

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Staff **Date:** September 1, 2007

Thru: Richard A. Hyde, P.E., Director
Air Permits Division

From: Jesse E. Chacon, P.E., Manager
Operating Permits Section

Subject: Review of Title V Notice and Comment Hearing Requests

Under the requirements of Title 30 Texas Administrative Code (30 TAC) § 122.340 the public has the opportunity to request a Title V notice and comment hearing on a draft permit. A Title V notice and comment hearing is an opportunity for the public to provide oral and written comments on the draft permits and to ask questions of staff and the applicant, similar to a public meeting. Since the executive director issues Title V permits, the executive director grants these requests. Section 122.340 requires the executive director to hold a hearing if a request is reasonable, but provides no “reasonableness” criteria. In an effort to clarify this, the Air Permits Division (APD) has developed criteria and process guidelines to determine when to grant a Title V notice and comment hearing.

The APD will consider the following criteria in determining if a hearing request is reasonable and should be granted under the requirements of 30 TAC § 122.340.

Criteria to Review Reasonableness of Title V Notice and Comment Hearing Request

May include, but not limited to:

- Request must specifically include air issues.
- Basis for request must be provided per public notice instructions.
- Air comments must pertain to the permitted area.
- Comments must relate to issues that can be addressed or changed in a Title V permit (e.g., rule applicability, emissions monitoring, reporting, etc.)
- Request reflects a significant degree of public interest in the draft permit.

Process for a Title V Notice and Comment Hearing Request

- All the above criteria will be evaluated to determine whether a hearing request is reasonable.
- If it is determined that the hearing request is not reasonable based on the criteria, the permit reviewer will meet with section management and the Environmental Law Division to discuss the request.
 - The recommendation will be given to the APD Director for approval.
 - The director will advise executive management on a case-by-case basis.
- If any request is denied, notify the requestor of the denial by mail. The letter will identify the reason for the denial and procedures for appealing to the Environmental Protection Agency through public petition and be signed by the director or above, as appropriate.