

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

IN THE MATTER OF:	)	
	)	
TCEQ Title V Air Operating Permit	)	
No. O1375	)	
	)	Permit No. O1375
For LyondellBasell Acetyls, LLC	)	
	)	
Issued by the Texas Commission on	)	
Environmental Quality	)	
	)	

**PETITION TO OBJECT TO TITLE V OPERATING PERMIT NO. O1375**

**INTRODUCTION**

Pursuant to 42 U.S.C. § 7661d(b)(2) and 40 C.F.R. § 70.8(d), Harris County Attorney’s Office (Petitioner or HCAO) petitions the Administrator of the United States Environmental Protection Agency (EPA) to object to the renewal of Proposed Federal Operating Permit No. O1375 issued by the Texas Commission on Environmental Quality (TCEQ or Commission) to LyondellBasell Acetyls, LLC (Lyondell) La Porte Complex – Acetyls (the Facility) located at 1350 Miller Cut Off Rd in La Porte, Harris County, Texas 77571-9816. As discussed below, Federal Operating Permit No. O1375 fails to comply with requirements in Title V of the Clean Air Act (CAA) and Texas’s State Implementation Program (SIP) by failing to adhere to public participation and notice requirements.

EPA must object because the public participation procedures and public notice for the Draft Permit’s renewal were deficient.

**PETITIONER**

Harris County, with approximately 4.8 million residents, is the third largest county in the United States. Harris County and its residents suffer from poor air quality caused by a large, diverse concentration of industry, heavy commuter traffic, and other factors. HCAO is the chief civil law office for Harris County. The Harris County Attorney’s Office fights for the interests of Harris County through the civil justice system to preserve access to clean air and water and ensure safe, healthy neighborhoods.

## BACKGROUND

### I. Timeline

This Petition addresses TCEQ's renewal of Title V Permit No. O1375. LyondellBasell Acetyls, LLC applied to TCEQ for a renewal of an FOP for an All Other Basic Organic Chemical Manufacturing facility located in La Porte, Harris County on January 15, 2024, and notice was published on January 22, 2025. The public comment period ended on February 21, 2025.

Petitioner timely filed a written comment identifying deficiencies in the Draft Permit with the TCEQ on February 21, 2025. **Exhibit A** Harris County's Public Comment on the Renewal of Title V Permit No. O1375 [hereinafter Public Comment]. Petitioner's comments raised all the objections discussed below in this petition. The 60-day public petition period began on February 28, 2026 and ends on April 28, 2026. HCAO timely files this Petition prior to the April 28, 2026 deadline.

### II. Basis of Petition

This Petition is based on objections to the Draft Permit raised with reasonable specificity during the public comment period and TCEQ's Response to Comments (RTC) issued after the public comment period. **Exhibit B**, TEX. COMM'N ON ENVT'L QUALITY, Executive Director's Response to Public Comment, Title V Permit Renewal No. O1375 [hereinafter RTC].

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

### III. Title V Legal Requirements

To protect public health and the environment, CAA prohibits stationary sources of air pollution from operating without or in violation of a valid Title V permit, which must include conditions sufficient to "assure compliance" with all applicable Clean Air Act requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.6(a)(1), (c)(1). "Applicable requirements" include all standards, emission limits, and requirements of the CAA, including those contained in SIPs. 40 C.F.R. § 70.2. Congress intended for Title V to "substantially strengthen enforcement of the Clean Air Act" by "clarify[ing] and mak[ing] more readily available a source's pollution control requirements." S. Rep. No. 101-228 at 347-48 (1990), as reprinted in A Legislative History of the Clean Air Act Requirements of 1990 (1993), at 8687-88. As EPA explained when promulgating its Title V regulations, a Title V permit should "enable the source, states, EPA, and the public to better understand the requirements to which the source is subject, and whether the source is meeting those requirements." Operating Permit Program, Final Rule, 57 Fed. Reg. 32,250, 32,251 (July 21, 1992).

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

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

## GROUNDS FOR OBJECTION

### **I. EPA Must Object to the Permit because TCEQ did not Provide Adequate Public Notice During the Title V Renewal Process for Permit No. O1375**

#### **a. Specific Grounds for Objections**

The published notice for the renewal of Permit No. O1375 action was inadequate per TCEQ and EPA's rules. This notice was published on January 22, 2025. **Exhibit C**, TEX. COMM'N ON ENVT'L QUALITY, Public Notice, Title V Permit Renewal No. O1375 [hereinafter the Notice] In the Public Comment, HCAO raised concerns regarding whether the Notice was published in the municipality in which the Facility is located, or in the municipality nearest to the Facility, as required by TCEQ rules. TCEQ does not adequately address nor rebut the issues HCAO raised in its comment regarding the public notice issues in the RTC.

#### **b. Applicable Requirements**

All permit proceedings must provide adequate procedures for public notice, including offering an opportunity for public comment and a hearing on the draft permit. Notice must be given by one of the methods enumerated in CAA, which includes publishing the notice in a newspaper of general circulation in the area where the source is located. 40 C.F.R. § 70.7(h). A renewal may be issued only if the permitting authority has complied with the requirements for public participation under paragraph (h). § 70.7(a)(1)(ii). These requirements are also reflected in TCEQ's own Title V notice rules. Per these rules, the Executive Director (ED) shall direct the applicant to publish a notice of draft permit and preliminary decision, at the applicant's expense, in the public notice section of one issue of a newspaper of general circulation in the municipality in which the site or proposed site is located, or in the municipality nearest to the location of the site or proposed site. 30 Tex. Admin. Code § 122.320.

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

The Facility is located just outside of the city limits of La Porte, Texas at 1515 Miller Cut Off Road, La Porte, Texas 77571 in Harris County. While the Facility's address is listed as La Porte, it is technically in unincorporated Harris County.

Therefore, the municipality that the Facility is "nearest" to is likely La Porte. However, the Notice was published on January 22, 2025 in publications that circulate in and cater to communities outside of La Porte: the Pasadena Citizen, the Pearland Journal, and the Bay Area Citizen. These publications, referred to in this petition as "zoned editions", are owned and operated by the Houston Chronicle. *See generally Al Lewis, Hearst purchases community newspapers across Houston's suburbs*, Chron. (Jul. 29, 2016), <https://www.chron.com/business/article/Hearstpurchases-community-newspapers-across-8617547.php>; *Suburbs*, Hous. Chron., <https://www.houstonchronicle.com/neighborhood/> (last visited Feb. 13, 2025). They function as separate publications that publish content of specific, localized interest to those respective Houston area communities and can accompany a Houston Chronicle subscription.

Pearland is a suburb of Houston located primarily in Brazoria County. The Bay Area Citizen covers communities and municipalities both in and outside Harris County in the area abutting Galveston

Bay. According to this publication's X (formerly Twitter) account, "[t]he Bay Area Citizen newspaper covers nine cities surrounding Clear Lake and Johnson Space Center in the Houston area." @BayAreaCitizen, X <https://www.x.com/bayareacitizen> (last visited Apr. 28, 2026). Pasadena is an incorporated municipality in Harris County east of Houston.

Based on the information published on the Houston Chronicle's website, it was not clear whether the Pasadena Citizen, the Pearland Journal, or the Bay Area Citizen are newspapers of general circulation for purposes of this rule. HCAO asked TCEQ to clarify in its comment.

It is now HCAO's position that publication of the Notice in the Pasadena Citizen, the Pearland Journal, and the Bay Area citizen did not meet the relevant newspaper notice requirements. As detailed above, circulation of the Pearland Journal and the Bay Area Citizen does not reach the community nearest to the Facility. The Facility is in the 77571 zip code. While the Pasadena Citizen is geographically closer to the Facility, Pasadena's zip codes also does not include the 77571. However, the City of La Porte does include a portion of the 77571 zip code.

#### **d. Issues Raised in Public Comments**

Petitioner raised these issues with reasonable specificity in the public comment filed with TCEQ. *See* Public Comment. The issues regarding public access are discussed on pages 1-2 of the Comment. *Id.* at 1-2.

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

TCEQ responds to Petitioner's public notice concerns in the section entitled "Response 1" in the RTC. TCEQ's response to the public notice issues Petitioner raised in the Comment neither rebuts nor addresses the issues outlined above. TCEQ "respectfully disagrees" with HCAO's determination that the published public notice "did not meet 'newspapers of general circulation,'" but does not provide further support for this assertion.

TCEQ states:

The ED respectfully disagrees with the commenters' determination that the public notice which was published in the Pasadena Citizen, the Pearland Observer and the Bay Area Citizen newspapers did not meet "newspapers of general circulation" under 30 TAC Chapter § 122.320.

For English publications, 30 TAC § 122.320(b) states that notice is to be published in "a newspaper of general circulation in the municipality in which the site or proposed site is located, or in the municipality nearest to the location of the site or proposed site." For alternative language publications, 30 TAC § 122.322(a) states that "[t]he newspaper or publication must be of general circulation in the municipality or county in which the facility is located or proposed to be located."

TCEQ then states:

Notice of Draft FOP O1375 was published on January 22, 2025, in both English and Spanish. On January 27, 2025, OCC received the public notice affidavit, alternative language

affidavit, newspaper tear sheets, and alternative language tear sheets. On February 28, 2025, the Applicant submitted the public notice verification form to OCC for the purposes of:

- 1) verifying required signs were posted in accordance with the regulations and instructions of TCEQ;
- 2) verifying that proof of publication of the newspaper notices and the requested affidavits were furnished in accordance with the regulations and instruction of TCEQ; and
- 3) verifying that a copy of the complete air quality application (including any subsequent revisions to the application) and draft permit were available for review and copying at public place throughout the duration of the public comment period.

Both the Applicant and OCC have verified that the chosen publications meet the public notice criteria stated under 30 TAC §§ 122.320 and 122.322. RTC at 4-5.

TCEQ's statement is conclusory and does not address why TCEQ believes that the chosen publications meet any one of the criteria in 30 TAC Chapter 122.320. The RTC does not address how TCEQ "verified" such criteria were met. TCEQ simply restates the rule and makes a conclusory statement affirming their procedural requirements were met.

HCAO did not dispute that the applicant submitted the required public notice verification form. Additionally, TCEQ's statement does not address HCAO's concerns regarding which locale the relevant publications are in. In short, the RTC makes a conclusory statement that the applicant met a procedural requirement of the application process, without explaining *why* or *how* they arrived at that conclusion. It is unlikely an applicant would submit a form attesting to their failure to meet certain rules, and the mere fact that the applicant verified that the applicant published according to TCEQ regulations and instruction does nothing to address the concerns HCAO raised.

HCAO would also note that it is TCEQ's responsibility to address commenters' concerns and administer Texas' Title V Program. It is not the applicant's responsibility. It is therefore irrelevant whether the applicants believed they were in compliance with TCEQ's rules, which is certain to almost always be the case due to the applicants' own self-interest. It is up to TCEQ to verify the applicant's demonstrations and, when necessary, to explain *how* they verified the applicant's demonstrations when the adequacy of those demonstrations is called into question.

TCEQ does not address Petitioner's claim that notice was likely not published sufficiently in a newspaper of general circulation in the municipality the Facility is sited in or in the municipality nearest to the Facility (which is La Porte, Texas). TCEQ also did not present any information to indicate that these publications are, in fact, generally circulated in La Porte communities for purposes of meeting the rule requirements. TCEQ's response references little to no facts specific to this permitting action, the Facility, or the issues Petitioner raised. The RTC simply states the rule. This response is not adequate.

Further compounding this issue, La Porte has an official newspaper of record for its city, and has had one since at least 2023. **Exhibit D**, Ordinances 2023-3957 and 2025-5006, Designating *The Bay*

*Area Observer* and *The Hometown Press*, respectively, as the official newspaper for the City of La Porte, Texas. The Facility's address is 1515 Miller Cut Off Road, *La Porte*, Texas 77571. Yet, TCEQ has failed to provide a reason why – despite the fact that notice was published in publications targeting communities outside of La Porte – the Notice was sufficient and met the rule requirements.

HCAO has raised the issue of insufficient public notice in multiple Title V comments and petitions to object. HCAO urges EPA to direct TCEQ to put adequate safeguards in place to ensure stakeholders and communities are sufficiently notified of permit applications. Currently, TCEQ's lack of oversight and interest regarding whether stakeholders actually receive newspaper notice in an appropriate publication constitutes a failure to carry out the mandatory CAA duties it has been delegated authority to implement. Because notice for this permit renewal was not published according to TCEQ and CAA rules, EPA must deny this permit.

## **II. EPA Must Object to the Permit because TCEQ did not Provide Adequate Public Access for the Renewal of Draft Permit O1375**

### **a. Specific Grounds for Objection**

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

### **b. Applicable Requirements**

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

renewal, may be issued only if the permitting authority has complied with the requirements for public participation under C.F.R. § 70.7(h)(2). C.F.R. § 70.7(a)(ii).

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

**c. Inadequacy of the Permit**

HCAO representatives visited TCEQ’s Central Office to inspect documents relevant to this permitting action. Ultimately, they were denied access to view the documents at the Central Office. The alternative means of access provided to HCAO was also cumbersome and not effective. TCEQ therefore failed to meet its public participation requirements, and the permit should not be issued.

**d. Issues Raised in Public Comments**

Petitioner raised these issues with reasonable specificity in the public comment filed with TCEQ. *See* Public Comment. The issues regarding public access are discussed on pages 2-4 of the Comment. *Id.* at 2-4.

**e. Analysis of TCEQ’s Response**

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

TCEQ responds to Petitioner’s public access concerns in the section entitled “Response 2” in the RTC. The TCEQ “respectfully disagrees with the commenter’s assertion that documents related to the draft permit were inaccessible to the public during the public comment period which started on January 22, 2025, and ended on February 21, 2025.” RTC at 6. TCEQ claims that all requirements under 30 TAC § 122.320 were met by the following actions taken by the Applicant and TCEQ: 1) the public notice was published in English and Spanish (the alternate language) and 2) the permitting materials could be found online and in other locations.

The public notice being published in English and Spanish is not relevant to whether the documents were impermissibly inaccessible. HCAO therefore addresses the rest of TCEQ’s responses below.

- i. TCEQ claims that documents were available online and in other physical locations, and therefore were publicly accessible.

TCEQ states:

The ED respectfully disagrees with the commenter's assertion that documents related to the draft permit were inaccessible to the public during the public comment period which started on January 22, 2025, and ended on February 21, 2025. Public participation requirements and all requirements under 30 TAC § 122.320 were met by the following actions taken by the Applicant and TCEQ. Specifically, the public notice was published in English and Spanish (the alternate language), and a copy of the draft permit and statement of basis (SOB) were available at the TCEQ Website: [www.tceq.texas.gov/goto/tvnotice](http://www.tceq.texas.gov/goto/tvnotice). TCEQ's website also explicitly contains a link to provide the public with online access to a copy of the permit application, including any updates, at the following webpage: <https://www.tceq.texas.gov/assets/public/permitting/air/reports/applications/titlev-pending-permits.html>.

RTC at 6.

HCAO did not assert that the permitting materials were not available anywhere, and HCAO cannot dispute that permitting documents were available online. However, they were not accessible through the avenues HCAO sought them, which were required by law. Additionally, TCEQ's assertion that their website "explicitly contains a link to provide the public with online access to a copy of the permit application," is both misleading and irrelevant. First, TCEQ's website is notoriously difficult to navigate, as is evidenced by the fact that permitting materials for the same permit renewal are found at two completely different webpages, and there is nothing "explicit" about where to find the page that TCEQ asserts in the RTC provides access to the application. One must click through multiple unintuitively titled links on the TCEQ website and search through multiple pages to find the URL the application can be found at.

Further, that link is not provided in the Notice. TCEQ cannot assert that because the application can technically be found online, even if that link was provided in the RTC, not the Notice, TCEQ's duty to provide access to permitting materials is satisfied.

HCAO would also note that the Notice lists a website link for the draft permit and statement of basis, but not the application. The Notice then states that the draft permit, statement of basis, and *application* are available at the central office, regional office, and a public library for "viewing and copying." The language of the permit not only fails to explicitly indicate that the application is online for review, but it also actively suggests it is not and can only be found at one of the physical locations listed.

TCEQ's Title V public participation requirements are nondiscretionary duties. TCEQ must abide by all requirements set out in its Title V regulations and nothing, including uploading documents online relieves TCEQ of their nondiscretionary duty to make the application and Draft Permit available for public inspection at the TCEQ Central Office.

TCEQ further asserts:

The ED respectfully notes the commenter and representatives encountered difficulty in accessing the draft permit application at TCEQ's Central File Room located in Austin, Texas. Currently, this information may be accessed electronically at the TCEQ Central Office,

12100 Park 35 Circle, Building F, First Floor, Austin, Texas 78753. The ED also respectfully notes, as stated in the public notice, the permit application, SOB, and draft permit were available for viewing and copying at two other locations in addition to the TCEQ Central File Room. Specifically, one location was at the TCEQ Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, and the second location was the La Porte Branch Library, 600 S Broadway St, La Porte, Texas 77571-5320, beginning the first day of publication of the public notice.

RTC at 6.

HCAO respectfully notes that it is not relevant or helpful that the permitting information is “currently” available at the Central File Room, because was not available during the comment period when it was required to be. Additionally, HCAO is unclear what TCEQ means to indicate by stating that the permit application was “electronically” available at a physical location. HCAO representatives were unable to access the materials in any capacity at the Central Office.

Petitioner did not raise the issue of whether permit materials were available at the Houston Regional Office in the Public Comment and cannot comment on whether the permit materials would have been available there during the comment period. However, TCEQ’s response points to a systemic failure to make permitting materials available both in the manner they are legally required to and in the manner the Notice describes. When stakeholders attempt to access Title V permitting documents at the central office, they are pointed to the regional office by TCEQ. When stakeholders visit the regional office, they are by told by TCEQ staff the central office is the only place that houses permitting materials.<sup>1</sup> Again, TCEQ cannot have it both ways.

TCEQ’s response pointing to the other physical locations where the permitting materials were available does not remedy the fact that the permitting materials were not available at a location they were legally required to be available at. Additionally, the RTC does not rebut HCAO’s account as inaccurate, instead it notes it as a difficulty. This assertion indicates to Petitioner that TCEQ is not engaging with their concerns in good faith.

Harris County Attorney’s Office has been experiencing issues regarding permit access for years, and has consistently raised them to TCEQ and EPA throughout multiple Title V permit renewals. Yet, the issue persists. This public access issue goes beyond a harmless error by TCEQ’s staff as it pertains to this one permitting action. TCEQ consistently does not provide the required access to permitting documents and EPA must direct TCEQ to follow the approved Title V public participation requirements. Petitioner also requests that EPA direct TCEQ to provide adequate training to its staff to ensure they can adequately assist stakeholders in accessing documents.

- ii. TCEQ claims that access to physical files (including copying capabilities) is not required, and online access is sufficient to meet public access requirements.

---

<sup>1</sup> Harris County Attorney's Office Comment on the Renewal of Federal Operating Permit Number O1931, at 3 (2024) (“The TCEQ employee stated that ‘we’ do not have permits at the Regional Office and that one would need to go to Austin to view permits”).

TCEQ asserts:

30 TAC Chapter § 122.320(g) states “The executive director shall make available for public inspection the draft permit and the complete application throughout the comment period during business hours at the commission's central office and at the commission's regional office where the site is located”. This requirement does not explicitly require TCEQ to provide “copying” capability at any of its facilities and it does not require TCEQ to provide access to the “physical permit materials” as asserted by the commenter.

On the contrary, for the past several years TCEQ, along with other state and federal agencies including EPA, have been moving away from paper copy files and towards adoption of new technology to provide electronic file access to improve governmental efficiency, reduce records management costs and facilitate public participation. TCEQ has also added information to the Title V public notice on how to access these files electronically.

RTC at 6-7.

First, the general trends regarding electronic access TCEQ points to, even if taken as true, do not justify their failure to provide access as required by law. Further, moving away from paper files has certainly not facilitated public participation as related to Title V permitting, as stakeholders are still having trouble accessing documents as is evidenced by Petitioner’s many comments related to this issue.

Government efficiency is also not being supported here, and providing online access to materials without further direction (i.e. not listing a link to the application on the Notice) certainly does not meet the rule requirements. Further, people hired by TCEQ to help stakeholders receive permit materials could not locate the application online. If TCEQ’s own staff is not aware that the application materials can be found online, stakeholders cannot be expected to find it either. While HCAO commends TCEQ for now providing the link on their public notices, it was not provided in the notice for the permit at issue. TCEQ’s new practice is therefore irrelevant to this permit.

TCEQ’s assertions here do not adequately explain or address why digital access in the context of this permit and the issues raised by Petitioner satisfies the rule requirements or fulfills TCEQ’s mandated duties.

Regarding TCEQ’s point that 30 TAC Chapter § 122.320(g) does not “explicitly require” TCEQ to provide copying or “physical permit materials” at their locations, Petitioner acknowledges that this provision does not actually contain the word “physical.” However, “physical” access is still required and contemplated by the rule. Cambridge Dictionary defines “Inspection” as “the act of looking at something carefully, or an official visit to a building or organization to check that everything is correct and legal.” *Inspection*, Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/inspection> (last visited Apr. 28, 2026). Both portions of this definition necessitate physical access. Additionally, the common meaning and most logical understanding of “inspection” within the context of the language of this provision is in line with HCAO’s interpretation of this rule.

Further, the language of this rule necessitates “public inspection...at the commission’s central office.” The word “at” is a preposition “used to show an exact position or particular place.” *At*, Cambridge Dictionary, [https://dictionary.cambridge.org/us/dictionary/english/at#google\\_vignette](https://dictionary.cambridge.org/us/dictionary/english/at#google_vignette) (last visited Apr. 28, 2026). The common understanding of this phrase is that these documents will be both located at and available at the Central Office. The language of this rule does not state (nor imply) that the ED shall make available a computer to access documents during business hours at the commission’s Central Office, or that the ED shall provide access to documents at TCEQ offices, except when it is online. TCEQ’s interpretation that this rule does not require actual access to permitting materials at their Central Office is nonsensical. HCAO is additionally unclear what the alternative to actual physical access here would be, as the RTC does not provide one.

If providing online access fully satisfies the requirements TCEQ must fulfill, there would be no reason to direct people to the Central Office or any other location. Yet TCEQ continues to do so, both in the Notice and multiple times in the RTC. This is the same RTC in which TCEQ makes the claim it does not have to have permitting materials at their offices.

Petitioner would also note that, while TCEQ rules do not explicitly reference copying and viewing at TCEQ offices, the Public Notice does. Petitioner further contends that “copying” could very well fall into the scope of “inspecting,” as is evidenced by TCEQ’s own notice language. TCEQ asserted to the public that these documents can be copied and viewed at their Central Office, which necessitates physical access. For TCEQ to then assert to Petitioner that copying is not required by the rule and therefore does not need to be provided is both confusing and in bad faith.

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

Currently, TCEQ has failed to meet the black letter public access requirements for this permit. Therefore, Petitioner requests this permit be denied. Additionally, Petitioner request that EPA require TCEQ to provide clearer and more accurate public access information and instructions to the public and its staff to ensure the Title V program is sufficiently carried out by TCEQ. EPA should also direct TCEQ to update its notice language to reflect TCEQ’s updated public access policies. For example, if TCEQ is no longer providing copying capabilities at their offices, their notices should reflect that.

## **CONCLUSION**

Petitioner respectfully requests that EPA deny this permit for the reasons outlined above. Further, Petitioner requests EPA mandate TCEQ clarify its rules and procedures regarding newspaper notice for Title V permitting actions. Currently, TCEQ’s failure to provide sufficient oversight over applicants and clarification to stakeholders represents an ongoing issue that must be addressed to ensure the goals of CAA are adequately met. Additionally, Petitioner requests that EPA mandate

TCEQ to update their policies and rules to ensure actual access to Title V information is given and properly communicated to the public. HCAO appreciates EPA's attention to this matter.

CC: (Attachments available by request)

Respectfully submitted,

JONATHAN FOMBONNE  
Harris County Attorney

SARAH J. UTLEY  
Managing Counsel,  
Affirmative and Environmental

BETHANY DWYER  
Deputy Division Director, Environmental

*Elizabeth Hidalgo*

---

Elizabeth Hidalgo  
Assistant County Attorney  
Environmental Division  
State Bar No. 24133308  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002  
Telephone: (713) 274-5394  
Facsimile: (713) 437-4211  
Email: Elizabeth.Hidalgo@harriscountytexas.gov

Ryan Cooper  
Assistant County Attorney  
Environmental Division  
State Bar No. 24123649  
Telephone: (713) 274-5376  
Email: Ryan.Cooper@harriscountytexas.gov