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## Title V/Clean Air Act: U.S. Environmental Protection Agency Administrator Addresses Petition Objecting to Lake County, Indiana, Refinery Permit

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The United States Environmental Protection Agency (“EPA”) Administrator issued a March 4th Order Granting in Part and Denying in Part a Petition for Objection to Permit (“Order”) for a BP products North America, Inc. (“BP”) refinery.

The Title V Petition objected to the Indiana Department of Environmental Management’s (“IDEM”) issuance of a Title V Significant Permit Modification (“Modification”) to BP’s Whiting Refinery (“Refinery”) in Lake County, Indiana.

The Petition was filed by the Environmental Integrity Project and the Hoosiers Chapter of the Sierra Club (collectively, “EIP”).

Title V of the Clean Air Act requires certain stationary sources of air pollutants 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 in a single document all the requirements which 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(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 agency determines it is not in compliance with the applicable requirements under the Clean Air Act.

If EPA does not object to 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.

The BP Refinery is described in EIP’s Petition as one of the largest oil and gas refineries in the United States. It is stated to include five industrial boilers equipped with their own flue gas stack, fired by a combination of refinery gas and natural gas. The boilers are stated to have been modified to equip each with a direct-fired duct burner device to reduce emissions of nitrogen dioxide.

The EPA Administrator addressed each component (i.e., Claim) of the objection to the Title V permit as follows:

- Claim A: The Petitioners Claim That “Proposed SPM 43173 Fails to Assure Compliance with 326 IAC 6.8-2-6(a) of the Indiana State Implementation Plan, Which Applies to All PM10 Emissions from Each Boiler Stack.” (Denies the Claim noting that EPA has limited scope of review for petitions on permit modifications to issues that are directly related to those permit modifications [i.e., to portions of the permit being changed])
- Claim B: The Petitioners Claim That “The 494.99 Ton PM10 Limit in SPM 43173 Is Based on Maximum Firing Rates for the 3SPS Boilers and Duct Burners That Cannot Be Achieved in Practice.” (EPA denies the claim concluding that EIP has not demonstrated that the new 494.99 ton limit results in the Title V permit not including or assuring compliance with an applicable Clean Air Act requirement.)
- Claim C: The Petitioners Claim That “The Emission Rates Used to Quantify PM10 Emissions from the 3SPS Boilers Are Flawed and Understate Actual Emissions by Up to 25 [Percent].” (EPA grants EIP’s Claim stating that the Title V permit/record are unclear as to how BP is required to calculate heat input for purposes of demonstrating compliance with the 494.99 tons PM10 limit)
- Claim D: The Petitioners Claim That “SPM 43173 Fails to Establish Testing, Monitoring, or Reporting Requirements Adequate to Determine or Assure Compliance with Applicable Requirements, Including the Proposed 12-Month PM10 Limit.” (EPA grants EIP’s Claim stating that EIP demonstrated that the Title V permit relies on an emission factor from a single stack test of each three SPS boilers every five years which does not contain sufficient monitoring to assure compliance with the 494.99 tons PM10 limit)

A copy of the EPA Administrator’s Order can be downloaded [here](#).