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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

March 30, 2011

MR CARL E EDLUND PE
DIRECTOR MULTIMEDIA PLANNING AND PERMITTING DIVISION
US ENVIRONMENTAL PROTECTION AGENCY REGION 6
1445 ROSS AVE STE 1200
DALLAS TX 75202-5766

Re: Executive Director's Response to EPA Objection
Renewal
Permit Number: O2151
Chevron Phillips Chemical Company, LP
Chevron Phillips Chemical Sweeny Complex
Old Ocean, Brazoria County
Regulated Entity Number: RN100825249
Customer Reference Number: CN600303614

Dear Mr. Edlund:

On January 20, 2011, the U.S. Environmental Protection Agency (EPA) Region 6 Office signed a letter identifying objections to the issuance of the proposed federal operating permit for the above referenced site. In accordance with Title 30 Texas Administrative Code § 122.350 (30 TAC § 122.350), the Texas Commission on Environmental Quality (TCEQ) may not issue the permit until the objections are resolved.

The TCEQ has completed the technical review of your objections and offers the enclosed responses to facilitate resolution of the objections. In addition, the attached responses to the objections describe the changes, if applicable, that have been made to the revised proposed permit and supporting statement of basis (SOB). The revised proposed permit and SOB are attached for your review.

Mr. Carl E Edlund PE
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Consistent with 30 TAC §122.350, please provide an indication of your acceptance or assessment of the responses and resolutions to the objections as soon as possible. After receipt of your acceptance to the responses and resolutions to the objections, TCEQ will issue the proposed permit. Thank you for your cooperation in this matter. Please contact Ms. Angie Eastman at (512) 239-5945 if you have any questions concerning this matter.

Sincerely,



Steve Hagle, P.E., Director
Air Permits Division
Office of Permitting and Registration
Texas Commission on Environmental Quality

SH/AE/

cc: Mr. Murali Ramamoorthy, Environmental Engineer, Chevron Phillips Chemical Company, LP, Sweeny
Mr. Wayne McDowell, Plant Manager, Chevron Phillips Chemical Company, LP, Sweeny
Director, Environmental Health, Brazoria County Health Department, Angleton
Air Section Manager, Region 12 - Houston

Enclosures: TCEQ Executive Director's Response to EPA Objection
Proposed Permit
Statement of Basis

Project Number: 13801

EXECUTIVE DIRECTOR'S RESPONSE TO EPA OBJECTION

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The Texas Commission on Environmental Quality (TCEQ) Executive Director (ED) provides this Response to EPA's Objection to the renewal of the Federal Operating Permit (FOP) for Chevron Phillips Chemical Company, LP, Chevron Phillips Chemical Sweeny Complex, Permit No. O2151, Brazoria County, Texas.

BACKGROUND

Procedural Background

The Texas Operating Permit Program requires that owners and operators of sites subject to 30 Tex. Admin. Code (TAC) Chapter 122 obtain a FOP that contains all applicable requirements to facilitate compliance and improve enforcement. The FOP does not authorize construction or modifications to facilities, and it does not authorize emission increases. To construct or modify a facility, the responsible party must have the appropriate new source review authorization. If the site is subject to 30 TAC Chapter 122, the owner or operator must submit a timely FOP application for the site and ultimately must obtain the FOP to operate. Chevron Phillips Chemical Company, LP applied to the TCEQ for a renewal of the FOP for the Chevron Phillips Chemical Sweeny Complex located in Old Ocean, Brazoria County on May 29, 2009, and notice was published on December 3, 2010 in *The Facts*. The public comment period ended on January 2, 2011. During the concurrent EPA review period, TCEQ received an objection to the permit from EPA on January 20, 2011.

In accordance with state and federal rules, the permit renewal may not be issued until TCEQ resolves EPA's objections.

Description of Site

Chevron Phillips Chemical Company, LP owns and operates the Chevron Phillips Chemical Sweeny Complex, Olefins and NGL Assets located at Highway 35 at FM 524 in Old Ocean, Brazoria County, Texas 77463. The facility fractionates natural gas to produce a variety of products including ethylene, propylene, acetylene, raw gasoline, fuel oil and other derivatives. This permit contains the requirements for all of the production unit sources located at this plant.

The following responses follow the references used in EPA's objection letter.

EPA OBJECTION 1: Objection to the Incorporation of Flexible Permit into the Title V permit. The *New Source Review (NS) Authorization References* table in the draft Title V permit incorporates by reference Flexible Permit no. 22690, renewed on March 8, 2006. Flexible permits are issued pursuant to 30 TAC Chapter 116, Subchapter G; however, those provisions were disapproved by EPA on June 30, 2010, pursuant to Section 110 of the federal Clean Air Act

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(CAA), 42 U.S.C. § 7410, See 75 Fed. Reg. 41312 (July 15, 2010), and are not part of the applicable implementation plan for the State of Texas (Texas SIP). Therefore, pursuant to 40 CFR § 70.8(c)(1), EPA must object to the issuance of this Title V permit because the terms and conditions of the incorporated flexible permit cannot be determined to be in compliance with the applicable requirements of the Texas SIP. The failure to have submitted information necessary to make this determination constitutes an additional basis for this objection, pursuant to 40 CFR § 70.8(c)(3)(ii). To resolve this objection, additional information must be provided by the applicant showing how the emissions authorized by the flexible permit meet the air permitting requirements of the federally-approved provisions of the Texas SIP. Also, the terms and conditions of flexible permits based upon the requirements of 30 TAC Chapter 116, Subchapter G must be identified as State-only terms and conditions, pursuant to 40 CFR § 70.6(b)(2).

TCEQ RESPONSE 1: As a preliminary matter, the ED believes that resolution of EPA concerns regarding flexible permits is a common objective for both TCEQ and the EPA. The concerns discussed below regarding the use of the Title V permitting process to challenge independent flexible permits on a case-by-case basis does not diminish the importance of reaching an expeditious resolution to the NSR flexible permit issue. The ED recognizes the flexible permit rules, located in 30 TAC Chapter 116, Subchapter G, and submitted to EPA in 1994, have been disapproved by EPA effective August 16, 2010. However, the Texas federal operating permit (FOP) program is EPA-approved. TCEQ reviews applications and issues FOPs according to EPA-approved program rules found in 30 Texas Administrative Code (TAC), Chapter 122. The Texas Operating Permit Program was granted full approval on December 6, 2001 (66 FR 63318), and subsequent rule changes were approved on March 30, 2005 (70 FR 161634). The application procedures, found in 30 TAC § 122.132(a) require an applicant to provide any information required by the ED to determine applicability of, or to codify any “applicable requirement.” In order for the ED to issue an FOP, the permit must contain all applicable requirements for each emission unit (30 TAC § 122.142). “Applicable requirement” is specifically defined in 30 TAC § 122.10(2)(h) to include all requirements of 30 TAC Chapter 116 and any term and condition of any preconstruction permit. As a Chapter 116 preconstruction authorization, flexible permits are applicable requirements, and shall be included in applications and Texas issued FOPs, in compliance with Texas’s approved program. According to the EPA review procedures of Chapter 122, EPA may only object to issuance of any proposed permit which is not in compliance with the applicable requirements or requirements of this chapter. Therefore, this objection is not valid under the program EPA has approved in Texas because the applicant provided information as to the applicable Chapter 116 requirements, including flexible permits, and the ED has included these requirements in the draft FOP. EPA objections to individual permits issued under an EPA approved operating permit program are not appropriate for concerns that relate to programmatic elements.

The ED disagrees with the allegation that the failure of the applicant to have submitted information necessary to make a determination of whether they were in compliance with the SIP constitutes an additional basis for this objection, pursuant to 40 CFR § 70.8(c)(3)(ii). Section 70.8(c)(3)(ii) is premised on the *permitting authority* not “submitting any information

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necessary [for EPA] to review adequately the proposed permit." The ED has provided all information requested by EPA, when asked, including NSR permits and other supporting information. The flexible permit applications, technical reviews, and flexible permits clearly do not allow sources to utilize the flexible permit authorization mechanism to circumvent major NSR permitting requirements. Specifically, 30 TAC Chapter 116 requires that all new major sources or major modifications be authorized through nonattainment or PSD permitting under Subchapter B, Divisions 5 and 6.

The ED also disagrees that additional information must be provided by the applicant showing how the emissions authorized by the flexible permit meet the air permitting requirements of the federally-approved provisions of the Texas SIP. The flexible permit application, technical review, and flexible permit documentation demonstrates that the emissions authorized by the flexible permits meet the air permitting requirements of the federally approved provisions of the SIP regarding requirements for impacts review, emission measurement, BACT, NSPS, NESHAP, MACT, performance demonstration, modeling or ambient monitoring if required, MECT applicability, and nonattainment or PSD permitting if applicable. Texas submitted the initial flexible permit rule for EPA review and action in 1994. EPA's delay in acting on the flexible permit rules, the approval of the state's federal operating permit program and confusion regarding whether the approved federal operating permit program provided federal enforceability for flexible permits, resulted in a very long period of detrimental reliance on this permit mechanism by regulated entities and TCEQ.

Notwithstanding the disapproval of the flexible permit rules in 30 TAC Chapter 116, Subchapter G, the flexible permit review requirements are parallel to the SIP-approved 30 TAC Chapter 116, Subchapter B permit review and no substantive differences in significant permit elements exist. Indeed, the technical review of the flexible permit No. 22690 application provides information regarding how Subchapter B requirements in § 116.111 are met, including: compliance with the SIP approved Subchapter B rules and review requirements, unit-specific limits based on BACT review at the time of the permit issuance, demonstrations that each emission unit and the facility covered by NSR Permit No. 22690 meets all applicable NSPS, NESHAP requirements, and air dispersion modeling conducted by applicant. The technical review is enclosed with this response. Chevron Phillips may separately submit to EPA additional information showing compliance with the Subchapter B requirements.

However, the ED recognizes that some companies are in negotiations with EPA to include a special term and condition in the draft FOP requiring that they submit an application to reissue a permit, through the SIP-approved amendment, alteration, or renewal process, with a deadline for application submittal, and specific information to EPA and TCEQ for review prior to public notice. If Chevron Phillips agrees to such a process, the TCEQ will work with Chevron Phillips to change the draft permit appropriately.

Finally, the flexible permit terms and conditions are not appropriate to be identified as state-only in the FOP. The EPA approved definition of a "state-only requirement" in 30 TAC § 122.10(28) is "any requirement governing the emission of air pollutants from stationary sources that may be

codified in the permit at the discretion of the ED. State-only requirements shall not include any requirement required under the Federal Clean Air Act or under any applicable requirement.” Therefore, the EPA approved program provides the ED with discretion to determine which requirements must be identified as “state-only” and explicitly prohibits anything defined as an “applicable requirement” from being “state-only.” Since flexible permits issued in 30 TAC Chapter 116 are “applicable requirements,” they may not be included as “state-only” requirements. Instead, they are applicable requirements which are subject to public notice, affected state review, notice and comment hearings, EPA review, public petition, recordkeeping requirements, compliance demonstration and certification requirements, and appropriate periodic or compliance assurance monitoring requirements. “State-only” requirements are specifically not required to meet requirements that are specific to 40 CFR Part 70. See 122.143(18). As stated previously, the flexible permit terms and conditions comply with SIP approved permit rules and assure compliance with future applicable NSR requirements. Again, with regard to flexible permits, the TCEQ will continue its dialogue with EPA to achieve the mutual goal of NSR permits issued under SIP approved rules.

EPA OBJECTION 2: Objection to the incorporation by reference of PSD Permit. The *New Source Review (NS) Authorization References* table in the draft Title V permit incorporates PSDTX751M1 by reference. EPA has discussed the issue of incorporation by reference in *White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program* (March 5, 1996) (White Paper 2). As EPA explained in White Paper 2, incorporation by reference may be useful in many instances, though it is important to exercise care to balance the use of incorporation by reference with the obligation to issue permits that are clear and meaningful to all affected parties, including those who must comply with or enforce their conditions. *Id.* at 34-38. See also *In the Matter of Tesoro Refining and Marketing*, Petition No. IX-2004-6 at 8 (March 15, 2005) (Tesoro Order). As EPA noted in the Tesoro Order, EPA’s expectations for what requirements may be referenced and for the necessary level of detail are guided by Sections 504(a) and (c) of the CAA and corresponding provisions at 40 CFR § 70.6(a)(1) and (3). *Id.* Generally, EPA expects that Title V permits will explicitly state all emission limitations and operational requirements for all applicable emission units at a facility. *Id.*

EPA did not approve (and does not approve of) TCEQ’s use of incorporation by reference of emissions limitations for other requirements. See *In the Matter of Premcor Refining Group, Inc.*, Petition No. VI-2007-01 at 11. Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit because it incorporates by reference the major New Source Review permit PSDTX751M1 and fails to include emission limitations and standards as necessary to assure compliance with all applicable requirements. See 40 CFR § 70.6(a)(1).

We note that TCEQ’s use of incorporation by reference for emissions limitations from minor NSR permits and Permits by Rule was approved by EPA. See 66 Fed Reg. 63318, 63324 (Dec. 6, 2001); see also, *Public Citizen v. EPA*, 343 F.3d 449 at 460-61 (5th Cir. 2003) (upholding EPA’s approval of TCEQ’s use of incorporation by reference for emissions limitations from minor NSR permits and Permits by Rule). Please note that *In the Matter of Premcor Refining*

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Group, Inc., Petition No. VI-2007-02 at 6, fn 3 (May 28, 2009) and *In Matter of CITGO Refining and Chemicals Co.*, Petition No. VI-2007-01 at 11-12, fn 5 (May 28, 2009) EPA stated that the Agency will be evaluating the use of incorporation by reference for emission limitations in minor NSR permits and Permits by Rule to determine how well this practice is working. In approving Texas' limited use of incorporation by reference of emissions limitations from minor NSR permits and Permits by Rule, EPA balanced the streamlining benefit of incorporation by reference against the value of a more detailed Title V permit and found Texas' approach for minor NSR permits and Permits by Rule acceptable. See *Public Citizen*, 343 F.3d at 460-61. EPA's decision approving this use of IBR in Texas' program was limited to, and specific to, minor NSR permits and Permits by Rule in Texas. EPA noted the unique challenge Texas faced in integrating requirements from these permits into Title B permits. See 66 Fed. Reg. at 63,326; 60 Fed. Reg. at 30,039; 59 Fed. Reg. 44572, 44574.

All applicable requirements (including BACT limits, NSPS limits, MACT limits, SIP-required control limits, appropriate application representations, and the applicable monitoring, recordkeeping, and reporting (MRR) requirements) must be included in the Applicable Requirements Summary Table.

However, ensuring the references are clear and unambiguous to the applicable emission units in the draft renewal permit has not been accomplished. The Appendix B to the Title V permit on pages 172-221 provides information in the PSD/NSR authorizations for the emission units. However, when there are several applicable requirements to such authorizations, with a crosswalk, the review of the permit becomes a tedious maze and not practically enforceable. Not only is it a time consuming process for the public to complete review of the FOP in 30 days, but the ambiguity in obtaining and identifying the applicable requirements to the emission unit does not meet the approved program requirements of 40 CFR Part 70. There are options to address this issue. For example, a narrative-type permit organized by emission points that provides the emission limitations for each emission point with their assigned monitoring, recordkeeping, and reporting would be adequate. Or, provide a crosswalk table for each emission point identified in the Title V permit NSR/PSD authorization table linked to the specific conditions and emission limits with monitoring, recordkeeping, and reporting requirements is required. In the Title V permit issued by TCEQ for Southwestern Public Service Company, Harrington Station Power Plant, (Permit No. O15), the permit featured a crosswalk table that EPA found to be adequate. A similar table incorporated into this Title V permit would resolve the objection.

TCEQ RESPONSE 2: In response to EPA's objection, the ED has revised FOP No. O2151 to include, in Appendix B of the permit, a "crosswalk" table for NSR Permit No. 22690 and PSDTX751M1. This table was developed by Chevron Phillips Chemical Company. With regard to IBR of major NSR, the ED respectfully disagrees with EPA's interpretation of its approval of Texas's operating permit program on this issue. The ED recognizes that respective agency staff are actively involved in continuing, extensive discussions on how to resolve this issue; namely, how much detail of the underlying major NSR authorization should be reiterated in the face of the Title V permit. The federally approved operating permit program for Texas has allowed for applicable requirements to be incorporated by reference into the FOP since 1996. See Final

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Interim Approval, 61 Fed. Reg. 32693, June 25, 1996; Final Full Approval, 66 Fed. Reg. 63318, December 6, 2001; and Final Approval of Resolution of Deficiency, 70 Fed. Reg. 16134, March 30, 2005. Title 30 TAC §122.142 states that the operating permit shall contain the specific regulatory citations in each applicable requirement identifying the emission limitations and standards. Additionally, EPA discussed the use of incorporation by reference in the preamble to the final Part 70 rule, discussing the requirements of § 70.6, Permit Content, stating:

Section 70.6(a)(1)(i) requires that the permit reference the authority for each term and condition of the permit. Including in the permit legal citations to provisions of the Act is critical in defining the scope of the permit shield, since the permit shield, if granted, extends to the provisions of the Act included in the permit. Including the legal citations in the permit will also ensure that the permittee, the permitting authority, EPA, and the public all have a common understanding of the applicable requirements included in the permit. *This requirement is satisfied by citation to the State regulations or statutes which make up the SIP or implement a delegated program. See 57 Fed. Reg. 32250, 32275 July 21, 1992, emphasis added.*

In comments on the proposed final interim approval of the operating permit program, in 1995, the commission (then-TNRCC) proposed to include a standardized permit provision that incorporated by reference all preconstruction authorizations, both major and minor, to resolve the EPA identified deficiency of Texas' failure to include minor NSR as an applicable requirement. In the June 25, 1996 Final Interim Approval, EPA directed, "the State must be quite clear in any standardized permit provision that all of its *major 'preconstruction authorizations* including permits, standard permits, flexible permit, special permits, or special exemptions' are incorporated by reference into the operating permit *as if fully set forth therein* and therefore enforceable under regulation XII (the Texas Operating Permit Regulation) as well as regulation VI (the Texas preconstruction permit regulation)." (61 Fed. Reg. at 32695, emphasis added.) Given this explicit direction in EPA's 1996 final interim approval of the Texas program, TCEQ understood that the standardized permit provision for preconstruction authorizations incorporated all NSR authorizations by reference, including major NSR.

As a result of Texas' initial exclusion of minor NSR as an applicable requirement of the Texas Operating Permit program, and EPA's final interim approval of a program that provided for a phase-in of minor NSR requirements using incorporation by reference, EPA was sued by various environmental groups. *See Public Citizen, Inc. v. U.S. E.P.A.*, 343 F.3d 449 (5th Cir. 2003). The petitioner's brief raised several issues, including the use of incorporation by reference of minor NSR, because the exclusion of minor NSR as an applicable requirement was a program deficiency identified by EPA. The petitioner's brief acknowledges that Texas' Operating Permit program incorporates all preconstruction authorizations by reference, through use of a table entitled "Preconstruction Authorization References." The Petitioner's brief includes an example of this table, which clearly contains sections for Prevention of Significant Deterioration (PSD),

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nonattainment (NA), 30 TAC Chapter 116 Permits, Special Permits and Other Authorizations, and Permits by Rule under 30 TAC Chapter 106. See Brief of Petitioners, p. 30. The brief goes on to discuss the sample permit, Permit No. O-00108, which documents "six different minor NSR authorizations and one PSD permit" requiring one to look at each of the underlying permits in addition to the Title V permit. The Department of Justice (DOJ), in its reply brief for EPA, responded to this allegation of improper use of IBR in the context of the specific allegation - whether "EPA reasonably determined that Texas corrected the interim deficiency related to minor new source review", answering unequivocally "yes". "Nothing in the statute or regulations prohibits incorporation of applicable requirements by reference. The Title V and Part 70 provisions addressing the content of Title V permits specify what Title V permits 'shall include,' but do not speak to how the enumerated items must be included." See, Brief of Respondents, pp. 25-26. The Court did not distinguish between minor and major NSR when concluding that IBR is permissible under both the CAA and Part 70.

Thus, it is the ED's position that incorporation by reference of both major and minor NSR permits is acceptable and was fully approved by EPA. However, given EPA's differing opinion, as reflected in the Premcor and CITGO orders, this objection, and the June 10, 2010 letter from EPA Region VI regarding this issue, the ED has revised FOP No. O2151 to include, in Appendix B of the permit, a "crosswalk" table of NSR Permit No22690 and PSDTX751M1, which was initially suggested by EPA as adequate to resolve this objection. Inclusion of the major NSR permits and the "crosswalk" table as an appendix should address EPA's objection and ensure that the Title V permit is clear and meaningful to all affected parties. The ED will continue efforts with EPA on how to resolve IBR of major NSR on a broader, programmatic basis.

EPA OBJECTION 3: Objection for Failure to Include all Applicable Requirements. The draft Title V permit does not meet the requirements of 40 CFR § 70.6(a)(1), since it fails to include "emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance." Permits by Rule (PBRs) are included in the definition of "applicable requirement," found at 30 TAC § 122.10(2) of the federally-approved Texas Title V program. The draft Title V permit lists the following PBRs as applicable requirements: 106.261, 106.262, 106.355, 106.488, and 106.512. However, as described below the draft Title V permit fails to clearly identify all applicable requirements for emission unit covered by the permit.

The *New Source Review Authorization References* table lists PBR 106.261, 106.262, and 106.355, but the *New Source Review Authorization Reference by Emissions Unit* table does not list any emission unit subject to those PBRs.

In addition, emission unit 22-7-1 is not listed in the *Unit Summary* table, *Applicable Requirements Summary* table, or *New Source Review Authorization References by Emissions Unit*. This emission unit is referred to in PSDTX751Ma and Flexible Permit 22690.

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Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit since it is not in compliance with the requirements of 40 CFR § 70.6(a)(1). To resolve this objection, TCEQ must revise the draft Title V permit to identify each emission unit covered by the Title V permit and reference the specific emission limitations, applicable monitoring and testing, recordkeeping, and reporting requirements for each such unit, including the relevant and appropriate PBRs associated with each emission unit.

TCEQ RESPONSE 3: The ED reminds EPA of its frequent and clear statements that Texas's incorporation by reference of minor NSR is acceptable and meets both Part 70 and more importantly Texas' EPA-approved implementing rules. This Objection is in conflict with the Administrator's statements regarding acceptance of minor NSR IBR in the Orders regarding *Premcor* and *Citgo*. Based on EPA's still-current position and guidance as further explained below, this objection is without merit on this issue.

Texas' general PBR rules are approved as part of the SIP. In addition, Chapter 106, Subchapter A is a defined applicable requirement under Chapter 122 and the EPA-approved Texas operating permit program.¹ Subchapter A includes applicability, requirements for permitting by rule, registration of emissions, recordkeeping and references to standard exemptions and exemptions from permitting. Additionally, PBR authorizations can apply to distinct, insignificant sources of emissions (i.e. engine, production process, etc.) at a Title V site. The New Source Review (NSR) Authorization References table in the draft Title V permit incorporates the requirements of NSR Permits, including Permits by Rule (PBR), by reference. All "emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance" are specified in the PBR incorporated by reference or cited in the draft Title V permit. When the emission limitation or standard is not specified in the referenced PBR, then the emissions authorized under permit by rule from the facility are specified in §106.4(a)(1). Additional requirements for PBRs are found in the Special Terms and Conditions under New Source Review Authorization Requirements. In the Chevron Phillips Chemical Company draft Title V permit, these requirements are found in Special Terms and Conditions 17 and 18, relating to PBRs. The ED does not agree that the emission limitations and standards for PBRs should be listed on the face of the Title V permit, as the EPA has supported the practice of incorporation by reference for the purpose of streamlining the content of the Part 70 permit. See *White Paper for Streamlined Development of Part 70 Permit Applications*, July 10, 1995 and *White Paper 2 for Improved Implementation of the Part 70 Operating Permits Program*.

The EPA has also supported the practice of not listing insignificant emission units for which "generic" requirements apply. See *White Paper 2 for Improved Implementation of the Part 70 Operating Permits Program*. The New Source Review Authorization (NSR) References table identifies preconstruction authorizations at the site that are required to be listed in the draft

¹ Texas Health & Safety Code (THSC) § 382.05196 and implementing rules in 30 TAC chapter 106, relating to PBRs, prohibit an owner or operator of a facility from using a PBR to authorize a major stationary source or major modification. This does not preclude the use of a PBR for non-major changes at a major stationary source, as that term is defined in federal law.

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permit. The NSR Authorizations are applicable requirements and incorporated by reference. Those NSR Authorizations that are identified in the NSR Authorization References table and not found in NSR Authorization References by Emission Unit table (PBRs 106.264, 106.478, 106.512) are the only applicable requirement for an emission unit and the NSR Authorization and is applied identically to all subject emission units.

Permits by Rule 106.512 is listed in the NSR Authorization Reference table, and, as noted in the objection, have not been registered with the TCEQ. These PBRs only require registration when specific conditions apply as specified in the rule text for each of the PBRs. PBR 106.512 requires registration only when the engine is rated at 240 horsepower or greater.

Chevron Phillips did an extensive review of the NSR database and found that a registration for PBR 106.264 version 09/04/2000 was missing, which has been added to the draft permit. This PBR requires registration only if the PBR authorizes temporary maintenance and more than 180 consecutive days is required to complete the project. PBR 106.355 version date of 11/01/2001 and 106.478 version date of 09/04/2000 were incorrect and removed from the permit. All emission sources authorized by a PBR (106.261, 106.262, 106.512, and 106.488), and standard permit (50960) have been added to the New Source Review Authorization Reference by Emission Unit table in the permit to accurately identify the relevant and appropriate PBRs, registrations, and/or standard exemptions associated with each emission unit.

On December 9, 2009, the TCEQ issued an amendment to PSDTX751M1 and Flexible Permit 22690 in which the emission unit 22-7-1 (which has been decommissioned and demolished) was removed from the permit Maximum Allowable Emission Rate Table (MAERT), however it was left in the SPECIAL CONDITIONS. On February 22, 2011 another amendment was issued in which this unit was removed from the SPECIAL CONDITIONS. The TCEQ has informed the applicant that it needs to submit a revision application to incorporate this amendment into the Title V permit.

Chevron Phillips has re-verified their current PBRs used at the site and the corrections have been made to the permit. All other active PBRs have been incorporated into NSR Permit No. 22690 and will request the database to inactivate those PBRs.