

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

Petition No. VIII-2025-21

In the Matter of

Bonanza Creek Energy Operating Company, LLC

Antelope CPF 13-21 Production Facility
Permit No. 20OPWE417

State Antelope O-1 Central Production Facility
Permit No. 20OPWE418

State North Platte 42-26 Central Production Facility
Permit No. 20OPWE419

State Pronghorn 41-32 Central Production Facility
Permit No. 20OPWE420

Issued by the Colorado Department of Public Health and Environment

ORDER DENYING A PETITION FOR OBJECTION TO TITLE V OPERATING PERMITS

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received a petition dated May 19, 2025, (the “Petition”) from the Center for Biological Diversity (the “Petitioner”), pursuant to Clean Air Act (CAA) section 505(b)(2).¹ The Petition requests that the EPA Administrator object to the following four operating permits issued by the Colorado Department of Public Health and Environment (CDPHE) to Bonanza Creek Energy Operating Company, LLC (“Bonanza Creek”) facilities in Weld County, Colorado: operating permit No. 20OPWE417 issued to the Antelope CPF 13-21 Production Facility (“Antelope 13-21”), operating permit No. 20OPWE418 issued to the State Antelope O-1 Central Production Facility (“Antelope O-1”), operating permit No. 20OPWE419 issued to the State North Platte 42-26 Central Production Facility (“North Platte”), and operating permit No. 20OPWE420 issued to the State Pronghorn 41-32 Central Production Facility (“Pronghorn”) (collectively, the “Permits”). The Permits were issued

¹ 42 U.S.C. § 7661d(b)(2).

pursuant to title V of the CAA, and CDPHE's EPA-approved operating permit program rules.² These types of operating permits are also known as a title V permits or part 70 permits.

Based on a review of the Petition and other relevant materials, including the Permits, the permit records, and relevant statutory and regulatory authorities, and as explained in Section IV of this Order, the EPA denies the Petition requesting that the EPA Administrator object to the Permits.

II. STATUTORY AND REGULATORY FRAMEWORK

A. Title V Permits

CAA section 502(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 70.³ The State of Colorado submitted a title V operating permit program on November 5, 1993. The EPA granted interim approval of Colorado's operating permit program in January 1995 and full approval in August 2000.⁴

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.⁵ One purpose of the title V operating permit 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."⁶ Title V operating permits compile and clarify, in a single document, the substantive air quality control requirements derived from numerous provisions of the CAA. By clarifying which requirements apply to emission units at the source, title V operating permits enhance compliance with those applicable requirements of the CAA. The title V operating permit program generally does not impose new substantive air quality control requirements, but does require that permits contain adequate monitoring, recordkeeping, and reporting requirements to assure the source's compliance with the underlying substantive applicable requirements.⁷ Thus, the title V operating permit program is a vehicle for compiling the air quality control requirements as they apply to the source's

² 42 U.S.C. §§ 7661–7661f; 5 CCR 1001-5, Part C; *see also* 40 C.F.R. part 70 (title V implementing regulations).

³ 42 U.S.C. § 7661a(d)(1).

⁴ *See* 60 Fed. Reg. 4563 (Jan. 24, 1995) (interim approval); 61 Fed. Reg. 56368 (Oct. 31, 1996) (revising interim approval); 65 Fed. Reg. 49919 (Aug. 16, 2000) (full approval). This program is codified in 5 CCR 1001-5, Part C.

⁵ 42 U.S.C. §§ 7661a(a), 7661b, 7661c(a).

⁶ 57 Fed. Reg. 32250, 32251 (July 21, 1992).

⁷ 40 C.F.R. § 70.1(b); *see* 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

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 operating permit programs. Under CAA section 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.⁸ Upon receipt of a proposed permit, the EPA has 45 days to object to final issuance of the proposed permit if the Agency determines that the proposed permit is not in compliance with applicable requirements under the CAA.⁹ If the EPA does not object to a permit on the Agency's 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.¹⁰

Each petition must identify the proposed permit on which the petition is based and identify the petition claims.¹¹ 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 40 C.F.R. part 70.¹² 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.¹³

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 objections within such period or unless the grounds for such objection arose after such period).¹⁴

In response to such a petition, the CAA requires the Administrator to issue an objection to the permit if a petitioner demonstrates that the permit is not in compliance with the requirements of the CAA.¹⁵ Under CAA section 505(b)(2), the burden is on the petitioner

⁸ 42 U.S.C. § 7661d(a).

⁹ 42 U.S.C. § 7661d(b)(1); 40 C.F.R. § 70.8(c).

¹⁰ 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).

¹¹ 40 C.F.R. § 70.12(a).

¹² 40 C.F.R. § 70.12(a)(2).

¹³ 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.*

¹⁴ 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d); *see* 40 C.F.R. § 70.12(a)(2)(v).

¹⁵ 42 U.S.C. § 7661d(b)(2); *see also New York Public Interest Research Group, Inc. v. Whitman*, 321 F.3d 316, 333 n.11 (2d Cir. 2003) (*NYPIRG*).

to make the required demonstration to the EPA.¹⁶ As courts have recognized, CAA section 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 CAA, and a nondiscretionary duty on the Administrator’s part to object if such a demonstration is made.¹⁷ Courts have also made clear that the Administrator is only obligated to grant a petition to object under CAA section 505(b)(2) if the Administrator determines that the petitioner has demonstrated that the permit is not in compliance with requirements of the CAA.¹⁸ When courts have reviewed the EPA’s interpretation of the ambiguous term “demonstrates” and the Agency’s determination as to whether the demonstration has been made, they have applied a deferential standard of review.¹⁹ Certain aspects of the petitioner’s demonstration burden are discussed in the following paragraphs. A more detailed discussion can be found in the preamble to the EPA’s proposed petitions rule.²⁰

The EPA considers a number of factors in determining whether a petitioner has demonstrated noncompliance with the CAA.²¹ 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 40 C.F.R. 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 40 C.F.R. part 70.²²

If a petitioner does not satisfy these requirements and provide sufficient citations and analysis, the EPA is left to work out the basis for the petitioner’s objection, which is

¹⁶ 42 U.S.C. § 7661d(b)(2); see *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.

¹⁷ *Sierra Club v. Johnson*, 541 F.3d at 1265–66 (“[I]t is undeniable [that CAA section 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.

¹⁸ *Citizens Against Ruining the Environment*, 535 F.3d at 677 (stating that CAA section 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)); 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)).

¹⁹ See, e.g., *Voigt v. EPA*, 46 F.4th 895, 902 (8th Cir. 2022), *WildEarth Guardians*, 728 F.3d at 1081–82; *MacClarence*, 596 F.3d at 1130–31.

²⁰ When the EPA finalized this rulemaking in 2020, the Agency referred back to (but did not repeat) the proposed rule’s extensive background discussion regarding the petitioner’s demonstration burden. See 85 Fed. Reg. 6431, 6433, 6439 (Feb. 5, 2020) (final rule); 81 Fed. Reg. 57822, 57829–31 (Aug. 24, 2016) (proposed rule); 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*).

²¹ See generally *Nucor II Order* at 7.

²² 40 C.F.R. § 70.12(a)(2)(i)–(iii).

contrary to Congress's express allocation of the burden of demonstration to the petitioner in CAA section 505(b)(2).²³ Relatedly, the EPA has pointed out in numerous previous orders that generalized assertions or allegations did not meet the demonstration standard.²⁴ 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.²⁵

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.²⁶ This includes a requirement that petitioners address the permitting authority's final decision and final reasoning (including the State's response to comments) if these documents were available during the timeframe for filing the petition. Specifically, the petition must identify if 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.²⁷

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

²³ 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."); 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 in which 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*).

²⁴ See, e.g., *In the Matter of Luminant Generation Co., Sandow 5 Generating Plant*, Order on Petition No. VI-2011-05 at 9 (Jan. 15, 2013); 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).

²⁵ 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); 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.

²⁶ 81 Fed. Reg. at 57832; see *Voigt*, 46 F.4th at 901–02; *MacClarence*, 596 F.3d at 1132–33; 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 in which 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 in which 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 in which petitioners did not address a potential defense that the State had pointed out in the response to comments).

²⁷ 40 C.F.R. § 70.12(a)(2)(vi).

to the petition. 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 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). If a final permit and a statement of basis for the final permit are available during the EPA’s review of a petition on a proposed permit, those documents may also be considered when determining whether to grant or deny the petition.²⁸

III. BACKGROUND

A. The Facilities

Antelope 13-21, Antelope O-1, North Platte, and Pronghorn, owned by Bonanza Creek, are located in Kersey, Weld County, Colorado. This area is classified as being in severe nonattainment for the 8-hour ozone standard. The facilities are centralized production facilities that receive, treat, store, and send out both oil and natural gas from multiple remote wells. The facilities are all title V major sources of volatile organic compounds (VOC). Antelope 13-21, Antelope O-1, and North Platte are also title V major sources of nitrogen oxides (NO_x).

B. Permitting History

Bonanza Creek first obtained title V permits for Antelope 13-21, Antelope O-1, and North Platte on June 6, 2023, and for Pronghorn on June 23, 2023. Those permits were the subject of a petition to the EPA filed on August 7, 2023. In response to that petition, the EPA issued an order on January 30, 2024.²⁹ The *Bonanza Creek I Order* granted the 2023 petition and objected to the permits for all four facilities based on certain inadequacies in the permit records. The *Bonanza Creek I Order* directed CDPHE to: (i) revise the permit records to explain how the monitoring in the permits assured compliance with requirements to achieve 95 percent VOC control efficiency applicable to triethylene glycol dehydration units at the Antelope 13-21 and North Platte facilities and truck loadout units at all four facilities; and (ii) revise the permits if CDPHE determined that additional monitoring was necessary to assure compliance.³⁰

²⁸ 40 C.F.R. § 70.13.

²⁹ *In the Matter of Bonanza Creek Energy Operating Company, LLC*, Order on Petition No. VIII-2023-11 (Jan. 30, 2024) (*Bonanza Creek I Order*).

³⁰ *Id.* at 13–15.

CDPHE revised the Permits and permit records in response to the *Bonanza Creek I Order*. CDPHE's actions to modify the Permits are the subject of the present Petition. Specifically, CDPHE removed the requirements for the dehydration units from the Antelope 13-21 and North Platte Permits, added monitoring of inlet pressure and valve position of the enclosed combustion devices (ECDs) controlling emissions from the truck loadout units at all four facilities, and revised the permit records to explain its determinations regarding monitoring.

On December 11, 2024, CDPHE published notices of draft permits for Antelope 13-21 and Antelope O-1, subject to public comment periods that ended on January 10, 2025. On December 16, 2024, CDPHE published notices of draft permits for North Platte and Pronghorn, subject to public comment periods that ended on January 15, 2025. On January 31, 2025, CDPHE submitted all four proposed permits, along with its responses to public comments (RTC) and technical review documents (TRD), to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on March 17, 2025, during which time the Agency did not object to the proposed permits. CDPHE issued the final Antelope 13-21 and Antelope O-1 Permits on March 19, 2025, and the final North Platte and Pronghorn Permits on March 24, 2025.

E. Timeliness of Petition

Pursuant to the CAA, if the EPA does not object to a proposed permit during the Agency's 45-day review period, any person may petition the Administrator within 60 days after the expiration of the 45-day review period to object.³¹ The EPA's 45-day review period for the Permits ended on March 17, 2025. The 60-day period to file a petition should have closed on May 16, 2025. However, the EPA's website erroneously indicated that any petition seeking the Agency's objection to the Permits was due on or before May 19, 2025, or 63 days after the expiration of the Agency's 45-day review period. The Petition was submitted via email on May 19, 2025. Therefore, the EPA will treat the Petition as if it had been timely filed. Had the EPA's website shown the correct date that petitions were due, the Agency would not have treated the Petition as timely filed.

IV. EPA DETERMINATION ON PETITION CLAIM

The Petitioner Claims That "The Revised Permits Still Fail to Assure Compliance With Title V Monitoring Requirements."

The Petition repeats the same (substantively identical) claim four times, once for each Permit. For simplicity, the following summary cites only section A of the Petition—related to the Antelope 13-21 Permit—for the majority of the Petitioner's arguments and indicates where and how the claims differ.

³¹ 42 U.S.C § 7661d(b)(2).

Petition Claim: The Petitioner first describes the EPA's objection in the *Bonanza Creek I Order*, stating that the objection concerned compliance assurance requirements for ECDs that controlled emissions from glycol dehydrators at Antelope 13-21 and North Platte and ECDs that controlled emissions from truck loadout operations at all four facilities. The Petitioner claims that the EPA found that the Permits failed to assure compliance with 95 percent VOC control efficiency requirements applicable to the ECDs:

Specifically, the Administrator found the permits inappropriately relied on parametric monitoring that was not linked to quantitative flare performance and appeared to rely on work practices and parametric monitoring requirements that were not federally enforceable. The Administrator also noted that while the Division appeared to acknowledge that performance testing and flow metering were necessary to assure compliance with the 95% control efficiency, these requirements were "state-only enforceable."³²

The Petitioner notes that CDPHE, in response to the EPA's objection, removed requirements for the dehydrators from the Antelope 13-21 and North Platte Permits. The Petitioner also notes that for truck loadout operations, CDPHE did not add performance testing but did add inlet pressure and valve status monitoring requirements to all four Permits.³³

Next, the Petitioner notes title V monitoring requirements. The Petitioner states that "a Title V permit must set forth monitoring requirements to assure compliance with the permit terms and conditions."³⁴ The Petitioner also asserts that to be enforceable, permits must contain "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit."³⁵

The Petitioner claims that the Permits still lack sufficient monitoring to assure compliance with 95 percent VOC control efficiency requirements applicable to the truck loading operations at each facility, specifying two reasons why, in its opinion, the monitoring in the Permits is inadequate. The Petitioner claims that the Permits must include performance testing requirements to assure compliance and that CDPHE's rationale for not requiring such testing is unreasonable. The Petitioner also claims that CDPHE "failed to provide a rational and reasonable explanation for the new pressure monitoring."³⁶

³² Petition at *e.g.*, 5 (citing *Bonanza Creek I Order* at 13–15).

³³ *Id.* The Petitioner cites Antelope 13-21 Permit Condition 2.4, Antelope O-1 Permit Condition 2.4, North Platte Permit Condition 4.4, and Pronghorn Permit Condition 3.3. *Id.* at 5, 8, 11, 13.

³⁴ *Id.* at 5 (citing U.S.C. § 7661c(c)).

³⁵ *Id.* at 5–6 (quoting 40 C.F.R. § 70.6(a)(3)(i)(B); citing 40 C.F.R. § 70.6(c)(1)).

³⁶ *Id.* at 5; see *id.* at *e.g.*, 6–8.

Feasibility of Performance Testing

The Petitioner claims that CDPHE rejected performance testing due to the unpredictability and short duration of truck loadout activities, which make testing impractical and logistically infeasible.³⁷ The Petitioner argues that this rationale is flawed: “These issues, however, do not actually exist in relation to the enclosed combustion device used to control emission from truck loadout.”³⁸

The Petitioner notes that truck loadout vapors are returned to the facilities’ produced water tanks and only then routed to the ECDs.³⁹ Therefore, the Petitioner argues, the ECDs controlling emissions from the produced water tanks can be tested to assure compliance with the 95 percent control efficiency requirements for truck loadout operations since they are the same ECDs. “In other words, verification of flare performance does not require that truck loadout occur simultaneously. The duration or predictability of truck loadout emissions are therefore not relevant considerations as to whether performance testing is reasonable, practical, or feasible.”⁴⁰

The Petitioner states that CDPHE did not respond to its comments on testing the ECDs controlling the produced water tanks but instead claimed these comments were out of scope of the permitting actions because the EPA’s objection was not related to requirements for the produced water tanks and those requirements had not been revised. The Petitioner concedes that the EPA’s objection was unrelated to the produced water tanks but argues its comments solely concerned the control of emissions from the truck loadout operations.⁴¹

The Petitioner also argues that CDPHE requires testing of ECDs controlling emissions from truck loadout operations at other similar facilities and that CDPHE did not address this point in its RTC.⁴²

Inlet Pressure and Valve Status Monitoring

The Petitioner claims that the permit record does not support CDPHE’s position “that pressure and valve monitoring will assure the flare achieves a 95% VOC control efficiency at all times.”⁴³ The Petitioner argues that CDPHE did not cite any “information or analysis” to support its determination that inlet pressure and valve status monitoring

³⁷ *Id.* at e.g., 6 (citing Antelope 13-21 TRD at 6–7), 7 (citing Antelope 13-21 RTC at 3–4).

³⁸ *Id.* at e.g., 6.

³⁹ The Petitioner notes that the truck loadout vapors at North Platte are routed to slop tanks before an ECD. *Id.* at 11.

⁴⁰ *Id.* at e.g., 7.

⁴¹ *Id.* (citing Antelope 13-21 RTC at 3–4).

⁴² *Id.* at e.g., 8 (citing Petition Ex. 15 at 26).

⁴³ *Id.* at e.g., 8.

assure compliance with the 95 percent VOC control efficiency requirements, despite the EPA's direction to CDPHE to provide such explanation in the *Bonanza Creek I Order*.

"Although inlet pressure monitoring may be an important form of parametric monitoring, there is nothing in the record to suggest that there is, at all times, a direct relationship between inlet pressure and control efficiency."⁴⁴

Although the Petitioner claims to have "presented numerous examples of flares failing to achieve a 95% control efficiency due to factors other than inlet pressure (*e.g.*, inlet damper, heat load, burner availability, temperature, residence time, gas composition, etc.)," the Petitioner alleges that CDPHE did not respond to these examples.⁴⁵

EPA Response: For the following reasons, the EPA denies the Petitioner's requests for objection on this claim.

All title V permits must "set forth . . . monitoring . . . requirements to assure compliance with the permit terms and conditions."⁴⁶ Determining whether monitoring is adequate in a particular circumstance is generally a context-specific determination made on a case-by-case basis.⁴⁷

In the *Bonanza Creek I Order*, the EPA objected to the initial title V permits issued to the four facilities due to inadequacies in the permit records related to monitoring to assure compliance with 95 percent VOC control efficiency requirements. At that time, the monitoring requirements included in the Permits designed to assure compliance with the VOC control efficiency requirements included, generally, operating associated ECDs with a pilot light present and auto-igniter, daily visual inspections to verify pilot light presence and auto-igniter functionality, daily visible emissions observations, and operation and maintenance of the ECDs consistent with manufacturer specifications. The EPA found that it was "unclear [] how the monitoring requirements assure that the ECDs continually achieve the specific 95 percent control efficiency required in the Permits" and directed CDPHE to "revise the permit records to more fully explain how the monitoring in the Permits assures compliance."⁴⁸

In response to the EPA's objection, CDPHE added inlet pressure and valve status monitoring of the ECDs to the requirements for the truck loadout operations. CDPHE also supplemented the permit records with explanations regarding this additional monitoring and the infeasibility of performance testing for these units:

⁴⁴ *Id.*

⁴⁵ *Id.* (citing Petition Ex. 9 at 3–5).

⁴⁶ 42 U.S.C. § 7661c(c); see 40 C.F.R. § 70.6(c)(1).

⁴⁷ *In the Matter of CITGO Refining and Chemicals Company L.P.*, Order on Petition No. VI-2007-01 at 7 (May 28, 2009).

⁴⁸ *Bonanza Creek I Order* at 14, 15.

Typically, the monitoring requirements for ECDs include parametric monitoring to ensure the ECD is operating within the design capacity range for the ECD to achieve the manufacturer's guaranteed control efficiency. Flow metering of the stream to the ECD is a common parametric monitoring option. Bonanza proposed pressure monitoring as an equivalent parametric monitoring option to flow metering because the manufacturer provided minimum and maximum operating flow ranges in terms of ounces of pressure (inlet) per square inch (osi). . . . the Division has determined it is appropriate to monitor the pressure upstream of the combustor as a method to determine continuous compliance with the 95% destruction efficiency requirement

In evaluating the potential for performance testing the ECD used for hydrocarbon truck loadout, the division identified two primary issues. The first issue is the source has indicated the hydrocarbon loadout at this facility is used as a backup method. This facility relies on pipelines as the primary method of transferring hydrocarbon out of the facility. The hydrocarbon loadout is only used if the pipeline is unavailable for an extended period of time. The unpredictability of when the facility will need to utilize loadout instead of pipeline makes it impractical to plan and deploy a third-party team to conduct an ECD performance test. . . . the Division also identified the issue that the duration of truck loadout for these points is often not long enough to complete a performance test. Federal regulations, such as 40 CFR Part 63 Subpart HH, 40 CFR Part 60 Subpart OOOO, and 40 CFR Part 60 Subpart OOOOa, that contain provisions for performance testing to verify the control efficiency of an ECD require at a minimum 3 test runs of at least one hour long. The source has indicated the duration of a loadout event for this facility is approximately 30 minutes. . . . Because the loadout activities are intermittent and short duration, the division has determined periodic performance testing of the ECDs controlling the hydrocarbon loadout trucks is logistically infeasible and not suitable monitoring for these emission units. . . .

As mentioned in the previous paragraphs, periodic performance testing is logistically infeasible for these combustors, which is relevant as the performance test is used to determine the upper flow limit in 40 CFR Part 60 Subpart OOOOb. In lieu of this, the division has determined it to be appropriate to establish the upper and lower pressure limits using manufacturer literature, which can be found in the permit record. In addition to the monitoring of the upstream pressure to the combustor, the ECD serving the tank loadout point have a control valve between the pressure transducer and the combustor that is set to close at a low pressure set point. The division is including monitoring of the position of

this valve to ensure that no flow is directed to a combustor when the upstream pressure is below the minimum pressure established by manufacturer literature.⁴⁹

Ultimately, the Petitioner has failed to demonstrate that CDPHE's justifications for the monitoring in the Permits are unreasonable or that the monitoring is insufficient to assure compliance with the 95 percent control efficiency requirements.

Feasibility of Performance Testing

The Petitioner contends that verifying the control efficiency of the ECDs via periodic testing is not infeasible, as CDPHE describes, because the ECDs also control emissions from tanks at the facilities and these tanks operate continuously. The Petitioner notes that the vapors from truck loadout operations are first routed to the tanks before they are routed to the ECDs at the facilities. The Petitioner argues that testing the ECDs while they are controlling emissions from the tanks would serve the same function as testing the ECDs while they are controlling emissions from the truck loadout operations.⁵⁰ An unstated and undemonstrated assumption underlying this argument is that the emissions from the tanks are the same—or at least sufficiently similar in terms of factors critical to VOC combustion—as the emissions from truck loadout operations. The Petitioner presents no evidence or analysis that would support this assumption. Indeed, the Petitioner asserted in its comments on the draft permits that the “composition of the gas being combusted” is a “key parameter” that affects the control efficiency of ECDs.⁵¹ The EPA notes that the truck loadout operations involve a wider array of materials (and potentially emissions) than the relevant tanks at the facilities.⁵² Without addressing and analyzing this key aspect of the issue, the Petitioner fails to demonstrate that testing the ECDs while controlling emissions from the produced water tanks would assure compliance with the requirements to achieve 95 percent VOC control efficiency of emissions from the truck loadout operations.

Similarly, the Petitioner's example of a different oil and gas production facility that is required to conduct performance tests on an ECD controlling truck loadout operations is not necessarily relevant to the feasibility of testing in this case. CDPHE explained that the truck loadout operations at the Bonanza facilities are backup methods, only used if pipelines are unavailable, and that this intermittent use makes testing logistically infeasible. The Petitioner fails to address whether similar circumstances apply in the case of the other oil and gas facility.

⁴⁹ E.g., Antelope 13-21 TRD at 4–7.

⁵⁰ See Petition at e.g., 6–7.

⁵¹ E.g., Petition Ex. 9 at 4.

⁵² See e.g., Technical Review Document for Initial Operating Permit 20OPWE417 at 1–2.

The Petitioner has not provided any convincing arguments to suggest that CDPHE's justification for not requiring performance testing at the facilities—because it is logistically infeasible due to the intermittent nature and short duration of truck loadout operations—is unreasonable.

Inlet Pressure and Valve Status Monitoring

The Petitioner's claims concerning inlet pressure and valve status monitoring are also unconvincing.

As a threshold matter, a “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 agency.”⁵³ Here, public comments on the Antelope 13-21 and Antelope O-1 draft permits raised no concerns over inlet pressure or valve status monitoring. The Petitioner also does not allege that it was impracticable to do so or that the grounds for objection arose after the public comment period. Therefore, the Petitioner's claim concerning inlet pressure and valve status monitoring in the Antelope 13-21 and Antelope O-1 Permits is not properly raised in the present Petition and is denied.

In contrast, public comments on the North Platte and Pronghorn Permits did raise concerns about inlet pressure monitoring. CDPHE replied to those comments, stating:

The pressure limits established by this permit, which are a surrogate for flow limits, ensure that abnormal flow scenarios to the combustor do not occur, as these abnormal flow scenarios could result in a loss of control efficiency. The TRD for this permit action documented the significant issues associated with performance testing the truck loadout points for these facilities, as discussed at length in the response to the next comment. As such, both the high and low pressure limits specified in the permit are based on manufacturer specification sheets which guarantee the ECD will achieve 98% destruction efficiency when operated within the design pressure ranges. Therefore, this additional parametric monitoring ensures the ECD operates within the ranges that the manufacturer guarantees 98% destruction efficiency is achieved.⁵⁴

The Petitioner's claim that CDPHE cites “no information or analysis” to support its determinations regarding inlet pressure monitoring is factually incorrect.⁵⁵ CDPHE clearly explains that performance testing would typically establish the pressure ranges for operation and monitoring in the Permits, but since testing is infeasible for these units (and, as previously explained, the Petitioner has not demonstrated that testing is

⁵³ 42 U.S.C. § 7661d(b)(2), 40 C.F.R. § 70.8(d); see 40 C.F.R. § 70.12(a)(2)(v).

⁵⁴ North Platte RTC at 4; see Pronghorn RTC at 4.

⁵⁵ Petition at e.g., 8.

feasible), CDPHE relied on manufacturer-provided pressure ranges included in specification sheets and associated with a manufacturer-guarantee of 98 percent VOC destruction efficiency. The Petitioner does not address this response or the information from the manufacturer that CDPHE provided in the permit record.⁵⁶

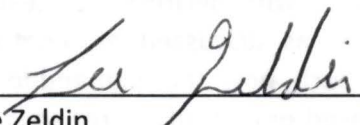
The examples of ECDs failing to meet required control efficiencies mentioned by the Petitioner were raised in public comments in the context of asserting the need for performance testing, not in the context of concerns about pressure monitoring.⁵⁷ CDPHE responded to these comments, explaining that testing is infeasible for these units. Moreover, the Petitioner does not examine the other monitoring requirements in the Permits and how they may or may not relate to the other factors the Petitioner claims affect control efficiency.

In sum, the Petitioner has failed to demonstrate that CDPHE's justifications are unreasonable or that the monitoring in the Permits is insufficient to assure compliance with the 95 percent VOC control efficiency requirements applicable to the truck loadout operations at the facilities. Therefore, the EPA denies the Petitioner's requests for objection on this claim.

V. CONCLUSION

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

Dated: December 10, 2025



Lee Zeldin
Administrator

⁵⁶ See 40 C.F.R. § 70.12(a)(2)(vi).

⁵⁷ See Petition Ex. 10 at 4–6.