

**Star Enterprise; Texaco Inc v. U.S. Environmental Protection Agency, U.S. Court of Appeals for the Third Circuit, December 2000**

I wanted to share a few of the many public documents accessible on the web, which are highly relevant to applying NSPS standards to Affected Facility(ies). I am providing links, bullet points and/or quotes from the pertinent documents. Also feel free to Google up these pertinent documents using your own key word search(es)!

*Disclaimer: I am not an attorney, nor am I providing legal advice. Please do not construe any comment made by me or the quotes taken from these pertinent documents, as legal advice!*

Per the Star Enterprise; Texaco Inc., Petitioners v. United States Environmental Protection Agency, Respondent, U.S. Court of Appeals for the Third Circuit, Filed 07Dec2000.

Follow either link:

<https://caselaw.findlaw.com/us-3rd-circuit/1286827.html>

<https://law.justia.com/cases/federal/appellate-courts/F3/235/139/550316/>

Or copy and paste these words into your google search:

Star Enterprise Texaco Environmental Protection Agency Court of Appeals

**Some pertinent discussion points from the Star Enterprises v. EPA document:**

- Subpart J defines Affected Facility to include all fuel gas combustion devices located “in a petroleum” refinery.
- Adjacent to a refinery is not “in” a refinery. And the power plant (with turbines) is not a refinery itself. Additionally, NSPS Subpart J defines a “petroleum refinery.”
- The materially beneficial relationship argument was rejected because the power plant could exist without the refinery and indeed the refinery existed without the power plant. The refinery could purchase power off the grid.
- In this case, geography is somewhat important because of the word “in” (court said “we conclude that the stationary gas turbines at issue in this case are not ‘in’ a ‘petroleum refinery’”). So, what would the courts say about the word “at” when applied to a natural gas processing plant?
- A very interesting discussion was added by the court in its opinion: what if a McDonalds (the franchised business being owned by the refinery company) was built next to the refinery, on refinery land, for the benefit of its workers. Would EPA include those McDonalds combustion devices as part of the refinery and subject to Affected Facility standards?

--End--

R N Kotschegarow 27Jan2022