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Richard- When we discussed EPA's Federal Register proposals for air permitting SIPs (about September 10, I believe) I promised to send you some ideas that we at EPA had for moving forward. We appreciated the opportunity to have a teleconference with you and your staff on September 17, 2009 to discuss questions on our proposed actions; however, we didn't focus on 'path forward' in that call. I think that forward steps need to be part of our October 2, 2009 conference call and a definite a focus of the October 8, 2009 meetings with stakeholders. So, here are some ideas for action by TCEQ that we think could shape our reviews of proposed actions, give some pathways for resolving problems, stem the divergence between EPA and TCEQ rules, and clarify issues for all concerned. Most were mentioned in various forms in our prior discussions of issues before the federal register notices:

1. Issue a letter to Industry from TCEQ that would advise that it would be unwise for new permit applicants to seek Flexible Permits or to become Qualified Facilities because of the long term ramifications should EPA's final action on the proposals be consistent with the proposals. The letter would also remind sources remain subject to the currently approved SIP.
2. Establish a timeline to propose rule-making addressing all of the concerns raised in the federal register notices. We had also discussed emergency rule-making for re-establishing Prevention of Significant Deterioration [CFR 52.21].
3. Publish a strategy to reform existing permits should proposed disapprovals become final (this would address Flexible Permits, Qualified Facilities, PCP Standard Permits, etc).
4. Initiate rule-making [assuming no legislative change is required] to provide for a 30-day public comment period and opportunity for public hearing on the air quality impact of major and minor source draft permits. In addition, provide the opportunity for a public hearing for new or modified sources subject to PSD and ensure the comments received and the Executive Director's Response to these Comments are part of the record provided to the Commissioners. Is there a way to start this voluntarily?
5. Increase the transparency of new and re-issued Texas Title V permits by including requirements of any pre-existing federal permits, identifying permit conditions incorporated by reference from underlying permits and Identifying State only requirements. Copies of all underlying permits should be attached to or included with the draft Title V permit at notice.

6. Issue a schedule for correcting deficiencies identified in two Title V petitions granted by EPA in May, 2009 and incorporate corrections in new and re-issued Title V permits. .

7. Clarify the legal meaning of Texas minor source program terms in comparison to federal definitions. For example, the meaning of "facility" and "account" verses major or minor source, or facility in federal permit regulations. This may also help inform our review of whether Qualified Facilities and Flexible Permits are confined to minor sources.

Of course, if these ideas entail parallel processing of SIP revisions by EPA, we would need to discuss enforceable commitments for specific rule changes and mutually acceptable timetables. Also, we are eager to consider any proposals that TCEQ would want to be considered. Finally, I must say that the short timetable for final action by EPA contained in the EPA-BCCA consent agreement [we must finalize decisions on Public Participation before December, as you know] add a real sense of urgency to defining where we go in the next month.