

**BEFORE THE ADMINISTRATOR  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:	)	
	)	
TCEQ Title V Air Operating Permit	)	
No. O1932	)	
	)	Permit No. O1932
For The Lubrizol Corporation	)	
	)	
Issued by the Texas Commission on	)	
Environmental Quality	)	
	)	

**PETITION TO OBJECT TO THE TITLE V OPERATING PERMIT  
FOR No. O1932**

**INTRODUCTION**

Pursuant to 42 U.S.C. § 7661d(b)(2) and 40 C.F.R. § 70.8(d), Harris County (Petitioner or the County) petitions the Administrator of the United States Environmental Protection Agency (EPA) to object to the renewal of Proposed Federal Operating Permit No. O1932 issued by the Texas Commission on Environmental Quality (TCEQ or Commission) to the Lubrizol Corporation (Lubrizol) Deer Park Plant (the Facility) located at 41 Tidal Rd. in Deer Park, Harris County, Texas 77536-2439. As discussed below, Federal Operating Permit No. O1932 fails to comply with requirements in Title V of the Clean Air Act (CAA) and Texas's State Implementation Program (SIP) by failing to adhere to public participation requirements.

As discussed below, the Draft Permit fails to comply with requirements in Title V of the Clean Air Act (CAA) and Texas's State Implementation Program (SIP). EPA must object because the public participation and public access for the Draft Permit's renewal were deficient.

**PETITIONER**

Harris County, with approximately 4.8 million residents, is the third largest county in the United States. Harris County and its residents suffer from poor air quality caused by a large, diverse concentration of industry, including the Houston Ship Channel; heavy commuter traffic; emission events; chemical disasters; smog; and other factors.

## **BACKGROUND**

### **1. Timeline**

This Petition addresses TCEQ's renewal of Title V Permit No. O1932, authorizing operations at the Chemithon and 156 Units area at the Facility. The Lubrizol Corporation applied to TCEQ for a renewal of FOP for an Other Basic Organic Chemical Manufacturing plant located in Deer Park, Harris County on May 13, 2024. Notice [hereinafter the Public Notice] was published on March 26, 2025 and the public comment period ended on April 25, 2025.

Petitioner timely filed a written comment identifying deficiencies in the Draft Permit with the TCEQ on April 25, 2025. **Exhibit A** Harris County's Public Comment on the Renewal of Title V Permit No. O1932 [hereinafter Public Comment]. Petitioner's comments raised all the objections discussed below in this petition. The 60-day public petition period began on July 12, 2025 and ends on September 10, 2025. HCAO timely files this Petition prior to the September 10, 2025 deadline.

### **2. Basis of Petition**

This Petition is based on objections to the Draft Permit raised with reasonable specificity during the public comment period and TCEQ's Response to Comments (RTC) issued after the public comment period. **Exhibit B**, TEX. COMM'N ON ENVT'L QUALITY, Executive Director's Response to Public Comment, Title V Permit Renewal No. O1932 [hereinafter RTC].

This Petition follows content and formatting guidelines specified in Title 40 Code of Federal Regulations Part 70. EPA should object to the issuance of this permit because it is not in compliance with the applicable federal regulations nor Texas' SIP. Additionally, EPA should instruct TCEQ to follow the requests and recommendations Petitioner makes in this Petition.

### **3. Title V Legal Requirements**

To protect public health and the environment, CAA prohibits stationary sources of air pollution from operating without or in violation of a valid Title V permit, which must include conditions sufficient to "assure compliance" with all applicable Clean Air Act requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.6(a)(1), (c)(1). "Applicable requirements" include all standards, emission limits, and requirements of the CAA, including those contained in SIPs. 40 C.F.R. § 70.2. Congress intended for Title V to "substantially strengthen enforcement of the Clean Air Act" by "clarify[ing] and mak[ing] more readily available a source's pollution control requirements." S. Rep. No. 101-228 at 347-48 (1990), as reprinted in A Legislative History of the Clean Air Act Requirements of 1990 (1993), at 8687-88. As EPA explained when promulgating its Title V regulations, a Title V permit should "enable the source, states, EPA,

and the public to better understand the requirements to which the source is subject, and whether the source is meeting those requirements.” Operating Permit Program, Final Rule, 57 Fed. Reg. 32,250, 32,251 (July 21, 1992).

All permit proceedings must provide adequate procedures for public notice, including offering an opportunity for public comment and a hearing on the draft permit. 40 C.F.R. § 70.7(h). The notice shall identify the affected facility; the name and address of the permittee; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or website address) from whom interested persons may obtain additional information, including copies of the permit draft, the statement required by § 70.7(a)(5) (sometimes referred to as the ‘statement of basis’) for the draft permit, the application, all relevant supporting materials, including those set forth in § 70.4(b)(3)(viii) of this part, and all other materials available to the permitting authority (except for publicly-available materials and publications) that are relevant to the permit decision. 40 C.F.R. § 70.7(h)(2). Any major permit, permit modification, or permit renewal, may be issued only if the permitting authority has complied with the requirements for public participation under C.F.R. § 70.7(h)(2). C.F.R. § 70.7(a)(ii).

The EPA Administrator shall object to the issuance of a Title V permit if he determines that the permit fails to include and assure compliance with all applicable requirements. 42 U.S.C. § 7661d(b)(1); 40 C.F.R. § 70.8(c). If the Administrator does not object before the end of the 45 day review period, “any person may petition the Administrator within 60 days after the expiration of the Administrator’s 45-day review period to make such objection.” 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d); 30 Tex. Admin. Code § 122.360. The Administrator “shall issue an objection . . . if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements,” of the Clean Air Act. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1); *see N.Y. Pub. Interest Group v. Whitman*, 321 F.3d 316, 333 n.12 (2d Cir. 2003) (explaining that under Title V, “EPA’s duty to object to non-compliant permits is nondiscretionary”). The Administrator must grant or deny a petition to object within 60 days of its filing. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).

## GROUNDS FOR OBJECTION

### **I. EPA Must Object to the Lubrizol Permit because TCEQ did not Provide Adequate Public Access for the Renewal of Draft Permit O1932**

#### **a. Specific Ground for Objection**

TCEQ failed to provide HCAO actual access to permitting materials at its Central Office and failed to provide adequate instructions on how to physically access documents in its possession, as it is required to do. TCEQ is required to provide access to information relevant to Title V renewals. 30 Tex. Admin. Code § 122.320. TCEQ's Title V regulations also require the Executive Director to *make available for public inspection* the complete application and draft operating permit throughout the entire Title V comment period during business hours at the commission's Central Office and at the commission's regional office where the relevant site is located. *Id.* § 122.320(g) (emphasis added). The published notice must also include the location and availability of the complete permit application, draft permit, statement of basis, and all other relevant supporting materials in the public files of the agency. *Id.* § 122.320(b). A permit may be issued by the executive director provided the requirements of this chapter for public notice, affected state review, notice and comment hearing, and EPA review have been satisfied. *Id.* § 122.201(a). The permit will not be final until the public petition requirements of this chapter have been satisfied. *Id.* § 122.201(b).

#### **b. Requirements**

All permit proceedings must provide adequate procedures for public notice, including offering an opportunity for public comment and a hearing on the draft permit. 40 C.F.R. § 70.7(h). The notice shall identify the affected facility; the name and address of the permittee; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or website address) from whom interested persons may obtain additional information, including copies of the permit draft, the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis') for the draft permit, the application, all relevant supporting materials, including those set forth in § 70.4(b)(3)(viii) of this part, and all other materials available to the permitting authority (except for publicly-available materials and publications) that are relevant to the permit decision. 40 C.F.R. § 70.7(h)(2). Any major permit, permit modification, or permit renewal, may be issued only if the permitting authority has complied with the requirements for public participation under C.F.R. § 70.7(h)(2). C.F.R. § 70.7(a)(ii).

In addition to Part 70 of the federal regulations, Title V applicable requirements incorporate "[a]ny standard or other requirement provided for in the applicable [state] implementation plan approved. . ." by EPA. 40 C.F.R. § 70.2. This includes Texas's Title V regulations found in Chapter 122, including those requiring adequate public notice and access. *See* 30 Tex. Admin. Code § 122. TCEQ failed to meet these requirements by failing to provide adequate public access.

### **c. Inadequacy of the Permit**

HCAO representatives visited TCEQ's Central Office twice, on two separate dates, to view and access documents relevant to this permitting action. Ultimately, they were denied access to view the documents at the Central Office. TCEQ therefore failed to meet its public participation requirements, and the permit should not be issued.

A detailed account of HCAO's attempt to access these documents is detailed in full in the Public Comment. In summary, on April 8, 2025, HCAO representatives attempted to access the permitting materials at the TCEQ Central Office, where multiple TCEQ employees gave confusing, contradictory, and incorrect directions to the Central File Room. Eventually, HCAO's representative located a room labeled 'Central Records Room' in TCEQ Building E. However, a sign on the door indicated that the Central Records Room viewing area was closed to the public for "renovation" until "early 2025." The lights were on in a nearby, unmarked office but there were no employees present, and the door was locked, despite it being normal business hours. Therefore, HCAO's representative was not able to access any permit documents, nor ask if or when the Central Records Room would be open for "public inspection," as described in the notice. One TCEQ employee that spoke to HCAO was unsure why TCEQ employees were not present in that office during normal business hours and suggested HCAO try again another time.

On April 15, 2025, HCAO representatives again tried to access the permitting materials at the Central Office, Building E. TCEQ employees again gave HCAO confusing, contradictory, and incorrect information regarding how they could access permitting materials. This includes: 1) stating the Central Records Room was indefinitely closed to the public 2) stating the central records office was only open between 9:00am and 3:30pm, not during TCEQ's full, regular business hours as stated on the front door of Building E 3) stating members of the public were not permitted to walk in to the office and view permit materials without an appointment, which needed to be set up via email in advance<sup>1</sup> 4) allowing entry after being shown the Notice by HCAO representatives and following an HCAO explanation on why HCAO representatives were attempting to view documents relating to the Title V process 4) stating "these types" of materials "for water permits" were not stored or handled by the central records office 5) stating that HCAO might need to file a formal Public Information Request (PIR) to access the permit materials because of confidentiality concerns 6) stating that physical documents were actually not available for public inspection or located at the TCEQ office at all 7) directing HCAO representatives to a computer to view the materials at TCEQ's website, and failing to instruct HCAO representatives on how to access all of the relevant permitting materials, like the application (which is held in a separate database than the statement of basis and draft permit) 8) suggesting that materials not in the CFR online (like the permit application) were unavailable for public viewing 9) suggesting HCAO "contact air" to try and gain access to the requested materials, without further specification as to who to contact or

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<sup>1</sup> According to TCEQ employees, the public must set up prior appointments at [cfreq@tceq.texas.gov](mailto:cfreq@tceq.texas.gov). This email is not included in the public notice.

how to contact them. HCAO was never granted access to inspect, view, or copy the materials at the office.

The Public Notice for Draft Permit No. O1932 states “[t]he permit application, statement of basis, and draft permit will be available for viewing and copying at the TCEQ Central Office,” beginning on the first day of publication of the notice. “Relevant supporting materials for the draft permit” will also be located at the TCEQ Central Office and Houston regional offices for viewing and copying. The Public Notice also provides a link to electronically access the draft permit and statement of basis, along with another link to electronically access to the application and updates.<sup>2</sup>

#### **d. Issues raised in public comments**

Petitioner raised these issues with reasonable specificity in the public comment filed with TCEQ. *See* Public Comment. The issues regarding public access are discussed on pages 3–9 of the Comment. *Id.* at 3–9.

#### **e. Analysis of TCEQ’s Response**

TCEQ does not adequately address, explain, nor rebut many of the issues HCAO raised in its comment regarding the public access issues in the RTC. TCEQ’s Title V public participation requirements are nondiscretionary duties. TCEQ must abide by all requirements set out in its Title V regulations and nothing, including uploading documents online, relieves TCEQ of these duties. *See* 30 Tex. Admin. Code § 122.320. These duties are also separate and independent of one another. *Id.* TCEQ cannot skirt the requirement of making the permitting materials available at the Central Office because it placed materials online.

TCEQ responds to Petitioner’s public access concerns in the section entitled “Response to Comment 3.” The TCEQ Executive Director (ED) “respectfully disagrees with the Commenter’s assertion that documents related to the Draft Permit were inaccessible to the public during the public comment period, which started on March 26, 2025, and ended on April 25, 2025.” TCEQ claims that all requirements under 30 TAC § 122.320 were met by the following actions taken by the applicant and TCEQ: 1) the public notice was published in English and Spanish (the alternate language) and 2) “the Notice of Draft Federal Operating Permit and TCEQ’s website explicitly posted links to provide the public with online access.

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<sup>2</sup> “The permit application , statement of basis, and draft permit will be available for viewing and copying at the TCEQ Central Office, 12100 Park 35 Circle, Building E, First Floor, Austin, Texas 78753; the TCEQ Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452; and the Deer Park Library, 3009 Center St., Deer Park, Texas 77536-5063, beginning the first day of publication of this notice. The draft permit and statement of basis are available at the TCEQ Website: [www.tceq.texas.gov/goto/tvnotice](http://www.tceq.texas.gov/goto/tvnotice). The application, including any updates, is available electronically at the following webpage: <https://www.tceq.texas.gov/permitting/air/airpermit-applications-notices>. At the TCEQ central and regional offices, relevant supporting materials for the draft permit, as well as the New Source Review permits which have been incorporated by reference, may be reviewed and copied. Any person with difficulties obtaining these materials due to travel constraints may contact the TCEQ central office file room at (512) 239-2900.” *Public Notice* at 1.

The public notice being published in English and Spanish is not relevant to whether or not the documents were impermissibly inaccessible, and Petitioner is not raising the issue of the sufficiency of the Public Notice's publication or text this Petition. HCAO therefore addresses the rest of TCEQ's responses below.

- i. TCEQ claims that documents were available online and therefore were publicly accessible.

TCEQ states:

The ED respectfully notes that Commenter and representatives encountered difficulty in accessing the Draft Permit application and statement of basis at TCEQ's Houston Regional Office and TCEQ's Central File Room located in Austin, Texas. Though regrettable, the links provided in the public notice allowed access to online copies of the Draft Permit, statement of basis (SOB), and a copy of the permit application, including any updates.

HCAO's complaint is not that the documents were completely inaccessible by every avenue. Rather, the inaccessibility of the documents to the HCAO agents that went to access them, on two separate days, is what is highlighted in the Public Comment. HCAO does not dispute that permitting documents were available online.

TCEQ's Title V public participation requirements are nondiscretionary duties. TCEQ must abide by all requirements set out in its Title V regulations and nothing, including uploading documents online, relieves TCEQ of these duties. *See* 30 Tex. Admin. Code § 122.320. These duties are also separate and independent of one another. *Id.* TCEQ cannot skirt the requirement of making the draft permit and application available at the central office. The fact that these two documents are available online does not cure TCEQ's failure to make the application and Draft Permit available for public inspection at the TCEQ Central Office.

- ii. TCEQ claims that access to physical files is not required, and online access is sufficient to meet relevant requirements.

TCEQ asserts:

In regard to the Commenter's assertions about 'the lack of availability of physical files' (presumably for the purpose of 'copying' the contents of the files), the ED notes, per 30 TAC Chapter § 122.320(b), 'The executive director shall direct the applicant to make a copy of the application, draft permit, and statement of basis available for review and copying *at a public place* in the county in which the site is located or proposed to be located' (emphasis added)."<sup>3</sup>

Firstly, TCEQ need not presume the purpose of HCAO's concern regarding the lack of availability of physical files or the accompanying discussion contained in Petitioner's comment. Petitioner's comment explicitly states within the first page of discussion regarding the lack of public access

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<sup>3</sup> The next line in this paragraph states that the permit materials were actually available for viewing and copying, which Petitioners will address in a following section.

“HCAO’s representatives encountered several obstacles in their attempts to *view* the documents relevant to this renewal action at TCEQ’s Central Office. Public Comment at 3 (emphasis added).<sup>4</sup> HCAO representatives went to the location TCEQ told the public via public notice that permit documents would be, and that is made clear in Petitioner’s comment.

In the Public Comment, Petitioner does raise a concern regarding the printing procedures at the TCEQ Central Office. HCAO inquired about these procedures after attempting to gain physical access to permitting materials (and instead being given access to a computer). However, this point was raised to highlight how the lack of physical document access, in favor of showing the inquiring public to a computer and requiring them to then pay for physical access through printing, is inequitable and contrary to Title V’s purpose. Petitioner did not assert or imply that the purpose of their visit to TCEQ was to make copies.

The Public Notice of the Draft Permit explicitly states that all relevant permit materials would be available for public *viewing*, as well as copying, at the TCEQ Central Office at 12100 Park 35 Circle, Building E, First Floor, Austin, Texas 78753. Further, the Public Notice states “At the TCEQ central and regional offices, relevant supporting materials for the draft permit, as well as the New Source Review permits which have been incorporated by reference, may be *reviewed* and copied.” TCEQ’s Title V regulations also require the Executive Director to make available for public *inspection* the complete application and draft operating permit throughout the entire Title V comment period during business hours at the commission’s regional office where the relevant site is located. HCAO went to view the documents.

Petitioner is not sure what the 30 TAC quote is meant to emphasize, nor can Petitioner decipher what argument the quote is meant to support, but Petitioner does not believe the response in this paragraph meaningfully responds to HCAO’s comment. This quote does not answer why the lack of physical copies occurred or why the TCEQ locations were listed in the Public Notice if documents could not actually be accessed there. The presumption that HCAO’s purpose in visiting the location TCEQ stating the public could view documents was to make copies similarly does not address HCAO’s comment, but rather a point HCAO did not make.

The next paragraph in the RTC reads:

With respect to Commenter’s assertions about digital access to permit materials failing to meet TCEQ rule requirements and the duty of TCEQ to allow public access to the physical permit materials, the ED respectfully notes that this assertion appears to be contrary to the use of information technology for improved productivity, and these assertions are not explicitly stated as a requirement under 30 TAC Chapter 122.320. 30 TAC Chapter § 122.320(g) states “[t]he executive director shall make available for public inspection the draft permit and the complete application throughout the comment period during business hours at the commission’s central office and at the commission’s regional office where the site is located.” This requirement does not explicitly require TCEQ to provide “copying”

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<sup>4</sup> The Public Comment later states “After HCAO representatives stated they were trying to *view* Title V permit materials to participate in the public comment process, and showed a copy of the permit indicating that the materials are located in the central records office, the TCEQ employee allowed entry.” *Public Comment* at 5 (emphasis added).



capability at any of its facilities and it does not require TCEQ to provide access to the “physical permit materials” as asserted by the Commenter.

Respectfully, Petitioner is not familiar with a TCEQ or Federal standard or rule requiring “the use of information technology for improved productivity” relevant to this proceeding. TCEQ also does not elaborate why Petitioner’s assertion being “contrary” to this sentence is problematic or why this concept renders TCEQ’s legally mandated duties to provide access either met or irrelevant. TCEQ provides no citation. TCEQ’s assertion here does not adequately explain or address why digital access in the context of this permit and the issues raised by Petitioner actually does meet the rule requirements or fulfill TCEQ’s mandated duties.

TCEQ cannot simply make reference to nebulous, uncited standards, seemingly only known to TCEQ, as a reason for failing to meet Clean Air Act requirements. If TCEQ meant by their statement that requiring the presence of a document seems inefficient given the prevalence of more sophisticated means of delivering information (i.e. the internet), they may wish to change their rules, but that does not change the fact that the rules currently require the documents to be present.

In regard to TCEQ’s second point that 30 TAC Chapter § 122.320(g) does not “explicitly require” TCEQ to provide copying or “physical permit materials,” Petitioner acknowledges that this provision does not actually contain the word “physical.” However, “physical” access is still required and contemplated by the rule. Cambridge Dictionary defines “Inspection” as “the act of looking at something carefully, or an official visit to a building or organization to check that everything is correct and legal.”<sup>5</sup> Both portions of this definition necessitate physical access. Additionally, the common meaning and most logical understanding of “inspection” within the context of the language of this provision is in line with HCAO’s interpretation of this rule.

Further, the plain language of this rule necessitates “public inspection...*at* the commission’s central office.” The word “at” is a preposition “used to show an exact position or particular place.”<sup>6</sup> The common understanding of this phrase is that these documents be both located *at* and available *at* the Central Office. The language does not say (nor imply) that the ED shall make available a computer to access documents during business hours at the commission’s Central Office. TCEQ’s interpretation that this rule actually only requires that TCEQ provide a computer and unclear (and incorrect) instructions to digitally view documents through a computer at its Central Office is nonsensical.

If providing online access fully satisfies the requirements TCEQ must fulfill, there would be no reason to direct people to the Central Office or file room. Requiring physical access is the simplest interpretation of this rule and the only logical one.

Additionally, these rules were promulgated when TCEQ either did not have the capacity to or chose not to have all Title V permitting materials available online. For example, Title V permit applications were just made available online this year. Prior to this, going in person to a physical

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<sup>5</sup> *Inspection*, Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/inspection> (last visited Sept. 9, 2025).

<sup>6</sup> *At*, Cambridge Dictionary, [https://dictionary.cambridge.org/us/dictionary/english/at#google\\_vignette](https://dictionary.cambridge.org/us/dictionary/english/at#google_vignette) (last visited Sept. 9, 2025).

location to access physical paper documents was the only way to retrieve the application. This history suggests that the rule does not contemplate digital access as being an equal substitute for physical access, not only because it is not in the text, but because such access was not even available at the time.

Even if TCEQ's interpretation of this rule is correct, TCEQ still failed to provide even digital computer access "during business hours" when HCAO first attempt to view documents, which the RTC does not address. Relevant TCEQ staff were not even present during business hours.

Petitioner again notes that the "copying" issue raised in the Public Comment was regarding the TCEQ's refusal to grant HCAO access to inspect the documents and what the public would then have to do gain such physical access to inspect documents, and was not a concern primarily about the actual inadequacy of TCEQ's "copying capability."

Petitioner would also note that, while TCEQ rules do not explicitly reference copying and viewing at TCEQ offices, the Public Notice does. TCEQ asserted to the public that these documents can be copied and viewed, which necessitates physical access. Additionally, the common understanding of the words "view at" in conjunction with a location, like the Central Offices, is that documents can be physically located and viewed at that location. Issues regarding the text of the public notice can be found in the Public Comment but are not raised by Petitioner in this Petition.

Finally, TCEQ states:

For the past several years TCEQ, EPA, and other state and federal agencies have been moving away from paper copy files and towards adoption of new technology to provide electronic file access to improve governmental efficiency, reduce records management costs and facilitate public participation. TCEQ has also added information to the Title V public notice on how to access these files electronically. More specifically, beginning January 1, 2023, TCEQ requires that all Title V applications be submitted electronically. EPA Region 6 office has requested that all applications, including any updates, and all correspondence related to air permitting be submitted electronically and has advised no hard copies of the information contained in the application should be submitted to EPA.

These statements regarding general government policy trends do not alleviate TCEQ from its public participation requirements. HCAO acknowledges that there has been a general shift at all levels of government to house files online. However, HCAO asserts that 1) TCEQ's discussion of how permitting agencies receive documents is irrelevant to how the public accesses them, and 2) TCEQ does not explain how this change in internal procedure affects the legal requirement that TCEQ provide public access to the documents. HCAO would also point out that it is not efficient governance for employees to send stakeholders in circles for documents because TCEQ has changed its procedures for document access both without updating its own rules and notices or informing its staff. The bottom line is that the documents were not available when they were legally required to be. HCAO would also note that having the public visit TCEQ twice and instructing the public to do multiple contradictory actions in order to gain access to public documents does not facilitate public participation. It actively discourages it.

If TCEQ would like to rid itself of the requirement to allow public inspection of Title V documents at its offices and make permitting documents only available through its website, it has the authority to do so. However, it must go through the proper promulgation processes for Title V rules to accomplish this goal. It cannot internally decide it no longer needs to abide by its own rules and excuse itself of its legally mandated obligations, while simultaneously holding out to the public that these documents are available for “viewing and copying” at TCEQ offices. This is nonsensical and frustrates the very purpose of Title V.

Currently, TCEQ has failed to meet the black letter law public access requirements for this permit. Therefore, Petitioner requests this permit be denied. Additionally, Petitioner request that EPA require TCEQ to provide clearer and more accurate public access information and instructions to the public and its staff to ensure the Title V program is sufficiently carried out by TCEQ.

- iii. TCEQ claims that permit materials were available for viewing and copying at TCEQ’s Central File Room, as well as the TCEQ’s Houston Regional Office.

The RTC states “However, the ED respectfully notes that the permit materials were available for viewing and copying at TCEQ’s Central File Room, as well as the TCEQ’s Houston Regional Office.”

Petitioner is unclear as to the point TCEQ is making here. One might interpret this line as TCEQ’s assertion that “available” means “available online,” which TCEQ has claimed satisfies its obligations. If this is the case, Petitioner responds to this argument above. However, Petitioner’s understanding of this statement in the RTC is this: even though TCEQ rules do not require physical access to the documents, these documents actually were available at the Central Office.

This response is not adequate, nor does it address Petitioner’s concerns that they were denied access to physical documents at the TCEQ office. Simply stating that documents were available does not make it actually so. Additionally, the RTC does not rebut HCAO’s account as inaccurate, instead it simply dismisses it as a regrettable difficulty. This assertion indicates to Petitioner that TCEQ is not in engaging with their concerns in good faith.

Petitioner did not raise the issue of whether permit materials were available at the Houston Regional Office in the Public Comment and cannot comment on whether the permit materials would have been actually available there during the comment period.

- iv. TCEQ does not adequately address HCAO’s concern that HCAO has consistently encountered issues in attempting to gain access to permitting documents, nor does it address the incorrect and contradictory information consistently given to HCAO by TCEQ staff.

HCAO notes that TCEQ only vaguely references HCAO’s “difficulty” with accessing public documents for purposes of this permitting process as “regrettable.” TCEQ does not address how the consistent incorrect and contradictory information given to HCAO by TCEQ staff (which has been a consistent issue HCAO has raised with TCEQ for years, as noted in the Public Comment)

will be remedied or why this issue did not hinder public access, as HCAO asserted. Petitioner requests that EPA direct TCEQ to provide adequate training to its staff to ensure they are able to adequately assist the public in accessing documents.

## Conclusion

Petitioner respectfully requests that EPA deny this permit because the permit materials were not available to the public as required by law. This is demonstrated by the numerous failed attempts HCAO made to procure the necessary permit documents. Additionally, Petitioner requests that EPA mandate TCEQ to update their policies and / or rules to ensure actual access is given and properly communicated to the public.

CC: (Attachments available by request)

Respectfully submitted,

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<b>Exhibit</b>	<b>Title</b>
<b>A</b>	<b>Harris County's Public Comment on the Renewal of Title V Permit No. O1932</b>
<b>B</b>	<b>Executive Director's Response to Public Comment, Title V Permit Renewal No. O1932</b>