

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

Petition No. II-2025-22

In the Matter of

Passaic Valley Sewerage Commission

Permit No. BOP210002

Issued by the New Jersey Department of Environmental Protection

ORDER DENYING A PETITION FOR OBJECTION TO A TITLE V OPERATING PERMIT

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received a petition dated May 27, 2025, (the “Petition”) from Bill Wolfe (the “Petitioner”) pursuant to Clean Air Act (CAA) section 505(b)(2).¹ The Petition requests that the EPA Administrator object to operating permit No. BOP210002 (the “Permit”) issued by the New Jersey Department of Environmental Protection (NJDEP) to the Passaic Valley Sewerage Commission (PVSC) in Essex County, New Jersey. The Permit was issued pursuant to title V of the CAA, and NJDEP’s EPA-approved operating permit program rules.² 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 denies the Petition requesting that the EPA Administrator object to the Permit.

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

¹ 42 U.S.C. § 7661d(b)(2).

² 42 U.S.C. §§ 7661–7661f; N.J.A.C. 7:27-22; *see also* 40 C.F.R. part 70 (title V implementing regulations).

implementing regulations at 40 C.F.R. part 70.³ The EPA granted interim approval of New Jersey's title V program in 1996 and full approval in 2001.⁴

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 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

³ 42 U.S.C. § 7661a(d)(1).

⁴ See 61 Fed. Reg. 24715 (May 16, 1996); 66 Fed. Reg. 63168 (Dec. 5, 2001). This program is codified in N.J.A.C. 7:27-22.

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).

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).

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 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 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

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 also* 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).

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))).

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 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 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

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).

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).

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 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

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).

²⁸ 40 C.F.R. § 70.13.

III. BACKGROUND

A. The Passaic Valley Sewerage Commission Facility

PVSC operates a wastewater treatment facility in Newark, Essex County, New Jersey. The facility is a major source for title V purposes due to emissions of volatile organic compounds, nitrogen oxides, and carbon monoxide. The facility includes a number of emission units. The permit action subject to the Petition involves a significant modification to the facility's title V permit associated with the installation of three natural gas-fired combustion turbine generators, two emergency black start generators, two diesel-fired emergency fire pump engines, air pollution control equipment, solar panels, and battery storage, as well as the removal of several natural gas-fired boilers and a diesel-fired generator.

B. Permitting History

PVSC first obtained a title V permit in 2005, which was last renewed in 2016. On July 2, 2021, PVSC applied for a significant modification to the title V permit, which was deemed complete on July 23, 2021. On August 29, 2024, NJDEP published notice of a draft permit, subject to a public comment period that ended on October 29, 2024. On February 14, 2025, NJDEP submitted a proposed permit to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on March 31, 2025, during which time the Agency did not object to the proposed permit. On April 2, 2025, NJDEP issued the final Permit for PVSC.

C. 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.²⁹ The EPA's 45-day review period ended on March 31, 2025. Thus, any petition seeking the Agency's objection to the Permit was due on or before May 30, 2025. The Petition was submitted by email on May 27, 2025. Therefore, the EPA finds that the Petitioner timely filed the Petition.

IV. EPA DETERMINATION ON PETITION CLAIM

Petition Claim: The Petitioner requests the EPA's objection based on the allegation that NJDEP's issuance of the Permit was "procedurally and substantively defective and not in

²⁹ 42 U.S.C § 7661d(b)(2).

accordance with law.”³⁰ The Petitioner claims that the Permit “is not in compliance with applicable requirements” and “fails to assure compliance with applicable requirements.”³¹

The Petitioner takes issue with several Permit conditions related to providing backup power to the facility’s sewage treatment operations. Specifically, the Petitioner contests Permit conditions that require the installation of solar panels and battery storage, and which limit the operating hours of an on-site power plant.³² The Petitioner notes that these Permit conditions were based on an “environmental justice” (EJ) review.³³

The Petitioner argues that these requirements “lack any authorization under applicable State and federal laws and implementing regulations.”³⁴ Regarding Federal laws, the Petitioner characterizes the requirements as “broader in scope and stringency” than Federal EPA permitting regulations and “arbitrary and capricious” because they lack a nexus to CAA standards.³⁵

The Petitioner repeats various public comments, which acknowledged, in part, that “[t]he EJ conditions were state-only applicable requirements; thus, the basis for the conditions appears to be State law.”³⁶ Nonetheless, the Petitioner restates concerns that “the state-only conditions impact a Federal permit subject to EPA review and approval pursuant to the CAA. It appears Federal and State law are implicated.”³⁷

The Petitioner also argues that these requirements lack a foundation under applicable State laws, including New Jersey’s Air Pollution Control Act.³⁸ Based on statements from NJDEP, the Petitioner asserts that New Jersey State laws and regulations addressing EJ do not apply to this Permit, because those laws and regulations became effective after the permit application was deemed complete.³⁹

The Petitioner asserts that instead “NJ DEP imposed these requirements based solely on an Administrative Order issued by the NJ DEP Commissioner” after the facility’s permit

³⁰ Petition at 1. The Petition was transmitted within in the body of two emails and is therefore not paginated. The EPA saved a copy of these emails in a PDF format, available on the EPA’s website: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>. All page numbers of the Petition in this Order refer to the pages of the PDF file generated by the EPA.

³¹ *Id.* at 2, 6 (citing 40 C.F.R. § 70.8(d)).

³² *Id.* at 3–5.

³³ *Id.* at 1.

³⁴ *Id.* at 6.

³⁵ *Id.* at 4; *see id.* at 1–2, 4, 5 (citing *Louisiana v. EPA*, Case No. No. 2:23-cv-00692, (W.D. La.) (Memorandum Rulings on Jan. 23, 2024 and Aug. 22, 2024); *West Virginia v. EPA*, 597 U.S. 697 (2022)).

³⁶ *Id.* at 3.

³⁷ *Id.*

³⁸ *Id.* at 4.

³⁹ *Id.* at 3, 4.

application was deemed complete.⁴⁰ Given that this administrative order did not follow public notice and comment rulemaking, the Petitioner characterizes these requirements as retroactive regulatory mandates that violate both State and Federal Administrative Procedural Acts.⁴¹

The Petitioner further asserts that these requirements violate, or may be constrained by, recent Federal Executive Orders on energy policy, climate mitigation and adaptation, diversity, equity, and inclusion, and renewable energy.⁴²

Throughout the Petition, the Petitioner cautions against the EPA’s “approval,” “endorsement,” or “green light” of the Permit.⁴³

EPA Response: For the following reasons, the EPA denies the Petitioner’s request for an objection.

The EPA must object to a title V permit in response to a petition “if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of [the CAA].”⁴⁴ Among other things, the petition must identify the applicable requirement, as defined in 40 C.F.R. § 70.2, or the requirement under 40 C.F.R. part 70, that is not met.⁴⁵ Here, the Petitioner twice asserts that the Permit “is not in compliance with applicable requirements” or “fails to assure compliance with applicable requirements.”⁴⁶ However, the Petitioner does not identify any CAA-based requirements with which the Permit does not comply.

Instead, as the Petitioner admits, the Petition exclusively concerns State-only enforceable requirements that are not based on the CAA, and which go beyond the requirements of the CAA.⁴⁷ In relevant part, Section C of the Permit identifies Permit Section D, Item GR2, Ref. # 1–12 as “state-only applicable requirements” that “are not federally enforceable.”⁴⁸ In turn, Section D, Item GR2 includes a table with 12 “EJ Special Conditions.”⁴⁹ Among other requirements, Ref. # 1 and Ref. # 2 of the table place limits on the use of natural gas-fired combustion turbine generators, Ref. # 8 requires the facility to install no less than 5 megawatts (MW) of solar panels, and Ref. # 9 requires the facility to install no less than 5 MW of battery storage capacity.⁵⁰ As explained below, these State-only enforceable requirements are not subject to the EPA’s review or

⁴⁰ *Id.* at 3.

⁴¹ *Id.* at 2–4.

⁴² *Id.* at 2, 3, 5.

⁴³ *Id.* at 2, 5, 6, 7.

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

⁴⁵ 40 C.F.R. § 70.12(a)(2)(ii).

⁴⁶ Petition at 2, 6.

⁴⁷ *Id.* at 3.

⁴⁸ Permit at 10.

⁴⁹ *Id.* at 19–23.

⁵⁰ *Id.* at 19–20, 22.

oversight through the title V petition process.

Title V of the CAA provides that “[n]othing in this subchapter shall prevent a State . . . from establishing additional permitting requirements not inconsistent with [the CAA].”⁵¹ When the EPA promulgated the Federal regulations that implement the title V program, the EPA interpreted the statute narrowly to mean that States may create requirements not based on the CAA, but those additional State requirements in title V permits should not be federally enforceable.⁵² Thus, the EPA’s implementing regulations provide: “[T]he permitting authority shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of §§ 70.7, 70.8, or of this part”⁵³ This regulatory structure means that properly designated State-only permit terms are not subject to the EPA review, objection, and public petition provisions of 40 C.F.R. § 70.8.

There are limited circumstances in which the EPA might object to State-only terms within a title V permit. Again, the CAA provides that States may establish “additional permitting requirements not inconsistent with the [CAA].”⁵⁴ Thus, the EPA could object to State-only enforceable permit terms that are inconsistent with the CAA—for example, if the State-only permit terms cause the permit to not satisfy the CAA.⁵⁵

Here, after briefly acknowledging the State-only nature of the requirements in question, the Petitioner repeats public comments that suggested that the Permit terms nonetheless “impact a Federal Permit” and “implicate[]” Federal law.⁵⁶ The Petitioner does not explain how these Permit terms impact or implicate any federally enforceable applicable requirements or otherwise render the Permit inconsistent with the CAA. The Permit terms do not appear to interact with or undermine the federally enforceable (*i.e.*, CAA-based) applicable requirements in the Permit in any way.

None of the Petitioner’s other concerns regarding these State-only Permit terms present a basis for the EPA’s objection to the Permit. The Petitioner’s concern that these State-only Permit terms lack a valid legal foundation in State law—such as New Jersey’s laws addressing EJ—is not an issue that the EPA can address through the title V permitting or petition process, because those State laws are not “applicable requirements” of the

⁵¹ 42 U.S.C. § 7661e(a); *see* 40 C.F.R. § 70.1(c).

⁵² *See* 56 Fed. Reg. 21712, 21729 (May 10, 1991).

⁵³ 40 C.F.R. § 70.6(b)(2).

⁵⁴ 42 U.S.C. 7661e(a); *see* 40 C.F.R. § 70.1(c) (similar text).

⁵⁵ *See In the Matter of Harquahala Generating Station Project*, Order on Petition at 5 (July 2, 2003) (“State-only terms are not subject to the requirements of Title V and hence are not [] evaluated by EPA unless those terms are drafted in a way that might impair the effectiveness of the permit or hinder a permitting authority’s ability to implement or enforce the permit.”).

⁵⁶ Petition at 3.

CAA.⁵⁷ As NJDEP explains in its Response to Comments (RTC) document, the correct venue to challenge whether such State-only enforceable requirements are properly established under State law would be an appeal through the State administrative and judicial review process.⁵⁸ Similarly, the Petitioner's allegations that issuance of the Permit violated State or Federal Administrative Procedure Acts, or Federal Executive Orders, do not present a basis for the EPA's objection because those legal authorities are not "applicable requirements" of the CAA or requirements of 40 C.F.R. part 70.⁵⁹

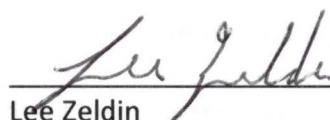
In summary, the Petitioner fails to demonstrate that the Permit does not comply with, or assure compliance with, any requirements of the CAA or 40 C.F.R. part 70. Thus, the EPA denies the Petition.

Contrary to the Petitioner's repeated suggestions, the EPA's denial of the Petition does not in any way reflect the EPA's approval, endorsement, or green light of this Permit or the Permit conditions at issue. The EPA is concerned about the implications of how NJDEP has applied the State's EJ law, and the EPA does not necessarily agree with the State-only requirements that NJDEP included in the Permit. However, the Petitioner has not identified a basis for the EPA's objection to these State-only requirements.

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: February 3, 2026



Lee Zeldin
Administrator

⁵⁷ The State EJ statute and regulation discussed by the Petitioner, N.J.S.A. 13:1D-157, and N.J.A.C. 7:1C, are not part of New Jersey's EPA-approved State Implementation Plan (SIP), and therefore are not "applicable requirements" of the CAA. 40 C.F.R. §§ 52.1570 (identification of EPA-approved statutes and regulations in the New Jersey SIP), 70.2 (definition of "applicable requirement").

⁵⁸ RTC at 14.

⁵⁹ See 40 C.F.R. §§ 70.2 (definition of "applicable requirement"), 70.12(a)(2)(ii).