

Texas Commission on Environmental Quality (TCEQ)
Chief Engineer's Office
Tax Relief for Pollution Control Property Advisory Committee Meeting
August 22, 2011
10:00A.M. – 11:55P.M.
TCEQ, Austin Campus, Building E, Room 201S

Minutes

Opening Remarks – Bob Adair, Chair

1. Call to order and recognition of committee members for the record.

Mr. Bob Adair called the meeting to order at 10:01 a.m. with nine members present. Mr. John Nichols arrived at 10:05 and Mr. Don Lee arrived at 10:18. Mr. Paul Coon and Dr. Cyrus Reed did not attend.

2. Public comments policy discussion.

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

3. General comments from committee members and staff.

No comments were received.

Nomination Process for new/returning Advisory Committee members

House Bill 2280, requires that at least one member of the committee be a representative of a school district or community college district subject to a tax exemption under §11.31 of the Texas Tax Code. This person will assume one of the open taxing entity positions. A request for nominations was advertised in the August 19, 2011, issue of the *Texas Register*. The nomination period closed September 16, 2011. The executive director's recommendation will be presented to the commission at the December 7, 2011, agenda. The new appointments will be effective at the first advisory committee meeting held after January 1, 2012.

The two-year terms of six members, Mr. Greg Maxim, Dr. Cyrus Reed, Hon. Eddie Arnold, Mr. Don Lee, Mr. Michael Nasi, and Mr. Paul Coon, will expire December 31, 2011.

Consider TCEQ staff's request for advice (continued from 2/11 meeting) – Bob Adair, Chair

1. Discussion on proper rule citation for certain items on the Equipment and Categories List (ECL) including recycling equipment, property installed to meet a best management practice (BMP), and hazardous material storage areas.

During the December 6, 2010, committee meeting staff requested assistance in determining the appropriate rule citations for several items listed on what was then called the ECL (now the Tier I Table). Included was equipment used for recycling purposes, equipment installed as a BMP, and hazardous materials storage area. The primary issue is how specific does a rule need to be in order to qualify as an appropriate citation. An example for recycling equipment is a company installing equipment used to recycle a previously disposed waste material and providing a citation to 30 Texas Administrative Code §335.4. This section prohibits unauthorized discharges of wastes but does not require the recycling of any material. An example for BMPs is citing to BMPs listed in a storm water pollution prevention plan where the administrative rule requires the development of the plan but not the installation of specific BMPs. Hazardous materials storage areas are not regulated under environmental regulations, but if the hazardous material is spilled it becomes a waste material that must be properly managed. The issue is if secondary containment installed at a materials storage area can be pollution control equipment then would the citation be to the same rules that would be cited for a hazardous waste storage area.

After a lengthy discussion, no process changes or advice was suggested.

2. Draft Application and Instructions

At the February 11th and May 13th meetings, the committee reviewed the current Tax Relief application form and related instructions. Committee members and Mr. Bernardo Garcia, Harris County Appraisal District, discussed Section 1 of the application with regard to the eligibility questions. The main issue raised was if property subject to a lease agreement is eligible for a positive use determination.

The committee did not reach consensus and no process changes or advice was provided.

Other – Bob Adair, Chair

1. Old Business

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

2. New Business

Mr. Adair opened the discussion on new business. Mr. Sandlin asked if staff was aware of any requests for information for interim studies related to this program. Mr. Minor Hibbs, TCEQ Staff, stated that staff was unaware of any interim studies. No action was taken.

3. Future Meetings

Mr. Adair explained that the committee is expected to meet at least once each quarter. The next meeting was tentatively scheduled for the fourth quarter.

4. Public Comments

Mr. Adair opened the discussion for public comment. Mr. Dwayne Nicklin, DCP Midstream, commented that the application form is difficult to use and should be simplified. Mr. Lee asked where staff was with regard to the new database and if information would be available online. Mr. Ron Hatlett, TCEQ Staff, explained that one of the goals of the new database was to place a searchable version of the database online but that it may not occur during the current phase of development. No action was taken.

Adjourn

A motion to adjourn was made at 11:54 p.m. The motion passed.

Action Items

None were assigned.

Next Meeting Date

To be determined