

Texas Commission on Environmental Quality (TCEQ)  
Office of Air  
Tax Relief for Pollution Control Property Advisory Committee  
February 29, 2016  
10:00 A.M. – 10:37 A.M.

## **Minutes**

### ***Opening Remarks***

1. Mr. Bob Adair called the meeting to order at 10:00 A.M.
2. All committee members were present except for Mr. Wayne Frazell.
3. Mr. Adair re-stated the public comment policy. No action was taken.
4. No general comments were received from committee members or staff.

### ***Review of Draft Advisory Committee 2015 Annual Report***

Mr. Bob Adair explained that the [draft annual report](#) is comprised of highlights he identified by reviewing the minutes of the 2015 advisory committee meetings. He asked if committee members or TCEQ staff had suggestions of additional information that should be in the report. Mr. Adair pointed out the committee gave one item of advice to the commission, which is discussed on page 6 of the draft annual report. Mr. Adair asked if the commission had acted on that advice either formally or with guidance, and TCEQ staff responded that they had not at this time. The advice concerned carbon capture and sequestration (CCS), and the agency does not currently have under review any CCS applications. Mr. Adair explained that the law requires them to discuss in the annual report the usefulness and cost of the advisory committee. There were no suggestions of additions or revisions to the report, and the committee voted unanimously to approve the report. Mr. Adair committed to submitting the report within a few days.

### ***Update on heat recovery steam generator (HRSG) litigation***

Mr. Adair asked TCEQ staff for an update on the HRSG litigation. Ms. Shelley Naik of TCEQ staff responded that the court has upheld the negative use determinations on the Brazos Electric Co-op applications. TCEQ staff was unaware of whether Brazos Electric Co-op intended to appeal that decision. There was no additional information concerning scheduling by the court hearings for the other appealed HRSG negative use determinations. Mr. Adair mentioned depending on the outcome of the litigation, the committee might want to recommend putting HRSGs on the Tier I Table at a set percentage based on the courts' rulings.

### ***Three-year review of Tier I Table as required by Title 30 Texas Administrative Code §17.14(b)***

Mr. Bob Adair asked for input from staff concerning plans pertaining to the triannual review. Ms. Shelley Naik responded that the program does not have at this time any open rulemaking or recommendations for revisions to the Tier I Table. Dr. Cyrus Reed noted that there might be justification in the future to add equipment needed to comply with methane capture rules proposed by the United States Environmental Protection Agency (EPA) and Bureau of Land Management (BLM) pertaining to oil and gas production sites, although he thought it likely that the applicable equipment is already on the Tier I Table. Committee members discussed the previously approved CCS application and related projects that prompted their advice to the commission, which was discussed in their annual report. The Tier I Table has to be reviewed at least every three years but can be reviewed more frequently. The last rulemaking was completed in 2014. Rulemaking takes approximately 12 to 18 months; therefore, if the committee wants to recommend revisions to the Tier I Table, those recommendations ideally would be submitted to the program by August 2016. The steps of rulemaking were discussed depending upon whether

the rulemaking was initiated by the agency in response to advisory committee recommendations or initiated by the agency in response to a petition. The committee may schedule more frequent meetings if deemed necessary to consider recommended revisions to the Tier I Table.

Mr. Rob Castor asked if staff has seen sufficient Tier II applications for the same equipment that would warrant putting those items on the Tier I Table. Mr. Ron Hatlett of TCEQ staff responded that no such items have been identified.

Mr. Adair observed that the paragraph immediately preceding the Tier I Table indicates items on the Tier I Table are used wholly for pollution control; whereas, in prior versions of the rule, items could be used wholly or partly. Depending upon the outcome of the review of the Tier I Table, committee members might want to consider revising that paragraph to allow items on the Tier I Table that are used partly for pollution control.

Ms. Donna Huff of TCEQ staff elaborated on the schedule associated with the 2014 rulemaking and provided guidance on timing if the advisory committee decides to recommend rulemaking.

### ***Other***

#### ***1. Old Business***

There were no items of old business discussed.

#### ***2. New Business***

Mr. Rob Castor requested clarification from staff concerning notices of deficiency for applications that cite a permit provision without also providing a regulatory citation. Staff and Mr. Mike Nasi provided information on this topic. Discussion included scenarios where the equipment is used to exceed a regulation as opposed to just meeting a regulation.

#### ***3. Other General Comments from the Public***

None

### ***Action Items***

Committee members will continue to perform outreach to stakeholder groups concerning possible revisions to the Tier I Table.

TCEQ staff will provide a refresher on the application review process and the Tier I Table at an upcoming advisory committee meeting.

TCEQ staff will review all recent Tier II and Tier III applications to see if there are equipment items on those applications that would warrant being moved to the Tier I Table.

TCEQ staff will share with the advisory committee at an upcoming meeting the agency's draft annual report on the program. Typically, that report is prepared by sometime in August.

### ***Adjourn***

The meeting adjourned at 10:37 A.M.