

# Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** June 10, 2005

**Thru:** LaDonna Castañuela  
Chief Clerk

**From:** Dan Eden, Deputy Director, Office of Permitting, Remediation, and Registration

**Subject:** Consideration of a Petition for Proposed Rulemaking

**Docket No.:** 2005-0955-RUL

**Rule Project No.:** 2005-034-PET-NR

## **Who Submitted the Petitions:**

The petition was submitted on May 10, 2005, by Baker Botts L.L.P., on behalf of the Texas Industry Project.

## **What the Petitioner Requests:**

The petitioner requests that the commission initiate rulemaking to remove new source review application representations as an applicable requirement and as federally enforceable items under the state implementation plan or federal operating permit program.

## **Recommended Action and Justification:**

Initiate rulemaking and seek stakeholder involvement, including EPA, to ensure federal approval. This will allow the executive director to address the issues raised by the petitioner in a manner that can receive approval under the federal operating permit program.

## **Applicable Law:**

Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule and 30 Texas Administrative Code, §20.15, which provides such procedures specific to the commission. Section 382.017 of the Texas Clean Air Act (TCAA) authorizes the commission to adopt rules consistent with the policies and purposes of the TCAA.

## **Affected Public:**

Initiating rulemaking as the petitioner requests has a limited effect. No additional emissions would be authorized by initiating rulemaking. There may be a loss of ability for citizens to bring suit for enforcement under the Title V program for new source review application representations.

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**Affected Agency Programs:**

Initiating rulemaking as the petitioner requests may result in additional time to process federal permits by Air Permits Division staff.

**Agency Contacts:**

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Terry Salem, Staff Attorney, 239-0469  
John Minter, Staff Attorney, 239-0663  
Joyce Spencer, Texas Register Coordinator, 239-5017

Attachment: Petition

cc: 5 copies to the Chief Clerk for distribution  
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