UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 – 2733

Office of the Regional Administrator

October 16, 2018

MEMORANDUM

SUBJECT: Regional Consistency Concurrence Request
SSM SIP Call for Texas

FROM: Anne L. Idsal
Regional Administrator

TO: Peter Tsirigotis
Director of the Office of Planning and Standards

Pursuant to 40 C.F.R. § 56.5(b), Region 6 is requesting concurrence from the Office of Air Quality Planning and Standards (OAQPS) to convene a proceeding for reconsideration of the State Implementation Plan (SIP) call to Texas (Texas SIP call) that was included as part of the final rule entitled "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction," 80 FR 33839, published
June 12, 2015. Region 6 further requests concurrence from OAQPS to undertake a rulemaking pursuant to this reconsideration of the Texas SIP call. In the process of this rulemaking, Region 6 may determine based on its review of the specific provisions of Texas's SIP that it is appropriate to deviate from EPA's national interpretation of the Clean Air Act as outlined in the preamble to the June 12, 2015 rulemaking, that provisions providing an affirmative defense to civil penalties for excess emissions during periods of startup, shutdown, malfunction, or maintenance are not consistent with Clean Air Act requirements.

Considering the above and in accordance with 40 C.F.R. § 56.5(b), Region 6 seeks your concurrence to convene a proceeding for reconsideration, the outcome of which may potentially entail Region 6 proposing an action inconsistent with the EPA's interpretation of the Clean Air Act when acting pursuant to the reconsideration of the Texas SIP call. If, after undergoing a notice and comment rulemaking, Region 6 determines that it will deviate from EPA's national interpretation of the Clean Air Act, as outlined in the preamble to the
June 12, 2015 rulemaking, Region 6 will again ask for your concurrence prior to taking a final action that so deviates.

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To expedite processing of this request, I am writing to you as the Director of OAQPS tasked with ensuring consistency of Clean Air Act SIP actions. It is my understanding that you will coordinate with the Office of Air and Radiation Assistant Administrator, as appropriate, if there are concerns with this request and ask that you immediately notify Wren Stenger, Director of the Multimedia Division, if such concerns arise.

Please contact me or Wren Stenger at 214.665.6583 if you have any questions regarding this request.

___ I concur

___ I do not concur

_____ _____

Peter Tsirigotis, Director Date
Office of Air Quality Planning and Standards