

THE CITY OF



TEXAS CITY

MATTHEW T. DOYLE
Mayor

OFFICE OF THE MAYOR

January 19, 2010

Mr. Devon Ryan
MC205
Office of Legal Services
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

RE: Rule Project Number 2009-009-101-EN – Proposed Section 185 Failure to Attain Fee Rule

Dear Mr. Ryan:

I am writing as the Mayor, a citizen, and a small business owner in Texas City regarding the Texas Commission on Environmental Quality's Proposed Section 185 Failure to Attain Fee Rule (Rule Project Number 2009-009-101-EN). I request the TCEQ to not implement the fees associated with this rule if the provisions of this rule allow this flexibility.

It deeply concerns me what the outcome of the enforcement of Section 185 Failure to Attain Fee could mean to my community. I have been lucky enough to live in Texas City all of my life (which constitutes almost 52 years), and I can assure you that the air quality in my community has drastically improved over those 52 years.

I certainly support improved air quality and incentives, but I do not believe an incentive in the form of a penalty fee on a moving target is fair to industry or the community that supports that industry and its citizens. It is my understanding that the Rule is aimed at implementing Section 185 of the Federal Clean Air Act by imposing penalty fees for failing to attain the one-hour National Ambient Air Quality Standard for ozone – in layman's terms, I believe it is 75 parts per billion of NOX and VOC's that our community is being asked to attain. I may be incorrect in those exact numbers. It is estimated that it could be up to \$124 million in costs in the first year alone, which could mean several million dollars for plants in the City of Texas City.

As a small business owner in the heavily-regulated financial business of banking, I can appreciate having to meet targets and comply, but it appears to me, after reading this rule, that the target is always moving. Fees of that size will have a great effect on the working men and women of the city of Texas City and will have a long-term effect on creating jobs and the viability of industry in our community. I would hope the Commission would incorporate the maximum flexibility while staying consistent with the Clean Air Act and the U.S. Environmental Protection Agency guidance.

"QPS - Quality Public Service"

It also appears that you are making this fee retroactive, starting with 2008, which is only a year after the 2007 attainment date for the revoked one-hour standard, not giving industry any time to make those changes. The proposed Rule allows availability of a multi-year baseline period. I would hope that the city of Texas City's industrial base would be accorded the flexibility used in national business cycle, as provided in the EPA's rules and guidance, which I believe would be to use the highest two consecutive years out of the preceding ten years. I think you would find that our community has made great advances in our parts-per-billion count towards our air quality.

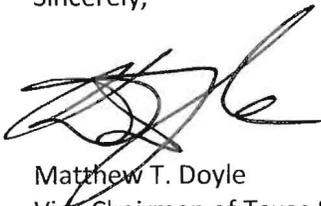
It worries me that, if you and I were standing in some of our National Parks on a hot summer day, we would approach 50 parts per billion in what we would argue to be some of the most pristine places in this great Country. If it is the EPA's and the TCEQ's objective to move our industrial base out of this Country, I wish you would please give me the heads-up, not only as the Mayor, but as a small business owner in this community, because it will have a devastating effect on the people of Texas City, the Gulf Coast of Texas, the State of Texas, and the entire United States.

I will assure you that I would love to work together with industry and the TCEQ to provide a flexible solution to the Section 185 Failure to Attain Fee Rule, if needed, that would meet everyone's goal of improving air quality in our communities. I think it is imperative that we work together to improve the environment of our communities, and I applaud the TCEQ for their efforts, but it cannot be put on the back of just one industry. It is all our responsibility.

I find it interesting to learn that one of the most polluted areas in our region is the intersection where Highway 59 South and Loop 610 West meet in Houston. Quite frankly, Mr. Ryan, it is you, I, and other traffic that are polluting that area with our automobiles, our consumption of products, and everything that moves through that corridor. I also find it ironic that these fees are to be levied on the petrochemical plants while traffic continues to be a very significant contributor without provisions for such fees. This just doesn't seem right.

So, again, I ask that we work together to solve our air-quality problems and hope that it does not fall just on the backs of the industrial communities along the Gulf Coast who continue to make significant progress. Thank you for listening, and I hope to hear from you. I would like to have your input on some of the information that I have quoted in this letter, because I may have not gotten all the facts straight. So, I will await your call or response. I can be reached at (409) 643-5901.

Sincerely,



Matthew T. Doyle
Vice Chairman of Texas First Bank and
Mayor of the City of Texas City

