

August 1, 2008

Mr. Richard Hyde
Director, Air Permits Division
Texas Commission on Environmental Quality

Delivered electronically: rhyde@tceq.state.tx.us

Dear Mr. Hyde,

The American Composites Manufacturers Association and its members in Texas very much appreciate the agency's proposed clarification of the state's permitting policy for composites manufacturing operations ("Draft Styrene Project," June 18, 2008).

As we explained in our meeting with you in Austin on April 8, TCEQ's current formal policy appears to prohibit construction or modification of composite manufacturing operations, primarily because of the infeasible odor-based ESL for styrene. While we understand and appreciate that many permits have been granted upon review by agency management, this practice has not been widely understood, either by industry or, from our view, among TCEQ staff.

We have carefully reviewed the June 18 draft, and with the exception of the concerns discussed below, this appears to be a very helpful clarification of the state's policy, and we expect that the terms would be largely acceptable to many composites business owners. It would be helpful if the agency posted the final styrene project document on your website, and distributed it internally to all staff involved in permitting composites plants.

Our concerns and suggestions follow.

1. Classification of receptors

We are not sure what the definitions are for "industrial" and "nonindustrial" receptors, or how these terms relate to the types of receptors in the MERA policy. Also, if the classification of a receptor as industrial or nonindustrial is a matter of local zoning, what happens in non-incorporated areas of the state with no zoning regulations?

2. Necessity of special conditions

The draft document lists a number of special conditions that at "a minimum ... shall..." be included in permits. To provide some flexibility for your staff and permit applicants in preparing permits that are appropriate for specific operations and locations, we suggest that this language be changed so that the policy allows, but does not require, the agency to include these conditions.

3. Special permit condition on remedial action following odor complaint

We are concerned that the special condition shown in section (2)B of the draft may place too much arbitrary power in the hands of agency staff. A business owner with this condition in his permit will be subject to requirements for immediate remedial action, including possibly stopping operations, any time odors are detected, no matter how slight or temporary the odors are, or how uncertain it is that his operations are actually the source of the odor.

It is unlikely that many business owners would accept a permit with this condition, and we are not aware of any other state that subjects composite plants to a possible production shutdown or other requirements without due process. Also, we do not believe that a requirement to "eliminate" odors would be realistically achievable in most cases. We

are concerned that this approach lessens the value of the permit, to both sources and TCEQ, since it would mean that the permit could no longer be relied on to fully specify the conditions under which the facility may operate.

We would like to suggest the following changes to the draft text for section (2)B:

B. Complaints from affected persons of odors from the facility that are ~~detected~~ confirmed by personnel from the TCEQ or any air pollution control agency with jurisdiction, regardless of whether or not the odors are judged to be of sufficient concentration and duration as to constitute a nuisance as determined by FIDO, shall be the basis for requiring the permit holder to appear before the TCEQ Regional Director within 10 business days, at which time the agency may require prompt remedial action to eliminate ~~reduce~~ such odors, based on a review of information provided by the permit holder regarding the effectiveness and feasibility of controls not already in actual use at the facility. ~~, regardless of whether or not the odors are judged to be of sufficient concentration and duration as to constitute a nuisance as determined by FIDO.~~

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Thank you for considering our comments on the June 18 draft.

Sincerely,



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