



TEXAS CHEMICAL COUNCIL

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April 30, 2010

Kathy Pendleton, P.E.
Air Quality Division
MC164
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: Section 185 Termination Determination Request

Dear Ms. Pendleton:

The Texas Chemical Council (TCC) appreciates the opportunity to comment on the “Request for Determination Regarding Termination of the 1-Hour Ozone Section 185 Fee Obligation.”

TCC is a statewide trade association representing approximately 70 chemical manufacturers at over 200 Texas facilities. Our industry has invested more than \$50 billion in physical assets in the state and pays over \$1 billion annually in state and local taxes. TCC’s members provide approximately 70,000 direct jobs and over 400,000 indirect jobs to Texans across the state.

TCC supports the Termination Determination Request. The U.S. Environmental Protection Agency’s (EPA) guidance document issued on January 5, 2010 states the following:

“EPA believes that for an area that we determine is attaining either the 1-hour or 1997 8-hour ozone NAAQS, based on permanent and enforceable emissions reductions, the area would no longer be obligated to submit a fee program State Implementation Plan (SIP) revision to satisfy the anti-backsliding requirements associated with the transition from the 1-hour standard to the 1997 8-hour standard. In such cases an area’s existing SIP should be considered an adequate alternative program.” Guidance Memo, p. 3.

Houston air quality has improved dramatically in the last 20 years. Most notably, however, the TCEQ’s monitoring data show that in the Houston-Galveston-Brazoria (HGB) nonattainment area, the monitors demonstrate attainment with the 1997 8-hour ozone standard on average over the past three years (2007-2009).¹ TCEQ has the data to demonstrate that these remarkable improvements in air quality in the HGB nonattainment area are due to permanent and

¹ TCEQ website; http://www.tceq.state.tx.us/cgi-bin/compliance/monops/8hr_attainment.pl; Jan. 7, 2010.

enforceable reductions in emissions resulting from the Texas SIP and applicable air pollutant control regulations. *See* CAA § 107(d)(3)(E)(iii).

Permanent and enforceable reductions in volatile organic compounds (VOCs) and nitrogen oxide (NO_x) emissions in the HGB area have occurred between 2002 and 2008, regardless of changes in economic activity or meteorology. Given that the state has a solid case for HGB's attainment with the 1997 8-hour ozone standard, TCEQ should move quickly to submit the Termination Determination Request to EPA for determination that, according to its own guidance, the state is no longer obligated to submit a Section 185 fee program to satisfy the anti-backsliding requirements associated with the transition from the 1-hour standard to the 1997 8-hour standard.

TCC appreciates your consideration of these comments on the Termination Determination Request. If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike McMullen", with a long horizontal flourish extending to the right.

Mike McMullen
Director of Regulatory Affairs
Texas Chemical Council