



January 14, 2013

By Electronic Transmittal

Charlotte Horn
MC 205
Office of Legal Services
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
<http://www5.tceq.texas.gov/rules/ecomments/>

Reference: Rule Project Number 2009-009-101-AI
Comments from Oiltanking North America, LLC

Dear Ms. Horn:

The Texas Commission on Environmental Quality ("TCEQ") has invited public comments on its proposed Chapter 101 "Failure to Attain Fee" rule, published at 37 Tex. Reg. 9468 (November 30, 2012) (the "Proposed Rule"). These comments are submitted on behalf of Oiltanking North America, LLC (Oiltanking). Oiltanking appreciates the efforts of the TCEQ staff and the Commission to propose a rule that is approvable under EPA rules and guidance, while providing flexibility for facilities and ensuring the protection of air quality for the citizens of the Houston Galveston area.

Oiltanking is a member of the Section 185 Working Group, a coalition of industrial companies that own and operate major stationary sources that are subject to the Proposed Rule. First, Oiltanking would like to express its support of the comments to the proposed rule submitted separately to your office by this Workgroup. In addition to the Workgroup's comments, Oiltanking also wishes to supplement those comments with the information provided in this submittal.

Specific to the proposal related to development of an alternate baseline amount as discussed in proposed 30 TAC §101.108, Oiltanking offers the following comment:

As proposed at subsection 101.108(a)(3), the alternative baseline amount would be calculated separately as the lower of actual or allowable emissions for planned maintenance, start-up and shut-down (MSS) activities, added to the lower of actual or allowable emissions for non-MSS activities. A similar calculation would apply for emissions from permit applications in process by the attainment year.

This calculation would unnecessarily add complexity to the baseline determination process and create varying results depending on how an individual company characterized activities in its emissions inventory. To prevent these results, the



commission should delete proposed subsection 101.108(a)(3) and instead allow the authorized MSS emissions and/or other newly authorized emissions limits to be added to preexisting emission limits to determine source-wide allowable emissions, then select the lower of source-wide allowable emissions or source-wide actual emissions as the baseline.

Oiltanking appreciates the opportunity to comment on the Proposed Rule. If you have any questions, please do not hesitate to contact me at 281-457-7910 or clayton.curtis@oiltanking.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Clayton Curtis".

Clayton Curtis
Vice President Regulatory Affairs

Oiltanking North America, LLC