

Texas Commission on Environmental Quality (TCEQ)
Office of Air
Tax Relief for Pollution Control Property Advisory Committee Meeting
March 22, 2013
10:02 AM – 11:45 AM
TCEQ, Austin Campus, Building E, Room 201S with additional non-member participants attending via conference call.

Minutes

Opening Remarks

1. Call to order.

Mr. Bob Adair called the meeting to order at 10:02 AM

2. Recognition of committee members present and absent.

All members except Mr. Bennett Sandlin and Mr. Leo Scherrer attended the meeting.

3. General comments from committee members and staff.

No comments were received.

4. Public comments policy discussion.

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

Legislative Update regarding Tax Relief for Pollution Control Property

Mr. Ronald Hatlett stated the agency is monitoring 19 pieces of legislation for the session and provided a brief overview. The committee members proceeded to discuss the legislation pertaining to landfill-generated methane conversion; energy storage systems in ozone nonattainment areas; offshore spill response and well containment equipment; and agency re-review of previously issued use determinations (specifically with respect to heat recovery steam generator (HRSG) and cooling tower use determinations). Committee members had specific questions for agency staff concerning a previous application for landfill gas recovery equipment and the eligibility of oil spill response equipment for exemption under the current rules. Committee members discussed potential business structures for an entity that would provide offshore spill response and well containment equipment and services, and the eligibility of the equipment for exemption. Mr. Adair asked for comments from the public. Mr. James LeBas provided comment regarding offshore spill response and well containment in his capacity of representing the Marine Well Containment Company. Committee members segued into a discussion of ownership structure for energy storage systems intended to reduce emissions resulting from power interruptions at refineries on the Houston Ship Channel. This was contemplated in light of the Prop 2 requirement that eligible

equipment is used by a company to control its own pollution as opposed to a company that is engaged in pollution control as a business. Committee members then discussed greenhouse gas permitting requirements and whether there would be Prop 2 exemptions for equipment used to meet those requirements. Public comment was again solicited, and Mr. John Kennedy of Texas Taxpayers and Research Association commented on the offshore oil spill and well containment equipment.

Committee members discussed the public school finance guaranteed yield system and the implications of refunding tax dollars collected on currently pending HRSG applications, which subsequently might receive positive use determinations.

Alternative Calculations for Tier III

Committee members continue to review this matter. The history of development of the Cost Analysis Procedure (CAP) equation and change in the rule from considering Net Present Value (NPV) of by-product to NPV of marketable product were discussed. Committee members discussed the idea that the CAP does not work for all situations. Specific situations cited were when capital cost new is less than capital cost old or when technology dramatically changes.

Committee members asked TCEQ staff to provide examples of Tier III applications for which the CAP did not work. Staff committed to search for examples but stated none came to mind because applicants tend to withdraw applications for which the CAP does not yield a result they deem satisfactory. Differences in partial use determinations resulting from changes in price for a marketable product were discussed with respect to applicants who applied when the price was high versus those who applied when the price was low.

Committee will resume meeting quarterly unless someone has an idea that warrants additional meetings.

Action Items

Agency staff will search for Tier III applications for which the CAP did not work.

Adjourn

11:45 AM