



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

# Title V/Clean Air Act: Environmental Integrity Project Lawsuit Challenges U.S. Environmental Protection Agency's Alleged Failure to Address Eight Texas Air Permits

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The Environmental Integrity Project ("EIP") and three other environmental organizations filed a Complaint for Declaratory and Injunctive Relief ("Complaint") in the United States District Court for the District of Columbia ("Court") against the United States Environmental Protection Agency ("EPA").

The other three organizations that are Plaintiffs referenced in the Complaint include:

- Sierra Club
- Port Arthur Community Action Network
- Environment Texas

The Complaint asks that the Court order EPA to undertake certain actions as required by 42 U.S.C. § 7661d(b)(2) in relation to air permits issued by the Texas Commission on Environmental Quality ("TCEQ") to eight Texas facilities.

EIP asks that the Court require that the EPA Administrator grant or deny eight Title V petitions filed by EIP and the other organizations. The petitions request that the EPA Administrator object to the permits issued under Title V of the Clean Air Act by TCEQ authorizing operation of these eight major sources of air pollution located in the state of Texas.

The eight facilities include:

Operator	Source Name
ETC Texas Pipeline LTD	Waha Gas Plant
Premier Refining Group Inc.	Port Arthur Refinery
Sandy Creek Services LLC	Sandy Creek Energy Station
Phillips 66	Borger Refinery
Kinder Morgan Crude & Condensate LLC	Galena Park Facility
Oak Grove Management Company LLC	Oak Grove Steam Electric Station
BP Amoco Chemical Company	Texas City Chemical Plant

Title V requires certain stationary sources of air pollution to obtain Operating Permits. The Clean Air Act requires that states administer Title V through adopted implementation plans. These plans are submitted to and approved by EPA. The intent of a Title V permit is to organize in a single document all the requirements which apply to the permit holder.

42 U.S.C. § 7661 requires that the state submit each proposed Title V permit to EPA for review. Section 505(v)(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 federal agency determines that it is not in compliance with the applicable requirements of the Clean Air Act. If EPA does not object to a permit, Section 505(v)(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.

EIP alleges in the Complaint that the eight referenced Texas facilities are major sources subject to Title V permitting requirements. The EPA Administrator has previously approved Texas's administration of its Title V operating permit program. As a result, TCEQ is responsible for issuing Title V operating permits in Texas.

The Complaint alleges that each of the eight facilities applied to TCEQ for renewal of its Title V permit. Comments are alleged to have been submitted to TCEQ during the public comment period identifying alleged deficiencies contained in the draft Title V permits.

EIP or other organizations are alleged to have timely filed with EPA a petition to object to the Title V operating permit for the facilities. The EPA Administrator is alleged to have been required to grant or deny the petition within 60 days – yet has not done so.

Each of these alleged inactions are stated to constitute the violation of a non-discretionary duty by the EPA Administrator.

The Complaint asks that the Court declare that the EPA Administrator's failure to grant or deny each of the petitions within 60 days constitutes a separate failure to perform acts or duties that are not discretionary within the meaning of 42 U.S.C. § 7604(a)(2) and order that each of the petitions be granted or denied by March 31, 2021.

A copy of the Complaint can be downloaded [here](#).