



What's That Smell?

A background image showing several industrial smokestacks emitting thick, dark plumes of smoke or steam. The scene is set against a bright, golden sunset sky with the sun low on the horizon, creating a dramatic, high-contrast atmosphere. The smokestacks are silhouetted against the bright light of the sun.

# The Presenters

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## The Start

- In 1993 we Texans amended the Constitution to exempt *“all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.”*
- “The intent of the constitutional amendment was to ensure that capital expenditures undertaken to comply with environmental rules did not increase a facility’s property taxes.” (TCEQ Regulatory Guidance, Pub. No. RG-461 (March 2011- Draft))



Must answer  
these 3  
questions:

1. Is the property pollution control equipment?
2. If “yes”, then how much of the property can be attributed to pollution control versus other type of benefit?
3. How much is the property worth?

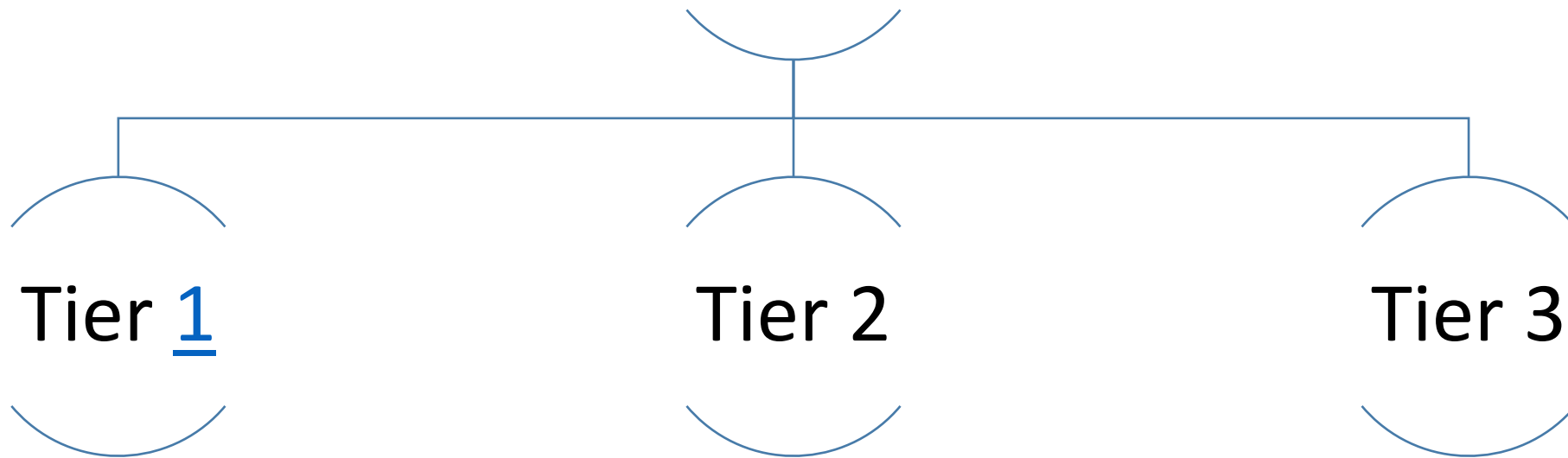


## Who's to Judge?

- The Texas Commission on Environmental Quality is the state agency responsible for answering the first two questions.
- Appraisal districts are tasked with answering the final “how much is the property worth” question.

Legislature has set up 3 different paths for a property owner to apply for these exemptions. Which application is used depends on which “Tier” the property qualifies under.

## The Tiered Plan







## Tier 1

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- For Properties that are, as a matter of law, considered to be “pollution control” property.
- Called the “K-list” properties because they are specifically listed as pollution control properties in paragraph “k” of Tax Code section 11.31.
- These properties’ percentage “use” is statutorily set forth in paragraph “k”.





## Tier 2

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- Property not on the “k” list – but determined to be pollution control property.
- The portion of the property allocable to pollution control must be 100%.







## Tier 3

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- Property not on the “k” list, (or if on the list, is not being used as described on the list) and determined to be pollution control property.
- The TCEQ determines the portion allocable to pollution control. Based on the codified “cost analysis procedure” (“CAP”).
- Broadly speaking, CAP uses the cost approach to calculate the percentage of the property’s value attributable to pollution control, and thus the percent use exemption.





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## The Last Big Deal- HRSG

- **H**eat **R**ecovery **S**team **G**enerators capture post-process heat that would otherwise escape into the atmosphere, and direct it instead to turning water into steam to power electrical generators.
- HRSGs are on the k-list.
- TCEQ had said that even if they are on the list, they might have zero (or less) allocable use for pollution control.
- S. Ct. told TCEQ not so and that it had to find there was **SOME** allocable use.
- TCEQ sent the “percentage allocable” question to an advisory committee.



## Advisory Committee

- 13 members- 7 industry, 6 public
- Public members included 2 CAD reps:
  - Roland Beber (Jefferson CAD- retired)
  - Daryl Attaway (Pritchard & Abbott)
- 7-6 vote passed- recommended HRSGs be deemed 65% exempt.
- 6-7 vote failed- recommended HRSGs be deemed 47% exempt.





- Effective in January of 2021, HRSGs will be determined by the TCEQ to be pollution control equipment and entitled to a 65% exemption.

Sooooo....

- What is a CAD supposed to do?
  - Figure out the HRSG's value and exempt 65% of it.  
IF...The property owner timely files a proper application.



# CAD WORLD GENERALLY

Assuming a timely and completed application:

- Account for the property on the roll
- Account for the exemption
- Value the property and apply the % exemption to the value



# Appraisal Districts Responsibilities!

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# The applicant submits the PC Exemption Application to TCEQ

- TCEQ will deliver notice to CAD that an application has been submitted
  - The TCEQ has 60 days from notice to make their determination
    - If approved, a use determination certificate will be mailed to the CAD for positive determinations



# Positive Determination Received

- The applicant must submit the use determination and an exemption request form to the CAD by April 30<sup>th</sup>

\*Although the TCEQ notifies the CAD of the determination, it is the responsibility of the applicant to submit the exemption request timely




# Verify, Verify, Verify

- Verify and identify all equipment and the site approved by the Determination Certificate
  - This includes year acquired, cost, and the approved percentage of the exemption for each asset





A photograph of an industrial facility with several tall smokestacks emitting large plumes of dark smoke. The scene is set against a bright, hazy sunset sky with a low sun. The smokestacks are silhouetted against the bright light of the sun.

Approved  
Application...What's  
Next?

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What can your CAMA  
system handle?



Can your CAMA system handle it efficiently?

No

Yes

Move exempt assets to a new account

Proceed as normal

This clearly identifies the exempt assets



# Wait What?!?!?!

Separating the exempted assets to a new pollution control only account is one way to clearly identify the assets that have qualified for the exemption.





# What's Next?

- Remove the allocated value of those items from the “taxable account” and move it to the exempt account

\*Note: this may or may not be the value listed on the exemption application. This allocated amount should be the item(s) contributory value to the property as a whole.





So, What Does  
This Look Like?

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- The legal description should match the legal of the pre-existing taxable account with the added identifier “Pollution Control Account”.
- Identifiers should be listed on both accounts linking them together







- Real property accounts should maintain the same meets and bounds





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## Make Sure you....

- Maintain your pollution control account valuation annually. These assets still need to be reviewed for depreciation and/or value adjustments annually
- Refer to the TCEQ Regulatory Guidance for guidelines on processing a Pollution Control Exemption