parker Wilson, Valero, provided a [handout](#) as a response to the resolution. Mr. Adair opened the meeting to public comment. Mr. Paul Pape, Chief Financial Officer of the Goose Creek Consolidated Independent School District, spoke in favor of keeping “environmental benefit at the site”. Mr. Bernardo Garcia, Harris County Appraisal District, stated that he disagrees with everything in the Valero letter. He went on to state that certain decisions lead to a shifting of tax burden which is an unfunded mandate and taxation without representation. Mr. Paul Clore, Superintendent of the Gregory-Portland Independent School District, spoke about potential shortfalls in school district funding and recommended keeping current policy or adopting Mr. Lee’s resolution.

The committee discussed the resolution’s impact on various issues such as hydrotreaters, heat recovery steam generators, wind farms, energy efficiency projects and solar panels. It was determined that, while “benefit at the site” would play a role in such determinations, other issues such as the lack of an adopted environmental rule would be the controlling factor. After discussion on the impact of the resolution, committee members proposed changes to the “Therefore” section. A motion was made to adopt the “Therefore” section of the [resolution](#) as modified. It was seconded and approved. The other sections of the resolution were not discussed.

Dr. Emmanuel Wada, TCEQ program staff, asked the committee for suggestions on where the resolution language within 30 Texas Administrative Code (TAC) Chapter 17 could be located. The committee members asked staff to verify that the Decision Flow Charts, and the Definition and Applicability sections of the rule be in agreement and linked back to the core language included in §11.31 of the Tax Code.

**B. Equipment and Categories List (Various)**

**1. “Compelling evidence” requirement to add or remove items on the Part A or B Equipment and Categories List.**

Mr. Mike Nasi explained that this standard is in the 30 TAC Chapter 17 rules and is the same for both Parts A and B. No action was taken.

**2. Part A and Flowchart (§17.14(a) and Figure 30: TAC §17.15(a))**

**a. M-15 and M-16**

Mr. Ron Hatlett, TCEQ program staff, stated that after reviewing these two items staff is not proposing any changes during the current rule process.

**b. Other**

Mr. Joe Thomas, TCEQ program staff, led a discussion about proposed changes to Part A of Equipment and Categories List (ECL). The committee reviewed each proposed change. Staff will take the committee's recommendations under advisement while completing the draft rule proposal.

**3. Part B and Flowchart (§17.14(a) and Figure 30: TAC §17.15(a))**

Mr. Robert Castor provided an [overview](#) about the potential impact that greenhouse gas (GHG) regulation will have on the electronics sector. Discussion was held about modifying existing ECL items or adding additional items to ensure that equipment installed to meet GHG regulations would be on the ECL. A motion deferring further discussion was passed.

**C. Option to replace “byproduct” with “marketable product” in §17.2 and §17.17(a) (TCEQ staff)**

This item was taken up as part of item III. E.

**D. Option to revise definition of “capital cost old” and modify the Cost Analysis Procedure equation in §17.2 and §17.17(a) (Various)**

This item was taken up as part of item III. E.

**E. Partial use determinations calculation method in §17.17(a) (TCEQ staff)**

Staff explained that broadening the “byproduct” definition to include anything produced would provide a more accurate determination. Mr. Castor pointed out a possible problem with the net present value calculation. Various committee members and staff discussed the current limitations of the Cost Analysis Procedure (CAP). Committee members requested specific examples from staff. Dr. Wada explained that staff was still considering various proposals and would like additional information from the Committee members. Mr. Nasi suggested that staff consider using Standard Industrial Classification (SIC) Codes when determining if a “marketable product” exists. The use of SIC codes would assist in determining if the material is part of the company’s core business. An additional suggestion was to exclude materials which would otherwise be discarded from the requirement to account for “marketable products.” Committee members requested that Mr. Roland Bieber, Mr. Frazell, and Mr. Jon Neeley, Capitol Appraisal Group, Inc., review the various partial determination proposals and provide feedback. No action was taken.

**F. Other**

Mr. Nasi led a discussion about property located on Part B of the ECL. He distributed a table titled: [Proposed Refinements to Part B](#). The table contains descriptions for the property located in §11.31(k) of the Texas Tax Code. Mr. Nasi provided suggested changes to the table and requested that staff review the document and provide suggestions. Staff is to provide comments by email to the committee.

**IV. Other ..... Bob Adair**

**a. Old Business**

Mr. Adair opened the discussion on old business. No discussion was held and no action was taken.

**b. New Business**

Mr. Adair opened the discussion on new business. No discussion was held and no action was taken.

**c. Public Comments**

Mr. Adair opened the meeting for public comment. No additional comment was received.

**d. Future Meetings**

Discussion was held about scheduling a future meeting. Committee members suggested meeting during the week of April 5 – 9, 2010. Staff was asked to secure a meeting room. The committee will determine the meeting date and contact staff.

**V. Adjourn**

A motion to adjourn was made at 3:49 p. m.

**VI. Action Items**

- Mr. Bieber, Mr. Frazell, and Mr. Neeley to provide feedback on partial determination proposals.
- Staff to consider inclusion of SIC codes and core business in the CAP.
- Staff to consider newly proposed rules related to oil and gas facilities to determine if additions need to be made to the ECL.
- Staff to review Part B descriptions and propose changes.
- Staff to provide an explanation about ECL item A-88 being limited to replacement burners.
- Committee to set next meeting date.
- Staff to secure meeting room.

**Next Meeting Date**

April 12, 2010 @ 10:00 a. m.  
TCEQ Austin Headquarters  
12100 Park 35 Circle  
Building E, Room 201S  
Austin, Texas 78753

*The TCEQ Tax Relief for Pollution Control Property Advisory Committee is not subject to provisions of the public meetings law. However, comments from the public relevant to the purview of the committee are welcome. A reasonable standard will be used by the committee chairman regarding the length of time for public comments, realizing the committee will need to manage time to allow adequate discussion of each agenda item.*

## Advisory Group/Committee Meeting Sign-in Sheet

TCEQ - Chief Engineer's Office

Advisory/Stakeholder Group Name: Tax Relief for Pollution Control Property Advisory Committee

Meeting Date: March 26, 2010

Meeting Time: 10:00 am

Meeting Location: Building E, Room 201

Note: By providing this E-mail address, I hereby authorize the TCEQ to make my E-mail address available to the public. If addressing the committee, please fill out TCEQ Public Participation Form.

| Name            | Represent        | E-mail Address (Optional)          | Do you wish to address the committee?<br>(yes/no) |
|-----------------|------------------|------------------------------------|---|
| Bob Adair       | TXOGA            | bob.adair@conocophillips.com       | Committee member                                  |
| Terry Simpson   | San Patricio Co. | terry.simpson@co.sanpatricio.tx.us |   |
| Pete Pope       | Green Creek CISD | pete.pope@gccisd.net               | yes, if needed                                    |
| LEOSCHERRER     | SCIP             | leoscherrer@yattso.com             | comm. Member                                      |
| Robert Castor   | Freescale        | robert.castor@freescale.com        | member  |
| Donna Jernigan  | Exxon Mobil      | donna.l.jernigan@exxonmobil.com    | no  |
| EDDIE ARNOLD    | Jefferson County | eddiearnold@co.jefferson.tx.us     | No  |
| Tim Kelly       | TCEQ             | tkelly@tceq.state.tx.us            | NO  |
| Mike Nasir      | JW               | mnasir@jw.com                      | Comm. Member                                      |
| James LeBas     | self             | james.lebas@texasfiscal.com        | no  |
| Bernardo Garcia | HCAD             | bgarcia@hcad.org                   | yes   |
| ERIC MAXIM      | Duff's Phelps    | eric.maxim@duffandphelps.com       | member  |
| MICHAEL VASQUEZ | URBAN COUNTIES   | MICHAEL@COC.ORG                    | NO  |
| Trey Novosad    | PGH              | trey.novosad@property-tax.com      | NO  |
| Roy Martin      | Valero           | Roy.Martin@valero.com              | NO  |
| D. Thornley     | Valerus          | dthornley@valerus-co.com           | NO  |
| JOHN KENNEDY    | TTARA            | jkennedy@ttara.org                 | NO  |
| TRAY MIRCICH    | INGUENIA ISD     | TRAY.MIRCICH@ISD.US                | NO  |

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| Name             | Represent                              | E-mail Address (Optional)        | Do you wish to address the committee?<br>(yes/no) |
|------------------|--|----------------------------------|---|
| Rubino A. Lozano | SanPatricio CAD                        | rlozano@spcad.esc2.net           | no  |
| Jon D. Neely     | Capitol Appraisal Group                | jonn@cagi.com                    | No  |
| Cyrus Reed       | SERRA club                             | Cyrus.reed@SERRAclub.org         | no  |
| Roland Bieber    | Jefferson CAD                          | rbieber@jcal.org                 |   |
| Terr. Sealer     | Saults & Sealer                        | tsealer@westcapitol.com          | No  |
| Charlene Piggott | GCCISD & Lee College                   | sepiggot@gccisd.net              | no  |
| Gary Gibbs       | AEP                                    | ggibbs@aep.com                   | no  |
| Dan Eden         | DE Consulting                          | danelen@att.net                  | no  |
| Paul Coon        | Luminant                               | paul.coon@luminant.com           |   |
| BRAD SHIELDS     | SHIELDS Legis                          | brad@bradshields.com             | No  |
| Amy Keck         | <del>Henris CAD</del><br>Jefferson CAD | amyk@hts-law.com                 | no  |
| Bennett Sandlin  | TML                                    | bennett@tml.org                  |   |
| GENE DOSS        | SELF                                   | gdoss@entergy.com                | No  |
| Elizabeth Weed   | Houston ISD                            | eweedd@houstonisd.org            | NO  |
| SCOTT SWISSIRLA  | NuSTAR                                 | SCOTT.SWISSIRLA@NUSTARENERGY.COM | No  |
| Paul Clore       | Gregory-Portland ISD                   | pclore@gpisd.org                 | yes   |
| Dan Lee          | Urban Land                             | danlee@urbanland.com             |   |
| Parker Wilson    | Valero                                 | Parker.Wilson@valero.com         | Not unless needed                                 |

