



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

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

JAN 15 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 Operating Permit No. O3031
Chevron U.S.A. Inc., Galena Park Terminal
Harris County, Texas

Dear Mr. Hyde:

We received the proposed initial issuance for the Federal Operating Permit (FOP) for the Chevron U.S.A. Galena Park Terminal in our office on December 1, 2009. The EPA's 45-day review period will end on January 15, 2010. The initial issuance incorporates Minor NSR permit No. 33373 into the FOP.

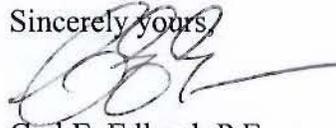
In accordance with 40 CFR § 70.8(c), EPA is objecting to the proposed permit action. Section 505(b)(1) of the federal Clean Air Act (Act) and 40 CFR § 70.8(c) require EPA to object in writing to the issuance of a proposed Title V permit within 45 days of receipt of the proposed permit (and all necessary 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 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 'CE Edlund', with a long horizontal flourish extending to the right.

Carl E. Edlund, P.E.

Director

Multimedia Planning and Permitting Division

Enclosure

cc: Manager, Environmental Affairs
Chevron U.S.A.

Mr. Steve Hagle, Director
Air Permits Division
Texas Commission on Environmental Quality (MC-163)

Enclosure

- 1. 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.
- 2. Objection to General Recordkeeping Provision.** Under the *General Terms and Conditions* provision of the draft Title V permit, reference is made to 30 TAC § 122.144 of the Texas FOP program which requires records be kept for 5 years; however, Special Condition 19 of NSR Permit No. 33373 (revised November 19, 2007) only requires records be kept for two years. This condition is inconsistent with the 5 year recordkeeping requirements of 40 CFR § 70.6(a)(3)(ii)(B) and cannot be carried forward into the Title V permit. Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit since the recordkeeping requirements of NSR Permit No. 33373 are not in compliance with the requirements of 40 CFR § 70.6(a)(3)(ii)(B). In response to this objection, TCEQ must revise the Title V permit to include a condition stating that records of monitoring data and supporting information must be maintained for a minimum of five years from the date of monitoring, notwithstanding the requirements of any other permit conditions or applicable requirements.
- 3. Objection to Special Condition 11 for Failing to Meet Compliance Certification Requirements.** Special Condition 11 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 11 of the draft renewal does not meet the regulatory requirements. In response to this objection, TCEQ must amend Special Condition 11 to include 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.
- 4. Objection to the Permit Shield.** The draft Title V permit includes a "Permit Shield" attachment that covers many "grandfathered" 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 conclusory 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 conclusory 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. It is also noted that Special Condition 10 in Permit No. 33373 has requirements for FLARE1 to comply with 40 CFR § 60.18, yet the proposed Title V permit applies a permit shield to FLARE1 for 40 CFR Part 60, Subpart A. Also, Special Condition 20 of NSR Permit No. 33373 states “These facilities shall comply with all applicable requirements of the U.S. Environmental Protection Agency (EPA) regulations on Standards of Performance for New Stationary Sources promulgated for Storage Tanks in 40 CFR Part 60, Subparts A and Ka, Kb.” Many of the tanks listed in Permit No. 33373 have a permit shield from these regulations. Have the special conditions from the incorporated Permit No. 33373 been considered when applying a permit shield? 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 9 – 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. Monitoring requirements need to be specific. The Periodic Monitoring Summary refers repeatedly to manufacturer’s specifications or other written procedures. A description of the specific parameters and assumptions associated with a monitoring device’s operation should be in the Title V permit. If “manufacturer’s recommendations,” “manufacturer’s specifications,” and maintenance requirements are part of a monitoring device’s operating parameters, then those specific standards, assumptions, and practices should be included or attached to the permit to allow for practical enforceability.