BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Petition Nos. VIII-2025-8, VIII-2025-11, VIII-2025-17, VIII-2025-18, and VIII-2025-20

In the Matter of

Bargath, LLC

Starkey Gulch Compressor Station
Permit No. 09OPGA340

Jangles Compressor Station
Permit No. 08OPGA321

Heath Compressor Station
Permit No. 08OPGA324

Clough Compressor Station
Permit No. 08OPGA310

Hyrup Compressor Station
Permit No. 08OPGA323

Issued by the Colorado Department of Public Health and Environment

---

ORDER GRANTING IN PART AND DENYING IN PART PETITIONS FOR OBJECTION TO TITLE V OPERATING PERMITS

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received five petitions (collectively, the "Petitions") from the Center for Biological Diversity (the "Petitioner"), pursuant to Clean Air Act (CAA) section 505(b)(2).[1] The Petitions request that the EPA Administrator object to operating permits (collectively, the "Permits") issued by the Colorado Department of Public Health and Environment (CDPHE) to five different compressor stations owned by Bargath, LLC in Garfield County, Colorado. The first petition, dated April 1, 2025, (the "Starkey Gulch Petition") addresses operating permit No. 09OPGA340 (the "Starkey Gulch Permit") for the Starkey Gulch Compressor Station ("Starkey Gulch"). The second

[1] 42 U.S.C. § 7661d(b)(2).

petition, dated April 9, 2025, (the "Jangles Petition") addresses operating permit No. 08OPGA321 (the "Jangles Permit") for the Jangles Compressor Station ("Jangles"). The third petition, dated April 25, 2025, (the "Heath Petition") addresses operating permit No. 08OPGA324 (the "Heath Permit") for the Heath Compressor Station ("Heath"). The fourth petition, dated April 25, 2025, (the "Clough Petition") addresses operating permit No. 08OPGA310 (the "Clough Permit") for the Clough Compressor Station ("Clough"). The fifth petition, dated May 2, 2025, (the "Hyrup Petition") addresses operating permit No. 08OPGA323 (the "Hyrup Permit") for the Hyrup Compressor Station ("Hyrup"). The Permits were issued pursuant to title V of the CAA and CHDPHE's EPA-approved operating permit program rules.[2] These types of operating permits are also known as title V permits or part 70 permits.

Based on a review of the Petitions 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 grants in part and denies in part the Petitions and objects to the issuance of the Starkey Gulch, Heath, Clough, and Hyrup Permits. Specifically, the EPA grants in part Claims 2, 3, and 5 and denies the rest of the claims.

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 Agency's implementing regulations at 40 C.F.R. part 70.[3] The State of Colorado submitted a title V program governing the issuance of operating permits on November 5, 1993. The EPA granted interim approval of Colorado's title V 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

---

[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).

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 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

---

[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).
[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.*

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 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. §

---

[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*).

[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.

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 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

---

[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).

[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).

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]

If the EPA grants a title V petition and objects to the issuance of a permit, a permitting authority may address the EPA's objection by, among other things, providing the Agency with a revised permit.[29] In some cases, the permitting authority's response to an EPA objection may not involve a revision to the permit terms and conditions themselves but may instead involve revisions to the permit record. For example, when the EPA has issued a title V objection on the grounds that the permit record does not adequately support the permitting decision, it may be acceptable for the permitting authority to respond only by providing an additional rationale to support its permitting decision.

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

---

[27] 40 C.F.R. § 70.12(a)(2)(vi).

[28] 40 C.F.R. § 70.13.

[29] 42 U.S.C. § 7661d(b)(3), (c); 40 C.F.R. § 70.8(d); *see id.* §§ 70.7(g)(4), 70.8(c)(4); *see generally* 81 Fed. Reg. at 57842 (describing post-petition procedures); *Nucor II Order* at 14–15 (same).

In any case, whether the permitting authority submits revised permit terms, a revised permit record, or other revisions to the permit, and regardless of the procedures used to make such revisions, the permitting authority's response is generally treated as a new proposed permit for purposes of CAA section 505(b) and 40 C.F.R. § 70.8(c) and (d).[30] As such, it would be subject to the EPA's 45-day review per CAA section 505(b)(1) and 40 C.F.R. § 70.8(c) and an opportunity for the public to petition under CAA section 505(b)(2) and 40 C.F.R. § 70.8(d) if the Agency does not object during its 45-day review period.

When a permitting authority responds to an EPA objection, it may choose to do so by modifying the permit terms or conditions or the permit record with respect to the specific deficiencies that the Agency identified; permitting authorities need not address elements of the permit or the permit record that are unrelated to the EPA's objection. As described in various title V petition orders, the scope of the EPA's review (and accordingly, the appropriate scope of a petition) on such a response would be limited to the specific permit terms or conditions or elements of the permit record modified in that permit action.[31]

C. New Source Review

The major New Source Review (NSR) program encompasses two core types of preconstruction permit requirements for major stationary sources. CAA title I part C establishes the Prevention of Significant Deterioration (PSD) program, which applies to new major stationary sources and major modifications of existing major stationary sources for pollutants for which an area is designated as attainment or unclassifiable for the National Ambient Air Quality Standards (NAAQS) and for other pollutants regulated under the CAA.[32] CAA title I part D establishes the major nonattainment NSR (NNSR) program, which applies to new major stationary sources and major modifications of existing major stationary sources for those NAAQS pollutants for which an area is designated as nonattainment.[33] The EPA has two largely identical sets of regulations implementing the PSD program. One set, found at 40 C.F.R. § 51.166, contains the requirements that State PSD programs must meet to be approved as part of a State Implementation Plan (SIP). The other set of regulations, found at 40 C.F.R. § 52.21, contains the EPA's Federal PSD program, which applies in areas without a SIP-approved PSD program. The EPA's regulations specifying requirements for State NNSR programs are contained in 40 C.F.R. § 51.165.

---

[30] *See Nucor II Order* at 14.

[31] *See In the Matter of Hu Honua Bioenergy, LLC*, Order on Petition No. VI-2014-10 at 38–40 (Sept. 14, 2016); *In the Matter of WPSC, Weston*, Order on Petition No. V-2006-4 at 5–6, 10 (Dec. 19, 2007).

[32] 42 U.S.C. §§ 7470–7479.

[33] 42 U.S.C. §§ 7501–7515.

While CAA title I parts C and D address the major NSR program for major sources, CAA section 110(a)(2)(C) addresses the permitting program for new and modified minor sources and for minor modifications to major sources. The EPA commonly refers to the latter program as the "minor NSR" program. States must also develop minor NSR programs, along with the major source programs, to attain and maintain the NAAQS. The Federal requirements for State minor NSR programs are outlined in 40 C.F.R. §§ 51.160–51.164. These Federal requirements for minor NSR programs are less prescriptive than those for major sources and, as a result, there is a larger variation of requirements in EPA-approved State minor NSR programs than in major source programs.

The EPA approved Colorado's PSD, NNSR, and minor NSR programs as part of its SIP.[34] Colorado's major and minor NSR provisions, as incorporated into Colorado's EPA-approved SIP, are contained in portions of 5 CCR 1001-5 parts A, B and D.

III. BACKGROUND

A. The Starkey Gulch Facility and Permitting History

Starkey Gulch, owned by Bargath, LLC, is located in Garfield County, Colorado. Starkey Gulch is a natural gas compressor station that includes six internal reciprocating combustion compression engines and two storage tanks. Starkey Gulch is a major source of nitrogen oxides (NO_x) under title V. Starkey Gulch is subject to New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements.

Bargath, LLC first obtained a title V permit for Starkey Gulch in 2018. On January 10, 2022, Bargath, LLC applied for a title V permit renewal. On August 14, 2024, CDPHE published notice of a draft permit, subject to a public comment period that ended on September 13, 2024. On December 23, 2024, CDPHE submitted the proposed permit, along with its responses to public comments ("Starkey Gulch RTC"), to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on February 6, 2025, during which time the Agency did not object to the proposed permit. On March 1, 2025, CDPHE issued the final Starkey Gulch Permit.

B. The Jangles Facility and Permitting History

Jangles, owned by Bargath, LLC, is located in Garfield County, Colorado. Jangles is a natural gas compressor station that includes six internal reciprocating combustion compression engines and two storage tanks. Jangles is a major source of NO_x under title V. Jangles is subject to NSPS and NESHAP requirements.

---

[34] *See* 40 C.F.R. § 52.320(c) (identifying EPA-approved regulations in the Colorado SIP).

Bargath, LLC first obtained a title V permit for Jangles in 2018. On November 9, 2021, Bargath, LLC applied for a title V permit renewal. On November 3, 2023, CDPHE published notice of a draft permit, subject to a public comment period that ended on December 3, 2023. On December 23, 2024, CDPHE submitted the proposed permit, along with its responses to public comments ("Jangles RTC"), to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on February 6, 2025, during which time the Agency did not object to the proposed permit. On March 1, 2025, CDPHE issued the final Jangles Permit.

C. The Heath Facility and Permitting History

Heath, owned by Bargath, LLC, is located in Garfield County, Colorado. Heath is a natural gas compressor station that includes eight internal combustion compression engines and two storage tanks. Heath is a major source of NO_x under title V. Heath is subject to NESHAP requirements.

Bargath, LLC first obtained a title V permit for Heath in 2017. On August 25, 2021, Bargath, LLC applied for a title V permit renewal. On August 20, 2024, CDPHE published notice of a draft permit, subject to a public comment period that ended on September 19, 2024. On January 10, 2025, CDPHE submitted the proposed permit, along with its responses to public comments ("Heath RTC"), to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on February 24, 2025, during which time the Agency did not object to the proposed permit. On March 1, 2025, CDPHE issued the final Heath Permit.

D. The Clough Facility and Permitting History

Clough, owned by Bargath, LLC, is located in Garfield County, Colorado. Clough is a natural gas compressor station that includes eight internal combustion compression engines, two storage tanks, and one condensate flash tank. Clough is a major source of NO_x under title V. Clough is subject to NSPS and NESHAP requirements.

Bargath, LLC first obtained a title V permit for Clough in 2018. On September 21, 2021, Bargath, LLC applied for a title V permit renewal. On August 20, 2024, CDPHE published notice of a draft permit, subject to a public comment period that ended on September 19, 2024. On January 10, 2025, CDPHE submitted the proposed permit, along with its responses to public comments ("Clough RTC"), to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on February 24, 2025, during which time the Agency did not object to the proposed permit. On March 1, 2025, CDPHE issued the final Clough Permit.

E. The Hyrup Facility and Permitting History

Hyrup, owned by Bargath, LLC, is located in Garfield County, Colorado. Hyrup is a natural gas compressor station that includes six internal combustion compression engines and two storage tanks. Hyrup is a major source of NO_x under title V. Hyrup is subject to NSPS and NESHAP requirements.

Bargath, LLC first obtained a title V permit for Hyrup in 2018. On December 10, 2021, Bargath, LLC applied for a title V permit renewal. On July 31, 2024, CDPHE published notice of a draft permit, subject to a public comment period that ended on August 30, 2024. On January 25, 2025, CDPHE submitted the proposed permit, along with its responses to public comments ("Hyrup RTC"), to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on March 10, 2025, during which time the Agency did not object to the proposed Permit. On April 1, 2025, CDPHE issued the final Hyrup Permit.

F. Timeliness of Petitions

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.[35] The EPA's 45-day review period for the Starkey Gulch Permit ended on February 6, 2025. Thus, any petition seeking the EPA's objection to the Starkey Gulch Permit was due on or before April 7, 2025. The Starkey Gulch Petition was submitted by email on April 1, 2025.

The EPA's 45-day review period for the Jangles Permit ended on February 6, 2025. The 60-day period to file a petition should have ended on April 7, 2025, on the exact same timeline as the Starkey Gulch Permit. However, the EPA's website erroneously indicated that any petition seeking the Agency's objection to the Jangles Permit was due on or before April 8, 2025. The Jangles Petition was submitted by email on April 8, 2025. Therefore, the EPA will treat the Jangles Permit as if it had been timely filed. Had the EPA's website shown the correct date the petitions were due, the Agency would not have treated the Petition as timely filed.

The EPA's 45-day review period for the Heath and Clough Permits ended on February 24, 2025. Thus, any petition seeking the EPA's objection to the Heath or Clough Permits was due on or before April 25, 2025. The Heath and Clough Petitions were submitted by email on April 25, 2025.

The EPA's 45-day review period for the Hyrup Permit ended on March 10, 2025. Thus, any petition seeking the EPA's objection to the Hyrup Permit was due on or before May 9, 2025. The Hyrup Petition was submitted May 2, 2025.

---

[35] 42 U.S.C. § 7661d(b)(2).

IV. EPA DETERMINATIONS ON PETITION CLAIMS

A. Claim 1: The Petitioner Claims That "The Title V Permit Does Not Ensure Adequate Monitoring to Assure the Flare Controlling Emissions from the Tanks Complies with Applicable Limits."

This claim is included in the Heath, Clough, and Hyrup Petitions, which contain nearly identical claims challenging nearly identical permit terms applicable to similar units across the three facilities. For efficiency and simplicity purposes, the following summary cites a single petition—the Heath Petition—for the majority of the Petitioner's arguments and indicates where and how the Petitions differ.

Petition Claim: The Petitioner presents an overarching claim that the Heath, Clough, and Hyrup Permits fail to assure compliance with emission limits and 95 percent volatile organic compound (VOC) destruction efficiency requirements applicable to enclosed combustion devices (ECDs) controlling emissions from storage tanks at the facilities, raising various issues with related testing requirements in the Permits.[36]

First, the Petitioner asserts that all title V permits must set forth monitoring requirements to assure compliance with all permit terms and conditions, and that where a permit fails to do so, it is unenforceable as a practical matter.[37]

The Petitioner identifies the various units and applicable emission limits at issue in each claim—*e.g.*, two condensate storage tanks (AIRS ID 003) and an associated ECD at Heath subject to an annual VOC emission limit and a 95 percent VOC destruction efficiency requirement.[38] The Petitioner claims that the Permits do not set forth sufficient monitoring of the ECDs controlling emissions from the storage tanks to assure compliance with the applicable emission limits and destruction efficiency requirements. The Petitioner then supplies two distinct reasons why, in its opinion, the monitoring in the Permits is deficient.[39]

Testing Frequency

The Petitioner notes that its public comments on the draft permits pointed out that the draft permits did not require any periodic testing of emissions to assure compliance with the VOC destruction efficiency requirements. The Petitioner asserts that CDPHE

---

[36] *See e g.*, Heath Petition at 4–8.

[37] *E.g.*, *id.* at 4 (citing 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.6(a)(3)(i)(B), (c)(1)).

[38] *Id.* The Petitioner similarly identifies condensate storage tanks and associated ECDs at Clough and Hyrup subject to annual VOC emission limits and 95 percent VOC destruction efficiency requirements. Clough Petition at 4; Hyrup Petition at 4.

[39] *See, e.g.*, Heath Petition at 5–8.

"agreed" that the monitoring in the draft permits was inadequate and, therefore, added periodic performance testing of the ECDs.[40]

The Petitioner claims that the frequency of testing—once every five years, in every case—is insufficient to assure compliance with the applicable emission limits and destruction efficiency requirements.[41]

In support, the Petitioner contends that the need for more frequent testing is clearly evident in CDPHE's "own policies, regulations, and in other permits issued in Colorado."[42] The Petitioner specifically references a permit for a different oil and gas production facility in Colorado that requires semiannual testing of an ECD that is required to achieve 98 percent VOC control efficiency.[43] The Petitioner also references a memorandum that it claims establishes a policy requiring at least annual testing of ECDs whenever a permittee requests a VOC control efficiency greater than 95 percent.[44]

The Petitioner argues that there is no support for the idea that more frequent testing is only necessary at VOC control efficiencies greater than 95 percent. The Petitioner characterizes this cutoff as an arbitrary threshold and contends that ECDs required to meet either 95 percent or greater than 95 percent VOC control efficiency are just as likely to fail to achieve the required control efficiency.[45]

The Petitioner claims that the parametric monitoring in the Permits—specifically pilot light and visible emissions monitoring—cannot substitute for more frequent testing because the parametric monitoring "does not yield data representative of the source's compliance with applicable quantitative limits, contrary to 40 C.F.R. § 70.6(a)(3)(i)(B)."[46] The Petitioner also asserts that its comments on the draft permits identified numerous examples of ECDs failing to achieve required destruction efficiencies, even where such parametric monitoring was in place, and argues that these examples reveal the deficiency of the parametric monitoring in the Permits.[47] Further, the Petitioner claims

---

[40] *E.g., id.* at 4–5 (citing Heath RTC at 1).

[41] The Petitioner identifies relevant performance testing requirements in Condition 2.4 of the Heath Permit, in Condition 2.4 of the Clough Permit, and in Condition 2.8 of the Hyrup Permit. Heath Petition at 5; Clough Petition at 5; Hyrup Petition at 5. All permit conditions referenced in this Order are in Section II of each Permit.

[42] *E.g.,* Heath Petition at 6; *see id.* at 6–7.

[43] *E.g., id.* at 6 (citing Heath Petition Ex. 5, *Air Pollution Control Division Colorado Operating Permit No. 17OPJA401* at Section II, Condition 2.8 (Jan. 1, 2020)).

[44] *E.g., id.* (citing Heath Petition Ex. 6, *Oil and Gas Industry Enclosed Combustion Device Overall Control Efficiency Greater than 95%, Permitting Section Memo 20-02* at 4–5 (Feb. 4, 2020).

[45] *E.g. id.* at 6–7.

[46] *E.g., id.* at 7.

[47] *E.g., id.* (citing Heath Petition Ex. 3 at 2–4).

that the EPA has previously "generally rejected" reliance on this kind of parametric monitoring to assure compliance with quantitative limits.[48]

The Petitioner claims that CDPHE's RTCs did not resolve these issues but merely provided general responses asserting that the Permits' monitoring was sufficient.[49]

Additionally and relatedly, the Petitioner alleges that CDPHE's failure to justify the testing frequency in the permit records is grounds for objection to the Permits.[50] The Petitioner claims that even though its comments on the draft permits addressed the subject of testing frequency and questioned "whether once-every-five-year testing of flare VOC destruction efficiency, which is required by State-only rules, was sufficiently frequent," CDPHE did not respond or provide a rationale to support the five-year testing frequency.[51]

Testing Exemptions

The Petitioner notes that the Permits exempt Heath, Clough, and Hyrup from testing the ECDs "[i]f the combustor is EPA certified for the performance requirements of 40 CFR §60.5412(a)(1)(i)[52] The Petitioner asserts that this regulation is related to compliance with NSPS[53]

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

Testing Frequency

All title V permits must "set forth . . . monitoring . . . requirements to assure compliance with the permit terms and conditions."[54] Determining whether monitoring is adequate in a particular circumstance is generally a context-specific determination made on a case-by-case basis.[55] The EPA has previously found that periodic stack testing alone is

---

[48] *E.g., id.* (citing *In the Matter of Bonanza Creek Operating Company, LLC*, Order on Petition No. VIII-2023-11 (Jan. 30, 2024) (*Bonanza Creek Order*); *In the Matter of DCP Operating Company LP, Platteville Natural Gas Processing Plant*, Order on Petition No. VIII-2023-14 (Apr. 2, 2024) (*DCP Platteville I Order*); *In the Matter of HighPoint Operating Corporation, Anschutz Equus Farms 4-62-28,* Order on Petition No. VIII-2024-6 (July 31, 2024) (*HighPoint Equus Farms Order*).

[49] *E.g., id.* (citing Heath RTC at 1–2).

[50] *E.g., id.* at 5 (citing 40 C.F.R. § 70 .7(a)(5); *In the Matter of CITGO Refining and Chemicals Company, L.P.*, Order on Petition No. VI-2007-01 at 7–8 (May 28, 2009) (*CITGO Order*)).

[51] *E.g., id.* at 5 (citing Heath Petition Ex. 3 at 2–5).

[52] *E.g.* Heath Petition at 6 n.1 (citing Heath Permit at 39–40).

[53] *E.g., id.* (citing Heath Technical Response Document (TRD) at 4).

[54] 42 U.S.C. § 7661c(c); *see* 40 C.F.R. § 70.6(c)(1).

[55] *CITGO Order* at 7.

insufficient to assure compliance with short-term emission limits.[56] The EPA has also found that periodic stack testing in combination with other parametric monitoring or inspection and maintenance requirements may be sufficient to assure compliance with short-term emission limits.[57]

Here, the monitoring requirements designed to assure compliance with the emission limits and 95 percent VOC destruction efficiency requirements applicable to the ECDs include initial and periodic (once every five years) testing requirements to demonstrate that the ECDs achieve the required VOC destruction efficiencies, operating the 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 Petitioner never holistically considers this combined approach to compliance assurance and thereby fails to demonstrate that the Permits overall do not assure compliance with the emission limits and VOC destruction efficiency requirements.

In particular, the Petitioner's claim about testing frequency lacks any arguments specific to the facilities, ECDs, and emissions at issue. Instead, the Petitioner relies almost entirely on what the Petitioner describes as CDPHE's "policy" of requiring more frequent (annual) testing when applicants request VOC control efficiencies greater than 95 percent. The memorandum cited by the Petitioner appears to be non-binding guidance and, as such, could not conclusively establish the necessary testing frequency in any particular case.[58] Moreover, the guidance does not directly apply to the ECDs at these facilities, since they are not required to achieve a VOC control efficiency greater than 95 percent. In characterizing this threshold as "arbitrary," the Petitioner appears to suggest, without support, that the guidance should be revised or extended, and used as a basis for imposing similarly frequent annual testing for lower control efficiencies.[59] To the extent the memorandum could be informative here, the Petitioner does not relate any substantive details or technical analysis from the memorandum or any other relevant technical analysis that would indicate why certain testing frequencies are more or less appropriate for certain levels of destruction efficiency. That is, the Petitioner fails to present any evidence as to why the annual testing frequency recommended in the memorandum should be applied to the ECDs at these facilities.

---

[56] *See e.g., In the Matter of Oak Grove Management Company, Oak Grove Steam Electric Station*, Order on Petition No. VI-2017-12 at 25–26 (Oct. 15, 2021); *In the Matter of Owens-Brockway Glass Container Inc.*, Order on Petition No. X-2020-2 at 14–15 (May 10, 2021).

[57] *See, e.g., In the Matter of Public Service of New Hampshire, Schiller Station*, Order on Petition No. VI-2014-04 at 15 (July 28, 2015); *In the Matter of Xcel Energy, Cherokee Station*, Order on Petition No. VIII-2010-XX at 11–12 (Sept. 29, 2011).

[58] Oil & Gas Section, Colorado Air Pollution Control Division, *Permitting Section Memo 20-02, Oil & Gas Industry Enclosed Combustion Device Overall Control Efficiency Greater than 95%* (Feb. 4, 2020).

[59] *E.g.*, Heath Petition at 6–7.

Determining the adequacy of monitoring in a particular circumstance is generally a fact-based, context-specific determination. To guide this determination, the EPA has previously explained:

> Variability of emissions is a key factor in determining the appropriate frequency of monitoring. If emissions are relatively invariable and well-understood (*e.g.*, PM_{10} emissions from an uncontrolled natural gas-fired boiler), frequent monitoring may not be necessary. However, the more variable or less well-understood the emissions, the less likely that a single stack test will reflect the operating conditions (and emissions) between stack tests, and the greater the need for more frequent stack testing or parametric monitoring between stack tests.[60]

The Petitioner does not provide any evidence or make any arguments related to the variability of emissions from the ECDs. The examples of ECDs that have been found to operate below required efficiencies that the Petitioner provided in its public comments on the draft permits do not necessarily evince emissions variability in between tests. The Petitioner offers no other analysis or evidence that would suggest emissions from an ECD that has been shown via testing to meet a certain destruction efficiency would vary significantly on timescales shorter than the five-year interval between tests required by the Permits.

Notably, the Permits' testing requirements are designed to function in concert with parametric monitoring requirements. The Petitioner's cursory dismissal of the Permits' parametric monitoring requirements is predicated on the assumption that their purpose is to provide quantitative information about VOC destruction efficiency and that the EPA previously rejected similar parametric monitoring requirements for that purpose. However, this is a mistaken assumption and a mischaracterization of the EPA's prior orders.[61]

Those orders objected to permits with similar parametric monitoring requirements in a context in which the permits did not require any periodic testing to quantitatively validate control or destruction efficiency. For example, in the *DCP Platteville I Order*, the EPA wrote of similar parametric monitoring requirements:

> The Petitioner provides a detailed, condition-by-condition refutation of these monitoring requirements, explaining for each permit condition how, in its opinion, the monitoring is unrelated to achieving a specific control efficiency. The Petitioner persuasively argues that these monitoring requirements may ensure the ECD is not malfunctioning, and that

---

[60] *In the Matter of BP Products North America, Inc., Whiting Business Unit*, Order on Petition No. V-2021-9 at 20 (Mar. 4, 2022).

[61] *Bonanza Creek Order; DCP Platteville I Order* at 7–13; *HighPoint Equus Farms Order* at 7–11.

> combustion is actually occurring. Therefore, they may also ensure that the ECD maintains a certain, initial control efficiency. It is unclear to the EPA, however, how the monitoring requirements assure that the ECD continually achieves the specific 95 percent control efficiency required in the Permit.[62]

Contrary to the Petitioner's implications, the EPA did not find that the parametric monitoring requirements were more generally deficient, or that they could not serve a useful function in the context of a permit that requires periodic testing and quantitative validation of VOC destruction efficiency. Parametric monitoring need not always or exclusively provide additional quantitative information on destruction efficiency to contribute to compliance assurance for such a requirement. By the Petitioner's own admission, the information that the parametric monitoring supplies is relevant to ECD performance and emissions. The EPA previously indicated that similar parametric monitoring may ensure that an ECD functions properly and maintains destruction efficiency in between the tests that provide quantitative information on such destruction efficiency.[63] Here, the Petitioner does not allege, much less demonstrate, that the parametric monitoring requirements in the Permits are ineffective for such a purpose or insufficient to assure compliance when combined with periodic testing requirements.

In summary, the Petitioner fails to demonstrate that five-year testing is insufficiently frequent to assure compliance with the 95 percent VOC destruction efficiency requirements and emission limits applicable to the ECDs and the EPA, therefore, denies the Petitioner's requests for objection on this subclaim.

The Petitioner also claims that CDPHE failed to provide a sufficient rationale for the testing frequency, in violation of 40 C.F.R. § 70.7(a)(5). As the Petitioner points out, 40 C.F.R. § 70.7(a)(5) requires States to prepare "a statement that sets forth the legal and factual basis for the draft permit conditions." The EPA's regulations do not dictate the specific content or level of detail that must be contained in such a statement, which the EPA often calls a "statement of basis."

The EPA generally evaluates permit record-focused claims under 40 C.F.R. § 70.7(a)(5) by evaluating whether the permit record as a whole—not only the statement of basis, but also the response to comments and potentially other parts of the permit record—supports the terms and conditions of the permit.[64]

---

[62] *DCP Platteville I Order* at 11.

[63] *See id.*

[64] *See, e.g., In the Matter of US Steel Seamless Tubular Operations, LLC, Fairfield Works Pipe Mill*, Order on Petition No. IV-2021-7 at 8–9 (June 16, 2022) (*US Steel Fairfield Order*).

The EPA has granted title V petitions in which a permitting authority failed to explain the basis for its monitoring decisions in response to public comments. In so doing, the EPA clarified:

> EPA is not suggesting that [the State] must go out of its way to explain the technical basis for every condition of every permit it has issued to a source each time it renews a title V permit. However, when a state receives public comments raising legitimate challenges to the sufficiency of [a] monitoring provision, the EPA expects [the State] to engage with these comments and explain the basis for its decisions (or specifically identify where any prior justification may be found).[65]

In these cases, the obligation for a permitting authority to explain the basis for individual permit terms is inextricably tied to the prompting of public comments. The EPA has never interpreted 40 C.F.R. § 70.7(a)(5) to require permitting authorities to proactively justify every single permit term or monitoring requirement.[66]

Additionally, the EPA's evaluation of petition claims under 40 C.F.R. § 70.7(a)(5) considers whether "the petitioner has demonstrated that the permitting authority's alleged failure resulted in, or may have resulted in, a deficiency in the content of the permit."[67] Where petitioners have failed to demonstrate a flaw in a permit resulting from permit record-focused concerns, the EPA has denied related claims alleging a deficiency with the permit record with respect to 40 C.F.R. § 70.7(a)(5).[68]

Here, CDPHE's RTCs primarily address the focus of the Petitioner's public comments—the lack of periodic testing in the draft permits—and assert that the added testing requirements, in conjunction with parametric monitoring, assure compliance with the 95 percent VOC destruction efficiency requirements.[69] Additionally, as previously explained, the Petitioner has failed to demonstrate any flaw in the Permits with respect to testing frequency. The EPA, therefore, denies the Petitioner's requests for objection on this subclaim.

---

[65] *In the Matter of Valero Refining-Texas, Valero Houston Refinery*, Order on Petition No. VI-2021-8 at 62 (June 30, 2022); *see In the Matter of BP Amoco Chemical Company, Texas City Chemical Plant*, Order on Petition No. VI-2017-6 at 18 (July 20, 2021) (same).

[66] *See In the Matter of Suncor Energy (U.S.A.), Inc., Commerce City Refinery, Plant 2 (East)*, Order on Petition Nos. VIII-2022-13 & VIII-2022-14 at 28–34 (July 31, 2023).

[67] *US Steel Fairfield Order* at 8.

[68] *See, e.g., In the Matter of Waelz Sustainable Products, LLC*, Order on Petition No. V-2021-10 at 18–19 (Mar. 14, 2023); *US Steel Fairfield Order* at 8–10; *In the Matter of U.S. Dep't of Energy, Hanford Operations*, Order on Petition Nos. X-2014-01 & X-2013-01 at 25–26 (May 29, 2015); *In the Matter of Tesoro Refining and Marketing Co., Martinez, California Facility*, Order on Petition No. IX-2004-6 at 25, 44 (Mar. 15, 2005); *In the Matter of Sirmos Division of Bromante Corp.*, Order on Petition No. II-2002-03 at 15–16 (May 24, 2004).

[69] *E.g.*, Heath RTC at 1.

Testing Exemptions

The Petitioner's sole argument here is that the Permits should not include testing exemptions related to the EPA's subpart OOOO NSPS because that rule is inapplicable to the facilities. It is not clear to the EPA, and the Petitioner does not explain why, the inapplicability of subpart OOOO should conclusively determine the appropriateness of the potential testing exemptions. In general, it may be reasonable for a State to determine that testing or monitoring requirements (and corresponding exemptions) from inapplicable EPA rules may assure compliance with similar applicable requirements not based on EPA rules. As with other questions regarding compliance assurance, this a case-by-case determination and the petitioner bears the burden to demonstrate that the permit terms are insufficient to assure compliance with the relevant applicable requirements. Here, the Petitioner's subclaim about potential testing exemptions is bereft of any analysis supporting its allegation that the exemptions render related monitoring conditions insufficient to assure compliance.[70] The Petitioner fails to consider, *e.g.*, the specific performance requirements of 40 C.F.R. § 60.5412(a)(1)(i) compared to the requirements in the Permits, under what conditions the exemptions would apply, or any technical similarities of sources subject to subpart OOOO compared to the facilities here. These are all examples of factors relevant to the appropriateness of the potential testing exemptions. Therefore, the Petitioner fails to demonstrate that the inclusion of these potential exemptions renders the monitoring for the ECDs insufficient to assure compliance, and the EPA denies the Petitioner's requests for objection on this subclaim.

B. Claim 2: The Petitioner Claims That "The Title V Permit Does Not Assure Compliance with Applicable VOC Emission Limits for Gas Venting" Because it is Unclear Which Specific Activities are Authorized to Emit.

All five Petitions contain similar claims challenging similar permit terms that describe the venting activities that are subject to limits on VOC emissions across the facilities. The facts and arguments in the Starkey Gulch, Heath, Clough, and Hyrup Petitions are similar and are addressed together below. For efficiency and simplicity purposes, the following summary cites a single petition—the Starkey Gulch Petition—for the majority of the Petitioner's arguments and indicates where and how the Petitions differ. Some of the facts and arguments in the Jangles Petition differ and are addressed separately below.

Petition Claim: The Petitioner first asserts that emission limitation and standards within a title V permit must be "enforceable" and to be enforceable, the limits must be enforceable as a practical matter.[71] The Petitioner further contends that title V permits

---

[70] 40 C.F.R. § 70.12(a)(2)(iii); *see supra* notes 6–8 and accompanying text.

[71] *E.g.*, Starkey Gulch Petition at 4 (quoting 42 U.S.C. § 7661c(a); citing *In the Matter of Plains Marketing LP, et al.*, Order on Petition Nos. IV-2023-1 and IV-2024-3 at 30 (Sept. 18, 2023)).

must be unambiguous, understandable, and capable of informing regulators and the public as to what is required.[72]

Starkey Gulch, Heath, Clough, and Hyrup Petitions

The Petitioner states that the Starkey Gulch, Heath, Clough, and Hyrup Permits contain VOC emission limits (and other limits) that apply to "maintenance blowdown activities" or "maintenance and blowdown activities," which are contained in Section II, Condition 3 of each Permit.[73] The Petitioner claims that these limits are not enforceable as a practical matter because it is not clear what specific activities are authorized to emit in accordance with these conditions.[74]

The Petitioner states that the Heath Permit identifies two types of venting, "Plant Blowdowns" and "Compressor Blowdowns," but also states that other venting activities "not listed" are subject to the VOC limits in Condition 3.[75] The Petitioner claims that the Heath Permit "does not identify what these other venting activities are or otherwise provide specificity needed to understand what activities are subject to Condition 3 for purposes of assuring compliance with applicable requirements."[76]

The Petitioner states that the Starkey Gulch, Clough, and Hyrup Permits explain that the limit on "maintenance and blowdown activities" includes activities "such as plant blowdowns, compressor blowdowns, filter changes, pneumatic starter venting during engine startups, or other maintenance and blowdown activities[.]"[77] The Petitioner argues that the phrase "such as" suggests that the listed activities are simply examples as opposed to a comprehensive list of activities subject to the limit.[78] The Petitioner further argues that the phrase "other maintenance and blowdown activities" is too vague and open-ended and not specific enough to ensure that the activities subject to the limit can be accurately identified and monitored.[79]

The Petitioner argues that individual phrases included in the Permits are ambiguous. In the Starkey Gulch, Heath, Clough, and Hyrup Petitions, the Petitioner claims that it is not clear to what "maintenance and blowdown activities" refers. The Petitioner questions whether the term "maintenance" was intended to refer to any instance of maintenance that results in gas venting. The Petitioner similarly questions how to distinguish between venting during a "blowdown" activity and venting during other "maintenance" activities.

---

[72] *E.g., id.* (citing *In the Matter of West Elk Coal Mine*, Order on Petition No. VIII-2024-3 at 33 (May 24, 2024) (West Elk Order)).
[73] Heath Petition at 8; *e.g.*, Starkey Gulch Petition at 4.
[74] *E.g.*, Starkey Gulch Petition at 4.
[75] Heath Petition at 8–9.
[76] *Id.* at 9.
[77] *E.g.*, Starkey Gulch Petition at 4–5.
[78] *E.g.*, *id.* at 5.
[79] E.g., *id.*

The Petitioner also claims that the scope of, and any differences between, the phrases "plant blowdown" and "compressor blowdowns" are unclear. In the Starkey Gulch, Clough, and Hyrup Petitions, the Petitioner further asserts that the terms "filter changes" and "pneumatic starter venting during engine startups" are unclear, vague, and undefined.[80]

In the Starkey Gulch, Heath, Clough, and Hyrup Petitions, the Petitioner states that, in its RTC, CDPHE asserts that "[t]hese common operations and pieces of equipment do not need to be more explicitly defined in the Title V Permit" and that CDPHE based this position the EPA's July 10, 1995 "White Paper for Streamlined Development of Part 70 Permit Applications" ("White Paper 1").[81] The Petitioner contests CDPHE's statement, arguing that the EPA's guidance is only applicable to permit applications, not permits themselves.[82] The Petitioner also argues that White Paper 1 indicates that grouping of activities can only occur if the units subject to the same requirement can be unambiguously defined in a generic manner and if enforceability of that requirement does not require a specific listing of subject units or activities.[83]

The Petitioner concludes that in the case of the Starkey Gulch, Heath, Clough, and Hyrup Permits, the terms in Condition 3 are not sufficiently defined to understand which activities are subject to the applicable limits.[84] The Petitioner reiterates that this is particularly problematic given the reference to other activities not listed (in the Heath Permit) and other maintenance and blowdown activities (in the Starkey Gulch, Clough, and Hyrup Permits).[85]

Jangles Petition

The Petitioner states that the Jangles Permit contains VOC emission limits (and other limits) on "routine or Predictable Emissions from Maintenance and Blowdown Activities."[86] The Petitioner observes that the Jangles Permit identifies five activities that are subject to these limits, including "Blowdown and purge," "Engine startups," "Tank depressurization when opening," "Dump events when thief hatch is open," and "Load out events."[87]

The Petitioner characterizes each of these terms as "ambiguous phrases that do not appear grounded to any particular definitions or context" and accordingly claims that "it is not clear what these 'activities' specifically encompass, what they entail, and how

---

[80] E.g., *id.* at 5–6.
[81] *E.g., id.* (quoting Starkey Gulch RTC at PDF p.2).
[82] *Id.* at 11.
[83] E.g., *id.* (citing White Paper 1 at 10).
[84] *E.g., id.*
[85] Heath Petition at 10; *e.g.,* Starkey Gulch Petition at 6–7.
[86] Jangles Petition at 10 (citing Jangles Permit Condition 3).
[87] *Id.* at 10–11.

they can be reliably identified in order to assure compliance with the applicable limits."[88] The Petitioner asserts that it is not clear what the language in each of the five phrases refers to, which equipment might contribute to emissions from these activities, where the relevant equipment is located, and similar concerns.[89]

The Petitioner contends that CDPHE's RTC did not resolve comments raising this issue.[90] First, the Petitioner addresses a portion of CDPHE's RTC that indicated that many of the processes identified by the commenter are defined and clarified in Permit Section Memo 20-04 ("PS Memo 20-04").[91] The Petitioner claims that PS Memo 20-04 is not referenced in the title V permit and is not federally enforceable.[92] The Petitioner also asserts that PS Memo 20-04 does not provide clarity regarding the activities covered by the limits in the Jangles Permit. Specifically, the Petitioner states that PS Memo 20-04: does not define "blowdown or purge;" does not define or mention "engine startups;" discusses but does not provide sufficient information to understand what "tank depressurization when opening" means in the context of Jangles; defines "dump events" and "thief hatch" but does not provide sufficient information to understand what these terms mean in the context of Jangles; and discusses truck loadout of tanks but does not address whether "load out events" in the Jangles Permit includes activities beyond truck loadout of tanks.[93]

Second, the Petitioner states that, in its RTC, CDPHE asserts that "[t]hese common operations and pieces of equipment do not need to be more explicitly defined in the Title V Permit" and that CDPHE based this position the EPA's White Paper 1.[94] The Petitioner contests CDPHE's statement, arguing that the EPA's guidance is only applicable to permit applications, not permits themselves.[95] The Petitioner also argues that White Paper 1 indicates that grouping of activities can only occur if the units subject to the same requirement can be unambiguously defined in a generic manner and if enforceability of that requirement does not require a specific listing of subject units or activities.[96] The Petitioner concludes that the terms in Condition 3 of the Jangles Permit are not sufficiently defined to understand which activities are subject to the applicable limits.[97]

EPA Response: For the following reasons, the EPA grants in part and denies in part this claim in the Starkey Gulch, Heath, Clough, and Hyrup Petitions and objects to the

---

[88] *Id.* at 10.
[89] *See id.* at 10–11.
[90] *Id.* at 11.
[91] *Id.* at 11 (citing Jangles RTC at PDF p. 6).
[92] *Id.* at 11–12.
[93] *Id.* at 12.
[94] *Id.* (quoting Jangles RTC at PDF p. 6).
[95] *Id.* at 12–13.
[96] *Id.* at 13 (citing White Paper 1 at 10).
[97] *Id.*

issuance of the Starkey Gulch, Heath, Clough, and Hyrup Permits. The EPA denies the Petitioner's request for an objection on this claim in the Jangles Petition.

In general, the EPA has confronted the issue of allegedly unclear permit terms in numerous previous orders. The EPA has clarified that "[p]ermits typically do not include a list of all relevant definitions, nor is that required by any applicable requirement."[98] Generally, the petitioner must show that the vagueness or ambiguity resulting from an undefined term leads directly to a flaw in the permit to demonstrate grounds for an EPA objection. For example, the EPA has granted a petition claim in which ambiguity rendered monitoring conditions insufficient to assure compliance with emission limits.[99] The EPA has also denied petition claims in which the undefined term is a "commonly used regulatory term, and the plain meaning of the term is clear" or in which the petitioner failed to explain why a term was so vague or subject to multiple interpretations as to render a permit condition unenforceable as a practical matter.[100]

Starkey Gulch, Heath, Clough, and Hyrup Petitions

As an initial matter, regarding the Petitioner's claim that the terms "maintenance and blowdown," "plant blowdown," "compressor blowdown," "filter changes," and "pneumatic starter venting during engine startups" are unclear, and therefore the VOC emission limits are unenforceable as a practical matter, these terms are commonly used in relation to the operation of compressor stations and their meanings in the context of the Starkey Gulch, Heath, Clough, and Hyrup facilities are sufficiently clear. For example, Regulation No. 7, Part B, Section II.A.4 defines "blowdown" as "the depressurization of equipment or piping to reduce system pressure."[101] The Petitioner has not supplied any reasons why terms such as "filter changes" or "pneumatic starter venting during engine startups" are vague or ambiguous. Because these terms are clear enough on their face, there is not any ambiguity about what operations are subject to the limits on the maintenance and blowdown activities that are specified in the Permits. Therefore, the Petitioner has not demonstrated it is necessary for the Starkey Gulch, Heath, Clough, and Hyrup Permits to include (or incorporate by reference) a definition of these terms to

---

[98] *In the Matter of Louisville Gas and Electric Company, Trimble County,* Order on Petition at 24 (Sept. 10, 2008).

[99] *See In the Matter of Mountain Coal Co., LLC, West Elk Mine*, Order on Petition No. VIII-2024-3 at 31–34 (May 24, 2024).

[100] *In the Matter of Midwest Generation, LCC, Crawford Generating Station*, Order on Petition No. V-2004-2 at 19 (Mar. 25, 2005); *In the Matter of South 32 Hermosa Inc., South32 Hermosa Project*, Order on Petition No. IX-2024-20 at 12 (May 30, 2025); *In the Matter of Piedmont Green Power, LLC*, Order on Petition No. IV-2015-2 at 25 (Dec. 13, 2016).

[101] 5 CCR 1001-9, Part B, II.A.4. This definition—and the definitions discussed later in this Order—are contained within the State-only enforceable portion of the Colorado regulations and are not themselves federally enforceable. That distinction is immaterial to the EPA's response. Regardless of whether these definitions are federally enforceable, they illustrate that there is no ambiguity or reasonable dispute regarding the meaning of the same terms used throughout both federally enforceable and State-only enforceable portions of the Permits.

assure compliance with the underlying applicable requirements. For these reasons, the EPA denies the Petitioner's request for an objection on this portion of this claim in the Starkey Gulch, Heath, Clough, and Hyrup Petitions.

By contrast, the Petitioner has demonstrated that the use of certain open-ended and non-exhaustive language including "such as," "other maintenance and blowdown activities," and "events not listed" does not sufficiently identify which additional activities are subject to the maintenance and blowdown VOC limits and therefore the Starkey Gulch, Heath, Clough, and Hyrup Permits do not assure compliance with those VOC limits. Importantly, title V permits must include enforceable emission limitations and standards and such other conditions as are necessary to assure compliance with all applicable requirements and permit terms.[102] To satisfy this requirement, permits must be written clearly enough to identify the specific emission units or activities that are subject to each applicable requirement (*e.g.,* emission limit).[103] Here, the Petitioner is correct that the above-quoted phrases do not provide the specificity needed to understand what activities are subject to these permit conditions for purposes of assuring compliance with applicable requirements. Specifically, the Petitioner is correct that the phrase "such as" suggests that the listed activities are simply examples, as opposed to a comprehensive list of activities subject to the limit. The Petitioner is also correct that the phrases "other maintenance and blowdown activities" and "events not listed" are similarly too open-ended and vague to ensure that the activities subject to the limit can be accurately identified (and monitored, as further discussed in Claim 3).

For these reasons, the EPA grants this portion of the claim in the Starkey Gulch, Heath, Clough, and Hyrup Petitions and objects to the issuance of the Starkey Gulch, Heath, Clough, and Hyrup Permits.

Direction to CDPHE: In resolving this objection, CDPHE could amend the Starkey Gulch, Heath, Clough, and Hyrup Permits to either (i) amend open-ended and non-exhaustive language and specify any additional activities subject to VOC limits beyond the ones explicitly listed in the Starkey Gulch, Heath, Clough, and Hyrup Permits, and/or (ii) amend the open-ended permit language to ensure that VOC limits apply to all types of unlisted maintenance or venting activities. Thus, it is important that CDPHE revise the permits to either include more specificity or to be even more inclusive.

Jangles Petition

---

[102] 42 U.S.C. § 7661c(a); 40 C.F.R. § 70.6(a)(1).

[103] *See* 40 C.F.R. §§ 70.2 (defining "applicable requirement" to include various types of limits and standards "as they as they apply to emissions units in a part 70 source"), 70.3(c)(1) ("For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source."), 70.5(c)(3)(ii) (requiring that permit applications include an "[i]dentification and description of all points of emissions described . . . in sufficient detail to establish the . . . applicability of requirements of the Act").

Regarding Condition 3 of the Jangles Permit, the Petitioner alleges that the terms "routine or predictable," "blowdown and purge," "engine startups," "tank depressurization when opening," "dump events when thief hatch is open," and "load out events" are unclear and, therefore, the VOC emission limits are unenforceable. However, these terms are commonly used in relation to the operation of compressor stations and their meanings in the context of Jangles are sufficiently clear.

Regarding the Petitioners claim that the term "routine or predictable" is unclear and therefore the VOC emission limit is unenforceable as a practical matter, the Petitioner fails to demonstrate that it is necessary to define these terms to identify what operations are subject to this permit term or the limits contained therein. The term "routine or predictable" is used in the title of Jangles Permit Condition 3. But, as the Petitioner concedes, the Jangles Permit goes on to identify the four specific operations that are addressed by Permit Condition 3, each of which is subject to separate limits. Therefore, the Petitioner has not demonstrated that any ambiguity in the phrase "routine or predictable" within the title of Permit Condition 3 renders the limits on specific activities unenforceable.

Next, Air Quality Control Commission (AQCC) Regulation No. 7, Part B, Section II.A.4 defines "blowdown" as "the depressurization of equipment or piping to reduce system pressure" and Section II.H.4.d(iv) indicates that a "purge" involves using inert gases and pigs to clear pipelines. Even in the absence of these definitions in Colorado's regulations, the terms "blowdown" and "purge" are commonly used in relation to the operation of compressor stations and their meaning in the context of Jangles is sufficiently clear. This same logic applies to "engine startups," "tank depressurization when opening," and "load out events" as these terms are commonly used in relation to the operation of compressor stations and their meanings in the context of Jangles are sufficiently clear.

Regarding the Petitioner's assertion that it is not clear what "dump events" and "thief hatches" are and where the emission points are located, these terms are commonly used in relation to the operation of compressor stations and their meanings in the context of Jangles are sufficiently clear. For example, a "dump event" is defined in PS Memo 20-04 as "the opening of a dump valve allowing liquid to flow from a separator equipped with a dump valve to a storage tank" and in the same memo a "thief hatch" is defined as "a closable aperture in a storage vessel, which allows access to the contents of the vessel for sampling, level gauging, and/or maintenance." Because these terms are clear enough on their faces, there is not any ambiguity about what operations are subject to these limits. Additionally, the Petitioner does not explain why understanding the precise location of these venting points is necessary to assure compliance with the applicable requirements. Therefore, the Petitioner has not demonstrated it is necessary for the Jangles Permit to include (or incorporate by reference) a definition of these terms or the physical location of these venting points to assure compliance with the underlying applicable requirements.

For these reasons, the EPA denies the Petitioner's request for objection on this claim in the Jangles Petition.

C. Claim 3: The Petitioner Claims That "The Title V Permit Does Not Assure Compliance with Applicable VOC Emission Limits for Gas Venting" Because the Permit Fails to "Set Forth Sufficient Monitoring to Assure Compliance with Applicable Limits."

All five Petitions contain similar claims challenging monitoring requirements designed to assure compliance with the VOC emission limits on the venting activities discussed in Claim 2. Some of the facts and arguments in the Starkey Gulch and Jangles Petitions differ and are addressed separately below; the facts and arguments in the Heath, Clough, and Hyrup Petitions are nearly identical and are addressed together below. The following summary cites a single petition—the Hyrup Petition—for the majority of the Petitioner's arguments in the Heath, Clough and Hyrup Petitions and indicates where and how the Petitions differ.

Petition Claim: In all five Petitions, the Petitioner states that title V permits must set forth monitoring requirements to assure compliance with the permit terms and conditions.[104] The Petitioner asserts that the five Permits fail to include sufficient monitoring to assure compliance with the with the VOC emission limits on the venting activities discussed in Claim 2.[105]

Starkey Gulch Petition

The Petitioner states that the Starkey Gulch Permit requires Bargath, LLC to demonstrate compliance with the VOC limits by calculating emissions using an equation that involves gas composition data and the monthly volume of vented gas.[106] The Petitioner contends that the Starkey Gulch Permit is deficient because it does not set forth any specific procedures or methods for accurately monitoring and recording the monthly volume of gas vented during maintenance and blowdown activities.[107]

The Petitioner acknowledges that the Starkey Gulch Permit includes a limit on the annual quantity of natural gas vented and a requirement to record the "occurrence" of maintenance and blowdown activities on a monthly basis.[108] However, the Petitioner argues that the Starkey Gulch Permit does not require Bargath, LLC to specifically

---

[104] *E.g.*, Starkey Gulch Petition at 7 (citing 42 U.S.C. § 7661c(c)).
[105] *E.g.*, *id.*
[106] Starkey Gulch Petition at 7 (citing Starkey Gulch Permit Condition 3.1). The Petitioner acknowledges that the Starkey Gulch Permit requires Bargath, LLC to annually conduct an extended gas analysis to determine the gas composition data. *Id.* (citing Starkey Gulch Permit Condition 3.3).
[107] *Id.*
[108] *Id.* (citing Starkey Gulch Permit Condition 3.2).

monitor and record volumetric data such that the "occurrence" of maintenance and blowdown activities provides accurate data regarding the quantity of gas vented.[109]

The Petitioner restates its public comments, arguing that determining the volume of gas vented depends on the duration of venting events as well as an accurate calculation of volume based on temperature, pressure, and total moles of gas.[110] The Petitioner faults the Starkey Gulch Permit for not requiring monitoring of any of these variables.[111]

The Petitioner addresses CDPHE's statement that that methods for monitoring and recording the volume of gas vented at Starkey Gulch are set forth in PS Memo 20-04.[112] The Petitioner claims that this explanation is inadequate because the Starkey Gulch Permit does not reference or incorporate PS Memo 20-04 and it is not a federally enforceable document.[113] The Petitioner further claims that PS Memo 20-04 does not actually set forth specific monitoring requirements, but rather includes non-binding options for calculating the volume of emissions from routine or predictable gas venting—including "using a flow meter" or calculating using "division-approved equations and parametric monitoring during the routine or predictable gas venting event (*i.e.*, temperature and pressure)."[114] The Petitioner asserts that these generic options are not sufficient to assure compliance with the limits in the Starkey Gulch Permit.[115]

Finally, the Petitioner states that the EPA has "objected to virtually identical Title V permits setting forth gas venting limits at other oil and gas processing facilities."[116] The Petitioner claims that the EPA held that these permits failed to set forth sufficient monitoring to assure compliance with VOC emission limits for gas venting because the permits did not require any particular monitoring or recordkeeping methodology related to measuring the volume of vented gas.[117] The Petitioner concludes that here, for the same reasons, the EPA must object to the issuance of the Starkey Gulch Permit.

Heath, Clough, and Hyrup Petitions

The Petitioner states that the Heath, Clough, and Hyrup Permits require Bargath, LLC to demonstrate compliance with the VOC limits by calculating emissions using an equation

---

[109] *Id.*
[110] *Id.* (citing Starkey Gulch Petition Ex. 3).
[111] *Id.*
[112] *Id.* at 8 (citing Starkey Gulch RTC).
[113] *Id.*
[114] *Id.* (quoting PS Memo 20-04 Condition 3.1.2).
[115] *Id.*
[116] *Id.* (citing *In the Matter of Lucid Energy Delaware, LLC, Frac Cat Compressor Station and Big Lizard Compressor Station*, Order on Petition Nos. VI-2022-05 and VI-2022-11 at 15–19 (Nov. 16, 2022) (*Lucid Frac Cat/Big Lizard Order*); *In the Matter of XTO Energy Inc., Wildcat Compressor Station*, Order on Petition No. VI-2023-4 at 19–21 (Aug. 7, 2023) (*Wildcat Order*)).
[117] *Id.* at 8–9 (citing 42 U.S.C. § 7661c(c); *Wildcat Order* at 20).

that involves gas composition data and the volume of vented gas.[118] The Petitioner contends that the Heath, Clough, and Hyrup Permits are deficient because they do not set forth any specific procedures or methods for accurately monitoring and recording the volume of gas vented during maintenance and blowdown activities.[119]

The Petitioner states that the Heath, Clough, and Hyrup Permits require Heath, Clough, and Hyrup to use "Volume of Natural Gas Released Per Event" factors when calculating emissions from plant blowdowns and equipment blowdowns.[120] The Petitioner asserts that these factors are based on the assumption that every venting event will release a fixed volume of gas; the Petitioner contends that the record contains no support for this assumption.[121] The Petitioner argues that "[f]or the assumed 'volume of gas released per event' factors to be valid, there would either need to be limits on the volume of gas vented, temperature, and pressure, or physical or operational design constraints that effectively limit the volume of gas vented."[122]

The Petitioner contends that neither the Heath, Clough, and Hyrup Permits nor underlying construction permits establish enforceable limits on the volume of gas vented or on the pressure and temperature at which gas is vented, which both affect volume.[123] The Petitioner argues that the absence of such limits allows Heath, Clough, and Hyrup to vent gas at variable temperatures and pressures that could result in higher-than-assumed VOC emissions. The Petitioner further claims that the Heath, Clough, and Hyrup Permits, permit records, and underlying construction permits do not contain information confirming that the assumed volumes reflect "the maximum capacity" of Heath, Clough, and Hyrup to vent gas under their physical and operational designs.[124]

The Petitioner states that in response to public comments, CDPHE discusses permit applications in which Bargath, LLC provided estimates of vented gas volumes and VOCs

---

[118] *E.g.*, Heath Petition at 10 (citing Heath Permit Condition 3.1). The Petitioner acknowledges that the Heath Permit requires Bargath, LLC to annually conduct an extended gas analysis to determine the gas composition data. *E.g.*, *id.* (citing Heath Permit Condition 3.3).

[119] *E.g.*, *id.*

[120] *E.g.*, *id.* (citing Heath Permit Condition 3.2).

[121] *E.g.*, *id.*

[122] *E.g.*, *id.* at 11. The Petitioner claims that in other title V permits, CDPHE "established federally enforceable limits and monitoring of volume, temperature, and pressure to assure accurate monitoring of VOC emissions associated with gas venting at oil and gas production and processing facilities." *Id.* (citing Rockies Express Pipeline LLC REX Cheyenne Hub Compressor Station, Permit No. 21OPWE480 at 48 and 50, Section II, Condition 3 (Jan. 1, 2025) ("Cheyenne Hub Permit")). The Petitioner also claims that the Cheyenne Hub Permit established federally enforceable limits on the "unique physical volume between isolation valves" and required monitoring of temperature and pressure during each blowdown event. *Id.* at 11–12 (citing Cheyenne Hub Permit at 48–51, Section II, Conditions 3.1, 3.2, 3.3, and 3.4).

[123] *E.g.*, *id.* at 11. The Petitioner acknowledges limits on the number of certain blowdown events, but claims that there is no limit on the volume of gas that can be vented during those events. *E.g.*, *id.*

[124] *E.g.*, *id.*

emitted during certain maintenance and blowdown activities.[125] The Petitioner argues that those estimates do not represent Heath, Clough, and Hyrup's potentials to emit and suggests that the estimates were intended to inform the establishment of the VOC emission limits, not the monitoring of emissions.[126]

Regarding venting events that do not involve plant blowdowns or equipment blowdowns, the Petitioner argues that the monitoring requirements are even more problematic. The Petitioner states that for those other events, the Heath, Clough, and Hyrup Permits simply state "determinations of the representative amount of gas released for each type of event may be based on the specifications of the equipment that is vented and any other relevant information[.]"[127] The Petitioner argues that this requirement is insufficient because it sets forth no clear methodology for accurately measuring the volume of gas venting.

Finally, in the Heath, Clough, and Hyrup Petitions, the Petitioner presents arguments regarding PS Memo 20-04 and the EPA's prior objections that are identical to those summarized above with respect to the Starkey Gulch Petition.[128]

Jangles Petition

The Petitioner states that the Jangles Permit requires Jangles to demonstrate compliance with the VOC limits that apply during "blowdown and purge" events (Activity 01) by measuring VOC emissions based on the volume of gas vented.[129] The Petitioner acknowledges that the Jangles Permit sets forth and requires monitoring of the parameters used in determining volume vented, including temperature, pressure, and the unique physical volume between isolation valves.[130] However, the Petitioner claims that these requirements do not ensure that Bargath, LLC accurately measures volume because the Jangles Permit does not explain or provide specific methods for how temperature, pressure, and the volume between isolation valves are to be measured or monitored.[131]

Regarding the four other venting activities subject to the VOC limits (Activities 02, 03, 04, and 05), the Petitioner states that the Jangles Permit assumes a certain amount of VOCs emitted per venting event.[132] The Petitioner states that the Jangles Permit limits the number of events but does not limit the duration of events, and therefore does not limit the volume of gas vented during each event. Specifically, for engine startups

---

[125] *E.g.*, *id.* at 12 (citing Heath RTC at PDF p. 3)
[126] *E.g.*, *id.*
[127] *E.g.*, *id.* at 11 (quoting Heath Permit Condition 3.2).
[128] *E.g.*, *id.* at 12–13.
[129] Jangles Petition at 13 (citing Jangles Permit Condition 3.2).
[130] *Id.* at 13–14 (citing Jangles Permit Conditions 3.5.1, 3.6).
[131] *Id.* at 14.
[132] *Id.* (citing Jangles Permit Condition 3.2.1).

(Activity 02), the Petitioner challenges CDPHE's reliance on NESHAP rules related to engine startup times, arguing that this NESHAP rule does not establish any enforceable limit on the duration of engine startup.[133] Regarding venting from tanks (Activity 03), the Petitioner similarly challenges CDPHE's discussion of venting times, arguing that neither the Permit nor the guidance document that CDPHE cites contain a limit on the duration of venting events.[134] For Activities 02, 03, 04, and 05, the Petitioner also contests the relevance of a permit term that requires monitoring of the "date, time, and duration" of events because the Jangles Permit does not use this information to demonstrate compliance with the VOC limit but instead relies on the "per event" approach to monitoring.[135] The Petitioner concludes that the "per event" approach in the Jangles Permit does not accurately reflect the actual volume of gas vented or actual VOC emissions.[136]

Finally, in the Jangles Petition, the Petitioner presents arguments regarding PS Memo 20-04 and the EPA's prior objections that are identical to those summarized above with respect to the Starkey Gulch Petition.[137]

EPA Response: For the following reasons, the EPA grants this claim in the Starkey Gulch Petition and objects to the issuance of the Starkey Gulch Permit. The EPA grants in part and denies in part this claim in the Heath, Clough, and Hyrup Petitions and objects to the issuance of the Heath, Clough, and Hyrup Permits. The EPA denies the Petitioner's request for an objection on this claim in the Jangles Petition.

Starkey Gulch Petition

All title V permits must include testing, monitoring, recordkeeping, and reporting requirements that are sufficient to assure compliance with all applicable requirements and permit terms.[138]

The Petitioner has demonstrated that the Starkey Gulch Permit does not include monitoring requirements sufficient to assure compliance with the VOC emission limits on maintenance and blowdown activities. While Condition 3.1 of the Starkey Gulch Permit states that compliance with the VOC limits must be "calculated using the monthly quantity of natural gas vented, as monitored in Condition 3.1," Condition 3.1 does not further specify how the quantity or volume of gas is monitored.

---

[133] *Id.* at 15 (citing 40 C.F.R. § 63.6625(h)).
[134] *Id.* at 16.
[135] *Id.* at 15–16 (citing Jangles Permit Condition 3.4).
[136] *Id.* at 14, 16.
[137] *Id.* at 15–16.
[138] 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1); *Sierra Club v. EPA*, 536 F.3d 673 (D.C. Cir. 2008).

In response to the Petitioner's public comments that the Starkey Gulch Permit "sets forth no accurate or meaningful methods for calculating volume of gas vented during maintenance activities,"[139] CDPHE states:

> The Division provides guidance on calculation and monitoring methodologies for blowdown emissions outlined in PS Memo 20-04, Condition 3.1.2 states "the volume of emissions from ROPE [Routine or Predictable Emissions] events can be either directly measured using a flow meter or calculated using division-approved equations and parametric monitoring during the ROPE event (i.e., temperature and pressure)."[140]

Either of the methods identified in PS Memo 20-04 could be acceptable approaches to monitoring or calculating the volume of gas vented. However, as the Petitioner correctly states, neither of these methods are included as a requirement in the Starkey Gulch Permit, nor does the Permit incorporate or cite the monitoring methods in PS Memo 20-04. Accordingly, the Permit does not "set forth" the monitoring that CDPHE itself suggests is necessary to assure compliance.[141] Further, the Permit's lack of specificity leaves it open as to which method Starkey Gulch may choose to calculate volume, without any way for the EPA, CDPHE, or the public to review whether the chosen method would be sufficient to assure compliance with the VOC limit on maintenance and blowdown activities. For example, there is no way to verify whether the source's chosen method properly accounts for the variables that CDPHE indicates can impact volume vented, such as pressure and temperature. This ambiguity in the Starkey Gulch Permit makes the monitoring and recordkeeping requirements in the Starkey Gulch Permit unenforceable as a practical matter. The EPA finds that the Petitioner has demonstrated that the Permit does not include requirements sufficient to assure compliance with VOC limits for maintenance and blowdown activities. Therefore, the EPA grants Claim 3 of the Starkey Gulch Petition and objects to the Starkey Gulch Permit.

Direction to CDPHE: In resolving this objection, CDPHE must ensure that the Starkey Gulch Permit sets forth monitoring or calculation requirements sufficient to assure compliance with the VOC emission limits for maintenance and blowdown activities. CDPHE has several options, including the two discussed in CDPHE's RTC (and PS Memo 20-04).[142] If Starkey Gulch is to use the actual volume of gas for each event, CDPHE

---

[139] Public Comments on the Starkey Gulch Permit at 7.

[140] Starkey Gulch RTC at PDF p. 3.

[141] 42 U.S.C. § 7661c(c); *see In the Matter of Harvest Four Corners LLC, 32-9 Central Delivery Point*, Order on Petition No. VI-2024-26 at 8–9 (May 30, 2025).

[142] As explained in the EPA's response to Claim 2, CDPHE must also revise the Starkey Gulch Permit to more clearly identify the specific venting activities that are subject to the VOC emission limits on maintenance and blowdown activities. Those revisions will likely influence CDPHE's decisions about which monitoring requirements are necessary to assure compliance with the VOC limit(s) applicable to each activity.

should amend the Starkey Gulch Permit to identify the method by which the actual volume of gas vented is determined. For example, CDPHE could amend the Starkey Gulch Permit to require direct monitoring of the volume of gas vented from different activities, such as by using a flow meter. Or, CDPHE could amend the Starkey Gulch Permit to require Starkey Gulch to calculate the volume of gas vented using a formula that includes parametric monitoring of variables such as temperature and pressure, combined with the fixed physical dimensions of the equipment.

Alternatively, as CDPHE has done in other permits for compressor stations (including the Heath, Clough, Hyrup, and Jangles Permits), CDPHE could revise the Starkey Gulch Permit to include a calculation methodology that utilizes fixed volumes of gas vented or fixed per-event emission factors. Such a methodology should ensure that the fixed volume values or emission factors are sufficiently representative of Starkey Gulch's actual emissions and account for all key variables, including temperature and pressure, to assure compliance with the emission limits.

Heath, Clough, and Hyrup Petitions

The Petitioner has demonstrated that the Heath, Clough, and Hyrup Permits do not include monitoring requirements sufficient to assure compliance with the VOC limits as they apply to certain currently unspecified maintenance and blowdown activities. Specifically, because the Heath, Clough, and Hyrup Permits do not sufficiently specify which activities are subject to the maintenance and blowdown VOC limits, it is unclear how the volume of gas vented during these unspecified maintenance and blowdown activities is determined. Condition 3.2 of the Heath, Clough, and Hyrup Permits state that "for events not listed. . . determinations of the representative amount of gas released for each type of event may be based on the specifications of the equipment that is vented and any other relevant information."[143] In responding to comments on this issue, CDPHE states:

> The Division provides guidance on calculation and monitoring methodologies for blowdown emissions outlined in PS Memo 20-04, Condition 3.1.2 states "the volume of emissions from ROPE events can be either directly measured using a flow meter or calculated using division-approved equations and parametric monitoring during the ROPE event (i.e., temperature and pressure)."[144]

These permit terms, and CDPHE's response, are problematic for the reasons explained in the EPA's response to the Starkey Gulch Petition: the Permits do not include sufficient detail to "set forth" the method used to monitor or calculate VOC emissions. Therefore,

---

[143] Heath Permit at 52, Clough Permit at 51, Hyrup Permit at 72.

[144] Heath RTC at PDF p. 3, Clough RTC at PDF p. 3, Hyrup RTC at PDF p. 2–3.

the EPA grants this portion of the claim in the Heath, Clough, and Hyrup Petitions and objects to the issuance of the Heath, Clough, and Hyrup Permits.

By contrast, the Petitioner has failed to demonstrate that the Heath, Clough, and Hyrup Permits lack sufficient monitoring to assure compliance with the VOC limits that apply to specific activities identified in Condition 3.1 of the Heath, Clough, and Hyrup Permits. These permit terms require Heath, Clough, and Hyrup to use a fixed amount of gas released per event in calculating VOC emissions. The Petitioner argues that the aforementioned assumptions underlying these volume-per-event values are not supported in the record as maximum values and should either be limited or individually monitored. The Petitioner fails to identify a legal authority that compels these approaches in the present situation. In general, values used to calculate emissions need to be sufficiently representative of Heath, Clough, and Hyrup's operations and actual emissions to assure compliance with emission limits. There is no legal requirement that values underlying an emission calculation methodology must, in all cases, reflect absolute maximum values, be limited, or be directly monitored. Here, the Petitioner provides no fact-specific reasons why the individual variables underlying the Heath, Clough, and Hyrup Permits' emission calculation methodology need to be limited or individually monitored to assure compliance with the applicable VOC limits. That is, the Petitioner makes no attempt to demonstrate that the volume-per-event values identified in the Heath, Clough, and Hyrup Permits—or the assumptions underlying those values—are incorrect or not representative of the Heath, Clough, and Hyrup's operations.

For these reasons, the EPA denies the Petitioner's request for an objection on this portion of Claim 3 in the Heath, Clough, and Hyrup Petitions.

Direction to CDPHE: As directed in the EPA's response to Claim 2, CDPHE should revise the Heath, Clough, and Hyrup Permits to identify any additional specific activities that are subject to the VOC limits in Condition 3.1. After identifying any such additional activities, CDPHE should revise the Heath, Clough, and Hyrup Permits to identify the specific monitoring and emission calculation requirements associated with those additional activities. *See* the EPA's Direction regarding Claim 3 in the Starkey Gulch Petition for CDPHE's options for establishing such monitoring requirements.

Jangles Petition

To assure compliance with the VOC limits on routine or predictable emissions from maintenance and blowdown activities, Condition 3.2 of the Jangles Permit requires Jangles to calculate monthly VOC emissions from "blowdown and purge" events (Activity 01) based on the volume of gas vented, which is further based on an equation that includes variables for temperature at actual conditions in the unique physical volume for each blowdown as well as the absolute pressure at actual conditions in the

unique physical volume at the beginning and end of the blowdown.[145] Condition 3.6 of the Jangles Permit also requires Jangles to monitor and record the values for each of these variables for each event resulting in routine or predictable emissions.[146] The Petitioner has failed to demonstrate that the title V permit must further require Jangles to include explanations for how temperature and pressure are to be measured or how the requirement to monitor these two variables is inadequate to calculate the volume of gas vented. This equally applies to the Petitioner's claim that while Permit Condition 3.6 requires Jangles to monitor the unique physical volume between isolation valves, it is not clear how this volume is actually measured. The Petitioner has failed to demonstrate that the title V permit must further require Jangles to include the methodology for measuring volume of gas between isolation valves, which is self-explanatory in that it is a fixed volume between two points in the process.

Regarding the Petitioner's assertion that the Jangles Permit does not limit the duration of Activities 02–05 such that the "per event" emission factor yields reliable data, the Petitioner has failed to demonstrate that the duration of the events either must be accounted for, or is not already accounted for, in the emission factors. For Activities 03-05, the Petitioner does not provide any reasons why emissions from these activities (storage tank depressurization, dump events when thief hatch is open, and load out events) would not involve fixed volumes of gas vented during each event. The Petitioner has not demonstrated that emissions would depend on the duration of the events and therefore that duration needs to be limited or individually monitored to assure compliance with the applicable VOC limits. The Petitioner does not present any other reasons that would demonstrate that the per-event values of the emission factors identified in the Jangles Permit—or the assumptions underlying those values—are incorrect or not representative of Jangles' operations.

To the extent that emissions from any of these activities (*e.g.*, Activity 02, engine startups) might be dependent on the duration of the activity, the Petitioner fails to demonstrate that the per-event emission factors do not sufficiently account for such duration such that it is necessary to limit the duration of these activities. In general, emission factors used to calculate emissions need to be sufficiently representative of the Jangle's actual emissions to assure compliance with emission limits. There is no legal requirement that emission factors used for this purpose must, in all cases, reflect absolute maximum values. The same holds true for variables underlying an emission factor or an emission calculation methodology, such as the duration of an emissions event. Here, the Petitioner provides no fact-specific reasons why the duration of engine startups (or the duration of any other events) needs to be limited to assure compliance with the applicable VOC limits. The Petitioner makes no attempt to demonstrate that the values of the emission factors identified in the Jangles Permit—or the assumptions underlying those values—are incorrect or not representative of the Jangle's operations.

---

[145] Jangles Permit at 48.

[146] *Id.*

For these reasons, the EPA denies the Petitioner's request for an objection on this claim in the Jangles Petition.

D. Claim 4: The Petitioner Claims That "The Title V Permit Improperly Exempts Storage Tanks as Insignificant Activities."

This claim is only present in the Jangles Petition; therefore, the following summary and response only applies to the Jangles Petition and Permit.

Petition Claim: The Petitioner claims that CDPHE included two storage tanks on a list of insignificant activities in the Jangles Permit, which was improper because: 1) these emissions are subject to, and cannot be exempted from, emission limits from a preconstruction permit, and 2) these emissions are likely greater than the two tons per year (tpy) threshold for insignificant activities as defined in Colorado's title V regulations.[147]

The Petitioner claims that, in issuing the Jangles Permit, CDPHE listed two storage tanks as insignificant activities, effectively exempting them from any oversight under title V.[148] The Petitioner states that under title V regulations, the EPA may approve a list of insignificant activities which need not be included in permit applications.[149] Here, the Petitioner notes that CDPHE has promulgated a list of insignificant activities that were approved by the EPA as part of CDPHE's title V program, which includes "individual emission points in attainment of attainment/maintenance areas having uncontrolled actual emissions of any criteria pollutant of less than two tons per year."[150] The Petitioner asserts that the two storage tanks in question are listed as "insignificant" in the Jangles Permit, despite no support for this conclusion.[151]

The Petitioner argues that an emission point cannot be exempt from a title V permit as an "insignificant" source if it would allow a source to avoid an applicable requirement, and here the tanks are subject to a VOC emission limit of 5.9 tpy established in Construction Permit 05GA0075.[152] The Petitioner asserts that this limit was also set forth in the initial title V permit for Jangles, which reflects the fact that this limit in question is an applicable requirement.[153] The Petitioner asserts that even though Jangles now claims that uncontrolled actual emissions from the tanks are below the *de minimis* reporting levels, the underlying Construction Permit 05GA0075 has not been modified to explicitly eliminate the tanks and respective VOC limits, and thus the tanks cannot be

---

[147] Jangles Petition at 7–8.
[148] *Id.* at 7.
[149] *Id.* (citing 40 C.F.R. § 70.5(c)).
[150] *Id.* (citing AQCC Regulation No. 3, Part C, Section II.E.3.a).
[151] *Id.*
[152] *Id.* at 8 (citing Construction Permit 05GA0075 at 4).
[153] *Id.* (citing Initial Jangles Title V Permit issued January 1, 2008 at 19).

exempt as an "insignificant activity."[154]

The Petitioner asserts that in responding to comments, CDPHE did not address whether the tanks were subject to the 5.9 tpy limit. Rather, CDPHE indicated that Jangles submitted a notification that these tanks were below reporting thresholds and that the ongoing requirement to maintain records that the tanks qualify for exemption under the provisions of AQCC Regulation No. 3, Part C, Section II.E.3 is adequate.[155] The Petitioner argues that this request cannot serve to allow Jangles to avoid compliance with applicable requirements as it did not modify the underlying Construction Permit.[156]

The Petitioner then presents several challenges to the technical basis for CDPHE's conclusion that emissions from these tanks are below the two tpy *de minimis* threshold.[157]

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

The Petitioner has failed to demonstrate that the inclusion of the two tanks in question in the list of insignificant activities in the Jangles Permit improperly exempts those tanks from applicable limits, and the Petitioner fails to connect its concerns about the insignificant activities list to any other potential flaw in the Jangles Permit.

The Petitioner fails to identify any way in which the inclusion of the two tanks in question on a list of insignificant activities in the Jangles Permit violates the CAA or 40 C.F.R. part 70. The only authority the Petitioner cites is AQCC Regulation No. 3, Part C, Section II.E.3.a, which concerns the content of permit applications, not the content of title V permits themselves. The Petitioner identifies no authority or title V requirement that governs the treatment of lists of insignificant activities in title V permits or which might have been violated based on alleged inaccuracies in such a list.[158]

The Petitioner also fails to demonstrate that the Jangles Permit improperly exempts the two tanks from any applicable limits, such as the VOC limit from 5.9 tpy in Construction Permit 05GA0075. Nothing in the RTC or the Jangles Permit indicates that the two tanks are no longer subject to this limit. To the contrary, the Jangles Permit states, in Condition 1.3:

> The Operating Permit incorporates the applicable requirements contained in the underlying construction permits, and does not affect those applicable requirements, except as modified during review of the

[154] *Id.*

[155] *Id.* (citing Jangles RTC at PDF p. 1–2).

[156] *Id.*

[157] *See id.* at 8–9.

[158] *See* 40 C.F.R. § 70.12(a)(2)(ii).

> application or as modified subsequent to permit issuance using the modification procedures found in Regulation No. 3, Part C. These Part C procedures meet all applicable substantive New Source Review requirements of Part B. Any revisions made using the provisions of Regulation No. 3, Part C must become new applicable requirements for purposes of this Operating Permit and must survive reissuance. This permit incorporates the applicable requirements (except as noted in Section II) from the following construction permit[s]: 05GA0075 and 19GA0095.

Thus, the Jangles Permit incorporates by reference the 5.9 tpy VOC limit from Construction Permit 05GA0075. The Petitioner has failed to demonstrate that the Jangles Permit improperly exempts the tanks from this limit simply because the tanks are now included on a list of "insignificant activities."

For these reasons, the EPA denies the Petitioner's request for an objection on this claim.

E. Claim 5: The Petitioner Claims that "The Title V Permit Does Not Assure Compliance with Limits Applicable to Truck Loadout and Fugitive Emissions."

This claim is only present in the Heath and Clough Petitions; therefore, the following summary and response only applies to the Heath and Clough Petitions and Permits.

Petition Claim: The Petitioner asserts that both the Heath and Clough Permits fail to assure compliance with VOC emission limits from underlying construction permits applicable to fugitive and truck loadout emissions.[159]

The Petitioner states that in comments on the Heath and Clough Permits, it noted that the Heath and Clough Permits inappropriately listed fugitive and truck loadout emissions as insignificant activities but CDHPHE ultimately removed these from the list of insignificant activities. The Petitioner states that despite this change, it does not resolve the core underlying issue that the Heath and Clough Permits fail to assure compliance with applicable requirements.[160]

The Petitioner claims both fugitive and truck loadout emissions are subject to applicable requirements, specifically VOC emission limits, in underlying construction permits for Heath and Clough. Specifically, the Petitioner asserts that Heath is subject to a 3.84 tpy limit on fugitive emissions and a 0.4 tpy limit on loadout emissions and Clough is subject to a 3.2 tpy limit on fugitive emissions and a 0.3 tpy limit on loadout emissions.[161]

---

[159] Heath Petition at 13, Clough Petition at 14.

[160] Heath Petition at 13–14, Clough Petition at 14.

[161] Heath Petition at 13 (citing Construction Permit No 05GA0569, Condition 10); Clough Petition at 14 (citing Construction Permit No. 05GA0074, Condition 5).

The Petitioner states that its "primary concern" is that the limits applicable to fugitive and truck loadout emissions were not actually incorporated into the Heath and Clough Permits. The Petitioner notes that the conditions in the Heath and Clough Permits include a number of generally applicable State-only provisions, none of which set forth or assure compliance with the limits applicable to fugitive and truck loadout emissions. The Petitioner asserts that the Heath and Clough Permits must incorporate the numerical VOC limits as federally enforceable requirements and set forth sufficient monitoring, recordkeeping, and reporting to assure compliance with title V requirements.[162]

In the Heath Petition, the Petitioner acknowledges that Heath submitted an "Emission Permit/APEN Cancellation Request" regarding fugitive emissions. The Petitioner claims that this request cannot serve to avoid compliance with applicable requirements of Construction Permit 05GA0569 as Heath cannot simply "cancel" emission limits in construction permits without modifying the construction permit according to the procedures in the Colorado SIP.[163] The Petitioner also challenges the cancellation request itself, questioning whether uncontrolled actual fugitive emissions were properly determined to be below the two tpy *de minimis* threshold relevant to the cancellation request.

EPA Response: For the following reasons, the EPA denies this claim in relation to the Heath Petition and grants in part and denies in part this claim in relation to the Clough Petition.

The Petitioner is incorrect that the Heath and Clough Permits do not incorporate all applicable VOC limits from Construction Permits 05GA0569 (Heath) and 05GA0074 (Clough). Section I, Condition 1.3 of both the Heath and Clough Permits state:

> The Operating Permit incorporates the applicable requirements contained in the underlying construction permits, and does not affect those applicable requirements, except as modified during review of the application or as modified subsequent to permit issuance using the modification procedures found in Colorado Regulation No. 3, Part C. These Part C procedures meet all applicable substantive New Source Review requirements of Part B. Any revisions made using the provisions of Regulation No. 3, Part C shall become new applicable requirements for purposes of this Operating Permit and shall survive reissuance. This permit incorporates the applicable requirements (except as noted in Section II) from the following construction permits: . . . .[164]

---

[162] Heath Petition at 14–15, Clough Petition at 15.

[163] Heath Petition at 14, 14 n.4 (citing AQCC Regulation No. 3, A, Section II.D.1, Part B).

[164] Heath and Clough Permits at 1.

Although the Petitioner is generally correct that Heath cannot simply "cancel" emission limits in construction permits without modifying the permit according to procedures in the Colorado SIP, CDPHE modified the construction permit here. This fact is not acknowledged by the Petitioner. Notably, the most recent issuance of the underlying construction permit for the Heath Permit (Construction Permit No. 05GA0569, Issuance 4) removed cancelled emission points, including point 006 for fugitives and its associated permit conditions (including the VOC emission limit at issue).[165] Thus, any limit on fugitive emissions that was found in prior issuances of the construction permit is no longer an applicable requirement and does not need to be supported by any federally enforceable monitoring, recordkeeping, or reporting requirements. Additionally, Issuance 4 of Construction Permit No. 05GA0569 does not contain any emission limit on truck loadouts and indicates that these units are exempt from construction permitting requirements and/or APEN reporting requirements because the estimated uncontrolled actual emissions are below two tpy. Thus, any potential limit on truck loadouts that was found in prior issuances of the construction permit are no longer an applicable requirement and do not require any federally enforceable monitoring, recordkeeping, or reporting requirements.

For these reasons, the EPA denies the Petitioner's request for an objection on this claim in the Heath Petition.

Regarding the Clough Permit, the Petitioner has erred in its claim that the underlying construction permit requires that loadout emissions be limited to no more than 0.3 tpy. According to Construction Permit 05GA0074, the amount of annual uncontrolled VOC emissions from truck loadout activities are 0.3 tpy, but contrary to the Petitioner's assertion, this is not a federally enforceable limit established in the underlying construction permit.[166] This information indicates that the 0.3 tpy value is simply a descriptive number rather than an emission limit, thus it is not an applicable requirement and does not need to be supported by any federally enforceable monitoring, recordkeeping, or reporting requirements. For these reasons, the EPA denies the Petitioner's request for an objection on this portion of the claim in the Clough Petition.

---

[165] The Petitioner appears to base its claim on an earlier version of this construction permit, issued in 2007. *See* Heath Petition at 13 (citing Heath Petition Ex. 7).

[166] The Petitioner's claim that truck loadout activities are subject to a 0.3 tpy VOC limit is based on Facility-Wide Condition 4 of Construction Permit 05GA0074. Clough Petition at 14. That permit term states that Clough "shall be limited to maximum consumption, processing and/or operational rates as listed in Attachment A and all other activities, operational rates and numbers of equipment as stated in the application." Clough Petition Ex. 7 at 1. However, VOC emissions from loadout activities are not identified in Attachment A as maximum consumption, processing, and/or operational rates. Further, the discussion of VOC emissions from loadout activities in Appendix A is presented differently from other activities: Appendix A discusses VOC emissions from other activities in terms of "annual limits" and "monthly limits," but VOC emissions from loadouts are described simply as "annual uncontrolled emissions." *Id.* at 15. Moreover, loadout activities are specifically described as "APEN-Exempt." *Id.*

Regarding the fugitive emissions portion of the Clough Petition, the Petitioner has demonstrated that the Clough Permit does not establish monitoring, recordkeeping, and reporting that assures compliance with underlying VOC limits on fugitive emissions. As stated above, Condition 1.3 of the Clough Permit incorporates by reference Construction Permit 05GA0074, which establishes a 3.2 tpy limit on fugitive VOCs. While it appears that Clough submitted a request to "cancel" the fugitive emissions source, it appears the VOC limit on fugitives established in Construction Permit 05GA0074 still exists, as Construction Permit 05GA0074 has not yet been modified (unlike the similar construction permit for Heath). Because of this, it appears that the VOC limit on fugitives is still an applicable requirement and the title V permit must include monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with this requirement.

The Clough Permit does not specifically identify any federally enforceable monitoring requirements that would assure compliance with this requirement. In the Clough RTC, CDPHE states that the "approved instrument monitoring in conjunction with the leak repair requirements and monitoring, recordkeeping, and reporting requirements of Section II.E and II.C.5 represent sufficient monitoring to ensure compliance for fugitive emissions and condensate loadout." Per CDPHE, Section II.E and II.C.5 are incorporated into the Clough Permit as Conditions 7.4 and 2.5.5, which are labeled as "state-only enforceable." State-only enforceable permit terms cannot be relied upon to satisfy the title V requirement to assure compliance with federally enforceable permit terms.[167]

For these reasons, the EPA grants this portion of this claim in the Clough Petition and objects to the issuance of the Clough Permit.

Direction to CDPHE: To the extent that the 3.2 tpy limit on fugitive VOCs established in Construction Permit 05GA0074 remains an applicable requirement, CDPHE should supplement the title V permit with monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with that limit. Such compliance assurance requirements should be federally enforceable and cannot be labeled as "state-only."

If CDPHE intended to remove the 3.2 tpy limit on fugitive VOCs, CDPHE would need to modify the underlying applicable requirements of Construction Permit 05GA0074. CDPHE may have several methods to accomplish such a revision, consistent with its EPA-approved SIP regulations. However, the EPA recommends that CDPHE first revise and reissue the underlying construction permit itself, then clearly incorporate any such revised NSR permit into the title V permit.

F. Claim 6: The Petitioner Claims That "The Title V Permit Does Not Assure Compliance with Limits Applicable to the Six Compressor Engines."

---

[167] *See* 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.6(b)(1), (2); see *also In the Matter of Cargill, Inc., Blair Facility* Order on Petition No. VII-2022-9 at 14 (February 16, 2023).

This claim is only present in the Jangles Petition; therefore, the following summary and response only applies to the Jangles Petition and Permit.

Petition Claim: The Petitioner first asserts that all title V permits must assure compliance with applicable requirements and a permit may only be approved if the conditions of the permit provide for compliance with all applicable requirements.[168] The Petitioner argues that the Jangles Permit does not assure compliance with applicable limits set forth in the underlying construction permit, specifically NO_x, carbon monoxide (CO), and fuel throughput limits for six engines.[169]

The Petitioner states that Construction Permit 05GA0075 sets forth a 17 tpy limit on NO_x, a 2.8 tpy limit on CO, and a 77.5 million standard cubic feet (MMscf) limit on fuel consumption throughput, all of which are incorporated into the Jangles Permit in Condition 1.3 of Section I.[170] The Petitioner claims that the Jangles Permit establishes higher limits on NO_x (23.3 tpy) and CO (6.5 tpy) and does not set forth any limit on fuel consumption.[171] The Petitioner contends that in responding to comments, CDPHE asserted that the NO_x and CO limits are "the same as the NO_x and CO limits listed in the initial Title V permit issued on January 1, 2018;" however, the Petitioner further claims that it does not appear that these limits were properly established.[172]

The Petitioner contends that when Bargath, LLC's predecessor applied for the initial title V permit in 2008, Jangles was subject to the second issuance of Construction Permit 05GA0075, which established a 17 tpy limit on NO_x and a 5.7 tpy limit on CO; however, the title V permit issued in 2008 set forth a 23 tpy limit on NO_x and a 6.5 tpy limit on CO.[173] The Petitioner asserts that these limits were "contrary to applicable requirements" and cannot form the bases for limits in the renewal Jangles Permit.[174]

The Petitioner acknowledges that AQCC Regulation No. 3, Part C, Section III.B.7 provides that title V permits may be used to modify construction permits but argues that a source must specifically apply for such a modification, and here there is no indication that Bargath LLC's predecessor applied for a modification. The Petitioner claims that neither the technical response document (TRD) or application for the initial title V permit indicate that the initial title V permit was intended to modify the underlying applicable requirements in the construction permit.[175] The Petitioner then contends that the EPA

---

[168] Jangles Petition at 4 (citing 42 U.S.C. § 7661c(a); 40 C.F.R. § 70.7(a)(1)(iv); AQCC Regulation No. 3, Part C, Section V.B.4).
[169] *Id.*
[170] *Id.*
[171] *Id.* at 5.
[172] *Id.* (citing Jangles RTC at PDF p. 3).
[173] *Id.*
[174] *Id.*
[175] *Id.*

has held that unless and until title I permit terms are changed through the appropriate title I process, they remain 'applicable requirements' for title V permits.[176]

The Petitioner claims that after issuance of the initial title V Permit, subsequent modifications to Construction Permit 05GA0075 continued to set forth the 17 tpy NO_x limit and 2.8 tpy CO limit.[177] The Petitioner then argues that while it may be asserted that the renewal Jangles Permit modified the underlying applicable requirements, the Jangles TRD does not incorporate these modifications of underlying permits.[178] The Petitioner then notes that in the Jangles RTC, CDPHE indicates that in this renewal, the source did not request any minor or significant modifications.[179]

The Petitioner asserts that in relation to the applicable fuel consumption throughput limits, the Jangles RTC relates to hours of operations rather than the fuel consumption throughput, which does not resolve the issue raised in the Petitioner's comments.[180] The Petitioner argues that despite Construction Permit 05GA0075 setting forth the fuel consumption limit of 77.5 MMscf per year, the Jangles Permit does not incorporate these limits or set forth monitoring of fuel consumption throughput to assure compliance with these limits.

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

The Petitioner is correct that Construction Permit 05GA0075 sets forth a 17 tpy limit on NO_x, a 2.8 tpy limit on CO, and a 77.5 MMscf limit on fuel consumption throughput. This construction permit is incorporated into the Jangles Permit via Condition 1.3, which states that:

> The Operating Permit incorporates the applicable requirements contained in the underlying construction permits, and does not affect those applicable requirements, except as modified during review of the application or as modified subsequent to permit issuance using the modification procedures found in Regulation No. 3, Part C. These Part C procedures meet all applicable substantive New Source Review requirements of Part B. Any revisions made using the provisions of Regulation No. 3, Part C must become new applicable requirements for purposes of this Operating Permit and must survive reissuance. This permit

---

[176] *Id.* at 5–6 (citing *In the Matter of Century Aluminum of South Carolina, Inc.*, Order on Petition No. IV-2023-09 at 15 (Nov. 2, 2023)).
[177] *Id.*
[178] *Id.* (citing Jangles TRD at 7–9).
[179] *Id.* (citing Jangles RTC at PDF p. 4).
[180] *Id.* (citing Jangles RTC at PDF p. 3).

> incorporates the applicable requirements (except as noted in Section II) from the following construction permit: 05GA0075 and 19GA0095.[181]

The Petitioner is also correct that the Jangles Permit sets forth a higher limit for NO_x (23.3 tpy) and a higher limit for CO (6.5 tpy). Therefore, in accordance with Condition 1.3, it appears that the Jangles Permit has modified the underlying NO_x and CO limits without modifying the throughput limit.

The EPA agrees with the Petitioner that title V permits must assure compliance with, and generally are not intended to be used to modify, "applicable requirements" established in underlying NSR permits.[182] However, because Colorado's unique SIP provisions allow for the modification of underlying "applicable requirements" from NSR permits through a title V permit action, the Petitioner has failed to demonstrate that the Jangles Permit does not assure compliance with all applicable requirements or that CDPHE has failed to comply with its own federally enforceable laws to enact this change in the Jangles Permit.

AQCC Regulation No. 3, Part A, Section I.B.9.a, which the EPA has approved as part of the Colorado SIP, defines an applicable requirement as "any term or condition of any construction permit issued pursuant to Part B of this Regulation Number 3, or any such term or condition as modified by procedures authorized by the operating permit program pursuant to Parts B and C of this Regulation . . . .".[183] Where a State regulatory provision has been approved by the EPA as part of the SIP, it is appropriate for inclusion (or, in this case, application) in a title V permit.[184] The Administrator may not, in the context of reviewing a potential objection to a title V permit, ignore duly approved SIP provisions.[185]

Here, the definition of applicable requirement in the SIP-approved portion of Colorado's regulations provides the mechanism for CDPHE to use the title V process to modify underlying NSR limits. In light of this provision, a change that modifies an applicable requirement, by definition, does not violate the applicable requirement. In this instance, the "procedure authorized by the operating permit program" that was used was issuance of the initial title V permit in 2018 and the Petitioner has not demonstrated that this action is impermissible under Colorado's regulations that the EPA has approved

---

[181] Jangles Permit at 4.

[182] *See* 42 U.S.C. § 7661c(a); 40 C.F.R. § 70.6(a)(1); *In the Matter of Century Aluminum of South Carolina, Inc.,* Order on Petition No. IV-2023-09 at 15 (Nov. 2, 2023).

[183] 5 CCR 1001-5, Part A, I.B.9.a (Feb. 14, 2023); 40 C.F.R. § 52.320(c); 62 Fed. Reg. 2910 (Jan. 21, 1997).

[184] *See* 40 C.F.R. § 70.2 (defining "applicable requirement" to include "[a]ny standard or other requirement provided for in the applicable implementation plan," as well as "[a]ny term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I"); *In the Matter of Piedmont Green Power, LLC,* Order on Petition No. IV-2015-2 at 28 (Dec. 13, 2016).

[185] *See In the Matter of Monroe Power Company*, Order on Petition IV-2001-8 at 14 (Oct. 9, 2002).

as part of Colorado's SIP. Additionally, the Petitioner's assertion that "there is no indication that Bargath's predecessor applied or intended to apply" for a modification does not demonstrate that use of a different permitting mechanism (such as a construction permit modification pursuant to AQCC Regulation No. 3, Part B, Section III) was required to make such a change.[186]

Regarding the Petitioner's concern that the fuel consumption throughput limit of 77.5 MMscf per year has not been incorporated into the Jangles Permit, this assertion appears to be incorrect, as Condition 1.3 of the Jangles Permit clearly incorporates the requirements of Construction Permit 05GA0075, which include the fuel consumption throughput limit. Additionally, while the Petitioner makes a broad claim that the Jangles Permit does not set forth monitoring of fuel consumption throughput to assure compliance with these limits, Condition 8 of Construction Permit 05GA0075 requires maintenance of monthly records of actual processing rates. The Petitioner has not provided any analysis of this requirement and has not demonstrated that this requirement is inadequate for assuring compliance with a fuel consumption limit or that additional monitoring is required.

For these reasons, the EPA denies the Petitioner's request for objection on this claim in the Jangles Petition.

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 grant in part and deny in part the Petitions and object to the issuance of the Starkey Gulch, Heath, Clough, and Hyrup Permits as described in this Order.

Dated: March 9, 2026

Lee Zeldin
Administrator

[186] AQCC Regulation No. 3, Part A, Section I.B.9.a. The regulation cited by the Petitioner to support its argument, 5 CCR 1001-5, Part C, III.B.7, is not relevant here as the regulation concerns combined construction and operating permits, which is a different type of permitting mechanism than what has been used in this permit action.