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Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 24, 2016

U.S. Environmental Protection Agency
Docket ID No. EPA-HQ-OAR-2015-0090
[Submitted electronically through www.regulations.gov]

Re: Title 40 Code of Federal Regulations (CFR) Parts 51, 52, 55, 70, 71, and 124
Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs;
Proposed Rule

Dear Sir or Madam:

The Texas Commission on Environmental Quality (TCEQ) appreciates the opportunity to respond to the U.S. Environmental Protection Agency's (EPA's) notice published in the December 29, 2015 issue of the *Federal Register* entitled: "Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs." The EPA's proposed rulemaking would remove the mandatory requirement that public notice of draft permits under the New Source Review, Title V, and Outer Continental Shelf permitting programs be published in a newspaper. The proposed rules would instead allow for electronic noticing of these permit actions. The proposed rule changes would apply to major source air permits issued by the EPA, by EPA-delegated air agencies, and by air agencies with EPA-approved programs. The TCEQ provides the following comments on the proposed rule.

The TCEQ supports the concept of allowing a permit applicant or permitting authority the flexibility to publish or post notices relating to air permitting in an electronic format instead of the traditionally-required newspaper notice. Since the time the original public notice requirements for these programs were promulgated, there have been substantial changes in communication technology, the media business, and in how the public chooses to access information and interact with public and private entities. The TCEQ generally agrees with the EPA's analysis that, in many or most cases, widespread public access to the Internet, e-mail, and to other electronic means of communication makes an electronic form of notice a viable and effective method to provide information to the public. The posting of notices and supporting permit information on a website or other publically-accessible portal would allow the public to have convenient, direct access to the relevant materials. In addition, the notice and supporting information could be made available for an extended period of time, potentially drawing wider public attention than a newspaper notice which only appears for a single day. The use of an electronic form of notice may also allow for faster correction of errors and rescheduling

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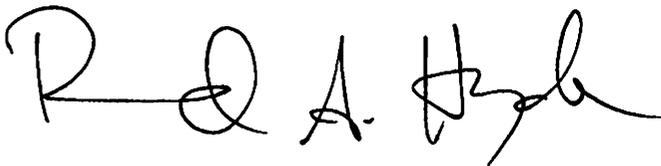
Re: Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs

of events, reducing processing delays. Finally, as noted by the EPA in the proposal preamble, the use of an electronic notice format may tend to be more cost-effective than the traditionally-required newspaper publication. For these reasons, the TCEQ supports the general concept which the EPA is advancing with this rulemaking.

However, it is important to emphasize that while the TCEQ supports the concept of allowing electronic notice as an alternative to the traditional newspaper notice, there may be specific cases where the traditional newspaper approach may still be appropriate or necessary. For example, some permitting authorities may have technical or budgetary constraints that limit their ability to store and transmit large amounts of data and to develop a suitable public interface for accessing the material. In addition, some states and permitting authorities, including the TCEQ, are subject to statutory-based notice processes which require newspaper notification independently of the EPA's regulations. Therefore, the TCEQ urges the EPA to provide sufficient flexibility so that the permitting authority can choose the type of notice that is appropriate for the location and the circumstances of the project to be permitted, and still comply with any applicable statutory requirements for public notice.

If you have any questions concerning these comments, please contact Mr. Michael Wilson, P.E., Director, Air Permits Division, Office of Air, (512) 239-1922, or at mike.wilson@tceq.texas.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Hyde". The signature is written in a cursive, flowing style with a large initial "R" and "H".

Richard A. Hyde, P.E., Executive Director
Texas Commission on Environmental Quality