Title V/Clean Air Act: Harris County, Texas Attorney's Office Petition to Object Filed Addressing Baytown Olefins Plant

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The Harris County, Texas Attorney's Office ("Harris County") filed a Title V Petition to Object ("Petition") before the United States Environmental Protection Agency ("EPA") related to the ExxonMobil Corporation's Baytown Olefins Plant ("Plant").

The Plant is located in Baytown, Texas.

The Title V Permit is a renewal issued by the Texas Commission on Environmental Quality ("TCEQ").

Title V of the Clean Air Act requires certain stationary sources of air pollution to obtain Operating Permits. States that administer Title V do so through adopted implementation plans. These plans are submitted to and approved by EPA.

The intent of a Title V Permit is to organize into a single document all of the requirements that apply to the Permit holder. 42 U.S.C. § 7661 requires that states submit each proposed Title V Permit to EPA for review. Section 505(b)(1) of the Clean Air Act requires that EPA object to the issuance of a proposed Title V Permit in writing within 45 days of the receipt of the proposed Permit (and all necessary supporting information) if the agency determines it is not in compliance with the applicable requirements of the Clean Air Act.

If EPA does not object to a Permit, Section 505(b)(2) provides that any person may petition the EPA Administrator within 60 days of the expiration of the 45-day review period to object to the Permit.

The Petition argues that the draft Title V Permit fails to comply with requirements of Title V of the Clean Air Act and Texas' State Implementation Plan. Specific objections include:

1. Public access to the Permit application and other associated Permit materials was legally insufficient.
2. The renewal of the draft Permit was unlawfully delayed beyond the statutorily prescribed limits.

Harris County further argues that TCEQ's response to comments did not sufficiently address the referenced concerns.

Harris County also requests that EPA:

… admonish TCEQ and make at least three fixes to their Title V Program…

The “fixes” are stated to include:

1. Taking concrete steps to remedy public access to draft permits and permit materials at their regional offices, preferably by codifying procedures that the regional offices have to follow.
2. Requiring PBR Supplemental Tables to be included within the draft permit itself, or require the PBR Supplemental Table be attached to the draft permit as an exhibit with the page number listed prominently in the draft permit.
3. Require TCEQ to adhere to the deadlines for Title V permits set forth in Texas law, Texas’ SIP, and TCEQ’s own regulations.

A copy of the Petition can be found here.