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November 23, 2009

Mr. Stanley M. Spruiell
Air Permits Section (6PD-R)
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

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NORTH TEXAS

Re: Comments on Docket No.EPA-R06-OAR-2006-TX-0133

Dear Mr. Spruiell:

The Texas Oil & Gas Association ("TxOGA") is the largest and oldest petroleum organization in Texas, representing over 4,000 members. The membership of TxOGA produces in excess of 90 percent of Texas' crude oil and natural gas, operates nearly 100 percent of the state's refining capacity, and is responsible for the vast majority of the state's pipelines. According to the most recent data, the oil and gas industry employs 189,000 Texans, providing payroll and benefits of over \$24 billion in Texas alone. In addition, large associated capital investments by the oil and gas industry generates significant secondary economic benefits for Texas.

TxOGA strongly supports the ongoing goal of improved air quality and we are encouraged that the Environmental Protection Agency (EPA) is finally acting on these matters. Certainty in regulatory processes is important to existing businesses who want to amend existing permits to expand and incorporate additional pollution controls. Unfortunately, we do not believe the proposed New Source Review reforms will improve our air quality and we are concerned that it will have negative unintended consequences and ultimately discourage future business expansions.

Attached are our specific comments relating to New Source Review Reform by the U.S. Environmental Protection Agency,



published in the *Federal Register* on September 23, 2009. Additionally, TxOGA respectfully requests careful and thoughtful consideration of the comments submitted by the Texas Chemical Council and Texas Industry Project relating to this matter.

If you have any questions, please contact me at 512/478-6631 or dhastings@txoga.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Debbie Hastings". The signature is stylized with a large, looping initial "D" and a cursive "Hastings".

Debbie Hastings
Vice President for Environmental Affairs
Texas Oil & Gas Association
304 West 13th Street
Austin, Texas 78701

TEXAS OIL & GAS ASSOCIATION COMMENTS
EPA PROPOSED NEW SOURCE REVIEW (NSR) REFORM

Docket ID No. EPA-R06-OAR-2006-TX-0133
74 Fed. Reg. 48,467 (Sept. 23, 2009)

Re-Openings

EPA states concerns that Texas Plantwide Applicability Limit (PAL) provisions do not relate to re-openings. TxOGA responds by highlighting the current provision of 30 TAC §116.192 regarding amendments and alterations of PALs which provide adequate safeguards to ensure that appropriate procedural requirements are followed, both to increase a PAL through an amendment and to decrease a PAL through a permit alteration. The absence of rule language using the specific term “reopening” does not prevent the Texas Commission on Environmental Quality (TCEQ) from implementing and enforcing the program in a manner consistent with Part 51.

Monitoring

EPA asserts that Texas PAL provisions should track the federal monitoring requirements. Texas PAL rules establish clear and specific monitoring requirements in 30 TAC §116.186(c) that are consistent with the federal PAL monitoring requirements. The Texas requirements specify what regulated entities must do in order to be in compliance with the rules. These monitoring requirements are equivalent to federal requirements.

All facilities at a major stationary source

EPA also asserts that all facilities at a major stationary source should be included in the PAL. The Texas PAL rules are substantively similar to and closely track the federal PAL regulations, as the TCEQ explained in adopting the Texas PAL program. The similarities can be seen in 30 TAC §116.182(1), which states that an applicant must specify “(A) list of all facilities, including their registration or permit number to be included in the PAL, their potential to emit, and the expected maximum capacity. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit.”

Definition of “baseline actual emissions” and “projected annual emission” should include startups, shutdowns, and malfunctions

EPA has raised concern that these definitions do not require the inclusion of emissions resulting from startups, shutdowns, and malfunctions. 30 TAC §116.12(3)(E) states that “(t)he actual emissions rate shall include fugitive emissions to the extent quantifiable. Until March 1, 2016, emission previously demonstrated as emissions events or historically exempted under Chapter

101 of this title (relating to General Air Quality Rules) may be included to the extent that they have been authorized, or are being authorized.” These emissions include maintenance, startup, and shutdown (MSS) emissions. The TCEQ has been working on MSS permits for refineries for quite some time. Therefore, the term “baseline actual emissions” does not include emissions resulting from startups, shutdowns, and malfunctions. The TCEQ is working to, among other things, distinguish between planned and unplanned MSS emissions and authorize those planned MSS emissions in Texas air permits. A State Implementation Plan (SIP) revision reflecting the MSS permitting initiative has been submitted to EPA for approval.

Pollution Control Project Standard Permit

The EPA has taken issue with the TCEQ addressing site-specific determinations and the Executive Director’s discretion in making case-specific determinations in individual cases in lieu of generic enforceable requirements. EPA also asserts that a standard permit must be limited to a single source category. The Pollution Control Project (PCP) standard permit is also a minor NSR permitting tool. Similar to all other minor NSR permitting programs, the state has wide discretion in its implementation of the program. Currently, Texas rule requires that a permittee make a submittal to the TCEQ, but does not require the Executive Director to act to approve the submittal. The Executive Director reviews the permit based on air quality impacts and only disallows use if air quality would be negatively impacted. The discretionary denial provision makes the Texas PCP standard permit more stringent and environmentally sound than most.