BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Petition No. VIII-2025-28

In the Matter of

Grand River Gathering, LLC, East Mamm Creek Compressor Station

Permit No. 05OPGA280

Issued by the Colorado Department of Public Health and Environment

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

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received a petition dated June 11, 2025, (the "Petition") from the Center for Biological Diversity (the "Petitioner"), pursuant to Clean Air Act (CAA) section 505(b)(2).[1] The Petition requests that the EPA Administrator object to operating permit No. 05OPGA280 (the "Permit") issued by the Colorado Department of Public Health and Environment (CDPHE) to the Grand River Gathering, LLC, East Mamm Creek Compressor Station ("East Mamm Creek") in Garfield County, Colorado. The Permit was issued pursuant to title V of the CAA.[2] This type of operating permit is also known as a title V permit or part 70 permit.

Based on a review of the Petition and other relevant materials, including the Permit, the permit record, and relevant statutory and regulatory authorities, and as explained in Section IV of this Order, the EPA grants in part and denies in part the Petition and objects to the issuance of the Permit. Specifically, the EPA grants Claim 2 and denies the rest of the claims.

[1] 42 U.S.C. § 7661d(b)(2).
[2] 42 U.S.C. §§ 7661–7661f; 5 Code of Colorado Regulations (CCR) 1001-5, Part C; *see also* 40 C.F.R. part 70 (title V implementing regulations).

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 in 1993. The EPA granted interim approval to the 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 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

[3] 42 U.S.C. § 7661a(d)(1).
[4] 60 Fed. Reg. 4563 (Jan. 24, 1995) (interim approval); 61 Fed. Reg. 56368 (Oct. 31, 1996) (revising interim approval); 65 Fed. Reg. 49919 (Aug. 16, 2000) (full approval). This program is codified in 5 CCR 1001-5, Part C.
[5] 42 U.S.C. §§ 7661a(a), 7661b, 7661c(a).
[6] 57 Fed. Reg. 32250, 32251 (July 21, 1992).
[7] 40 C.F.R. § 70.1(b); *see* 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).
[8] 42 U.S.C. § 7661d(a).

proposed permit, the EPA has 45 days to object to final issuance of the proposed permit if the Agency determines that the proposed permit is not in compliance with applicable requirements under the CAA.[9] If the EPA does not object to a permit on the Agency's own initiative, any person may, within 60 days of the expiration of the EPA's 45-day review period, petition the Administrator to object to the permit.[10]

Each petition must identify the proposed permit on which the petition is based and identify the petition claims.[11] Any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements under 40 C.F.R. part 70.[12] Any arguments or claims the petitioner wishes the EPA to consider in support of each issue raised must generally be contained within the body of the petition.[13]

The petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting authority (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period).[14]

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

[9] 42 U.S.C. § 7661d(b)(1); 40 C.F.R. § 70.8(c).
[10] 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).
[11] 40 C.F.R. § 70.12(a).
[12] 40 C.F.R. § 70.12(a)(2).
[13] If reference is made to an attached document, the body of the petition must provide a specific citation to the referenced information, along with a description of how that information supports the claim. In determining whether to object, the Administrator will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. *Id*.
[14] 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d); *see* 40 C.F.R. § 70.12(a)(2)(v).
[15] 42 U.S.C. § 7661d(b)(2); *see also New York Public Interest Research Group, Inc. v. Whitman*, 321 F.3d 316, 333 n.11 (2d Cir. 2003) (*NYPIRG*).
[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.

section 505(b)(2) if the Administrator determines that the petitioner has demonstrated that the permit is not in compliance with requirements of the CAA.[18] When courts have reviewed the EPA's interpretation of the ambiguous term "demonstrates" and the Agency's determination as to whether the demonstration has been made, they have applied a deferential standard of review.[19] Certain aspects of the petitioner's demonstration burden are discussed in the following paragraphs. A more detailed discussion can be found in the preamble to the EPA's proposed petitions rule.[20]

The EPA considers a number of factors in determining whether a petitioner has demonstrated noncompliance with the CAA.[21] For each claim, the petitioner must identify (1) the specific grounds for an objection, citing to a specific permit term or condition where applicable; (2) the applicable requirement as defined in 40 C.F.R. § 70.2, or requirement under 40 C.F.R. part 70, that is not met; and (3) an explanation of how the term or condition in the permit, or relevant portion of the permit record or permit process, is not adequate to comply with the corresponding applicable requirement or requirement under 40 C.F.R. part 70.[22]

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

[18] *Citizens Against Ruining the Environment*, 535 F.3d at 677 (stating that CAA section 505(b)(2) "clearly obligates the Administrator to (1) determine whether the petition demonstrates noncompliance and (2) object *if* such a demonstration is made" (emphasis added)); *see also Sierra Club v. Johnson*, 541 F.3d at 1265 ("Congress's use of the word 'shall' . . . plainly mandates an objection *whenever* a petitioner demonstrates noncompliance." (emphasis added)).

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

[20] When the EPA finalized this rulemaking in 2020, the Agency referred back to (but did not repeat) the proposed rule's extensive background discussion regarding the petitioner's demonstration burden. *See* 85 Fed. Reg. 6431, 6433, 6439 (Feb. 5, 2020) (final rule); 81 Fed. Reg. 57822, 57829–31 (Aug. 24, 2016) (proposed rule); *see also In the Matter of Consolidated Environmental Management, Inc., Nucor Steel Louisiana*, Order on Petition Nos. VI-2011-06 and VI-2012-07 at 4–7 (June 19, 2013) (*Nucor II Order*).

[21] *See generally Nucor II Order* at 7.

[22] 40 C.F.R. § 70.12(a)(2)(i)–(iii).

[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 where petitioners did not cite any specific applicable requirement that lacked required monitoring); *In the Matter of Portland Generating Station*, Order on Petition at 7 (June 20, 2007) (*Portland Generating Station Order*).

demonstration standard.[24] Also, the failure to address a key element of a particular issue presents further grounds for the EPA to determine that a petitioner has not demonstrated a flaw in the permit.[25]

Another factor the EPA examines is whether the petitioner has addressed the State or local permitting authority's decision and reasoning contained in the permit record.[26] This includes a requirement that petitioners address the permitting authority's final decision and final reasoning (including the State's response to comments) if these documents were available during the timeframe for filing the petition. Specifically, the petition must identify if the permitting authority responded to the public comment and explain how the permitting authority's response is inadequate to address (or does not address) the issue raised in the public comment.[27]

The information that the EPA considers in determining whether to grant or deny a petition submitted under 40 C.F.R. § 70.8(d) generally includes, but is not limited to, the administrative record for the proposed permit and the petition, including attachments 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

[24] *See, e.g.*, *In the Matter of Luminant Generation Co., Sandow 5 Generating Plant*, Order on Petition No. VI-2011-05 at 9 (Jan. 15, 2013); *see also Portland Generating Station Order* at 7 ("[C]onclusory statements alone are insufficient to establish the applicability of [an applicable requirement]."); *In the Matter of BP Exploration (Alaska) Inc., Gathering Center #1*, Order on Petition Number VII-2004-02 at 8 (Apr. 20, 2007); *In the Matter of Georgia Power Company*, Order on Petitions at 9–13 (Jan. 8, 2007) (*Georgia Power Plants Order*); *In the Matter of Chevron Products Co., Richmond, Calif. Facility*, Order on Petition No. IX-2004–10 at 12, 24 (Mar. 15, 2005).

[25] *See, e.g.*, *In the Matter of EME Homer City Generation LP and First Energy Generation Corp.*, Order on Petition Nos. III-2012-06, III-2012-07, and III-2013-02 at 48 (July 30, 2014); *see also In the Matter of Hu Honua Bioenergy*, Order on Petition No. IX-2011-1 at 19–20 (Feb. 7, 2014); *Georgia Power Plants Order* at 10.

[26] 81 Fed. Reg. at 57832; *see Voigt*, 46 F.4th at 901–02; *MacClarence*, 596 F.3d at 1132–33; *see also, e.g.*, *Finger Lakes Zero Waste Coalition v. EPA*, 734 Fed. App'x *11, *15 (2d Cir. 2018) (summary order); *In the Matter of Noranda Alumina, LLC*, Order on Petition No. VI-2011-04 at 20–21 (Dec. 14, 2012) (denying a title V petition issue in which petitioners did not respond to the State's explanation in response to comments or explain why the state erred or why the permit was deficient); *In the Matter of Kentucky Syngas, LLC*, Order on Petition No. IV-2010-9 at 41 (June 22, 2012) (denying a title V petition issue in which petitioners did not acknowledge or reply to the State's response to comments or provide a particularized rationale for why the State erred or the permit was deficient); *Georgia Power Plants Order* at 9–13 (denying a title V petition issue in which petitioners did not address a potential defense that the State had pointed out in the response to comments).

[27] 40 C.F.R. § 70.12(a)(2)(vi).

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 Agency'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 issues 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 Agency'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, the permitting authority must provide for notice and opportunity for public comment for the significant modification consistent with 40 C.F.R. § 70.7(h) or the State's corresponding regulations.

In any case, whether the permitting authority submits revised permit terms, a revised permit record, or other revisions to the permit, and regardless of the procedures used to make such 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 the Agency's 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.

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[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).

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

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.

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.

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

III. BACKGROUND

A. The East Mamm Creek Facility

East Mamm Creek, owned by Grand River Gathering, LLC, is located in Garfield County, Colorado. East Mamm Creek is a natural gas compressor station that includes four reciprocating internal combustion engines, one triethylene glycol dehydrator, and five storage tanks. East Mamm Creek is a title V major source of nitrogen oxides (NO_x) and volatile organic compounds (VOC) and is a synthetic minor source for hazardous air pollutants (HAP). East Mamm Creek is subject to New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements.

B. Permitting History

Grand River Gathering, LLC first obtained a title V permit for East Mamm Creek in 2017. On December 28, 2020, Summit Midstream Partners, LP, the parent company of Grand River Gathering, LLC, applied for a title V permit renewal on behalf of Grand River Gathering, LLC. On January 6, 2025, CDPHE published notice of a draft permit, subject to a public comment period that ended on February 5, 2025. On February 25, 2025, CDPHE submitted a proposed permit, along with its responses to public comments (RTC), to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on April 11, 2025, during which time the Agency did not object to the proposed permit. On May 1, 2025, CDPHE issued the final Permit for East Mamm Creek.

C. Timeliness of Petition

Pursuant to the CAA, if the EPA does not object to a proposed permit during the Agency's 45-day review period, any person may petition the Administrator within 60 days after the expiration of the 45-day review period to object.[35] The EPA's 45-day review period ended on April 11, 2025. The 60-day period to file a petition should have closed on June 10, 2025. However, the EPA's website erroneously indicated that any petition seeking the EPA's objection to the Permit was due on or before June 11, 2025, 61 days after the expiration of the Agency's 45-day review period. The Petition was submitted by email on June 11, 2025. Therefore, the EPA will treat the Petition as if it had been timely filed. Had the EPA's website shown the correct date that petitions were due, the Agency would not have treated the Petition as timely filed.

IV. EPA DETERMINATIONS ON PETITION CLAIMS

[35] 42 U.S.C. § 7661d(b)(2).

A. Claim 1: 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.

Petition Claim: The Petitioner first asserts that emission limits and standards within a title V permit must be "enforceable," and to be enforceable, the limits must be enforceable as a practical matter.[36] The Petitioner further contends that title V permits must be unambiguous, understandable, and capable of informing regulators and the public as to what is required.[37]

The Petitioner states that the Permit contains limits on VOC emissions and the volume of gas vented from "maintenance and blowdown activities."[38] The Petitioner claims that these limits are not enforceable as a practical matter because it is not clear which specific activities are authorized to emit in accordance with these conditions.[39] The Petitioner asserts that the Permit states that emissions of VOCs and volume of gas vented must be limited from "all maintenance and blowdown activities," but this phrase is "extremely broad and likely to encompass a number of potential activities."[40]

The Petitioner claims this lack of clarity is further underscored by the language found in the underlying construction permit, Construction Permit No. 12GA3170, which refers to these emissions as "equipment maintenance blowdowns."[41] The Petitioner argues that this phrase is more narrowly applicable than the language in the Permit, which refers to both maintenance *and* blowdown activities.[42] The Petitioner also contends that the Permit renewal application refers only to "blowdowns" and referring to both maintenance and blowdowns activities in the Permit does not reflect applicable requirements.[43]

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 on the EPA's July 10, 1995, "White Paper for Streamlined Development of Part 70 Permit Applications" (White Paper 1).[44] The Petitioner contests CDPHE's statement, arguing that the EPA's guidance is only

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[36] 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)).
[37] *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*)).
[38] *Id.* (citing Permit Section II, Condition 6). Subsequent references to Condition 6 within this Order refer to Section II, Condition 6.
[39] *Id.*
[40] *Id.* at 4–5.
[41] *Id.* at 5 (citing Construction Permit No. 12GA3170, Issuance No. 1 at 1 (Jan. 27, 2014)).
[42] *Id.*
[43] *Id.* (citing East Mamm Creek renewal application at PDF p. 43).
[44] *Id.* at 6 (quoting RTC at PDF p.4).

applicable to permit applications, not permits themselves.[45] 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.[46]

The Petitioner also addresses a portion of CDPHE's RTC that indicated that many of the processes identified by the Petitioner in public comments are defined and clarified in Permit Section Memo 20-04 (PS Memo 20-04).[47] The Petitioner claims that PS Memo 20-04 is not referenced in the title V permit and is not federally enforceable.[48] The Petitioner also asserts that PS Memo 20-04 does not provide clarity regarding the activities covered by the limits in the Permit, specifically noting that while the memo provides examples of what could constitute maintenance and blowdowns, neither are defined.[49] The Petitioner concludes that the terms in Condition 6 of the Permit are not sufficiently defined to understand which activities are subject to the applicable limits.[50]

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

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."[51] Generally, a petitioner must show that the vagueness or ambiguity resulting from an undefined term leads directly to a flaw in a 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.[52] 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.[53]

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[45] *Id.*
[46] *Id.* (citing White Paper 1 at 10).
[47] *Id*. at 6–7 (citing RTC at PDF p. 4).
[48] *Id*. at 7.
[49] *Id.*
[50] *Id.*
[51] *In the Matter of Louisville Gas and Electric Company, Trimble County,* Order on Petition at 24 (Sept. 10, 2008).
[52] *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).
[53] *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).

Here, the Permit limits VOC emissions "from all maintenance and blowdown activities" to 16.1 tons per year (tpy).[54] The Petitioner fails to demonstrate that this limit is unenforceable due to any ambiguities regarding which activities are subject to this limit. The term "blowdown" is commonly used in relation to the operation of compressor stations and its meaning in the context of East Mamm Creek is sufficiently clear. Any ambiguity regarding which additional "maintenance" activities are subject to the VOC limit is addressed by the fact that the Permit expressly subjects all maintenance activities to this limit. Contrary to the Petitioner's assertions, the breadth of this all-encompassing language essentially resolves, rather than introduces, ambiguity regarding which activities are subject to the limit.[55]

The Petitioner also fails to demonstrate that any differences between the description of activities covered by this limit in the title V Permit and the underlying NSR permit results in the Permit not assuring compliance with any applicable requirement. The Permit's broad, all-encompassing reference to "all maintenance and blowdown activities" unambiguously includes, and thus assures compliance with, the underlying NSR permit's potentially narrower reference to "maintenance blowdown activities."[56]

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

B. Claim 2: 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."

Petition Claim: The Petitioner states that title V permits must set forth monitoring requirements to assure compliance with the permit terms and conditions.[57] The Petitioner asserts that the Permit fails to include sufficient monitoring to assure compliance with the VOC emission limits on the venting activities discussed in Claim 1.[58]

The Petitioner states that the Permit requires East Mamm Creek to demonstrate compliance with the VOC limits by calculating emissions using an equation that involves

[54] Permit Section II, Condition 6.1.
[55] As discussed in the EPA's response to Claim 2, although the Petitioner fails to demonstrate that more specific language is necessary to identify which activities are subject to the VOC limit, the lack of specificity regarding which particular activities are subject to this limit contributes to uncertainty regarding how East Mamm Creek will calculate emissions from each activity to demonstrate compliance with the limit.
[56] Additionally, as discussed in the EPA's response to Claim 3, Colorado's EPA-approved SIP provides unique legal authorities that allow the State to modify underlying applicable requirements from NSR permits using the title V permitting process.
[57] Petition at 9 (citing 42 U.S.C. § 7661c(c)).
[58] *Id.*

gas composition data and the monthly volume of vented gas.[59] The Petitioner contends that the 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.[60]

The Petitioner asserts that while Condition 6.2 of the Permit states that the volume of gas vented must be calculated, the condition only requires that East Mamm Creek "shall record such parameters as necessary to calculate the volume of gas released including the unique physical volume between isolation valves and ambient and process pressures.[61] The Petitioner contends that while these parameters may be useful for calculating volume, it is unclear how these parametric data are used to accurately calculate the volume of gas vented and if there are other potential parameters used in calculating the volume of gas vented.[62]

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."[63] 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.[64] The Petitioner concludes that here, for the same reasons, the EPA must object to the issuance of the Permit.

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

[59] *Id.* at 10 (citing Permit Condition 6.1). The Petitioner acknowledges that the Permit requires East Mamm Creek to annually conduct an extended gas analysis to determine the gas composition data. *Id*. (citing Permit Condition 6.1).
[60] *Id*.
[61] *Id.*
[62] *Id.* 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).
[63] *Id.* at 11 (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); *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*)).
[64] *Id.* (citing 42 U.S.C. § 7661c(c); *Wildcat Order* at 20).

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.[65]

The Petitioner has demonstrated that the Permit does not include monitoring requirements sufficient to assure compliance with the VOC emission limit on maintenance and blowdown activities. Permit Condition 6.2 states that compliance with the VOC limits includes recordkeeping of "such parameters as necessary to calculate the volume of gas released including the unique physical volume between isolation valves and ambient and process pressure."[66] However, Permit Condition 6.2 does not further specify how those parameters are used to calculate the volume of gas vented. The use of the language "including" also suggests that there may be other parameters used in calculating emissions that are not identified in the Permit. This also means that East Mamm Creek determines which variables are necessary to calculate emissions. The Permit's lack of specificity for which other parameters may be used in determining the volume of gas vented leaves it ambiguous as to which method East Mamm Creek may choose to calculate volume, without any way for the EPA, CDPHE, or the public to review whether the chosen method is sufficient to assure compliance with the VOC limit on maintenance and blowdown activities. This ambiguity in the Permit makes the monitoring and recordkeeping requirements in the 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.

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

Direction to CDPHE: In resolving this objection, CDPHE should ensure that the 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 PS Memo 20-04. If East Mamm Creek is to use the actual volume of gas for each event, CDPHE should amend the Permit to identify the method by which the actual volume of gas vented is determined. For example, CDPHE could amend the 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 Permit to require East Mamm Creek 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. The Permit should identify all relevant variables that are included in such a calculation.

Alternatively, as CDPHE has done in other permits for compressor stations, CDPHE could revise the Permit to include a calculation methodology that utilizes fixed volumes of gas

[65] 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).
[66] Permit at 79.

vented or fixed per-event emission factors for each type of event or activity covered by the limits. Such a methodology should ensure that the fixed volume values or emission factors are sufficiently representative of East Mamm Creek's actual emissions and account for all key variables, including temperature and pressure, to assure compliance with the emission limits.

C. Claim 3: The Petitioner Claims That the Permit "Does not Assure Compliance with the Applicable VOC Emission Limit."

Petition Claim: The Petitioner states that under title V, "applicable requirements include the terms and conditions of a preconstruction permit issued pursuant to Title I of the Clean Air Act."[67] The Petitioner claims that Construction Permit No. 12GA3170 was issued by CDPHE pursuant to title I of the CAA and sets forth terms and conditions applicable to blowdown activities, including a VOC emission limit of 8.4 tpy.[68] The Petitioner claims that this limit was increased to 16.1 tpy in the Permit via a minor permit modification, which violates the underlying applicable requirement in the construction permit, contrary to 40 C.F.R. § 70.7(e)(2).[69]

The Petitioner asserts that in responding to comments, CDPHE acknowledged that the VOC limit in the Permit was increased via a minor permit modification approved on May 18, 2018, but asserted that "Permit limit increases may be processed through the Title V Minor Permit Modification procedures in accordance with Colorado Regulation No. 3, Part C, Section X."[70] The Petitioner argues that while CDPHE "may be correct that some permit limit increases may be processed through minor permit modification procedures, such increases cannot be processed as a minor permit modification if they would increase limits above applicable requirements, thereby violating applicable requirements."[71]

The Petitioner contends that, rather, these increases must occur pursuant to CDPHE's procedures for either a construction permit modification pursuant to Air Quality Control Commission (AQCC) Regulation No. 3, Part B, Section III or a combined construction[72] The Petitioner contends that the EPA has held that unless and until title I permit terms are changed through the appropriate title I process, they remain "applicable requirements"[73]

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[67] Petition at 8 (citing 40 C.F.R. § 40.2).
[68] *Id.*
[69] *Id.* (citing 40 C.F.R. § 70.7(e)(2)(i)(A)(1) (minor permit modification procedures may be used only for those permit modifications that do not violate any applicable requirement).
[70] *Id.* (citing RTC at PDF p.5).
[71] *Id.*
[72] *Id.*
[73] *Id.* at 8–9 (citing *In the Matter of Century Aluminum of South Carolina, Inc.,* Order on Petition No. IV-2023-09 at 15 (Nov. 2, 2023)).

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 12GA3170 sets forth an 8.4 tpy limit on VOC emissions from maintenance and blowdown activities. This construction permit is incorporated into the Permit via Section I, Condition 1.3, which states:

> 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 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: 03GA0539, 03GA0659, 04GA0354, 04GA0355, 04GA0356, 04GA1351, 11GA2046, 12GA3170.[74]

The Petitioner is also correct that the Permit sets forth a higher limit for VOC emissions from maintenance and blowdowns (at 16.1 tpy). Therefore, in accordance with Condition 1.3, it appears that the Permit has modified the underlying VOC 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.[75] 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 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 Permit.

AQCC Regulation No. 3, Part A, Section I.B.9.a, which the EPA 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 . . . ."[76] If a State regulatory provision has been approved by the EPA as part of the SIP, it is appropriate for inclusion

[74] Permit at 1.
[75] *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).
[76] 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).

(or in this case application) in a title V permit.[77] The Administrator may not, in the context of reviewing a potential objection to a title V permit, ignore duly approved SIP provisions.[78]

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.

The Petitioner's assertion that "minor permit modifications cannot be used for permit modifications that would violate an applicable requirement" is misplaced. Colorado's regulations that the EPA approved as part of Colorado's SIP allow for the modification of underlying terms or conditions from NSR permits through a title V permit action, as provided in the definition of "applicable requirement" quoted above. In light of this provision, a change that modifies an applicable requirement, by definition, does not violate the applicable requirement. The Petitioner has not demonstrated that this action was impermissible under Colorado's regulations that the EPA approved as part of Colorado's SIP, or that use of a different permitting mechanism (such as a construction permit modification pursuant to AQCC Regulation No. 3, Part B, Section III or a combined construction/title V permit modification pursuant to AQCC Regulation No. 3, Part C, Section IV) was required to make such a change.[79]

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

V. CONCLUSION

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

Dated: March 9, 2026

Lee Zeldin
Administrator

[77] *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).

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

[79] 5 CCR 1001-5, Part A, I.B.9.a.