

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

Petition No. VIII-2025-34

In the Matter of

Phillips 66 Pipeline LLC, Denver Terminal

Permit No. 96OPAD160

Issued by the Colorado Department of Public Health and Environment

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

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA or the “Agency”) received a petition dated September 19, 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. 96OPAD160 (the “Permit”) issued by the Colorado Department of Public Health and Environment (CDPHE) to the Phillips 66 Pipeline LLC Denver Terminal (the “Denver Terminal”) in Adams County, Colorado. The Permit was issued pursuant to title V of the CAA and Colorado’s EPA-approved operating permit program rules.² This type of operating permit is also known as a title V permit or part 70 permit.

Based on a review of the Petition and other relevant materials, including the Permit, the permit record, and relevant statutory and regulatory authorities, and as explained in Section IV of this Order, the EPA denies the Petition requesting that the EPA Administrator object to the Permit.

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 full approval of Colorado's title V operating permit program in 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 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

³ 42 U.S.C. § 7661a(d)(1).

⁴ 60 Fed. Reg. 4563 (Jan. 24, 1995); 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).

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 section 505(b)(2) if the Administrator determines that the petitioner has demonstrated

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 (NYPIRG)*, 321 F.3d 316, 333 n.11 (2d Cir. 2003).

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.

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

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

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.²⁹ 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.³⁰ 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 this 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.³¹ 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.

²⁸ 40 C.F.R. § 70.13.

²⁹ 42 U.S.C. §§ 7470–7479.

³⁰ 42 U.S.C. §§ 7501–7515.

³¹ See 40 C.F.R. § 52.320(c) (identifying EPA-approved regulations in the Colorado SIP).

III. BACKGROUND

A. The Phillips 66 Denver Terminal

The Denver Terminal is a petroleum marketing and storage terminal owned by Phillips 66 Pipeline LLC and located in Commerce City, Colorado. The Denver Terminal receives gasoline, jet fuel, and diesel products from a pipeline which are then stored and distributed to tank trucks. Emission units at the Denver Terminal include storage tanks, a loading rack, and a vapor combustion unit (VCU) used to control volatile organic compounds (VOCs) and hazardous air pollutants (HAPs). The Denver Terminal is a title V major source of VOCs.

B. Permitting History

CDPHE first issued a title V permit for the Denver Terminal in 1999, which was last renewed in 2023. On October 3, 2024, Phillips 66 Pipeline LLC applied for a minor modification to its title V permit. On June 5, 2025, CDPHE submitted a proposed permit to the EPA for the Agency's 45-day review. The EPA's 45-day review period ended on July 21, 2025, during which time the Agency did not object to the proposed permit. On August 1, 2025, CDPHE issued the final Permit.

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.³² The EPA's 45-day review period ended on July 21, 2025. Thus, any petition seeking the EPA's objection to the Permit was due on or before September 19, 2025. The Petition was submitted by email on September 19, 2025. Therefore, the EPA finds that the Petitioner timely filed the Petition.

IV. EPA DETERMINATION ON PETITION CLAIM

The Petitioner Claims That “The Division Improperly Approved the Modification of the Denver Terminal Title V Permit as a Minor Modification.”

The Petitioner asserts that CDPHE improperly used title V minor modification procedures to remove VOC and HAP control requirements, which were established in Construction Permit No. 11AD935 and therefore applicable requirements. The Petitioner notes that on October 3, 2024, Phillips 66 applied for a title V permit modification to convert a fixed roof gasoline storage tank to an internal floating roof tank and to remove said tank from the VCU control system. The Petitioner further notes

³² 42 U.S.C. § 7661d(b)(2).

that CDPHE “processed and ultimately approved the modification as a minor modification.”³³ The Petitioner states that under the EPA’s title V regulations and Colorado’s approved title V permitting program, a title V permit may be modified using minor permit modification procedures only for “permit modifications that, among other criteria, ‘[d]o not violate any applicable requirement.’”³⁴

The Petitioner states that applicable requirements include the terms and conditions of a preconstruction permit issued pursuant to title I of the CAA.³⁵ The Petitioner notes that in this matter, the terms and conditions set forth in the underlying Construction Permit No. 11AD935 include that a VCU be used to control VOC and HAP emissions by at least 98% from gasoline storage tank T201.³⁶ The Petitioner asserts that by approving the title V permit modification, CDPHE expressly approved the removal of tank T201 from the VCU control system, resulting in the title V permit containing no requirement to control VOC and HAP emissions from tank T201, which is contrary to applicable requirements set forth in Construction Permit No. 11AD935.³⁷

The Petitioner states that in approving the modification as a minor modification, CDPHE appears to take the position that the modification does not result in any emissions increase and thus does not violate any applicable requirements.³⁸ The Petitioner disagrees with this justification, stating that “while the modification may not have increased emissions, it did change applicable emission control requirements set forth in Construction Permit No. 11AD935.”³⁹ The Petitioner further asserts that CDPHE may have the authority to authorize removal of tank T201 from the VCU, but that “this authorization cannot be processed via minor permit modification procedures. Rather, such a modification must occur pursuant to [CDPHE’s] procedures for either a construction permit modification pursuant to AQCC [Air Quality Control Commission] Regulation No. 3, Part B, Section III or a combined construction permit/Title V permit modification pursuant to AQCC Regulation No. 3, Part C, Section IV.”⁴⁰ Lastly, the Petitioner asserts 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” for title V purposes.⁴¹

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

³³ Petition at 4.

³⁴ *Id.* at 3–4 (citing 40 C.F.R. § 70.7(e)(2)(i)(A)(I); AQCC Regulation No. 3, Part C, Section X.A.1.).

³⁵ *Id.* at 4 (citing to 40 C.F.R. § 70.2).

³⁶ *Id.* (citing Construction Permit No. 11AD935 at 6, Condition 19).

³⁷ *Id.*

³⁸ *Id.* (citing Petition Ex. 2 at 8).

³⁹ *Id.*

⁴⁰ *Id.* at 4–5

⁴¹ *Id.* at 5 (citing *In the Matter of Century Aluminum of South Carolina, Inc.*, Order on Petition No. IV-2023-09 at 14–15 (Nov. 2, 2023) (*Century Aluminum Order*)).

Construction Permit No. 11AD935 requires that a VCU be used to control VOC and HAP emissions from gasoline storage tank T201. 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: 11AD935.⁴²

The Petitioner is correct that the Permit removes the requirement to use the VCU to control VOC and HAP emissions from tank T201. Therefore, in accordance with Condition 1.3, it appears that the Permit has modified conditions of the underlying Construction Permit No. 11AD935.

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.⁴³ 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 make 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”⁴⁴ If a State regulatory provision has been approved by the EPA as part of the SIP, it is appropriate for inclusion

⁴² Permit at 1.

⁴³ See 42 U.S.C. § 7661c(a); 40 C.F.R. § 70.6(a)(1); *Century Aluminum Order* at 15.

⁴⁴ 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.⁴⁵ The Administrator may not, in the context of reviewing a potential objection to a title V permit, ignore duly-approved SIP provisions.⁴⁶

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, as it did here.

The Petitioner’s claim that the EPA should object to the Permit because “minor permit modifications cannot be used for permit modifications that would violate an applicable requirement” is misplaced. Colorado’s regulations that the EPA has 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. Here, CDPHE modified the terms and conditions of the NSR permit by removing the requirement to use the VCU control system to control VOC and HAP emissions from tank T201. The Petitioner has not demonstrated that this action was impermissible under Colorado’s regulations that the EPA has 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.⁴⁷

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 deny the Petition as described in this Order.

Dated: May 19, 2026 
Lee Zeldin
Administrator

⁴⁵ 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).

⁴⁶ See *In the Matter of Monroe Power Company*, Order on Petition IV-2001-8 at 14 (Oct. 9, 2002).

⁴⁷ 5 CCR 1001-5, Part A, I.B.9.a (Feb. 14, 2023).