

TCEQ Tax Relief for Pollution Control Property Advisory Committee

Recommended Clarification of Eligibility for the TCEQ Pollution Control Property Tax Program

On April 24, 2015, the Tax Relief for Pollution Control Property Advisory Committee (the "Advisory Committee") met at the Texas Commission on Environmental Quality (TCEQ) central office in Austin as indicated by a proper notice to the public. The Advisory Committee discussed the need for clarifications to the Tax Relief for Pollution Control Property Program ("Prop 2 Program"), specifically requesting clarification as to the eligibility of certain equipment used to control greenhouse gas ("**GHG**") emissions. The Advisory Committee passed by a vote of 11-0 the following recommendation and rationale:

Recommendation

The Advisory Committee advises that carbon capture utilization and storage ("CCUS") equipment installed at an existing power plant now has an adequate environmental rule in place to provide a basis for eligibility of CCUS equipment for a positive use determination, if other program requirements are met.

Rationale

Under the proposed recommendation, an applicant who installs carbon dioxide capture equipment at an existing power plant should be considered to have installed the equipment to meet or exceed an environmental rule. The fact that the EPA has not mandated facility- or source-specific emissions limits or technology does not detract from the fact that carbon dioxide is regulated by EPA as a pollutant under the Federal Clean Air Act, is subject to Best Available Control Technology (BACT) reviews by both EPA and TCEQ and, thus, satisfies the Constitutional and Tax Code environmental rule prerequisite.

It should be noted that this recommendation and clarification is not intended to specify that property used in the situation described herein would automatically receive a positive use determination. This clarification would only ensure that the property would be considered to comply with the threshold requirement that the equipment is used "wholly or partly to meet or exceed" an environmental rule, as required under the Texas Constitution and Texas Tax Code.

Respectfully, on behalf of the TCEQ Tax Relief for Pollution Control Property Advisory Committee (list of members attached),



Bob Adair, Chairman

Tax Relief for Pollution Control Property Advisory Committee

Representing Industry:

Mr. Bob Adair, representing Texas Oil and Gas Association

Mr. Robert Castor, with Freescale Semiconductor

Mr. Paul Coon, representing Association of Electric Companies of Texas

Mr. Gregory P. Maxim, with Cummings Westlake LLC

Mr. Michael J. Nasi, representing Clean Coal Technology Foundation

Mr. Michael Ford, representing Texas Chemical Council

Representing Appraisal Districts:

Mr. Roland R. Bieber, Chief Appraiser for Jefferson County Appraisal District

Mr. C. Wayne Frazell, with Pritchard & Abbott Inc.

Representing a School District or Junior College District:

Mr. Lloyd Graham, Superintendent of the La Porte Independent School District

Representing Taxing Units:

Mr. Don Lee, with the Texas Conference of Urban Counties

Mr. Bennett Sandlin, with the Texas Municipal League

Representing the Environmental Group:

Dr. Cyrus Reed, with the Sierra Club

The Independent Technical Expert:

Mr. Charles Allred, an independent contractor