



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

AUG 24 2011.

Mr. Steve Hagle, P.E.
Deputy Director
Office of Air (MC 122)
Texas Commission on
Environmental Quality (TCEQ)
P.O. Box 13087
Austin, TX 78711-3087

Re: Major Air Pollution Sources and 'Incorporation by Reference' (IBR)

Dear Mr. Hagle:

The purpose of this letter is to summarize our understanding of the TCEQ pilot to clarify Title V Operating Permits by removing Incorporation by Reference (IBR) of major air source permit limits. Jeff Robinson has had several discussions with TCEQ managers and staff to develop a way to resolve this issue. Over the past 2 years, the Environmental Protection Agency (EPA) lodged objections to 18 Title V permits because they contained IBR of major source permit provisions. We determined that IBR obscures an understanding of the emission limits that the source is required to meet. Clarification of major source limits could also have the effect of resolving 5 bases for objections that we lodged because they harmed the transparency of permits. These objections were for IBR of a Prevention of Significant Deterioration (PSD) permit, incomplete application, unidentified monitoring requirements, not connecting emission units to applicable requirements, and not including all applicable requirements. Establishing a process for resolving objections to major source IBR could have much larger beneficial impact.

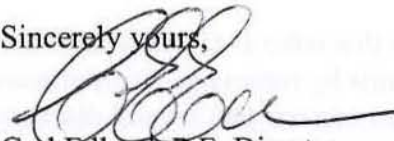
We understand that TCEQ will select 3 to 5 Title V Permits with EPA objections for containing major source IBR by September 2011 to serve as 'test cases' for restructuring to remove IBR. These permits will include individual PSD and Non-attainment New Source Review (NNSR) major source emission limits and also include associated special conditions in the Title V permit. We have discussed options for including monitoring, recordkeeping, and reporting (MRR) in Title V permits, and believe that either direct incorporation and/or a detailed cross-reference table with an appendix of the PSD/NNSR permits could satisfy Title V requirements, as long as either option creates clear identification of MRR for each emission limitation in the Title V permit. We anticipate and stand ready to work with you on any secondary issues which arise as we jointly work through the test cases. We expect that the pilot will be completed by November 2011.

After the completion of the test cases, we understand the TCEQ will develop a broader commitment for transitioning all Title V permits to incorporate PSD/NNSR emission limitations. In order to do this we understand the TCEQ may need to consult with their Title V stakeholder group; however, we expect that the commitment with an implementation schedule would be formalized between our offices before January 2012. We believe this Title V restructuring approach will result in clearer and more meaningful Title V permits.

We also strongly encourage the TCEQ to give serious consideration to including minor NSR emission limits and associated terms and conditions in Title V permits using the same format agreed upon for incorporation of PSD/NNSR terms. This is especially important for cases such as grandfathered major sources (e.g., power plant examples discussed by our staffs) where many of the units' emission control limits are set by minor NSR permitting actions or other Federal requirements. We believe restructuring these permits as well will bring further clarity for our respective staffs and the public.

Our recent discussions have been extremely beneficial. The TCEQ's decision to begin the process of restructuring Title V permits to state PSD emission limitations in the Title V operating permits will help ensure Title V permits meet CAA requirements. We look forward to continuing our work with you and are always open to discussing any suggestions that you believe will assist in this endeavor. Please contact me at (214) 665-7200 or Jeff Robinson of my staff at 214-665-6435 if you have any questions concerning this matter.

Sincerely yours,



Carl Edlund, P.E. Director
Multimedia Planning
and Permitting Division

cc: Stephanie Bergeron-Perdue, TCEQ
Mark Vickery, Executive Director TCEQ