

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

IN THE MATTER OF)	
)	
Clean Air Act Final Renewed)	
Title V Operating Permit)	
)	
Issued to Magellan Pipeline Terminals, L.P.)	Title V Permit No. 17OPAD399
for the Aurora Terminal, Adams County,)	
Colorado)	
)	
Issued by the Colorado Department of)	
Public Health and Environment, Air Pollution)	
Control Division)	

**PETITION TO OBJECT TO FINAL RENEWED TITLE V OPERATING PERMIT
NO. 17OPAD399 FOR MAGELLAN PIPELINE’S AURORA TERMINAL**

Pursuant to Section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2), and 40 C.F.R. § 70.8(d), the Center for Biological Diversity and 350 Colorado (“Petitioners”) petition the Administrator of the United States Environmental Protection Agency (“Administrator” or “EPA”) to object to the final renewed Title V Operating Permit (“Title V Permit”) issued by the Colorado Department of Public Health and Environment’s Air Pollution Control Division (“Division”) authorizing Magellan Pipeline Terminals, L.P. (hereafter “Magellan”) to operate the Aurora Terminal in the City of Aurora in Adams County, Colorado.

The Center requests the EPA Administrator object on the basis that the Title V Permit fails to assure compliance with applicable requirements under the Clean Air Act.

The Division’s final Title V Permit and supporting Technical Review Document (“TRD”) were issued on April 1, 2026 and are attached as Exhibits 1 and 2, respectively.

THE AURORA TERMINAL

The Aurora Terminal is a bulk petroleum products storage and distribution facility located in the City of Aurora east of Denver. The facility receives products such as gasoline, kerosene, jet fuel, and fuel oil by pipeline, as well as receives ethanol and biodiesel by truck. Products are then stored in one or more of the facility’s 16 storage tanks. Petroleum products are distributed by truck or by pipeline. Products distributed by truck are loaded onto tanker trucks via a loading rack. A vapor recovery system collects vapors from loading and routes the gases to a vapor combustion unit, commonly referred to as a flare.

The Aurora Terminal is a large source of volatile organic compounds (“VOCs”), which are released as vapors from the tanks and from truck loading. The facility is also a source of nitrogen oxide (“NO_x”) and carbon monoxide (“CO”) emissions, which are released from the facility’s vapor combustion unit.

NO_x emissions are a byproduct of combustion and include a number of gases known to be harmful to human health and the environment, including nitrogen dioxide. *See* EPA, “Basic information about NO₂,” website available at <https://www.epa.gov/no2-pollution/basic-information-about-no2> (last accessed May 1, 2026). VOCs include a number of gases known to be extremely harmful to public health, including hazardous air pollutants like benzene, toluene, hexane, and xylene. *See* EPA, “Technical Overview of Volatile Organic Compounds,” website available at <https://www.epa.gov/indoor-air-quality-iaq/technical-overview-volatile-organic-compounds> (last accessed May 1, 2026). Both NO_x and VOCs also react with sunlight to form ground-level ozone, a respiratory irritant and the key ingredient of smog. *See* EPA, “Ground-level Ozone Basics,” website available at <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics> (last accessed May 1, 2026).

The Aurora Terminal is located in the Denver Metro/North Front Range severe ozone nonattainment area. Due to nearly 20 years of ongoing violations of national ambient air quality standards (“NAAQS”) for ground-level ozone, this nine-county region with a population of more than four million people has been classified a “severe” ozone nonattainment area. *See* 40 C.F.R. § 81.306. Emissions of VOCs and NO_x from the Aurora Terminal contribute to high ozone levels in the region.

Annually, the facility has the potential to emit 199.5 tons of VOCs, 39.5 tons of NO_x, 15.8 tons of CO.

PETITIONERS

The Center for Biological Diversity is a nonprofit, 501(c)(3) conservation organization. The Center’s mission is to ensure the preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands and waters, and public health through science, policy, and environmental law. Based on the understanding that the health and vigor of human societies and the integrity and wildness of the natural environment are closely linked, the Center is working to secure a future for animals and plants hovering on the brink of extinction, for the ecosystems they need to survive, and for a healthy, livable future for all of us.

350 Colorado is a Colorado-based non-profit organization with over 18,000 members throughout the state. 350 Colorado is an independent state affiliate of 350.org, a global organization with about 490 affiliates focused on building a world powered by clean, accessible, and affordable renewable energy. 350 Colorado’s mission is to build the local grassroots movement to solve the climate crisis and transition to a sustainable future.

PROCEDURAL BACKGROUND

The Petitioners submitted comments on the draft Aurora Terminal Title V Permit on December 13, 2025. *See* Exhibit 3, Center for Biological Diversity and 350 Colorado Comments on Draft Title V Permit (Dec. 13, 2025). The Division responded to the Petitioners' comments on January 16, 2026. *See* Exhibit 4, Colorado Air Pollution Control Division, "Response to Comments on Renewed Operating Permit" (Jan. 16, 2026). The proposed permit was subsequently submitted to EPA for the agency's 45-day review. The EPA's 45-day review concluded on March 2, 2026. The Administrator did not object to the proposed permit during this time. The Division issued the final permit on April 1, 2025.

Pursuant to 42 U.S.C. § 7661d(b)(2), this petition is now timely submitted within 60 days following a lack of objection from the EPA during the agency's 45-day review period.

GENERAL TITLE V PERMITTING REQUIREMENTS

The Clean Air Act prohibits qualifying 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, emissions limits, and requirements of the Clean Air Act, including all requirements in an applicable implementation plan, or state implementation plan ("SIP") and any term or condition of a permit issued pursuant to Title I of the Clean Air Act. 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 enforceable a source's pollution control requirements." S. Rep. No. 101-228, at 347, 348 (1990), *as reprinted in* A Legislative History of the Clean Air Act Amendments of 1990, at 8687, 8688 (1993). As EPA explained when promulgating its Title V regulations, a Title V permit should "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." Operating Permit Program, Final Rule, 57 Fed. Reg. 32,250, 32,251 (July 21, 1992). Among other things, a Title V permit must include compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. 42 U.S.C. § 7661c(c); 40 C.F.R. §§ 70.6(a)(1), (a)(3), (c)(1).

Under the Clean Air Act, "any person" may petition EPA to object to a proposed permit "within 60 days after the expiration of [EPA's] 45-day review period." 42 U.S.C. § 7661d(b)(2); *see also* 40 C.F.R. § 70.8. Each objection in the petition must have been "raised with reasonable specificity during the public comment period provided for in § 70.7(h) of this part, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period." 40 C.F.R. § 70.8(d). Any objection included in the petition "must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements [of 40 C.F.R. Part 70]." 40 C.F.R. § 70.12(a)(2).

Upon receipt of a petition, EPA “shall issue an objection within [60 days] if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of this chapter, including the requirements of the applicable implementation plan.” 42 U.S.C. § 7661d(b)(2) (emphasis added); *see also* 40 C.F.R. § 70.8(c) (“The Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with applicable requirements or requirements under this part.”). When deciding whether a petitioner has met this demonstration requirement, EPA will evaluate the entirety of the permit record, including the statement of basis and response to comments. *See In re Valero Refining-Texas, L.P.*, Order on Petition No. VI-2021-8 (June 30, 2022). Indeed, EPA’s review of a Title V petition is confined to the petition itself, including exhibits, the permitting record, and any final permit that may be available. *See* 40 C.F.R. § 70.13.

GROUND FOR OBJECTION

For the reasons set forth below, the Title V Permit fails to comply with applicable requirements under the Clean Air Act. The issues discussed below were raised in comments on the draft Title V Permit for the Aurora Terminal.

I. The Title V Permit Does Not Ensure Compliance With Applicable Operating and Maintenance Plan Requirements

In comments, Petitioners flagged that the draft Title V Permit did not appear to assure compliance with applicable operating and maintenance plan requirements set forth in the underlying construction permit for the Aurora Terminal, Permit No. 90AD119, Issuance 19. As Petitioners noted, Condition 17 of Permit No. 90AD119, Issuance 19, expressly states that Magellan must develop an operating and maintenance plan “that outlines how the applicant will maintain compliance on an ongoing basis with the requirements of [the] permit” and that Magellan must comply with the plan at the time of startup. *See* Exhibit 5, Permit No. 90AD119, Issuance 19 (May 31, 2019) at Condition 17.¹ In spite of this applicable requirement, the draft Title V Permit did not expressly require Magellan to comply with the operating and maintenance plan.

In response to comments, the Division asserted that “requirements of the Operating and Maintenance (O&M) plans were in fact directly incorporated into the Operating Permit.” Exhibit 4, Response to Comments at unnumbered p. 8. Pointing to the Title V Permit at Section II, Conditions 2.5.1.9 and 2.13, as well as provisions of the Title V Permit requiring compliance with requirements applicable to the tanks at the Aurora Terminal, the Division responded that all requirements of the operating and maintenance plan appear in the Title V Permit. *Id.* at 8-9. Although Petitioners appreciate that the Title V Permit contains some provisions found in Magellan’s operating and maintenance plan, the Title V Permit continues to fail to assure compliance with applicable requirements.

¹ Condition 3 of Permit No. 90AD119, Issuance 19, similarly requires Magellan to comply with its operating and maintenance plan.

To start, the Title V Permit continues to fail to expressly require compliance with the operating and maintenance plan required by Condition 17 of Permit No. 90AD119, Issuance 19. Although the Title V Permit may incorporate or even restate some provisions found in the operating and maintenance plan, Condition 17 of the underlying construction permit is a distinct applicable requirement that must be met. In requiring compliance with an operating and maintenance plan, Condition 17 establishes that the plan itself is enforceable and the Title V Permit must specifically require compliance with the plan. In simply incorporating or restating certain provisions of the operating and maintenance plan without specifically stating that Magellan must comply with the plan, the Title V Permit fails to give force and effect to the requirements of Condition 17 and fails to assure compliance with applicable requirements.

Regardless, while Petitioners acknowledge that certain provisions of the operating and maintenance plan have been incorporated into the Title V Permit, it does not incorporate all provisions set forth in the plan. Even if, as suggested by the Division, the Title V Permit could assure compliance with the plan by incorporating or restating its provisions, the Title V Permit falls short of setting forth all applicable provisions of the plan and therefore fails to assure compliance with applicable requirements.

Magellan submitted its operating and maintenance plan to the Division in December 2019 as part of a compliance certification package. *See* Exhibit 6, Magellan Pipeline Aurora Terminal Compliance Certification Package (December 18, 2019) at PDF pp. 20-35. The Division subsequently approved the plan in January 2020. The plan sets forth provisions applicable to the loading rack and vapor combustion unit, as well as to the facility's petroleum storage tanks.

Although Petitioners agree that many provisions of the operating and maintenance plan are indeed incorporated into the Title V Permit, the Permit appears to fail to incorporate and assure compliance with the following provisions:

- The plan explains that, with regards to the vapor combustion unit, if a pilot flame is not detected, the combustor will shut down, and truck loading will “automatically” stop. Exhibit 6, Operating and Maintenance Plan at PDF p. 21. While this operating provision indicates that truck loading will immediately cease if a pilot light is not detected in the vapor combustion unit, the Title V Permit does not appear to indicate this is how the Aurora Terminal will operate. Indeed, the Title V Permit states that in the event a pilot flame is not detected, Magellan shall follow the compliance assurance monitoring (“CAM”) plan set forth in Appendix G. *See* Title V Permit at Section II, Condition 5.1.1.1. This plan, however, does not state that truck loading will cease in the event that a pilot flame is not detected, an alarm will be sent to a control room and an investigation and corrective action must be performed as necessary. *See* Title V Permit at Appendix G, Section G.II. This indicates that truck loading may continue to occur if a pilot flame is not detected, which is contrary to the operating and maintenance plan.
- The plan requires monthly leak inspections of the loading rack using sight, sound, and smell and requires that Magellan utilize an inspection and leak log attached as Appendix A to the operating and maintenance plan. *See* Exhibit 6, Operating and

Maintenance Plan at PDF p. 22. Appendix A includes an inspection and leak log form that requires Magellan to enter, among other things, data regarding leaking equipment, nature of the leak, and all repairs action. *See* Exhibit 6, Operating and Maintenance Plan at PDF p. 33. Although the Title V Permit requires monthly leak inspections of the loading rack, it does not require that Magellan utilize the inspection and leak log found in Appendix A to the operating and maintenance plan.

- The plan requires that Magellan conduct a semi-annual check of the vapor combustion unit using the inspection forms attached in Appendix A to the plan. *See* Exhibit 6, Operating and Maintenance Plan at PDF p. 22. The Title V Permit neither requires semi-annual checks of the vapor combustion unit nor requires that Magellan conduct the checks using the inspection forms attached in Appendix A. In response to comments, the Division points to the Title V Permit at Section II, Conditions 2.5.1.9 and 2.13 as setting forth operating and maintenance plan requirements applicable to the loading rack and vapor combustion unit. Condition 2.5.1.9 requires monthly inspections of the loading rack vapor collection and processing system while Condition 2.13 requires a semi-annual leak check on the couplers and connections on the loading hoses. Neither Condition requires semi-annual checks of the vapor combustion unit. Although this is problematic, it is even more problematic that the Title V Permit does not assure that checks are conducted using the forms in Appendix A to the operating and maintenance plan. Appendix A includes a “Vapor Combustion Semi-Annual Inspection” form that requires Magellan to conduct 19 different inspection and maintenance requirements for the vapor combustion unit, including clean pilot gas strainer and annually remove burners and clean and replace if needed, etc., as well as to measure and record 17 different operating parameters, including pilot gas pressure, pressure drop across arrestor, etc. Exhibit 6, Operating and Maintenance Plan at PDF p. 34. To assure compliance with the operating and maintenance plan, the Title V Permit must set forth these specific semi-annual inspection and maintenance provisions related to the vapor combustion unit.

A Title V permit must contain conditions that assure compliance with applicable requirements. Condition 17 of Permit No. 90AD119, Issuance 19, is an applicable requirement given that it is a condition of a construction permit issued pursuant to Colorado’s SIP construction permitting program approved pursuant to Title I of the Clean Air Act. Accordingly, the failure of the Title V Permit to assure that Magellan complies with the operating and maintenance plan for the Aurora Terminal, including the failure to assure compliance with specific operating, inspection, and maintenance provisions of the plan, means the Title V Permit fails to assure compliance with applicable requirements.

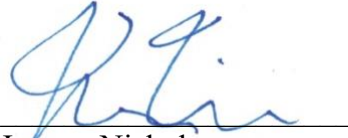
CONCLUSION

Title V permits must contain emission limitations and standards that assure compliance with applicable requirements. *See* 42 U.S.C. § 7661c(a) and 40 C.F.R. § 70.6(a)(1). Here, the Title V Permit for the Aurora Terminal does not assure compliance with applicable requirements. Accordingly, pursuant to 42 U.S.C. § 7611d(b)(2) and 40 C.F.R. § 70.8(d), the Administrator

must object to the issuance of the Title V Permit over its failure to assure compliance with applicable requirements and require the Division to revise and reissue the Permit in a manner that complies with the requirements of the Clean Air Act.

DATED: May 1, 2026

Respectfully submitted,



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Pursuant to 40 C.F.R. § 70.8(d), copies of this petition have been concurrently transmitted to the following parties:

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TABLE OF EXHIBITS

Exhibit

1. Final Aurora Terminal Title V Permit
2. Final Aurora Terminal Title V Permit Technical Review Document
3. Comments of the Center for Biological Diversity and 350 Colorado on the draft initial Title V Permit for the Aurora Terminal
4. Colorado Air Pollution Control Division Response to Comments
5. Permit No. 90AD119, Issuance 19 (May 31, 2019)
6. Magellan Pipeline Aurora Terminal Compliance Certification Package (December 18, 2019)