

Texas Commission on Environmental Quality (TCEQ)
Office of Air
Tax Relief for Pollution Control Property Advisory Committee
May 17, 2019
10:03 A.M. - 10:24 A.M.

Minutes

Opening Remarks

1. Mr. Bob Adair called the meeting to order at 10:03 A.M.
2. Committee members Mr. Bob Adair, Mr. Daryl Attaway, Mr. Roland Bieber, Mr. Michael Nasi, Mr. Don Lee, Mr. Charles Allred, and Mr. Lloyd Graham were present.
3. Mr. Bob Adair re-stated the public comment policy. No action was taken.
4. General comments from committee members and the public were solicited. No comments were received.

Legislative update regarding proposed revisions to Texas Tax Code (TTC) §11.31

Ms. Shelley Naik with TCEQ stated TCEQ was following several bills that proposed revisions to Texas Tax Code (TTC) §11.31, but those bills have not moved.

Update on TCEQ process to consider additions to Tier I Table as part of triennial review of Non-Exclusive List and Tier I Table as required by §11.31(l) of the Texas Property Tax Code and 30 Texas Administrative Code (TAC) §17.14(b)

Ms. Naik stated that the legislative session ends at the end of the month and that TCEQ staff will brief office management on the committee's recommendations and staff recommendations for potential rulemaking. An update and timeline should be available at the next committee meeting.

Recent Texas Supreme Court decision regarding heat recovery steam generators

Mr. Don Redmond with TCEQ's Environmental Law Division stated that the Texas Supreme Court issued two opinions on the heat recovery steam generator (HRSG) cases on May 3, 2019. In the Tier III case, referred to as the Brazos Electric case, the Texas Supreme Court reversed the lower court's decision holding TCEQ abused its discretion in issuing negative use determinations for property listed on the TTC §11.31(k) list and remanded the applications back to the Commission. On the Tier IV cases, the Court upheld the Austin Court of Appeal's decision, relying on the Brazos Electric holding. The Commission is still reviewing these opinions, which are available on the Texas Supreme Court website. The deadline for filing to request rehearing has not passed.

Committee members discussed the Court opinions and the committee's potential role in providing recommendations to the Commission on how to proceed in a manner consistent with the Texas Supreme Court opinions and the TTC. Mr. Adair asked TCEQ for a timeline to move forward. However, as there are still some Commission decisions pending (such as whether to file a motion for rehearing) and no mandate has been received from the Texas Supreme Court, there is still uncertainty about when next steps will be taken.

Other

1. ***Old Business***

No old business

2. ***New Business***

No new business

Other General Comments from the Public

None

Action Items

None

Adjourn

The meeting adjourned at 10:24 A.M.