



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 03 2010

Mr. Richard A Hyde, P.E., Deputy Director
Office of Permitting and Registration
Texas Commission on Environmental Quality (MC 122)
P.O. Box 13087
Austin, TX 78711-3087

Re: Objection to Title V Permit No. O1804
Oiltanking Beaumont Partners, L.P., Special Warehousing and Storage
Jefferson County, Texas

Dear Mr. Hyde:

On July 20, 2010, we received the draft minor revision of the Title V permit for Oiltanking Beaumont Partners Special Warehousing and Storage referenced above. As such, EPA's 45-day review period will end on September 6, 2010. We have reviewed this permit minor revision. The minor revision incorporates changes made to flexible permit 21356. In accordance with 40 CFR § 70.8(c), EPA is objecting to the proposed permitting action. Section 505(b)(1) of the federal Clean Air Act (Act) and 40 CFR § 70.8(c) require EPA to object in writing to the issuance of a proposed Title V permit within 45 days of receipt of the draft permit (and all necessary supporting information) if EPA determines that the permit is not in compliance with applicable requirements of the Act or requirements under 40 CFR Part 70. Specific reasons for each objection and a description of the terms and conditions that the permit must include to respond to the objections are enclosed.

Section 505(c) of the Act and 40 CFR § 70.8(c)(4) provide that if the permitting authority fails, within 90 days of the date of the objection, to submit a permit revised to meet the objections, then EPA will issue or deny the permit in accordance with the requirements of 40 CFR Part 71. Because the objection issues must be fully addressed within 90 days, we suggest that the revised permit be submitted with sufficient advance notice so that any outstanding issues may be resolved prior to the expiration of the 90-day period.

One of our objections is the incorporation of a flexible permit into the Title V Permit. As you are aware, we have been objecting to Title V permits that incorporate terms or conditions from the Texas flexible permit program for over 9 months. EPA is willing to discuss potential options with TCEQ and Oiltanking Beaumont Partners about ways to deflex the NSR permit.

Should EPA make a determination that TCEQ is not adequately administering or enforcing its Title V program, additional action requiring TCEQ to correct the deficiencies and/or the application of sanctions may be necessary, as provided for by Section 502(i) of the federal Clean Air Act and EPA's implementing regulations at 40 CFR Part 70.

We are committed to working with the TCEQ to ensure that the final Permit is consistent with the all applicable requirements, including the federally-approved Texas SIP and the Texas Title V air permitting program, and to discuss potential options to avoid future Title V objections. If you have questions or wish to discuss this further, please contact Jeff Robinson, Chief, Air Permits Section at 214-665-6435, or Stephanie Kordzi, Texas Permit Coordinator at (214) 665-7520. Thank you for your cooperation.

Sincerely yours,



Carl E. Edlund, P.E.

Director

Multimedia Planning and Permitting Division

Enclosure

cc: Manager, Environmental Affairs
Oiltanking Beaumont Partners

Mr. Steve Hagle, Director
Air Permits Division
Texas Commission on Environmental Quality (MC-163)

Enclosure

- 1. Objection to the Incorporation of Flexible Permit into the Title V permit.** The *New Source Review (NSR) Authorization References* table in the draft Title V permit incorporates by reference Flexible Permit No. 21356, issued on December 18, 2002. 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 (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).
- 2. Objection to Special Condition 16 for Failing to Meet Compliance Certification Requirements.** Special Condition 16 of the draft Title V permit states that the permit holder shall certify compliance with all terms and conditions. The compliance certification requirements for Title V permits are stated in 40 CFR § 70.6(c)(5) and 30 TAC § 122.146 of the federally-approved Texas Title V program. Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit because Special Condition 16 of the draft Title V permit conflicts with the general terms and conditions reference to 30 TAC § 122.146. To resolve this objection, TCEQ must amend Special Condition 16 to include all the requirements for compliance certifications, as set forth in 30 TAC § 122.146, including the identification of the methods or other means for determining the compliance status with each term and condition of the permit.

EPA requests that TCEQ revise Special Condition 16 to use the following language to resolve our objection on this special condition:

“The permit holder shall certify compliance in accordance with 30 TAC § 122.146. The permit holder shall comply with 30 TAC § 122.146 using at a minimum, but not limited to, the continuous or intermittent compliance method data from monitoring, recordkeeping, reporting, or testing required by the permit and any other credible evidence or information. The certification period may not exceed 12 months and the certification must be submitted within 30 days after the end of the period being certified.”

3. **Objection to Special Condition 3.** Under the Special Terms and Conditions provisions of the draft Title V permit, Condition 3 requires stationary vents with certain flow rates comply with identified provisions of 30 TAC Chapter 111 of the Texas SIP. However, the draft Title V permit does not identify the specific stationary vents that are subject to those requirements. As such, this condition fails to meet the requirement of 40 CFR § 70.6(a)(1), in that the condition lacks the specificity to ensure the compliance with the applicable requirements associated with those unidentified emission units. In addition, the Statement of Basis document for the draft Title V permit does not provide the legal and factual basis for Condition 3, as required by 40 CFR § 70.7(a)(5). Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit since Special Condition 3 is not in compliance with the requirements of 40 CFR § 70.6(a)(1) and 70.7(a)(5). To resolve this objection, TCEQ must revise Special Condition 3 of the draft Title V permit to list (or otherwise specifically identify) the specific stationary vents that are subject to the specified requirements of 30 TAC Chapter 111 and provide an explanation in the Statement of Basis for the legal and factual basis for Condition 3.

4. **Objection to 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: 106.183, 106.261, 106.262, 106.263, 106.478, and 106.511. However, as described below, the draft Title V permit fails to clearly identify all applicable requirements for emission units covered by the permit. For example, in the basis for determination section of the permit shield provisions in the draft Title V permit, emission groups GRPFUG1, GRPFUG2, GRPMRNL2, GRPVFR1, and GRPVFR2 are listed as being affected sources governed by “another 40 CFR Part 63 Subpart.” However, in the *Applicable Requirements Summary* table in the draft Title V permit, there is no indication that any of these emission groups are subject to *any* 40 CFR Part 63 Subpart.

The *New Source Review Authorization References by Emissions Unit* table lists Tanks 100-12, 100-13, 100-15, 100-16, 100-17, 100-18, 100-19, and 100-20 as being subject to only one PBR; however, TCEQ New Source Review Air Permits database shows that these same emission units are authorized under PBRs 106.183, 106.261, and 106.478. Furthermore, the *New Source Review Authorization References* table lists PBR 106.262, 106.263, and 106.511 as applicable authorizations, but the *New Source Review Authorization References by Emissions Unit* table does not list any emissions unit subject to those PBRs.

Additional inconsistencies in the identification of applicable requirements in the draft Title V permit are associated with PBRs 106.261 and 106.263, both of which require registration. The *New Source Review Authorization References* table lists three versions of 106.261; however, all the references to PBR 106.261 in the *New Source Review Authorization References by Emissions Unit* table are to only one version of this PBR – namely, the one dated 11/01/2003 – and emission units that may be covered by earlier versions of PBR 106.261 are not identified.

Finally, no registrations are shown for PBR 106.263 in the TCEQ New Source Review Air Permits database for emission units covered by this draft Title V permit and there are no emission units listed in the *New Source Review Authorization References by Emissions Unit* table as being subject to PBR 106.263.

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..