Title V/Clean Air Act: U.S. Environmental Protection Agency Order Denying Objection to Adams County, Colorado Petroleum Products Terminal



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

04/09/2026

The United States Environmental Protection Agency ("EPA") issued a January 6th Order denying a Petition objecting to the issuance of a Clean Air Act Title V Operating Permit ("Permit") for the Holly Energy Partners, L.P., Denver Products Terminal ("Terminal"). See Petition No. VIII-2025-31.

The Terminal is a petroleum products terminal located in Adams County, Colorado.

The Petition was submitted by the Center for Biological Diversity ("CBD") pursuant to Section 505(b)(2) of the Clean Air Act.

The Permit was issued by the Colorado Department of Public Health and Environment ("CDPHE").

The federal Clean Air Act Title V program includes a provision that allows EPA To object to a Title V permit issued by a delegated state. In other words, Congress provided EPA a Clean Air Act oversight role while mandating that every Title V permit be subject to a 45-day review period before the Title V permit is finalized.

The EPA Administrator can object to a Title V permit at two points.

An objection may be made during the 45-day review period and in response to a public petition within 60 days after the end of the 45-day review period. Further, even if EPA fails to object to a proposed Title V permit, a right to petition the agency to reconsider its failure to object to the permit is potentially available. However, only those persons who have submitted comments to the draft permit during the applicable comment period have a right to petition.

The right to petition EPA arises at the close of the agency's 45-day review period.

The EPA Order states that the Terminal is located in an area classified as a severe nonattainment area for the 2008 8-hr ozone standard. Emission units at the facility are stated to include:

- Storage tanks for gasoline.
- Fuel oil.
- Ethanol liquids.
- Petroleum liquids.
- Tank truck loading/unloading rack.

- Railcar loading/unloading rack.

The Terminal is stated to be a Title V major source of volatile organic compounds ("VOC").

The Permit issued by CDPHE is a renewal.

The Order addresses each of CBD's claims which include:

- The Title V Permit Fails to Assure Compliance with Title V Monitoring Requirements (does not assure compliance with facility-wide annual emission limits on VOC, nitrogen oxides, and carbon monoxide, as well as a 95 percent VOC control efficiency requirement applicable to the VCU, because testing requirements are too infrequent and parametric monitoring requirements do not supply the necessary data in between tests).

EPA denies this claim stating in part:

- Initial and periodic (once every five years) testing requirements to demonstrate that the VCU achieves the required 95 percent VOC control efficiency. The Permit also requires operation of the VCU with a pilot light present and auto-igniter, daily visual inspections to verify pilot light presence and auto-igniter functionality, daily visible emissions observations, and operation and maintenance of the VCU consistent with manufacturer specifications.
- CBD is stated to not holistically consider the above combined approach to compliance assurance and thereby fails to demonstrate that the Permit overall does not assure compliance with the emission limits and VOC control efficiency requirement.
- CBD's claim about testing frequency is stated to lack any arguments specific to the Terminal, VCU, units, or emissions at issue and instead relies almost entirely on what is describes as CDPHE's "policy" of requiring more frequent (annual) testing when applicants request VOC control efficiencies greater than 95 percent, noting:
- Cited memorandum appears to be non-binding guidance.
- Guidance does not directly apply to the VCU at the Terminal since the VCU is not required to achieve a VOC control efficiency greater than 95 percent.
- CBD does not provide any evidence related to the variability of emissions from the VCU.
- CDPHE permit record articulate its position that the added five-year testing requirements, in combination with already present parametric monitoring requirements, are adequate and sufficiently frequent to assure compliance with the Perm it's emission limits and 95 percent VOC control efficiency requirement.

EPA denies CBD's Petition.

A copy of the Order can be found here.