



Integrated
Environmental
Solutions

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October 14, 2005

Mr. Richard Hyde, P.E.
Director, Air Permits Division
c/o Permits Administrative Review Section
Permits Administrative Review Section
Registration, Review, and Reporting Division, MC 161
Texas Commission on Environmental Quality
12100 Park 35 Circle
Building F, First Floor, Room 1206
Austin, Texas 78753

Subject: TCEQ Permit By Rule §106.144
Bulk Material Handling

Dear Mr. Hyde:

Currently Bulk Mineral Product Handling facilities and Bulk Sand Handling facilities are exempt from permitting procedures if they meet the conditions of Permit-by-Rule (PBR) §106.144 or PBR §106.145. One condition of these PBRs requires that a facility "be located at least 300 feet from any recreational area, school, residence, or other structure not occupied or used solely by the owner of the property upon which the facility is located." This 300-foot limitation works well for new facilities, however, for existing facilities that are authorized by these PBRs or a permit, even a small change to the operations is often prohibited from using the applicable PBR to authorize the change.

These two PBRs have been in existence for many years and until around 1987, did not have the 300-foot distance limitation. Therefore, many facilities were built within 300 feet of other structures and many facilities that originally met the limitation, had other structures built within the 300-foot limitation once they were operational. Several facilities that meet the PBR except for the distance limitation, have been permitted. As a result of these events and the distance limitation, even the simplest change to a facility requires that a facility apply for a permit instead of being allowed to use the PBR.

We are requesting that Condition No. 3 of §106.144 and Condition No. 4 of §106.145 be expanded to include the following language or the equivalent:

"This 300 feet distance limitation does not apply to changes made to an existing facility previously authorized by this Permit by Rule or authorized by a permit under §116.110 provided that all other conditions of this PBR are complied with.

The justification would be:

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"The 300 foot distance limitation is necessary for a new grassroots facility to avoid a potential nuisance problem with nearby receptors. However, once a facility is constructed and operated under PBR §106.144, §106.145 or §116.110, a change to an existing facility should be allowed if it meets the conditions and equipment specifications of the PBR. Currently, a facility may construct under a PBR only to have an off-property receptor construct within the 300-foot distance limitation. Therefore, the facility operating under §106.144 or §106.145 cannot make the most minor change such as adding an eighth storage silo without obtaining a permit under §116.110. The impact of a change to an existing facility is insignificant when compared to the impact of construction of a new grassroots facility.

If you have any questions regarding this application, please do not hesitate to contact me at (512) 329-3128.

Sincerely,

RMT, Inc.



Wayne Davison, P.E.
Senior Project Manager

cc: Anne Inman, TCEQ
Central Files

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