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GHASP's mission is to reduce air pollution in the Houston region to protect public health and environmental quality through research, education and advocacy.

Ms. Kathy Pendleton

MC 164

Texas Commission on Environmental Quality

P.O. Box 13087

Austin, Texas 78711-3087

Dear Kathy,

Please find here the comments of the Galveston Houston Association for Smog Prevention and Mothers for Clean Air (GHASP/MfCA) regarding the Texas Commission on Environmental Quality's rulemaking for the Section 185 requirements of the Clean Air Act.

Baseline Calculation:

- Baseline emissions should be calculated from the attainment year. In this case, baseline emissions for sources in HGB should be calculated for calendar year 2007.
- Consideration must be made and defined beforehand for major sources which were operating at below normal capacity in 2007 or which otherwise operate on a cyclical or non-constant basis. For example, British Petroleum Texas City was operating far below their normal capacity in 2007 as a result of their process malfunctions from preceding years, but since 2007 have returned to normal capacity. Consideration must be made for such instances. The best recommendation we have thus far seen is from the South Coast Air Quality Management District. GHASP believes that TCEQ would be best served by following SCAQMD in their procedural definition for qualification as a cyclical source and also in their calculations of such sources' baselines (average of the five preceding year's emissions data, including permitted and non-permitted emissions).
- Facilities must not be allowed to aggregate NOx and VOC emission numbers. These emissions must be counted separately.
- Facilities must not be allowed to aggregate disparate sites owned by the same corporation. Emissions calculations and fees assessed must be made on a site by site individual basis.

- Facilities must not be allowed to recalculate the baseline and previous emissions inventories.

Alternative/Equivalent Program:

- We oppose the establishment of an alternative or equivalent program. The Clean Air Act is clear in its intention that the 185 Section result in the levying of fees on major sources for non-attainment of the NAAQS standard. Any such alternative or equivalent program will only require additional time and personnel commitments for the review of such programs propagated by several states and in any case cannot be less stringent than the section 185 requirements.

Use of penalty fees:

- We support the idea that the TCEQ use fees collected through the section 185 program to improve or increase enforcement programs and monitoring in the HGB region. We oppose the specific use of such funds for purchase of control equipment at major source sites or for reductions at other source categories. These fees are being collected to reduce emissions at major point sources and should be used to better control and measure such source emissions only. The expenditure of such fees should be accomplished within a reasonably quick time period after collection (no longer than 18 months).

Well controlled sites:

- We understand that some facilities in our region have gone beyond that of their neighboring facilities in attempts to control and reduce emissions of NOx and VOC (introduction of BACT, LAER, etc.). That being said, such measures and improvements have not been made industry-wide. Facilities that have installed BACT or LAER technologies prior to setting the baseline cannot count those investments against their section 185 obligation. These facilities also would not meet the additional test of 'not less stringent' as the implementation of these controls would be a SIP and Clean Air Act requirement. This violates the plain language of section 185. Further, any attempt to parse out facilities which have possibly gone further than what was required puts the agency on a lengthy and time-consuming path which would only further slow the reduction of ozone precursors in our region.

End of program:

- The program will continue to be in effect until the EPA has found our region in attainment of the one year standard with a full three years of monitored ozone data.

Sincerely,

A handwritten signature in black ink, appearing to read "M. S. Tejada". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Matthew S. Tejada, PhD