

Minutes

Opening Remarks

1. Mr. Bob Adair called the meeting to order at 10:02 AM
2. All committee members were present except Mr. Michael Ford.
3. Mr. Adair re-stated the public comment policy. No action was taken.
4. No general comments were received from committee members or staff.

Consideration of advice/comments in response to TCEQ Proposed revisions to 30 TAC Chapter 17 Rules

Mr. Adair opened the discussion by asking TCEQ staff to explain the reasons behind the proposal to remove recycling items from the Tier I Table. Mr. Chance Goodin, TCEQ staff, explained that material generated by recycling is considered to be marketable product (MP) and if property/equipment generates a MP it is not eligible for a Tier I determination.

Prior to the meeting Mr. Adair emailed a three part [proposal](#) to the committee. Recommendation 1 was that Water Recycling Systems and Recycled Water Systems remain on the Tier I Table due to staff having not met the rule standard of there being compelling evidence that the property did not provide pollution control. The discussion broadened to include all recycling related items included in the rule proposal. TCEQ staff explained that current practice is if an application states that material is being recovered, and recycled or sold, a notice of deficiency letter is sent. The letter requests additional explanation as to why the property qualifies as a Tier I application, or recommends that the application be converted to a Tier III. Mr. Charles Allred stated that due to the low appraised value of some equipment a Tier III application, with a \$2,500 filing fee, is not justifiable. He also stated that small businesses may find the \$2,500 fee to be an obstacle to filing an application. The committee determined that the issues raised in the discussion warranted additional discussion. Mr. Bennett Sandlin moved that the committee provide a written comment on the rule proposal that the TCEQ “leave the recycling related items on the Tier I Table pending further discussion by the advisory committee.” The motion was seconded and adopted.

The second recommendation, provided by Mr. Adair, was to seek commission clarification on how it interprets the phrase “whole or partly to meet or exceed rules or regulations.” Mr. Mike Nasi recommended tabling this issue pending the additional discussion the committee intends to have on all facets of Chapter 17.

The third recommendation was to modify the definition of MP. Mr. John Kenedy, Texas Taxpayers and Research Association, provided a discussion on industry's concerns with the application of the current definition of MP and stated that his association would provide proposed changes as written comments to the rule proposal. Concern was expressed that when the definition was adopted industry did not anticipate that MP would include recycled material and cost avoidance. Mr. Nasi raised additional industry concerns with other variables used in the Cost Analysis Procedure, specifically the application of the production capacity factor. Additional discussion was held on what constitutes a raw material. Ms. Donna Huff, TCEQ staff, explained that only certain sections of Chapter 17 have been opened for revision, and that while comments can be provided with regard to other sections, no changes can be made to those sections. Mr. Nasi suggested tabling further discussion on this recommendation pending the additional discussion the committee intends to have on all facets of Chapter 17.

Mr. Lloyd Graham raised concerns expressed by a consortium of appraisal districts and taxing entities that the proposed changes to 30 TAC §17.12 might allow for an open-ended application process, by allowing applicants to withdraw and refile applications multiple times. The concern is that this practice would allow companies to seek refunds from taxing districts if the application review process stretched out over a period of years. Mr. Kenedy explained that House Bill 1897 limited the ability to receive a tax refund under these circumstances to cases where the applicant has protested their valuation, paid their taxes, and filed an appeal each year or cases where the applicant has reached a written agreement with the appraisal district and all affected taxing entities that a refund would occur.

Other

1. **Old business**
None
2. **New business**
None
3. **General comments**
No comments were received.

Action Items

Mr. Adair will contact other committee members to determine a future meeting date.

TCEQ Legal staff will determine if an advisory committee's adoption of a resolution proposing the opening of a rule is comparable to a rule petition.

Adjourn

The meeting adjourned at 12:58 PM