

TCEQ, Chief Engineer's Office
Tax Relief for Pollution Control Property Advisory Committee
March 12, 2010
10:00A.M. – 3:00P.M.
TCEQ, Austin Campus,
Bldg. F, Rm. 2210

Minutes

I. Opening Remarks Bob Adair, Chair

Mr. Adair called the meeting to order at 10:05 a. m. All members were present. Minutes of the February 25, 2010, meeting were discussed and approved. Mr. Adair explained that public comment would be accepted during the meeting. Mr. Don Lee began a discussion about TCEQ providing assistance for the committee. A motion requesting assistance was adopted. Ms. Susana Hildebrand, the TCEQ's Chief Engineer, agreed that the Tax Relief for Pollution Control Property Program (Tax Relief Program) would provide administrative assistance to the committee.

II. Revisions of Rules.....Various

Mr. Adair explained that priorities were established based on the short timeframe for proposing changes.

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

Mr. Lee presented a draft [resolution](#) which would serve as an alternative to “environmental benefit at the site”. Staff provided a document explaining the background of the “[at the site](#)” requirement. During discussion of the issue public comment was accepted from Parker Wilson, Valero. A motion was approved to table this topic and come back to it at a later time.

B. Overview of “compelling evidence” standard.

Mr. Adair requested a definition of “compelling evidence” and its origin. Mr. Tim Reidy, TCEQ's Office of Legal Services (OLS), explained that compelling means “persuasive” and not “beyond a shadow of a doubt.” Under §11.31(l) of the Texas Tax Code, compelling evidence is required for removal of an item from the list located in §11.31(k). On February 9, 2008, this standard was adopted for adding and removing items from both Parts A & B of the ECL.

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

Mr. Wayne Frazell provided a copy of an [appeal document](#) related to ECL items M-15 and M-16. Mr. Adair presented a [document](#) explaining how this equipment is used. Staff explained that M-15 only covers equipment used for pollution control. It was suggested that staff review the descriptions of M-15 and M-16. No action was taken.

D. Equipment and Categories List (ECL) Proposed Changes

Staff provided a highlighted version of the [ECL](#) and discussed each highlighted item. Staff requested comments from the committee. Mr. Reidy suggested that committee members take a wide look at the ECL and provide suggestions by March 31, 2010. No action was taken.

E. Part B and Flowchart (§17.14(a) and Figure 30: TAC §17.15(b))

Mr. Robert Castor suggested that Green House Gases (GHG) other than carbon dioxide be added to §11.31(k)(16). Options discussed included adding other GHGs to B-16 on Part B of the ECL, adding equipment to control GHG to Part A of the ECL, or waiting until EPA adopts regulations before adding to the ECL. Further discussion was tabled pending the outcome of discussions about Parts A and B of the ECL.

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

Dr. Emmanuel Wada, TCEQ's Chief Engineer's Office, explained reasoning for removing “byproduct” from the Cost Analysis Procedure and replacing it with “marketable product”. After limited discussion, no action was taken.

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

Dr. Wada explained the proposed changes to the definition of “capital cost old” and to the equation. There was limited discussion about the definition change. The modification of the equation was discussed as part of the next item. No action was taken.

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

Dr. Wada provided a [document](#) regarding several options on partial use determinations. Due to time constraints, discussion of this issue was limited. The issue was tabled until the next meeting.

I. Other

No additional issues were raised.

III. Communication of Committee Majority and Minority Recommendations to TCEQ Bob Adair

Mr. Adair discussed that, when reporting to the commission, any report will contain both majority and minority viewpoints. No action was required.

IV. Other Bob Adair

A. Old Business

No issues were raised.

B. New Business

During the public comment period Mr. Roland Bieber, raised issues related to final determinations not being issued within a timely manner including the potential to negative financial impacts on taxing authorities. He suggested that the TCEQ review the Tax Relief Program to determine proper staffing levels. Other suggestions included evaluating filing dates and deadlines. No action was taken.

C. Public Comments

The meeting was opened for public comment.

Mr. James LaBas, consultant, stated that the Valero representative would be providing written comments about the “environmental benefit at the site” issue. The committee agreed that comments on this issue must be provided by March 17.

Mr. Bernardo Garcia, Harris County Appraisal District, discussed appraisal district valuation issues. Mr. Adair explained that such issues were outside of the purview of the committee.

Mr. John Kenedy, Tax Association of Taxpayers and Research Association, provided historical information about the program.

V. Adjourn

A motion to adjourn the meeting was made and seconded. The motion was approved and the meeting was adjourned at 3:17 p.m.

Next Meeting Date

March 26, 2010 @ 10:00 a. m.
TCEQ Austin Headquarters
12100 Park 35 Circle
Building E, Room 201S
Austin, Texas 78753

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 12, 2010

Meeting Time: 10:00 am

Meeting Location: Building F, Room 2210

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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.

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Paul Clow	Gregory-Portland ISD	pclow@g-jrisd.org	Yes Yes

Advisory Group/Committee Meeting Sign-in Sheet

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