BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

_____

Petition No. VI-2024-30

In the Matter of

Valero Energy Partners, L.P., Valero Houston Refinery—Tank Farm

Permit No. O3784

Issued by the Texas Commission on Environmental Quality

_____

ORDER GRANTING IN PART AND DENYING IN PART A PETITION FOR OBJECTION TO A TITLE V OPERATING PERMIT

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received a petition dated December 3, 2024 (the Petition) from Texas Environmental Justice Advocacy Series (t.e.j.a.s), Caring for Pasadena Communities, and the Lone Star Chapter of the Sierra Club (the Petitioners), pursuant to section 505(b)(2) of the Clean Air Act (CAA or Act), 42 United States Code (U.S.C.) § 7661d(b)(2). The Petition requests that the EPA Administrator object to operating permit No. O3784 (the Permit) issued by the Texas Commission on Environmental Quality (TCEQ) to the tank farm portion of Valero Energy Partners, L.P. Valero Houston Refinery (Valero Tank Farm or the facility) in Harris County, Texas. The Permit was issued pursuant to title V of the CAA, 42 U.S.C. §§ 7661–7661f, and Title 30, Chapter 122 of the Texas Administrative Code (TAC). *See also* 40 Code of Federal Regulations (C.F.R.) part 70 (title V implementing regulations). This type of operating permit is also known as a title V permit or part 70 permit.

Based on a review of the Petition and other relevant materials, including the Permit, the permit record, and relevant statutory and regulatory authorities, and as explained in Section IV of this Order, the EPA grants in part and denies in part the Petition and objects to the issuance of the Permit. Specifically, the EPA grants in part Claim 1 and denies the rest of the claims.

II. STATUTORY AND REGULATORY FRAMEWORK

A. Title V Permits

Section 502(d)(1) of the CAA, 42 U.S.C. § 7661a(d)(1), requires each state to develop and submit to the EPA an operating permit program to meet the requirements of title V of the CAA and the EPA's implementing regulations at 40 C.F.R. part 70. The state of Texas submitted a title V program governing

the issuance of operating permits on September 17, 1993. The EPA granted full approval of Texas's title V operating permit program in 2001. 66 Fed. Reg. 63318 (Dec. 6, 2001). This program, which became effective on November 30, 2001, is codified in 30 TAC Chapter 122.

All major stationary sources of air pollution and certain other sources are required to apply for and operate in accordance with title V operating permits that include emission limitations and other conditions as necessary to assure compliance with applicable requirements of the CAA, including the requirements of the applicable implementation plan. 42 U.S.C. §§ 7661a(a), 7661b, 7661c(a). The title V operating permit program generally does not impose new substantive air quality control requirements, but does require permits to contain adequate monitoring, recordkeeping, reporting, and other requirements to assure compliance with applicable requirements. 40 C.F.R. § 70.1(b); 42 U.S.C. § 7661c(c). One purpose of the title V program is to "enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements." 57 Fed. Reg. 32250, 32251 (July 21, 1992). Thus, the title V operating permit program is a vehicle for compiling the air quality control requirements as they apply to the source's emission units and for providing adequate monitoring, recordkeeping, and reporting to assure compliance with such requirements.

B. Review of Issues in a Petition

State and local permitting authorities issue title V permits pursuant to their EPA-approved title V programs. Under CAA § 505(a) and the relevant implementing regulations found at 40 C.F.R. § 70.8(a), states are required to submit each proposed title V operating permit to the EPA for review. 42 U.S.C. § 7661d(a). Upon receipt of a proposed permit, the EPA has 45 days to object to final issuance of the proposed permit if the EPA determines that the proposed permit is not in compliance with applicable requirements under the Act. 42 U.S.C. § 7661d(b)(1); *see also* 40 C.F.R. § 70.8(c). If the EPA does not object to a permit on its own initiative, any person may, within 60 days of the expiration of the EPA's 45-day review period, petition the Administrator to object to the permit. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).

Each petition must identify the proposed permit on which the petition is based and identify the petition claims. 40 C.F.R. § 70.12(a). Any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements under part 70. 40 C.F.R. § 70.12(a)(2). Any arguments or claims the petitioner wishes the EPA to consider in support of each issue raised must generally be contained within the body of the petition.[1] *Id.*

The petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting authority (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such

[1] If reference is made to an attached document, the body of the petition must provide a specific citation to the referenced information, along with a description of how that information supports the claim. In determining whether to object, the Administrator will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. *Id*.

objections within such period or unless the grounds for such objection arose after such period). 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d); *see also* 40 C.F.R. § 70.12(a)(2)(v).

In response to such a petition, the Act requires the Administrator to issue an objection if a petitioner demonstrates that a permit is not in compliance with the requirements of the Act. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1).[2] Under section 505(b)(2) of the Act, the burden is on the petitioner to make the required demonstration to the EPA.[3] The petitioner's demonstration burden is a critical component of CAA § 505(b)(2). As courts have recognized, CAA § 505(b)(2) contains both a "discretionary component," under which the Administrator determines whether a petition demonstrates that a permit is not in compliance with the requirements of the Act, and a nondiscretionary duty on the Administrator's part to object where such a demonstration is made. *Sierra Club v. Johnson*, 541 F.3d at 1265–66 ("[I]t is undeniable [that CAA § 505(b)(2)] also contains a discretionary component: it requires the Administrator to make a judgment of whether a petition demonstrates a permit does not comply with clean air requirements."); *NYPIRG*, 321 F.3d at 333. Courts have also made clear that the Administrator is only obligated to grant a petition to object under CAA § 505(b)(2) if the Administrator determines that the petitioner has demonstrated that the permit is not in compliance with requirements of the Act. *Citizens Against Ruining the Environment*, 535 F.3d at 677 (stating that § 505(b)(2) "clearly obligates the Administrator to (1) determine whether the petition demonstrates noncompliance and (2) object *if* such a demonstration is made" (emphasis added)).[4] When courts have reviewed the EPA's interpretation of the ambiguous term "demonstrates" and its determination as to whether the demonstration has been made, they have applied a deferential standard of review. *See, e.g.*, *MacClarence*, 596 F.3d at 1130–31.[5] Certain aspects of the petitioner's demonstration burden are discussed in the following paragraph. A more detailed discussion can be found in the preamble to the EPA's proposed petitions rule. *See* 81 Fed. Reg. 57822, 57829–31 (Aug. 24, 2016); *see also In the Matter of Consolidated Environmental Management, Inc., Nucor Steel Louisiana*, Order on Petition Nos. VI-2011-06 and VI-2012-07 at 4–7 (June 19, 2013) (*Nucor II Order*).

The EPA considers a number of criteria in determining whether a petitioner has demonstrated noncompliance with the Act. *See generally Nucor II Order* at 7. For example, one such criterion is whether a petitioner has provided the relevant analyses and citations to support its claims. For each claim, the petitioner must identify (1) the specific grounds for an objection, citing to a specific permit term or condition where applicable; (2) the applicable requirement as defined in 40 C.F.R. § 70.2, or requirement under part 70, that is not met; and (3) an explanation of how the term or condition in the permit, or relevant portion of the permit record or permit process, is not adequate to comply with the corresponding applicable requirement or requirement under part 70. 40 C.F.R. § 70.12(a)(2)(i)–(iii). If a petitioner does not identify these elements, the EPA is left to work out the basis for the petitioner's

[2] *See also New York Public Interest Research Group, Inc. v. Whitman*, 321 F.3d 316, 333 n.11 (2d Cir. 2003) (*NYPIRG*).
[3] *WildEarth Guardians v. EPA*, 728 F.3d 1075, 1081–82 (10th Cir. 2013); *MacClarence v. EPA*, 596 F.3d 1123, 1130–33 (9th Cir. 2010); *Sierra Club v. EPA*, 557 F.3d 401, 405–07 (6th Cir. 2009); *Sierra Club v. Johnson*, 541 F.3d 1257, 1266–67 (11th Cir. 2008); *Citizens Against Ruining the Environment v. EPA*, 535 F.3d 670, 677–78 (7th Cir. 2008); *cf. NYPIRG*, 321 F.3d at 333 n.11.
[4] *See also Sierra Club v. Johnson*, 541 F.3d at 1265 ("Congress's use of the word 'shall' . . . plainly mandates an objection *whenever* a petitioner demonstrates noncompliance." (emphasis added)).
[5] *See also Sierra Club v. Johnson*, 541 F.3d at 1265–66; *Citizens Against Ruining the Environment*, 535 F.3d at 678.

objection, contrary to Congress's express allocation of the burden of demonstration to the petitioner in CAA § 505(b)(2). *See MacClarence*, 596 F.3d at 1131 ("[T]he Administrator's requirement that [a title V petitioner] support his allegations with legal reasoning, evidence, and references is reasonable and persuasive.").[6] Relatedly, the EPA has pointed out in numerous previous orders that general assertions or allegations did not meet the demonstration standard. *See, e.g.*, *In the Matter of Luminant Generation Co., Sandow 5 Generating Plant*, Order on Petition Number VI-2011-05 at 9 (Jan. 15, 2013).[7] Also, the failure to address a key element of a particular issue presents further grounds for the EPA to determine that a petitioner has not demonstrated a flaw in the permit. *See, e.g.*, *In the Matter of EME Homer City Generation LP and First Energy Generation Corp.*, Order on Petition Nos. III-2012-06, III-2012-07, and III-2013-02 at 48 (July 30, 2014).[8]

Another factor the EPA examines is whether the petitioner has addressed the state or local permitting authority's decision and reasoning contained in the permit record. 81 Fed. Reg. at 57832; *see Voigt v. EPA*, 46 F.4th 895, 901–02 (8th Cir. 2022); *MacClarence*, 596 F.3d at 1132–33.[9] This includes a requirement that petitioners address the permitting authority's final decision and final reasoning (including the state's response to comments) where these documents were available during the timeframe for filing the petition. 40 C.F.R. § 70.12(a)(2)(vi). Specifically, the petition must identify where the permitting authority responded to the public comment and explain how the permitting authority's response is inadequate to address (or does not address) the issue raised in the public comment. *Id*.

The information that the EPA considers in determining whether to grant or deny a petition submitted under 40 C.F.R. § 70.8(d) generally includes, but is not limited to, the administrative record for the proposed permit and the petition, including attachments to the petition. 40 C.F.R. § 70.13. The administrative record for a particular proposed permit includes the draft and proposed permits; any permit applications that relate to the draft or proposed permits; the statement required by § 70.7(a)(5) (sometimes referred to as the "statement of basis"); any comments the permitting authority received during the public participation process on the draft permit; the permitting authority's written responses to comments, including responses to all significant comments raised during the public

[6] *See also In the Matter of Murphy Oil USA, Inc.*, Order on Petition No. VI-2011-02 at 12 (Sept. 21, 2011) (denying a title V petition claim where petitioners did not cite any specific applicable requirement that lacked required monitoring); *In the Matter of Portland Generating Station*, Order on Petition at 7 (June 20, 2007) (*Portland Generating Station Order*).

[7] *See also Portland Generating Station Order* at 7 ("[C]onclusory statements alone are insufficient to establish the applicability of [an applicable requirement]."); *In the Matter of BP Exploration (Alaska) Inc., Gathering Center #1*, Order on Petition Number VII-2004-02 at 8 (Apr. 20, 2007); *In the Matter of Georgia Power Company*, Order on Petitions at 9–13 (Jan. 8, 2007) (*Georgia Power Plants Order*); *In the Matter of Chevron Products Co., Richmond, Calif. Facility*, Order on Petition No. IX-2004–10 at 12, 24 (Mar. 15, 2005).

[8] *See also In the Matter of Hu Honua Bioenergy*, Order on Petition No. IX-2011-1 at 19–20 (Feb. 7, 2014); *Georgia Power Plants Order* at 10.

[9] *See also, e.g.*, *Finger Lakes Zero Waste Coalition v. EPA*, 734 Fed. App'x *11, *15 (2d Cir. 2018) (summary order); *In the Matter of Noranda Alumina, LLC*, Order on Petition No. VI-2011-04 at 20–21 (Dec. 14, 2012) (denying a title V petition issue where petitioners did not respond to the state's explanation in response to comments or explain why the state erred or why the permit was deficient); *In the Matter of Kentucky Syngas, LLC*, Order on Petition No. IV-2010-9 at 41 (June 22, 2012) (denying a title V petition issue where petitioners did not acknowledge or reply to the state's response to comments or provide a particularized rationale for why the state erred or the permit was deficient); *Georgia Power Plants Order* at 9–13 (denying a title V petition issue where petitioners did not address a potential defense that the state had pointed out in the response to comments).

participation process on the draft permit; and all materials available to the permitting authority that are relevant to the permitting decision and that the permitting authority made available to the public according to § 70.7(h)(2). *Id.* If a final permit and a statement of basis for the final permit are available during the agency's review of a petition on a proposed permit, those documents may also be considered when determining whether to grant or deny the petition. *Id*.

If the EPA grants a title V petition and objects to the issuance of a permit, a permitting authority may address the EPA's objection by, among other things, providing the EPA with a revised permit. 42 U.S.C. § 7661d(b)(3), (c); 40 C.F.R. § 70.8(d); *see id*. § 70.7(g)(4); 70.8(c)(4); *see generally* 81 Fed. Reg. at 57842 (describing post-petition procedures); *Nucor II Order* at 14–15 (same). In some cases, the permitting authority's response to an EPA objection may not involve a revision to the permit terms and conditions themselves, but may instead involve revisions to the permit record. For example, when the EPA has issued a title V objection on the ground that the permit record does not adequately support the permitting decision, it may be acceptable for the permitting authority to respond only by providing an additional rationale to support its permitting decision.

When the permitting authority revises a permit or permit record in order to resolve an EPA objection, it must go through the appropriate procedures for that revision. If a final permit has been issued prior to the EPA's objection, the permitting authority should determine whether its response to the EPA's objection requires a minor modification or a significant modification to the title V permit, as described in 40 C.F.R. § 70.7(e)(2) and (4) or the corresponding regulations in the state's EPA-approved title V program. If the permitting authority determines that the revision is a significant modification, then the permitting authority must provide for notice and opportunity for public comment for the significant modification consistent with 40 C.F.R. § 70.7(h) or the state's corresponding regulations.

In any case, whether the permitting authority submits revised permit terms, a revised permit record, or other revisions to the permit, and regardless of the procedures used to make such revision, the permitting authority's response is generally treated as a new proposed permit for purposes of CAA § 505(b) and 40 C.F.R. § 70.8(c) and (d). *See Nucor II Order* at 14. As such, it would be subject to the EPA's 45-day review per CAA § 505(b)(1) and 40 C.F.R. § 70.8(c), and an opportunity for the public to petition under CAA § 505(b)(2) and 40 C.F.R. § 70.8(d) if the EPA does not object during its 45-day review period.

When a permitting authority responds to an EPA objection, it may choose to do so by modifying the permit terms or conditions or the permit record with respect to the specific deficiencies that the EPA identified; permitting authorities need not address elements of the permit or the permit record that are unrelated to the EPA's objection. As described in various title V petition orders, the scope of the EPA's review (and accordingly, the appropriate scope of a petition) on such a response would be limited to the specific permit terms or conditions or elements of the permit record modified in that permit action. *See In the Matter of Hu Honua Bioenergy, LLC*, Order on Petition No. VI-2014-10 at 38–40 (Sept. 14, 2016); *In the Matter of WPSC, Weston*, Order on Petition No. V-2006-4 at 5–6, 10 (Dec. 19, 2007).

III. BACKGROUND

A. The Valero Tank Farm Facility

The Valero Tank Farm, owned by Valero Energy Partners, L.P., is the tank farm portion of the Valero Houston Refinery located in Harris County, Texas. The facility consists of approximately forty tanks that store crude oil, condensate, and other petroleum liquid products. The Valero Houston Refinery is a major source of volatile organic compounds (VOCs), sulfur dioxide (SO_2), particulate matter, nitrogen oxides (NOx), hazardous air pollutants (HAPs), and carbon monoxide (CO). Emission units within the facility are also subject to New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants and minor preconstruction permitting requirements including permits by rule (PBR).

B. Permitting History

Valero Energy Partners, L.P. first obtained a title V permit for the Valero Tank Farm in 2016. On December 22, 2020, Valero Energy Partners, L.P. applied for a title V permit renewal. Texas published notice of a draft permit on May 21, 2022, subject to a public comment period that ran until December 12, 2022. On August 20, 2024, Texas submitted the Proposed Permit, along with its responses to public comments (RTC), to the EPA for its 45-day review. The EPA's 45-day review period ended on October 4, 2024, during which time the EPA did not object to the Proposed Permit. Texas issued the final title V renewal permit for the Valero Tank Farm on October 16, 2024.

C. Timeliness of Petition

Pursuant to the CAA, if the EPA does not object to a proposed permit during its 45-day review period, any person may petition the Administrator within 60 days after the expiration of the 45-day review period to object. 42 U.S.C § 7661d(b)(2). The EPA's 45-day review period expired on October 4, 2024. Thus, any petition seeking the EPA's objection to the Permit was due on or before December 3, 2024. The Petition was submitted December 3, 2024. Therefore, the EPA finds that the Petitioners timely filed the Petition.

IV. EPA DETERMINATIONS ON PETITION CLAIMS

The Petition includes a section titled "Grounds for Objection," which includes four numbered subsections (I–IV). Petition at 4. Subsection I includes extensive discussion of environmental justice. See *id*. at 4–9. The Petitioners do not present any specific "grounds for objection" within this discussion related to the EPA's authority to object to a permit under title V. Rather, Subsection I appears to serve as backdrop and support for the Petitioners' three more specific, permit-focused claims that follow, which the EPA's Order labels as Claims 1, 2, and 3.

A. Claim 1: The Petitioners Claim That "The Proposed Permit Contains Insufficient Monitoring Requirements to Assure Compliance with Emission Limits for Tanks Under NSR 129444."

Petition Claim: The Petitioners claim that the Permit does not include sufficient monitoring, reporting recordkeeping, or emission calculations to assure compliance with hourly and annual limits for a number of pollutants from tanks covered by NSR Permit 129444's maximum allowable emissions rates table (MAERT) for "routine" emissions or emissions during planned maintenance, startup, and shutdown (MSS) period. Petition at 10. The Petitioners assert that the insufficient monitoring, reporting, recordkeeping, and emission calculations violate 40 C.F.R. § 70.6(c)(1) and 42 U.S.C. § 7661c(a) and 7661c(c).[10] *Id.* The Petitioners then list a number of tanks covered by NSR Permit 129444 as well as the applicable limits from the MAERT for those tanks for a number of pollutants, claiming that neither the title V permit nor NSR Permit 129444 assure compliance with those limits. *Id.*

The Petitioners cite a number of CAA and Part 70 requirements as well as court decisions that provide that title V permits must include monitoring and reporting requirements sufficient to assure compliance with applicable emission limits and standards and if the applicable requirements themselves contain no periodic monitoring, it is the permitting authority's responsibility to add sufficient periodic monitoring. *Id.* at 11 (citing 42 U.S.C. § 7661c(c), 7661c(a); 40 C.F.R. § 70.6(a)(3)(i)(A) and (B); 30 TAC § 122.142(c)). The Petitioners assert that the D.C. Circuit has acknowledged the mere existence of periodic monitoring might not be sufficient and that annual testing is unlikely to assure compliance with daily emission limits, concluding that the frequency of monitoring must bear a relationship to the averaging time used to determine compliance. *Id.* (citing *Sierra Club v. EPA,* 536 F.3d 675–677 (D.C. Cir. 2008). The Petitioners also state that permitting authorities must include a rationale for the monitoring requirements that is clear and documented in the permit record. *Id.* (citing *In the Matter of Mettiki Coal, LLC*, Order on Petition No. III-2013-1 at 7–8 (Sept. 26, 2014) (*Mettiki* Order)).

The Petitioners then claim that the EPA has objected to title V permits for failing to assure compliance with applicable emission limits where the permit itself does not clearly identify calculation methods used to assure compliance with those limits, instead referring to calculation methods from an unspecified permit application. *Id.* (citing *In the Matter of Gulf Coast Growth Ventures, LLC*, Order on Petition No. VI-2021-3 at 15–20 (May 12, 2022) (*Gulf Coast Growth Ventures Order*). The Petitioners also quote the EPA as explaining:

> Information that would be . . . incorporated by reference into the issued permit must first be currently applicable and available to the permitting authority and public. . . . Referenced documents must also be specifically identified. Descriptive information such as the title or number of the document and the date of the document must be included so that there is no ambiguity as to which version of which document is being referenced.

[10] Permits "shall include . . . a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this chapter, including the requirements of the applicable implementation plan." 42 U.S.C. § 7661c(a). Title V permits "shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions." 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

> Citations, cross references, and incorporations by reference must be detailed enough that the manner in which any referenced material applies to a facility is clear and is not reasonably subject to misinterpretation. Where only a portion of the referenced document applies, applications and permits must specify the relevant section of the document. Any information cited, cross referenced, or incorporated by reference must be accompanied by a description or identification of the current activities, requirements, or equipment for which the information is referenced.

Id. at 11–12 (quoting *White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program* at 37 (Mar. 5, 1996) (*White Paper Number 2)*).

The Petitioners contend that the Permit itself does not contain monitoring or emission calculations for the tank MAERT limits from NSR Permit 129444, as NSR Permit 129444 provides that the facility is to: (1) "calculate[]" at least routine emissions "using the methods that were used to determine the MAERT limits in the permit application," (2) "estimate[]" MSS emissions "using the methods identified in the permit application, consistent with good engineering practice," (3) "calculate[]" emissions from roof landings "using the methods described in Section 7.1.3.2 of AP-42 'Compilation of Air Pollution Emission Factors, Chapter 7 -Storage of Organic Liquids' dated November 2006 and the permit application," and (4) seemingly for at least annual MSS emissions, "perform[] monthly calculations as required in Special Condition No. 12.F." *Id.* at 12–13 (quoting NSR Permit 129444 Special Condition 10.F, Special Condition 11.E, and Special Condition 12.F.4) (alterations in original). The Petitioners claim that these provisions cannot assure compliance with MAERT limits for three primary reasons.

First, the Petitioners contend that the title V permit and NSR Permit 129444 fail to sufficiently identify the relevant emission calculation and monitoring methods, as the cited NSR Permit 129444 special conditions rely on vague mentions of calculation methods from unspecified "permit applications." *Id.* at 13. The Petitioners argue that these references to unspecified permit applications are particularly insufficient as the tanks listed in NSR Permit 129444 were previously covered by five different NSR permits with presumably different applications and potentially different calculation methods. *Id.* Additionally, the Petitioners note that the facility routinely revises its NSR permits, and permit revision applications could list different calculation methods. *Id.* As such, the Petitioners conclude that "calculation methods can and should be specifically identified in the Title V Permit or Permit 129444."[11] *Id.* In addition to unspecified permit applications, the Petitioners assert NSR Permit 129444 identifies multiple, possibly conflicting methods, as NSR Permit 129444 special conditions mention both calculation methodologies from unspecified permit applications and "method described in Section 7.1.3.2 of AP-42 'Compilation of Air Pollution Emission Factors, Chapter 7 – Storage of Organic Liquids' dated November 2006." *Id.* at 14. The Petitioners conclude that it is unclear whether the facility is to use calculation methods from unspecified permit applications or AP-42 methods. *Id.*

[11] The Petitioners add that although NSR Permit 129444 Special Condition 10.F states that "[s]ample calculation from the application shall be attached to a copy of this permit at the plant site," those calculations are not attached to the permit itself and making those calculations only available at the plant site denies the public access to relevant calculation methods. Petition at 13 fn.49.

Second, the Petitioners claim that to the extent the facility is to use the November 2006 AP-42 calculation methodologies, this method cannot assure compliance with hourly or annual limits on tanks because the 2006 version of AP-42 does not include any method for calculating short-term emissions from tanks; it only includes methods for calculating annual emissions.[12] *Id.* at 14. The Petitioners contend that the lack of accounting for short-term emission variability is particularly problematic, as MSS emissions from tanks can emit at a rate over 100 time more than the highest hourly limit for an individual tank's "routine" emissions; thus, emissions could easily vary by a degree that would cause an exceedance of applicable limits. *Id.* at 15.

Third, the Petitioners assert that the Permit's calculation methods for estimating tank emissions are inadequate because NSR Permit 129444 only requires the facility to inspect floating roof tank components annually or less frequently. *Id.* The Petitioners state that for a number of physical and technical reasons, small gaps in seals can result in large fugitive emissions, and the vague permit conditions do nothing to assure good maintenance to prevent such fugitive emissions. *Id.* The Petitioners further claim that 40 C.F.R. § 60.113(a)(2) and (b)(4) only require that issues with seals and other maintenance issues be addressed within 45 days (with the possibility of a 30-day extension), which can lead to large quantities of fugitive emissions. *Id.* The Petitioners then contend that visual inspections are inadequate to detect small gaps in seals, and thus the Petitioners suggest that optical imaging (such as FLIR cameras) is necessary to detect these small gaps, and that the facility should be required to use optical imaging on a periodic, no less than quarterly, basis. *Id.* at 15–16.

The Petitioners suggest further changes that could include "requirements for the collection of data to confirm each parameter that is an input or assumption for Valero's calculation method(s), as well as direct verification of emission through methods such as Differential Absorption LIDAR (DIAL) so that any AP-42-based methods can be verified/calibrated." *Id.* at 16. The Petitioners also claim that due to a number of releases from tanks at the facility, "monitoring provisions should incorporate EPA's findings on effective tank monitoring methods," specifying that the facility should consider the use of lower explosive limit (LEL) monitoring as well as "other monitoring" to ensure the Permit complies with title V. *Id.* at 17.

EPA Response: For the following reasons, the EPA grants in part and denies in part this Petition claim and objects to the issuance of the Permit.

All title V permits must include testing, monitoring, recordkeeping, and reporting requirements that are sufficient to assure compliance with all applicable requirements and permit terms. 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1), 70.6(a)(3)(i)(A) and (B); *Sierra Club v. EPA*, 536 F.3d 673 (D.C. Cir. 2008).

First, recognizing that the intent appears to be for the Permit to incorporate by reference certain requirements from NSR permit applications, the Petitioners have demonstrated that the Permit does not "set forth" the monitoring for demonstrating compliance with tank emission limits. The references to unspecified NSR applications in the Permit do not include adequate information to identify the

[12] The Petitioners also note that in October 2024, EPA finalized and published changes to AP-42 to account for short-term emissions from tanks. Petition at 14.

specific NSR applications that the Permit appears to rely upon as containing calculation and monitoring methods. As the EPA has previously explained:

> In order for [incorporation by reference (IBR)] to be used in a way that fosters public participation and results in a title V permit that assures compliance with the Act, it is important that (1) referenced documents be specifically identified; (2) descriptive information such as the title or number of the document and the date of the document be included so that there is no ambiguity as to which version of the document is being referenced; and (3) citations, cross references, and incorporations by reference are detailed enough that the manner in which any referenced material applies to a facility is clear and not reasonably subject to misinterpretation.

In the Matter of United States Steel Corp., Granite City Works, Order on Petition No. V-2009-03 at 43 (Jan. 31, 2011) (citing *White Paper 2* at 37).

In this case, Special Condition 10.F of NSR Permit No. 129444 states that emissions "shall be calculated using the methods that were used to determine the MAERT limits in the permit application." NSR Permit No. 129444 at 5. This language fails to provide sufficient information to identify the specific application being referenced to determine the location of the calculation methodologies. While TCEQ's RTC indicates that the application representation that contains these calculations is found at WCC content ID 5407761,[13] this information resides in the permit record rather than the NSR permit or the title V permit, rendering it inadequately incorporated. TCEQ's EPA-approved title V regulations expressly require that such application representations be identified in the Permit itself. *See* 30 TAC § 122.140 ("The only representations in a permit application that become conditions under which a permit holder shall operate are the following: . . . (3) any representation in an application which is specified in the permit as being a condition under which the permit holder shall operate.").

Second, TCEQ's RTC is not responsive to the Petitioners' comments regarding the facility relying on a 2006 AP-42 calculation methodology equation to calculate emissions, specifically comments asserting that the methodology does not include methods for calculating hourly emissions and cannot assure compliance with hourly limits. TCEQ introduces further confusion, as it states that tank emissions are calculated using "(a) AP-42 Compilation of Air Pollutant Emission Factors, Chapter 7 - Liquid Storage Tanks" and (b) the guidance contained on the webpage entitled, "NSR Guidance for Storage Tanks." RTC at 22. Due to the ambiguity in both the NSR permit and the RTC, it is unclear which methodology is required to use in calculating emissions: the AP-42 calculation methodology, the calculation methodology in the permit application, or a combination of the two. For these reasons, the EPA grants these portions of the claim.

Regarding the Petitioners' claim that the Permit's calculation methods for estimating tank emissions are inadequate because the NSR permit only requires the facility to inspect floating roof tank components annually or less frequently, the Petitioners have failed to demonstrate that the existing frequency of inspections is insufficient to assure compliance with tank emission limits. In its RTC, TCEQ states:

[13] RTC at 21.

> With regard to the Commenter's assertion about insufficiency of quarterly monitoring frequency for fugitives, the regulation that stipulates the leak definition typically also prescribe the monitoring frequency. The monitoring requirements according to the 28VHP LDAR programs have been demonstrated to meet BACT based on the monitoring frequency and leak definitions that are specified for this [leak detection and repair] LDAR program. Hourly leak inspections are not required for this LDAR program, which has been approved as BACT for numerous sites within Texas. In regard to the Commenter's assertion about using optical gas imaging (OGI) technology, the ED respectfully notes that this requirement is not supported as a BACT or by any applicable state or federal regulation to demonstrate compliance.

RTC at 22.

The Petitioners do not mention or attempt to address this explanation, which appears to contradict their assertion that monitoring is required only annually or less frequently for these tanks. 40 C.F.R. § 70.12(a)(2)(vi). Moreover, Petitioners do not provide analysis to support their claim that inspections must be conducted more frequently than annually in order to adequately detect leaks for purposes of assuring compliance with applicable requirements or permit terms, only that gaps in seals can result in large fugitive emissions.[14] Additionally, the Petitioners do not provide an adequate demonstration as to why the EPA should compel TCEQ to implement supplemental and additional monitoring via optical imaging (such as Forward Looking Infrared (FLIR) cameras), collection of data to confirm each parameter in calculation methodologies, direct verification of emissions through methods such as DIAL, or lower explosive limit (LEL) monitoring. The Petitioners present suggestions and considerations and cite to past compliance and enforcement concerns, but those are insufficient to demonstrate a flaw in the Permit itself or to demonstrate that these additional measures are necessary to assure compliance. For these reasons, the EPA denies this portion of the claim.

Direction to TCEQ: Regarding the portions of this claim that the EPA is granting, TCEQ must update the Permit to more clearly provide references to permit applications relied on for calculation and monitoring methods by including sufficient descriptive information to specifically identify referenced documents, such as the title or number of the document and the date of the document, so that there is no ambiguity as to which document or which version of the document is being incorporated by reference into the Permit. TCEQ must also clarify in the Permit whether the AP-42 calculation methodology, a calculation methodology in the permit application, or a combination of the two provide the methodology for calculating emissions. Lastly, TCEQ must update the permit record to respond to Petitioners' comments regarding the facility's reliance on a 2006 AP-42 calculation methodology equation to calculate emissions, specifically addressing concerns that the methodology does not include methods for calculating hourly emissions.

[14] *See In the Matter of Valero Refining-Texas, L.P., Valero Houston Refinery* Order on Petition No. VI-2024-17 at 13–14 (Jan. 7, 2025).

B. Claim 2: The Petitioners Claim That "The Proposed Permit Still Fails to Include Sufficient Monitoring for Opacity for Stationary Vents."

Petition Claim: The Petitioners claim that the Permit fails to meet title V requirements for opacity monitoring as the required monitoring (Method 9) has been shown to be "ineffective and vulnerable to bias." Petition at 18 (citing 40 C.F.R. § 70.6(c)(1), 42 U.S.C. § 7661c(a) and (c)). The Petitioners contend that the Permit's only method of monitoring to assure compliance with continuous opacity limits is the use of Method 9, which is visual smoke observation from trained observers, on a once per calendar quarter basis. *Id.* (citing RTC at 28). The Petitioners assert that if applicable requirements themselves do not contain periodic monitoring, the EPA's regulations require permitting authorities to add "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit" and that Method 9 monitoring is unable to yield reliable data and that one per quarter monitoring is insufficient. *Id.* (citing 40 C.F.R. § 70.6(a)(3)(i)(B); 30 TAC § 122.142(c) and *Mettiki Order* at 7–8).

The Petitioners claim that, as raised in their public comments, once-per-quarter monitoring is insufficient to assure compliance with continuous opacity limits. *Id.* The Petitioners further contend that the D.C. Circuit acknowledged that "annual testing is unlikely to assure compliance with a daily emission limit" and that the "frequency of monitoring methods must bear a relationship to the averaging time used to determine compliance." *Id.* (citing *Sierra Club v. EPA,* 536 F.3d 676–677 (D.C. Cir. 2008)). The Petitioners assert that here no relationship exists between quarterly monitoring and continuous opacity limits, thus more frequent monitoring is necessary. *Id.*

The Petitioners then state that even if more frequent monitoring is added, Method 9 is still an insufficient monitoring method, as it relies on visual smoke observation that cannot be checked or verified and requires ideal weather conditions during daytime. *Id.* The Petitioners assert that because Method 9 is limited, it is inadequate to assure compliance with continuous limits that apply both day and night, regardless of weather conditions. *Id.* The Petitioners then claim that the EPA found that Method 9 observations cannot assure compliance with continuous opacity limits, stating:

> EPA found that a Title V permit record failed to sufficiently support the use of weekly Method 9 observations to assure compliance with a continuous opacity limit. *In the Matter of EME Homer City Generation L.P. Indiana County, Pennsylvania*, Order on Petitions III-2012-06, III-2012-07, and III-2013-02 (June 30, 2014) at 44. Similarly, EPA found that quarterly and biannual Method 9 observations are inadequate to assure compliance with opacity limits. *See In the Matter of Pacificorp's Jim Bridger and Naughton Electric Utility Steam Generating Plants*, Order on Petition No. VIII-00-1 (Nov. 16, 2000) at 19 (quarterly observations); *In the Matter of Tennessee Valley Authority, Bull Run, Clinton, Tennessee*, Order on Petition IV-2015-14 (Nov. 10, 2016) ("*Bull Run Order*") at 11 (biannual observations). In the *Bull Run Order*, EPA found specifically that the permitting agency "did not explain how twice-yearly Method 9 observations assure compliance with an opacity limit of 20 percent averaged over a six-minute period except for one 6-minute period per 1 hour of not more than 40 percent." *Bull Run Order* at 11-12.

Id. at 18–19.

The Petitioners then claim that TCEQ failed to engage with the Petitioners' comments regarding Method 9 monitoring, stating that TCEQ does not "defend Method 9 or otherwise respond to the concerns raised about Method 9's inability to ensure compliance with continuous opacity limits." *Id.* at 19. The Petitioners assert that TCEQ only restates that when visible emissions are detected, "the permit holder shall either report a deviation or perform a Test Method 9 observation to determine the opacity consistent with the 6-minute averaging time specified in 30 TAC § 111.111(a)(1)(B)" and "an additional provision is included to monitor combustion sources more frequently than quarterly if alternate fuels are burned for periods greater than 24 consecutive hours." *Id.* (quoting RTC at 28). The Petitioners also contend that TCEQ failed to adequately respond to comments regarding the sufficiency of once-per-quarter monitoring as TCEQ states it has "determined that there is a very low potential that an opacity standard would be exceeded" and therefore "continuous monitoring for these sources is not warranted." *Id.* (citing RTC at 28). The Petitioners conclude that TCEQ does not explain how it made this determination, nor does it respond to the concern that the frequency of the monitoring does not match the emission limit. *Id.*

The Petitioners then argue that the EPA should require the use of Digital Camera Opacity Technology (DCOT) as it is a more reliable method to assure compliance with opacity limits. *Id.* at 20. The Petitioners claim that the EPA has certified DCOT as a valid test method and that the EPA should also require the opacity determinations to be documented on a form, like the DCOT electronic form and be provided on the internet in real time. *Id.* The Petitioners then contend that TCEQ's RTC is insufficient as it did not respond to the benefits of DCOT, rather stating it "is not supported as BACT or as an applicable requirement under any applicable state or federal regulation to demonstrate compliance with opacity standards that may apply to stationary vents." *Id.* (quoting RTC at 28). The Petitioners assert that regardless of whether TCEQ has determined that DCOT is not BACT, this does not change that title V imposes an independent duty to ensure monitoring is sufficient. *Id.*

EPA Response: For the following reasons, the EPA denies the Petitioners' request for an objection on this claim.

All title V permits must include testing, monitoring, recordkeeping, and reporting requirements that are sufficient to assure compliance with all applicable requirements and permit terms. 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1), 70.6(a)(3)(i)(A) and (B); *Sierra Club v. EPA*, 536 F.3d 673 (D.C. Cir. 2008).

As identified by the Petitioners, the Permit establishes a 20% opacity limit (averaged over a six-minute period) for visible emissions from stationary vents and requires an observation of stationary vents from emission units in operation at least once during each calendar quarter. Permit Special Condition 3.A(iv)(1). The underlying requirement at 30 TAC §111.111(a)(F)(ii) indicates that compliance with the opacity limit can be determined via Method 9 observations but does not specify a frequency at which Method 9 is to be used. The Petitioners have failed to demonstrate that the Permit and TCEQ's RTC explaining the sufficiency of the existing opacity monitoring are inadequate and have failed to demonstrate that more frequent monitoring is required to assure compliance with the applicable requirement or a permit term or condition.

As a general matter, the EPA agrees with the Petitioners that the time period associated with monitoring or other compliance assurance provisions must bear a relationship to the limits with which the monitoring assures compliance. *See* 40 C.F.R. § 70.6(a)(3)(i)(B); *In the Matter of Georgia-Pacific Consumer Operations LLC, Crossett Paper Operations*, Order on Petition Nos. VI-2018-3 and VI-2019-12 at 18–19 (Feb. 22, 2023) (*Crossett* Order); *In the Matter of Northeast Maryland Waste Disposal Authority, Montgomery County Resource Recovery Facility*, Order on Petition No. III-2019-2 at 9 (Dec. 11, 2020) (*MCRRF* Order). However, the determination of whether testing and monitoring is adequate in a particular circumstance is a case-by-case, context-specific determination. *E.g.*, *In the Matter of CITGO Refining and Chemicals, West Plant, Corpus Christi*, Order on Petition No. VI-2007-01 at 7 (May 28, 2009) (*CITGO Order*). The EPA has not indicated that in all cases testing and monitoring must exactly mirror the averaging times of associated emission limits. *See, e.g.*, *In the Matter of United States Steel Corporation, Clairton Coke Works,* Order on Petition Nos. III-2023-5 and III-2023-6 at 9, 12, 16, 19, 23, and 27 (Sept. 18, 2023).

While the EPA has explained that in determining appropriate monitoring for a particular situation, the monitoring analysis should begin by assessing whether the monitoring required in the applicable requirement is sufficient to assure compliance with permit terms and conditions, the EPA has also described some factors that permitting authorities may consider when evaluating appropriate monitoring. *See CITGO Order* at 7–8. These factors include "(1) the variability of emissions from the unit in question; (2) the likelihood of a violation of the requirements; (3) whether add-on controls are being used for the unit to meet the emission limit; (4) the type of monitoring, process, maintenance, or control equipment data already available for the emission unit; and (5) the type and frequency of the monitoring requirements for similar emission units at other facilities." *Id.*

In its RTC, TCEQ states:

> Periodic monitoring is specified in Special Term and Condition 3 for stationary vents, which are subject to 30 TAC § 111.111(a)(1)(B) to verify compliance with the 20% opacity limit. These vents are not expected to produce visible emissions during normal operation. As for the frequency of visible emissions observations to demonstrate compliance with 30 TAC § 111.111(a)(1)(B), opacity requirements, the TCEQ evaluated the probability of these sources violating the opacity standards and determined that there is a very low potential that an opacity standard would be exceeded. It was determined by TCEQ that continuous monitoring for these sources is not warranted as there would be very limited environmental benefit in continuously monitoring sources that have a low potential to produce visible emissions. Therefore, the TCEQ set the visible observation monitoring frequency for these sources to once per calendar quarter.

Based on this response, TCEQ has addressed the likelihood of a violation of the requirements, which is one of the key factors described in the *CITGO Order*. The Petitioners do not attempt to refute TCEQ's reasoning or provide any information that persuasively counters it, beyond stating that TCEQ does not explain how it made this determination.

Next, the Petitioners' assertion that the EPA found that Method 9 observations cannot assure compliance with continuous opacity limits is an overbroad characterization of the EPA's position in the

cited orders. In two of the cited orders for coal-fired power plants, the EPA found that the permit *record* failed to justify the use of less frequent Method 9 monitoring for continuous opacity limits; however, the EPA did not conclude that Method 9 cannot assure compliance with continuous opacity limits. *In the Matter of EME Homer City Generation L.P. Indiana County, Pennsylvania*, Order on Petitions III-2012-06, III-2012-07, and III-2013-02 at 44 (July 30, 2014); *In the Matter of Tennessee Valley Authority, Bull Run, Clinton, Tennessee*, Order on Petition IV-2015-14 at 11 (Nov. 10, 2016). In the third order cited by the Petitioner, *In the Matter of Pacificorp's Jim Bridger and Naughton Electric Utility Steam Generating Plants*, Order on Petition No. VIII-00-1 at 19 (Nov. 16, 2000), the EPA found that the quarterly monitoring was not sufficient to assure compliance with a 20% opacity limit in the Wyoming SIP specifically for a "coal-fired power plant." The Valero facility at issue in this Order is not a coal-fired power plant, and the EPA did not extend this conclusion to other facilities. It is important to note that a coal-fired power plant is much more likely to produce visible emissions than tanks that store VOCs and thus may require different monitoring regimes to assure compliance with opacity limits.

Lastly, the Petitioners do not provide an adequate demonstration as to why the EPA should compel TCEQ to implement supplemental and additional monitoring via DCOT. While Petitioners assert that the EPA has certified DCOT as a valid test method for opacity for a federal air toxics rule, that does not demonstrate that it is a *required* technology that the EPA has the basis to compel TCEQ to use for monitoring opacity in this case.[15] Although the Petitioners assert that TCEQ did not respond to the benefits of DCOT, TCEQ did state that the technology is not supported as BACT nor is it an applicable requirement under applicable state or federal regulation. RTC at 26. The Petitioners have not demonstrated that DCOT is necessary to assure compliance with the relevant opacity limits or that the existing requirements are insufficient to assure compliance with these opacity limits. For these reasons, the EPA denies the Petitioners' claim.

C. Claim 3: The Petitioners Claim That "The Proposed Permit Violates Title V by Failing to Make Information Incorporated by Reference Readily Available to the Public."

Petition Claim: The Petitioners claim that the PBR Supplemental Table (OP-PBRSUP), which the Petitioners contend TCEQ relies on for compliance with title V requirements, is not readily available to the public. Petition at 21. The Petitioners assert that IBR of PBR requirement into title V permits is inconsistent with the CAA unless the information incorporated is readily available to the public and-regulators. *Id.* (citing *CITGO Order* at 12 n.5; *In the Matter of Shell Chemical LP and Shell Oil Co., Deer Park Chemical Plant and Refinery*, Order on Petition Nos. IV-2014-04 and IV-2014-05 at 10–11 (Sept. 24, 2015)).

The Petitioners contend that in its RTC, TCEQ refers to the OP-PBRSUP but does not provide access to the table, as the table is not available on TCEQ's website, and because it is not accessible online, the public and regulators "must attempt to find the OP-PBRSUP in the application, search the Indexes to Air Permit by Rule, or try to visit a file room located in Austin, Texas, an over three-hour drive from the

[15] The use of American Society for Testing and Materials (ASTM) D 7520-09 (DCOT) with specified limitations is an alternative test method that *may be* used in lieu of Method 9. *See Recent Postings of Broadly Applicable Alternative Test Methods*, 77 Fed. Reg. 8865, 8866 (Feb. 15, 2012)

Valero facility." *Id.* The Petitioners further assert that this failure to incorporate OP-PBRSUP "invites confusion whether its requirements are properly incorporated" into the Permit and that the OP-PBRSUP should be included within the Permit itself. *Id.* (citing *In the Matter of Motiva Enterprises LLC, Port Arthur Refinery*, Order on Petition No. VI-2016-23 at 30 (May 31, 2018)).

The Petitioners further argue that even if OP-PBRSUP was appropriately incorporated, the Permit would still fail to include sufficient information regarding what applicable PBRs require for relevant emission units. *Id.* at 22. The Petitioners state that while OP-PBRSUP provides a list of the PBRs applicable to emission units, it does not clarify what each PBR's requirements are or how they apply to the emission units. *Id.* The Petitioners claim that in order to locate this information, a reader must navigate through several steps, including looking to the Statement of Basis which refers to TCEQ's website to find a list of current PBRs then searching the "Indexes to Air Permits by Rule" for each applicable PBR individually. *Id.*

The Petitioners further claim that while the Permit includes registration numbers and WCC content IDs for relevant PBRs, those are presented alone, unattached to any explanation as to what each PBR requires. *Id.* The Petitioners contend that the Permit does not link those registration numbers and IDs with the relevant PBRs within the Permit and provides no guidance on how to find information about each PBR based on the registration number or ID. *Id.* Citing prior title V orders, the Petitioners conclude that the use of IBR in the Permit does not satisfy title V requirements and that the EPA must object. *Id.* (citing *CITGO Order* at 12 n.5 and *Deer Park Order* at 10–11).

EPA Response: For the following reasons, the EPA denies the Petitioners' request for an objection on this claim.

The Petitioners have failed to demonstrate that the Permit's IBR of the PBR Supplemental Table is flawed because the Petitioners have not demonstrated that the methods for acquiring the incorporated table render this information not available to the public. Although the permit application and PBR Supplemental Table were not available online, the Petitioners have not demonstrated that online availability is required for properly incorporating information by reference. Online publication is not a requirement of the EPA's longstanding guidance on IBR, nor was the direction the EPA provided in the *CITGO Order*,[16] and IBR can be satisfied so long as the information is contained in publicly accessible files located at the permitting authority. *See White Paper 2* at 27. Here, the Petitioners did not demonstrate, and there is no indication to the EPA, that the permit application and PBR Supplemental Table were not contained in such files at TCEQ's physical office, and the Petitioners appear to presume that the files would be accessible at the physical office. While it may be inconvenient for the public to drive three hours to access the files, the Petitioners have not demonstrated that such an inconvenience amounts to a failure to comply with the requirements of the CAA. Further, to the extent that Petitioners prefer digital access, the Petition does not demonstrate

[16] *CITGO Order* at 12 n.5; *see also In the Matter of Oak Grove Management Company, Oak Grove Steam Electric Station,* Order on Petition No. VI-2017-12 at 11 (Oct. 15, 2021) ("For the plan to be readily available, it must be made available as part of the public docket on the permit action or as information available in publicly accessible files located at the permitting authority or on TCEQ online database.")

that the Petitioners attempted other means to obtain the files electronically that were unsuccessful (*e.g.*, by requesting the files digitally).

Additionally, the Petitioners have not demonstrated that the PBR Supplemental Table does not identify what each PBR requires for each emission unit. Consistent with prior EPA-TCEQ communications,[17] the PBR Supplemental Table includes the unit ID number, PBR number, and monitoring requirements. *See* OP-PBRSUP at 4. The title V permit also includes an NSR authorization reference table that includes the unit ID number and applicable PBR numbers and version dates. *See* Permit at 84–86. The Petitioners do not demonstrate that this information is inadequate to determine the requirements that apply to each emission unit. For these reasons the EPA denies the Petitioners' claim.

V. CONCLUSION

For the reasons set forth in this Order and pursuant to CAA § 505(b)(2) and 40 C.F.R. § 70.8(d), I hereby grant in part and deny in part the Petition and object to the issuance of the Permit as described in this Order.

Dated: July 18, 2025

Lee Zeldin
Administrator

[17] *See* Letter from Tonya Baer, Deputy Director of Air, TCEQ, to David Garcia, Director, Air and Radiation Division, Region 6, U.S. EPA, *Permits by Rule Programmatic Changes*, at 2 (May 11, 2020).