Title V/Clean Air Act: US Environmental Protection Agency Order Denying Objection to Harris County, Texas Olefins Plant



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

07/07/2026

The United States Environmental Protection Agency ("EPA") issued a May 27th Order denying a petition objecting to the issuance of a Clean Air Act Title V Operating Permit ("Permit") for the ExxonMobil Corporation Baytown Petro Chemical Facility in Harris County, Texas. See Petion No. VI-2025-35.

The plant is described as Petro Chemical Facility located in Harris County, Texas that manufactures ethylene, propylene, and butadiene, and operates eleven natural gas co-generation units to generate electricity and high-pressure steam.

The Permit was issued by the Texas Department of Environmental Quality.

The Petition was submitted by the Harris County, Texas Attorney's Office ("Petitioner").

The Federal Clean Air Act Title V Program includes a provision that allows the EPA to object to a Title V Permit issued by the delegated state. In other words, Congress provided the EPA and the Clean Air Act an oversight role while mandating that every Title V Permit be subject to a forty-five-day review period before the it is finalized.

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

An objection may be made during the forty-five-day review period and then respond to a public petition within sixty days after the end of the forty-five-day review period. Further, even if the 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 on the draft Permit during the applicable comment period have a right to petition.

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

The plant is stated to be a Title V major source of volatile organic compounds, sulfur dioxide, particulate matter, nitrogen oxides, hazardous air pollutants, and carbon monoxide. It is also subject to the Clean Air Act New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.

The EPA Order addresses each of Petitioner's claims which include:

- The Petitioner Claims That Lack of Proper Public Access to the Draft Permit, Statement of Basis, Permit Application, and Its Associated PBR Supplemental Table Violates the Clean Air Act.

The EPA denies the request for an objection on this claim stating that the Petitioner failed to demonstrate that issuance of the Permit did not satisfy any requirements of the Clean Air Act, applicable requirements, or requirements of 40 C.F.R. part 70. In particular, it notes that the EPA's regulations generally do not prescribe a specific location where Permit record documents must be made available to the public. Further, it states that the Clean Air Act does not require that unique State regulations that go beyond those Federal requirements must be satisfied.

In addressing this claim, the issue of incorporating by reference a PBR Supplemental Table is also addressed. The EPA cites Valero Houston I Order in which it stated that a Title V Permit could identify the location of a PBR Supplemental Table by identifying the date of the project application and the associated project number. The Texas Commission of Environmental Quality is stated to have done so in consistence with the EPA guidance and its agreement with the State agency on the topic.

- The Petitioner claims that the requirements within the PBR supplemental table are not clear.

The EPA denies this request and determines that Petitioners failed to demonstrate that the monitoring and record keeping requirements of the Permit, including those established in the PBR Supplemental Table, are inadequate to assure compliance with any specific applicable emission limitations and operational requirements. It states that the Petitioner did not provide any specific analysis of the monitoring and recordkeeping requirements identified in the PBR Supplemental Table or explain why they are insufficient to assure compliance with any particular applicable requirement. The Petitioner is also stated to have not explained how certain reference terminology is ambiguous or unenforceable in the context of each relevant emission unit and relevant limit.

- The Petitioner Claims That the EPA Must Object to the Draft Permit Due to Its Unlawful Administrative Delay and Lack of Adherence to Title V Timelines (arguing that almost nine years had elapsed between the 2015 Permit renewal application date and the 2024 public hearing date).

The EPA denies this request stating that a specific requirement under the Clean Air Act or 40 C.F.R. part 70 is not identified which would provide a basis for the EPA to object to the Permit. Further, it states:

… Even if the Texas Commission of Environmental Quality's delayed Permit issuance could have presented a basis for the EPA to object to the Permit, this claim was rendered moot when TCEQ issued a final Permit in 2025.

The Petitioner's objection is dismissed.

A copy of the Order can be found here.