

Texas Commission on Environmental Quality (TCEQ)
Office of Air
Tax Relief for Pollution Control Property Advisory Committee
May 20, 2024
Meeting held online and by phone
10:00 A.M. – 10:24 A.M.

Minutes

Opening Remarks

Bob Adair called the meeting to order at 10:00 A.M.

The following Tax Relief for Pollution Control Property Advisory Committee (Committee) members were present: Bob Adair, Charles Allred, Michelle Carder, Adam Haynes, Justin Hyland, Hugh Landrum, Martha Landwehr, Bill Longley, Greg Maxim, Mike Nasi, and Dr. Cyrus Reed. Quorum was met.

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

Bob Adair asked for comments from Committee members.

Update from TCEQ staff regarding new pending EPA rules for methane for oil and gas facilities, coal combustion residue, and other property

Elizabeth Sartain with TCEQ stated the U.S. Environmental Protection Agency (EPA) published the final rule for methane for oil and gas on March 8, 2024, and new, reconstructed, and modified sources must comply as of May 7, 2024. TCEQ is planning to pursue a plan under section 111(d) of the federal Clean Air Act for submittal to EPA for existing sources under OOOOc, which is due to EPA by March 2026.

Dr. Cyrus Reed stated the Attorney General and other states have gone to court on the rule, and asked if they sought to freeze the rule or if it must be complied with in the meantime.

Elizabeth Sartain replied if you are subject to the rule under the New Source Performance Standards (NSPS), you would need to comply by May 7, 2024. She also added that TCEQ plans to put together a plan and adjust to the outcome of litigation accordingly.

Elizabeth Sartain stated EPA finalized the National Ambient Air Quality Standard (NAAQS) for particulate matter (PM), which was lowered from 12 micrograms per cubic meter to 9 micrograms per cubic meter. The final rule was published on March 6, 2024.

Dr. Cyrus Reed stated that it was his understanding three years of data would still be needed to determine which areas would be nonattainment. Areas would not be declared right now, but it could impact permitting.

Elizabeth Sartain agreed, adding sources who are renewing or revising their permits may need to take the PM standard into account as of the effective date of May 6, 2024, but nonattainment designations need three years of data, and may be effective in early 2026.

Mike Nasi clarified that as soon as the PM standard is finalized, unless it is stayed, it is one of the metrics that you have to model into part of health effects review and permitting and becomes a permitting issue immediately.

Dr. Cyrus Reed asked if the PM standard would be for any permit, or only major permits, to which Mike Nasi replied that it would apply to both minor and major permits.

Bob Adair wondered how the PM standard might affect this committee and potential equipment they might consider. Mike Nasi added that given that PM_{2.5} is a modeling issue for permitting actions, what is the treatment given to pollution control equipment applications before the nonattainment and state plan implementation occurs.

Elizabeth Sartain stated there is no change in use determinations; the applicant would still need to cite a rule that requires the pollution control property, which could be a rule requiring compliance with a new permit. The facilities do not have to comply with the NAAQS, which is a state requirement, but once permit requirements are built into the permit, sources cite the permit requirements. 30 Texas Administrative Code Chapter 111 also addresses particulate matter in the state, which is another rule that applicants cite.

Elizabeth Sartain stated EPA also recently finalized four other rules that apply to power plants. One is the Greenhouse Gas (GHG) Standards and Guidelines for Fossil Fuel-Fired Power Plants, another is the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coal- and Oil-Fired Electric Generating Units (EGUs), also known as the Mercury and Air Toxics Standards (MATS) rule. EPA also published a Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, which is a water rule. Finally, EPA published and finalized Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities, which also addressed legacy coal combustion residue and surface impoundments. All four of the rules were finalized in early May 2024.

Dr. Cyrus Reed asked when the rules would go into effect and Elizabeth reviewed compliance dates for the rules.

Dr. Cyrus Reed asked if any additional kinds of equipment that are currently not on a list that are impacted by these rules. Elizabeth Sartain replied that most of the properties are already on the Tier I list or k-list. For the methane rule, there might be a few new ones, but no applications citing to that rule have been received yet. She also reminded the committee if property is not on the Tier I list, and it's used for pollution control, Tier II and Tier III applications are available to applicants.

Update on filling Advisory Committee vacancy

Melissa Altman with TCEQ stated notice was placed in the Texas Registry on Friday, May 17, 2024, for nominations to replace Roland Bieber, who resigned from the committee effective January 8, 2024. TCEQ will accept nominations for an appraisal district representative through June 18, 2024. Nominations are expected to be considered at TCEQ Commission meeting on October 23, 2024.

Adam Haynes stated he alerted tax assessors and central appraisal districts to submit nominations.

Old business

No old business was discussed.

New business

Bob Adair stated the next meeting scheduled for August 16, 2024, will be in person, and the meeting scheduled for November 5, 2024, is on Election Day. That meeting is tentatively rescheduled to November 8, 2024, and a revision will be sent out soon.

Dr. Cyrus Reed added a link to a new rule in the chat for the chemical safety rule. Elizabeth Sartain agreed it is more of a planning and assessment type rule, and reiterated if the property is not on the Tier I table, applicants have the option to apply for Tier II or Tier III applications.

Mike Nasi added that stay motions have been filed for the OOOO methane rule, and that no action has been made yet and no stay has been issued.

Other comments from the public

There were no comments from the public.

Adjourn

A motion to adjourn was made by Greg Maxim with a second from Dr. Cyrus Reed.

The meeting adjourned at 10:24 A.M.