



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

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

JAN 08 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 Federal Part Operating Permit No. O1227
Goodyear Tire & Rubber Company, Houston Chemical Plant
Harris County, Texas

Dear Mr. Hyde:

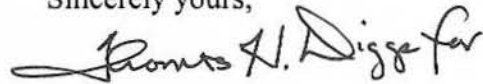
We received the proposed minor revision for the Federal Operating Permit (FOP) for the Goodyear Tire & Rubber Company Houston Chemical Plant in our office on November 24, 2009. The EPA's 45-day review period will end on January 8, 2010. The renewal incorporates Flexible Permit No. 6618 and Pollution Control Project Permit Nos. 77448 and 76554 into the FOP.

In accordance with 40 CFR § 70.8(c), EPA is objecting to the proposed permit 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 proposed 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. We also note concerns related to the adequacy of permitting associated with the incorporation by reference of Permits by Rule (PBR) and Standard Permits (e.g., Pollution Control Project permits) that may not meet the requirements of the federally-approved Texas State Implementation Plan (Texas SIP) have been raised in two citizen petitions filed with EPA, dated August 28, 2009, and January 5, 2009. Should the Title V permit be issued without resolving these concerns and EPA determines these concerns have merit, EPA may reopen the Title V permit for cause, pursuant to 40 CFR § 70.7(f) and (g).

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 FOP program. 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,

A handwritten signature in black ink, appearing to read "Carl E. Edlund".

Carl E. Edlund, P.E.

Director

Multimedia Planning and Permitting Division

Enclosure

cc: Manager, Environmental Affairs
Goodyear Tire & Rubber Company

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. 6618, most recently revised on January 20, 2009. Flexible permits are issued pursuant to 30 TAC Chapter 116, Subchapter G; however, those provisions have not been approved, pursuant to Section 110 of the federal Clean Air Act (CAA), 42 U.S.C. § 7410, as 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 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). In order to respond to 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. Furthermore, the Title V permit must include an additional condition specifically requiring the source to prepare and submit to TCEQ a written analysis of any future change/modification to ensure that minor and/or major new source review requirements under the federally-approved Texas SIP have not been triggered. Finally, 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 Permit 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, there is no identification of 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 Condition 3 is not in compliance with the requirements of 40 CFR § 70.6(a)(1) and 70.7(a)(5). In response to this objection, TCEQ must revise Condition 3 of the draft Title V permit to list 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.
- 3. Objection to the Statement of Basis.** TCEQ prepared a Statement of Basis (SOB) for the draft Title V permit which states that this is a minor revision. The SOB shows 2 items listed under *Description of Revision Project*. In essence, the first statement indicates that emission units F410E and F410F are deleted from the permit, and then the second statement claims to add emission units F410E, F410F, and F430D. Therefore, it is unclear

whether emission units F410E and F410F are covered by the draft permit. We note that emission units F410E and F410F are listed in the Title V permit, but the SOB calls this into question. Pursuant to 40 CFR § 70.7(a)(5), the statement of basis must set forth the legal and factual basis for the draft permit conditions (including reference to the applicable statutory or regulatory provisions). As indicated in previously issued EPA orders in response to petitions to review Title V permits, the SOB serves to highlight elements that EPA and the public would find important to review (*See, e.g., In the Matter of Bristol-Myers Squibb Co, Inc.*, Petition No. II-2002-09, February 18, 2005). Therefore, pursuant to 40 CFR § 70.8(c)(1), EPA must object to the issuance of this Title V permit because the SOB fails to meet the requirements of 40 CFR § 70.7(a)(5). In order to respond to this objection, the SOB must be revised to clarify the discussion of the process units that are covered by the Title V permit, the changes being made to FOP No. O1227 since its last revision or amendment, and the rationale for all monitoring for all the applicable requirements in the flexible permit, standard permits, and PBR authorizations. The SOB should also include a discussion of whether or not the changes trigger the significant modification procedures set forth in 40 CFR § 70.7(e)(4) and the EPA-approved Texas Title V operating permit program requirements.

4. **Objection to Special Condition 1.D. for Failing to Identify Specific Compliance**

Option. The draft Title V permit incorporates by reference 40 CFR Part 63, Subpart ZZZZ – National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The *Applicable Requirements Summary* table shows that Unit ID No. F1-GEN is subject to the emission limitation/standard or equipment specification requirements of Subpart ZZZZ. The table then gives the citation § 63.6590(c). This citation states, in essence, that the affected source must meet the requirements of this part by meeting the requirements of 40 CFR Part 60, Subpart IIII, for compression ignition engines, or 40 CFR Part 60, Subpart JJJJ, for spark ignition engines. It is unknown whether F1-GEN is a spark or compression ignition engine. The table does not list any requirements for this unit for monitoring and testing, recordkeeping, or reporting requirements. Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit because Special Condition 1.D. fails to identify the specific emission limitations and standards, including those operational requirements that assure compliance with 40 CFR Part 63, Subpart ZZZZ, as required by 40 CFR 70.6(a)(1). In response to this objection, the draft Title V permit must reference the specific Subpart provisions from 40 CFR Part 60 Subpart IIII or Subpart JJJJ that emission unit F1-GEN must comply with as specified under 40 CFR Part 63, Subpart ZZZZ.

5. **Objection to Special Condition 15 for Failing to Meet Compliance Certification**

Requirements. Special Condition 15 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). Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit because Special Condition 15 of the draft Title V permit does not meet the regulatory requirements. In response to this objection, TCEQ must amend Special Condition 15 to include the all the requirements for compliance certifications, as set forth in 40 CFR § 70.6(c)(5), including the

identification of the methods or other means for determining the compliance status with each term and condition of the permit.

- 6. Objection to the Permit Shield.** The draft Title V permit includes a “Permit Shield” attachment that covers many “grandfather” facilities, and TCEQ’s statement of basis (SOB) includes statements that a specific facility was constructed before a certain date. EPA has previously objected to negative applicability determinations based on blanket statements on “grandfathered” units claiming that no modifications have occurred that triggered PSD, NSR or a modification subject to NSPS applicability (*See, e.g.*, letter from Kerrigan G. Clough, Assistant Regional Administrator, EPA, Region 8 to the Colorado Department of Public Health and Environment, Re: EPA Review of Proposed Title V Operating Permit for TriGen-Colorado Energy Corporation, dated September 13, 2000 (“TriGen Objection”). Similar blanket statements such as those contained in the draft Title V permit and the accompanying SOB do not meet the permit shield requirements of 40 CFR § 70.6(f). Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit because the permit shield provisions of the draft title V permit are not supported by an adequate determination that meets the requirements of 40 CFR § 70.6(f), as further explained in the TriGen Objection referenced above. In response to this objection, TCEQ must provide an adequate demonstration consistent with the requirements described above or delete the permit shield requirements in the Title V permit.

Additional Concerns:

1. Table *New Source Review Authorization References* - Some of the permits that are incorporated by reference may actually be old or outdated underlying permits. EPA recognizes that underlying permits are revised from time to time. Nonetheless, the most recent revision of the underlying permit (and the issuance date) must be stated in the table when incorporated by reference in the Title V permit so the public may properly comment on the Title V permit. TCEQ must confirm that the version of the underlying permit that is incorporated into the Title V permit is readily available in the public records. *See, In the Matter of Premcor Refining Group, Inc.*, Petition No. VI-2007-02 at 5 (May 28, 2009).
2. Permit Condition 11 – In accordance with 40 CFR § 70.6(a)(1)(i), permit conditions must define and provide regulatory citations referencing proper authority allowing TCEQ to grant special exemptions.
3. The *New Source Review (NSR) Authorization References* table in the draft Title V permit incorporates by reference Permit Nos. 77448 and 76554. Available information indicates that on August 30, 2005, TCEQ issued Permit No. 76554, and on December 13, 2005 TCEQ issued Permit No. 77448, under the provisions of 30 TAC 116.617 this Pollution Control Project (PCP) permit. TCEQ’s creation of a PCP Standard Permit that can be used by sources may not fit within the scope or intent of our original approval of the TCEQ’s standard permit program (see 68 *Fed. Reg.* 64548, November 14, 2003). Specifically Goodyear should provide an analysis of major PSD, Non-attainment New Source Review

(NNSR) applicability, or a minor New Source Review (NSR) case-by-case review for the proposed activities. Furthermore, a Title V permit should include an additional condition specifically requiring the source to prepare and submit to TCEQ a written analysis of any future change/modification to ensure that minor and/or major new source review requirements under the federally-approved Texas SIP have not been triggered.

4. Special Condition 25 of Flexible Permit No. 6618 is a Plantwide Applicability Limit (PAL) provision. Is Permit No. 6618 a Flexible Permit or a PAL? The TCEQ New Source Review database shows that this facility has a PAL. Is this PAL incorporated into the Flexible permit?