# TCEQ LogoNational Comments

# Executive Review Summary

# ****TCEQ Proposed Comments On:****

United States Environmental Protection Agency (EPA): Revisions to the Petition Provisions of the Title V Permitting Program; Proposed Rule (81 *Fed. Reg*. 57822)

# ****Overview of Proposal:****

On August 24, 2016, the EPA proposed amendments to the 40 Code of Federal Regulations (CFR) Part 70 regulations relating to the title V federal operating permits program. The EPA stated that the proposed revisions are intended to streamline and clarify processes related to submission and review of title V petitions. The proposed changes include provisions that provide direction as to how petitions should be submitted to the EPA, provisions that describe the expected format and minimum required content for title V petitions, and revisions to clarify that permitting authorities are required to respond to significant comments received during the public comment period for draft title V permits, and to provide that response with the proposed permit to the EPA for the agency’s 45-day review period. In addition, the EPA proposed guidance in the form of recommended practices for stakeholders to ensure title V permits have complete administrative records and meet the requirements of the Clean Air Act (CAA).

# ****Summary of Comments:****

* The EPA’s proposed changes would broaden the scope of title V petitions and could result in petitioners using a title V action to re-open issues on new source review (NSR) permits that have already been vetted and addressed. The scope of title V permit petitions should be limited to the type of permit action under consideration.
* The proposed rules do not clearly indicate what actions trigger the start of the EPA’s 45-day review period for situations when no comments are received. In addition, the proposed requirement for state permitting authorities to issue a “no comments received” notice to the EPA appears to be an unnecessary extra step that does not provide any added value, and would interfere with running the public comment period and the EPA’s 45-day review period concurrently.
* TCEQ recommends that the rule be revised so that the start of the 45-day EPA review period is not contingent upon receiving the “no comments received” statement from the state permitting authority.
* **The EPA’s proposed addition of minor permit revisions to the types of title V permit actions which are subject to petitions would substantially increase the burden on state permitting authorities. The existing public comment requirements for minor revision projects provide sufficient opportunity for public review and participation. There would be minimal additional benefit from making minor revisions subject to petition.**
* **The EPA’s proposed rule does not provide clear deadlines as to when the rule changes will go into effect or when state permitting authorities are required to have implemented any necessary changes to their programs to incorporate the revised requirements.**
* The EPA’s intentions and proposed requirements are unclear as to the format in which permit applications and supporting information are to be made available to the public. In Texas, the use of a combination of paper and electronic recordkeeping and permit processing tools complicates the task of making active permit records available to the public.
* **The proposed rules require that a complete copy of each permit application and updates must be transferred to EPA electronically or in “computer readable” format (proposed 40 CFR §70.8). It may not be possible to electronically transfer all title V permit-related information to EPA. Additional details regarding the “EPA’s national database management system” referenced in the proposal are needed. The development of systems and processes to convert permit information and supporting material into a format compatible with the EPA’s system could impose a major burden on state permitting authorities.**

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**Deputy Director Approval: Steve Hagle, P.E.**

**Deadlines:** IGR Deadline October 11, 2016

EPA Deadline October 24, 2016