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# Title V/Clean Air Act: U.S. Environmental Protection Agency Order Granting in Part Petition Objecting to Harris County, Texas, Galena Park Terminal Permit

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The Administrator of the United States Environmental Protection Agency (“EPA”) issued a December 16, 2021, Order granting in part and denying in part a Petition objecting to the issuance of a Clean Air Act Title V Operating Permit (“Permit”) for the Kinder Morgan Crude & Condensate LLC (“Kinder Morgan”) Galena Park Terminal (“Terminal”) in Harris County, Texas. See 87 Fed. Reg. 3106.

The Petition had been submitted by the following organizations and an individual:

- Environmental Integrity Project
- Texas Environmental Justice Advocacy Services
- Sierra Club
- Environment Texas
- Air Alliance Houston
- Patricia Gonzales

(collectively “Petitioners”)

The federal Clean Air Act Title V program includes a provision that allows the EPA Administrator to object to a Title V permit issued by a delegated state. In other words, Congress provided EPA a Clean Air Act oversight role by mandating that every Title V permit be subject to a 45-day EPA 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 public 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 Kinder Morgan facility is described as consisting of two trains which process hydrocarbon condensate material to obtain products suitable for commercial use. The process is stated to utilize distillate technology.

The facility is a major source of volatile organic compounds and is subject to Title V of the Clean Air Act. Emission units within the facility are also subject to preconstruction permitting requirements and various New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.

The Petitioners submitted a Petition to Object within 60 days after the expiration of EPA's review period. The Petitioners raised the following objections:

- Claim A: The Petitioners Claim That "The Proposed Permit Fails to Assure Compliance with Applicable Requirements in Kinder Morgan's Major Nonattainment New Source Review Permit (Monitoring)." (EPA grants in part and denies in part this request for an objection on the claim as outlined in the relevant section of the Order.)
- Claim B: The Petitioners Claim That "The Proposed Permit Fails to Assure Compliance with Emission Limits and Operating Requirements Established by Permits by Rule Claimed by Kinder Morgan." (EPA grants this request for an objection on the claim as outlined in the relevant section of the Order.)
- Claim C: The Petitioners Claim That "The Proposed Permit Fails to Specify How Kinder Morgan Should Quantify Emissions from Various Units at the Galena Park Terminal to Assure Compliance with Emission Limits in the Nonattainment Permit." (EPA grants in part and denies in part this request for an objection on the claim as outlined in the relevant section of the Order.)
- Claim D: The Petitioners Claim That "The Proposed Permit Fails to Identify and Incorporate Certified PBR Registrations as Applicable Requirements." (EPA denies this request for an objection on the claim as outlined in the relevant section of the Order.)

As outlined in the Order, EPA therefore grants in part and denies in part the Petition.

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