Permit Brief Appeal by Genghmun Eng ("Citizen", "Petitioner")
to US EPA Environmental Appeals Board ("EAB")
Regarding Denial of Citizen Petition No. IX-2024-14

Attachment 8-of-9:

"Doc-AA_USEPA-Administrator_GEng-USEPA-Petition-Denied-in-its-entirety_17pp_2024-10-04.pdf"

BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Petition No. IX-2024-14

In the Matter of

Ultramar Inc.

Permit Renewal for Facility ID 800026

Issued by the South Coast Air Quality Management District

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ORDER DENYING A PETITION FOR OBJECTION TO A TITLE V OPERATING PERMIT

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received a petition dated July 13, 2024 (the Petition) from Genghmun Eng (the Petitioner), pursuant to section 505(b)(2) of the Clean Air Act (CAA or Act), 42 United States Code (U.S.C.) § 7661d(b)(2). The Petition requests that the EPA Administrator object to the renewal of the operating permit (Permit) issued by the South Coast Air Quality Management District (SCAQMD) to the Ultramar Inc. refinery in Los Angeles County, California (Facility ID 800026). The Permit was issued pursuant to title V of the CAA, 42 U.S.C. §§ 7661–7661f, and SCAQMD Regulation XXX. *See also* 40 Code of Federal Regulations (C.F.R.) part 70 (title V implementing regulations). This type of operating permit is also known as a title V permit or part 70 permit.

Based on a review of the Petition and other relevant materials, including the Permit, the permit record, and relevant statutory and regulatory authorities, and as explained in Section IV of this Order, the EPA denies the Petition requesting that the EPA Administrator object to the Permit.

II. SUMMARY OF STATUTORY AND REGULATORY FRAMEWORK

All major stationary sources of air pollution and certain other sources are required to apply for and operate in accordance with title V operating permits. One purpose of the title V program is to "enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements." 57 Fed. Reg. 32250, 32251 (July 21, 1992). Title V permits include emission limitations and other conditions as necessary to assure compliance with applicable requirements of the CAA, including the requirements of the applicable implementation plan. 42 U.S.C. §§ 7661a(a), 7661b, 7661c(a). The title V operating permit program generally does not impose new substantive air quality control requirements, but does require permits to contain adequate monitoring, recordkeeping, reporting, and other requirements to assure compliance with applicable requirements of the CAA. 40 C.F.R. § 70.1(b); 42 U.S.C. § 7661c(c).

State and local permitting authorities, including SCAQMD, issue title V permits pursuant to their EPA-approved title V programs. EPA granted full approval of SCAQMD's title V program in 2001. 66 Fed. Reg. 63503 (December 7, 2001). SCAQMD's title V program is codified in SCAQMD Regulation XXX.

State and local permitting authorities are required to submit each proposed title V operating permit to the EPA for review. 42 U.S.C. § 7661d(a); 40 C.F.R. § 70.8(a). Upon receipt of a proposed permit, the EPA has 45 days to object to issuance of the permit if the EPA determines that the proposed permit is not in compliance with applicable requirements of the CAA. 42 U.S.C. § 7661d(b)(1); *see also* 40 C.F.R. § 70.8(c). If the EPA does not object to a permit on its own initiative, any person may, within 60 days of the expiration of the EPA's 45-day review period, petition the Administrator to object to the permit. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).

A title V petition is a type of formal legal challenge—an administrative appeal of a permit issued by the state or local permitting authority. As such, petitions asking EPA to object to a title V operating permit are subject to various constraints and requirements imposed by Congress and the EPA. *See* 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12, 70.13, 70.14.

For example, each petition must identify the proposed permit on which the petition is based and identify the petition claims. 40 C.F.R. § 70.12(a). Any arguments or claims the petitioner wishes the EPA to consider in support of each issue raised must generally be contained within the body of the petition. 40 C.F.R. § 70.12(a)(2).[1] In general (unless an exception applies), each petition claim must be based on an issue that was raised with reasonable specificity during the public comment period provided by the permitting authority. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d); *see also* 40 C.F.R. § 70.12(a)(2)(v).

Importantly, any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements of the CAA or requirements under the EPA's part 70 rules. 40 C.F.R. § 70.12(a)(2); *see* 42 U.S.C. § 7661d(b)(2). The EPA's regulations further identify the types of requirements that qualify as "applicable requirements" of the CAA. Applicable requirements include a variety of EPA regulations that are based on the CAA, as well as certain EPA-approved state or local regulations that are based on the CAA. *See* 40 C.F.R. § 70.2 (definition of "applicable requirement"). The EPA cannot object to a title V permit based on petition claims that do not involve a CAA-based requirement. The EPA acknowledges that the title V permitting program and the title V petition opportunity may not be able to address all environmental issues that may be of concern to a community.

The CAA provides that the EPA Administrator must issue an objection if a petitioner demonstrates that a permit is not in compliance with the requirements of the CAA. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1). Congress placed the burden on the petitioner to make the required demonstration to the EPA. The EPA's regulations specify requirements that a petitioner must include in a petition to satisfy this demonstration burden. *See* 40 C.F.R. § 70.12(a). For example, the petitioner must identify the specific grounds for an objection, citing to a specific permit term or condition where applicable. The

[1] If reference is made to an attached document, the body of the petition must provide a specific citation to the referenced information, along with a description of how that information supports the claim. In determining whether to object, the Administrator will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. *Id*.

petitioner must also identify the applicable requirement of the CAA or the relevant regulation that is not met. The petitioner must also explain why the permit term or permit process is not adequate to comply with the corresponding CAA or regulatory requirement. 40 C.F.R. § 70.12(a)(2)(i)–(iii). General and conclusory petition claims, presented without sufficient citations or analysis, usually do not meet this requirement. The petitioner is also expected to address the permitting authority's reasoning behind the permitting decision when such information is available during the timeframe for filing the petition. 40 C.F.R. § 70.12(a)(2)(vi). Overall, the petitioner's demonstration burden is a critical component of the title V petition process under CAA § 505(b)(2).

A more detailed discussion about what a petitioner must provide, including court cases that address these principles, can be found in the preamble to EPA's proposed petitions rule. *See* 81 Fed. Reg. 57822, 57829–31 (August 24, 2016). Examples of prior title V petitions and EPA responses may be found at *https://www.epa.gov/title-v-operating-permits/title-v-petition-database*.

III. BACKGROUND

A. The Ultramar Facility

Ultramar, Inc., a subsidiary of Valero Energy Company, operates a petroleum refinery in Wilmington, Los Angeles County, California. The Ultramar refinery processes crude oil into various petroleum products such as gasoline, diesel, jet fuel, fuel oil, liquefied petroleum gases, and coke. The facility includes various processes and emission points, including atmospheric crude and vacuum distillation units, a fluid catalytic cracking unit, an isomerization unit, reforming units, an alkylation unit, and hydrotreating, blending, and coking, and other operations. The facility is a major source under title V and is subject to a variety of other regulatory programs under federal, state, and local laws.

B. Permitting History

The refinery has been in operation since 1969. Ultramar Inc. first obtained a title V permit for the facility in 2009, which was last renewed in 2015. On September 26, 2019, Ultramar applied for a title V permit renewal. SCAQMD published notice of a draft permit on August 23, 2023, subject to a public comment period that ran until September 26, 2023. On April 5, 2024, SCAQMD submitted the Proposed Permit, along with its responses to public comments (RTC), to the EPA for its 45-day review. The EPA's 45-day review period ended on May 20, 2024, during which time the EPA did not object to the Proposed Permit. SCAQMD issued the final title V renewal permit for the Ultramar refinery on May 28, 2024.

C. Timeliness of Petition

Pursuant to the CAA, if the EPA does not object to a proposed permit during its 45-day review period, any person may petition the Administrator within 60 days after the expiration of the 45-day review period to object. 42 U.S.C § 7661d(b)(2). The EPA's 45-day review period expired on May 20, 2024. The EPA's website indicated that any petition seeking the EPA's objection to the Permit was due on or before July 18, 2024. The Petition was dated July 13, 2024. Therefore, the EPA finds that the Petitioner timely filed the Petition.

D. Environmental Justice

The EPA used EJScreen[2] to review key demographic and environmental indicators within a five-kilometer radius of the Ultramar refinery. This review showed a total population of approximately 191,368 residents within a five-kilometer radius of the facility, of which approximately 89 percent are people of color and 44 percent are low income. In addition, the EPA reviewed the EJScreen Environmental Justice Indexes, which combine certain demographic indicators with 13 environmental indicators. The following table identifies the Environmental Justice Indexes for the five-kilometer radius surrounding the facility and their associated percentiles when compared to the rest of the State of California.

EJ Index	Percentile in State
Particulate Matter 2.5	83
Ozone	62
Nitrogen Dioxide	93
Diesel Particulate Matter	88
Toxic Releases to Air	95
Traffic Proximity	84
Lead Paint	85
Superfund Proximity	87
RMP Facility Proximity	94
Hazardous Waste Proximity	94
Underground Storage Tanks	86
Wastewater Discharge	92
Drinking Water Non-Compliance	95

IV. EPA DETERMINATIONS ON PETITION CLAIMS

The Petition includes 17 separately numbered "Claims." Some of these "claims" (Claims 1 and 2) do not specifically discuss flaws in the Permit, but instead contain background discussion. Many of the claims (such as Claims 5, 6, 7, 8, 10, 11, 12, 13, 14, and 16) raise overlapping issues, and the EPA's responses below responds to those claims collectively.[3] Other claims (Claims 3, 4, 9, 15, and 17) raise distinct issues, and the EPA's responses below respond to those claims individually.

[2] EJScreen is an environmental justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. *See https://www.epa.gov/ejscreen/what-ejscreen*. The information herein is based on an August 21, 2024, report using EJScreen version 2.3.

[3] In a preliminary section of the Petition titled "Abstract," the Petitioner alleges that the facility provided documents to SCAQMD that were "non-compliant," "incomplete," or "deliberately misleading." Petition at 2. To the extent the Petitioner identified specific issues, this Order responds to those in the claim-specific discussion below. Regarding the broad, overarching allegation that certain documents are misleading, the Petitioner fails to demonstrate that any documents provided to SCAQMD did not comply with any applicable requirements of the CAA.

A. Claims 1 and 2, titled "Applicability of 40 CFR_Part-63_Subpart-UUU and 40 CFR_Part-68" and "Applicability of US President Executive Order 13985"

Petition Claims: In what the Petitioner labels "Claim_01," the Petitioner recounts prior correspondence from EPA Region 9 to the Petitioner. There, the EPA explained that if the Petitioner wished to file a title V petition, "any issue raised in the petition as grounds for an objection must be on a claim that the permit, permit record, or permit process is not in compliance with the applicable requirements of the CAA or the regulations in 40 C.F.R. part 70." Petition at 5 (quoting Petition Doc-02). The Petitioner asserts that EPA Region 9 Staff erred in narrowing the applicable requirements to only the CAA or 40 C.F.R. part 70. *Id*. The Petitioner claims that the Permit must also require adherence to other parts of the C.F.R., such as part 63 subpart UUU and part 68. *Id*. The Petitioner then requests changes to the Permit, especially with respect to subpart UUU, "as detailed here in further Claims." *Id*. Later, within Claim 2, the Petitioner again cross-references its discussion about the applicability of subpart UUU to the refinery's Alkylation and Isomerization Unit, which the Petitioner indicates is discussed further in Claim 9. *Id*.

In what the Petitioner labels "Claim_02," the Petitioner states that Presidential Executive Order 13985, titled "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," contains the following statement: "The Federal Government should, consistent with applicable law, allocate resources to address the historic failure to invest sufficiently, justly, and equally in Underserved Communities, as well as individuals from those communities." Petition at 5 (quoting EO 13985, Section 6). The Petitioner further asserts that the community near the Ultramar refinery is an underserved community. *Id*. The Petitioner claims that EO 13985 requires that EPA provide special consideration, above and beyond the requirements of the CAA and 40 C.F.R. part 70. *Id*. at 5–6. The Petitioner specifically requests changes to the Permit "that help to enhance and further protect human health and safety in the Underserved Community of Wilmington, CA." *Id*. at 6. The Petitioner then references Claim 3 for more information about this request.

EPA Response: To the extent Claim 1 or Claim 2 could be considered claims requesting the EPA's objection to the Permit, they are denied. These "claims" do not identify any alleged problems with the Permit or any other specific basis for the EPA's objection. 40 C.F.R. § 70.12(a)(2)(i). Instead, these "claims" primarily present background information and cross-reference more substantive discussion contained in other Petition claims. To the extent other Petition claims address issues related to EO 13985, 40 C.F.R. part 68, or 40 C.F.R. part 63, subpart UUU, the EPA is separately responding to those other claims.

To provide context for the EPA's response to those other Petition claims, the EPA will address the Petitioner's apparent disagreement with previous statements by EPA Region 9. After summarizing the procedures that the Petitioner could follow if he wished to submit a Petition, EPA Region 9 explained:

> Before submitting a petition, we encourage you to review 40 CFR 70.12 for the public petition requirements. Additionally, citizen petitions have special rules, which are contained in Clean Air Act Section 505(b)(2) and EPA's regulations at 40 CFR sections 70.8(d), 70.12, and 70.14. Among other requirements, any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements of the Clean Air Act or

> the regulations in 40 CFR part 70. Please note that we cannot object to a permit based on concerns about health and safety that are not related to a Clean Air Act requirement. EPA's rules can be found at *https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-70.*

Letter from Air Permits Section, EPA Region 9, to Genghmun Eng (June 18, 2024) (included as Petition Doc-02). The Region's statements were correct. The discussion in this letter that the Petitioner disagrees with comes directly from the EPA's nationally applicable regulations (which the Region identified and recommended that the Petitioner review prior to submitting this Petition). *See* 40 C.F.R. § 70.12(a)(2).

The Petitioner's disagreement with these prior EPA statements seems to be based on a misunderstanding about the phrase "applicable requirements of the CAA." It appears that the Petitioner interprets that phrase to narrowly include only requirements that are contained within the CAA itself (*i.e.*, the statute passed by Congress). However, this phrase is defined to include not only requirements that are contained within the CAA itself, but also requirements in certain regulations *that are based on the CAA*. Specifically, applicable requirements may be contained either within certain EPA regulations or within certain state or local regulations that are approved by the EPA (*e.g.*, in an EPA-approved State Implementation Plan, or SIP). *See* 40 C.F.R. § 70.2 (definition of "applicable requirement").[4] For additional background about the types of requirements that are—and are not—considered "applicable requirements" for purposes of title V permitting, see the discussion in 89 Fed. Reg. 1150, 1152–59 (Jan. 9, 2024).[5]

The EPA also notes that SCAQMD explained this concept when responding to public comments on the Draft Permit. Specifically, the District explained:

> The Title V permit identifies all the air quality requirements that apply to a facility in one document. These air quality requirements are known as "applicable requirements" and can come from South Coast AQMD, state, or federal regulations. Each Title V permit issued by the South Coast AQMD is required to include the permit content listed in South Coast AQMD Rule 3004. South Coast AQMD Rule 3004(a)(1) specifies the permit list the "Emissions limitations and those operational requirements that assure compliance with all regulatory requirements at the time of permit issuance." Therefore, Title V allows the South Coast AQMD to add new monitoring, recordkeeping, or reporting requirements, so as to determine whether the facility is complying with applicable air quality emission limitations and requirements. Title V, however, is not intended to go beyond applicable air quality rules and regulations. The Title V permit cannot include requirements outside of South Coast AQMD, state, or federal air quality regulations.

[4] Only those state and local rules that are based on the CAA and are approved by the EPA into a SIP reflect federally enforceable "applicable requirements" of the CAA. Additional information about SCAQMD regulations that are approved into the SIP can be found at *https://www.epa.gov/air-quality-implementation-plans/epa-approved-south-coast-air-district-regulations-california-sip*. As discussed elsewhere in this Order, state and local regulations that are not based on the CAA and are not approved by the EPA are not "applicable requirements."

[5] The cited **Federal Register** document can be accessed at *https://www.federalregister.gov/documents/2024/01/09/2023-27759/clarifying-the-scope-of-applicable-requirements-under-state-operating-permit-programs-and-the*.

RTC at 1. The EPA's response to other Petition claims will address this concept in more detail, to the extent it is relevant to those other Petition claims. Because these claims do not allege specific flaws in the Permit or, to the extent they do, those allegations are covered in other claims, the EPA denies Claims 1 and 2.

B. Claim 3: The Petitioner Claims That "EO-13985 Requires Better Adjudication of HF/MHF Risks."

Petition Claim: The Petitioner expresses concern with what he considers one of the largest public health and safety concerns at the Ultramar refinery: the possibility of an accidental catastrophic release of anhydrous hydrogen fluoride (HF) and/or modified hydrofluoric acid (MHF) from the Alkylation and Isomerization Unit or other refinery components or storage units. Petition at 6. The Petitioner presents extensive discussion about the manner by which HF or MHF could be released and the consequence of such a release. *See id*. at 6–9.

The Petitioner claims that the Permit should include new provisions to address these concerns in order to comply with EO 13985. *Id*. at 9. Specifically, the Petitioner requests permit terms that provide alternatives to using HF/MHF in the refinery's alkylation process (in other words, to phase out HF and MHF). *Id*. at 9, 11. The Petitioner specifically requests new permit terms involving the facility's Risk Management Plan (RMP) and Voluntary Risk Reduction Plan (VRRP[6]) to address HF/MHF. *Id*. at 11.

The Petitioner also argues that Ultramar does not have enough insurance to cover a HF/MHF release, and the Petitioner requests that the Permit include a requirement for an additional surety bond. *Id*. at 10, 11.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on this claim.

The EPA appreciates the Petitioner's concerns about the impacts of a potential release of HF or MHF, the Petitioner's desire that Ultramar phase out these chemicals from the refinery's alkylation process, and the Petitioner's suggestion that Ultramar obtain additional insurance. However, the title V permitting process is not the appropriate venue to resolve these issues. As explained earlier in this Order, and as explained by SCAQMD when responding to comments, title V permits have an important, but somewhat limited, function: to collect and assure compliance with applicable requirements based on the CAA. *See* RTC at 1. Accordingly, to demonstrate a basis for the EPA to object to a permit, a petitioner must demonstrate that the permit does not include, assure compliance with, or otherwise satisfy a CAA-based requirement. Here, the Petitioner does not identify any applicable requirement with which the Permit does not comply. 40 C.F.R. § 70.12(a)(2)(ii).

The Petitioner primarily frames Claim 3 as a claim under EO 13985. The EPA takes seriously its obligations under EO 13985 to advance racial equity and support for underserved communities.

[6] The Petition alternatively refers to the facility's VRRP (Voluntary Risk Reduction Plan) and RRP (Risk Reduction Plan), and also occasionally uses the abbreviation RRP to refer to a Risk Reduction Program. Given that each of these plans or programs appear to refer to the same set of SCAQMD-administered requirements, this Order uniformly uses the label VRRP.

However, that Executive Order does not provide a basis for the EPA to object to a title V Permit for the Ultramar Refinery, for several reasons. As an initial matter, no public comments raised any arguments concerning EO 13985, and therefore those arguments cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v). But even if EO 13985 had been raised in public comments, that Executive Order would present no basis for the EPA's objection. EO 13985 is not based on the CAA, and it is therefore not itself an "applicable requirement" of the CAA that the Permit must satisfy. Further, Executive Orders like EO 13985 apply to the federal government, but not to state and local air agencies that issue title V permits under their own EPA-approved program rules. Because EO 13985 is not legally binding on SCAQMD, the EPA cannot object to the permit issued by SCAQMD based on any alleged failure of the Permit to satisfy EO 13985.

The Petitioner also briefly mentions the facility's RMP under 40 C.F.R. part 68, and the Petitioner requests that the EPA require updates to that plan to address the Petitioner's concerns with HF and MHF. Petition at 11. The EPA cannot provide the requested relief through this title V petition process.

As an initial matter, the EPA acknowledges that the part 68 requirements, including the requirement for certain sources to prepare an RMP, are "applicable requirements" for purposes of title V.[7] However, when the EPA issued its title V (part 70) regulations in 1992 and its part 68 regulations in 1996, the Agency acknowledged that the part 68 RMP program was different from other "applicable requirements" and, unlike most other applicable requirements, it "was not intended to be primarily implemented or enforced through title V." 57 Fed. Reg. 32250, 32275 (July 21, 1992); *see* 61 Fed. Reg. 31668, 31688–89 (June 20, 1996).

Among other reasons, this is because permitting authorities responsible for issuing title V permits are not necessarily responsible for directly implementing the RMP program and typically have a limited oversight role.[8] Here, SCAQMD is the permitting authority responsible for issuing Ultramar's title V permit, but the EPA is the "implementing agency" responsible for more directly implementing and overseeing the federal RMP program. *See* RTC at 2. This division of responsibility—somewhat unique to the RMP program—is an important feature of the EPA's part 68 regulations. *See* 40 C.F.R. § 68.3 (definition of "implementing agency"). The EPA summarized the division of responsibility between permitting authorities and implementing agencies as follows:

> EPA agrees that oversight of the adequacy of part 68 compliance, including RMPs, is not an appropriate activity for the air permitting authority and is more appropriately an implementing agency duty. . . .
> ***
> EPA agrees that the review for quality or adequacy of the RMP is best accomplished by the implementing agency . . . .
> ***

[7] These requirements are based on CAA § 112(r)(7), and the definition of "applicable requirement" in the EPA's title V regulations specifically includes "any requirement concerning accident prevention under section 112(r)(7) of the Act." 40 C.F.R. § 70.2.

[8] The EPA's regulations identify certain limited oversight roles that permitting authorities (or other delegated agencies, identified by the state), may undertake with respect to assessing a facility's compliance with part 68 requirements. *See* 40 C.F.R. § 68.215(e); 61 Fed. Reg. at 31691.

> [I]mplementing agencies will be responsible for such tasks as reviewing RMP information, auditing and inspecting a percentage of sources annually, requiring revisions to the RMP as necessary, and assisting the permitting authority in ensuring compliance.

61 Fed. Reg. at 31689, 31691, 31704.

Accordingly, in finalizing the part 68 rules, EPA determined that "generic terms in [title V] permits and certain minimal oversight activities" would be sufficient to assure compliance with part 68 RMP requirements. 61 Fed. Reg. at 31689. The EPA's part 68 regulations specify the limited extent to which RMP-related requirements must be addressed through title V permitting. *See* 40 C.F.R. § 68.215. In summary, a title V permit for a source that is also subject to the RMP program must identify the RMP as an applicable requirement, and the facility must indicate that it is complying with RMP requirements when it submits annual title V compliance certifications. 40 C.F.R. § 68.215(a). As the EPA explained when establishing the part 68 rules: "Except for the provisions of § 68.215(a), EPA does not believe that the RMP or all or any portion of the remainder of part 68 should become permit conditions . . . ." 61 Fed. Reg. at 31690.[9]

In sum, title V permits are not required to contain information related to an RMP beyond the requirements specified in 40 C.F.R. § 68.215. The Petitioner does not allege that the Permit does not satisfy or include the requirements of 40 C.F.R. § 68.215.[10] Instead, the Petitioner seeks to use the title V permitting process to revise the terms of the facility's underlying RMP itself. *See* Petition at 11. However, that is not something that the EPA can mandate through an objection to the title V permit issued by SCAQMD.

The EPA notes that Ultramar is also subject to a similar program administered by the State of California: the California Accidental Release Prevention (CalARP) program (in addition to the EPA's part 68 RMP program). *See* RTC at 2, 8, 18.[11] To the extent that Claim 3 relates to portions of Ultramar's RMP developed under the CalARP program, the EPA cannot require revisions to that plan through the title V petition response process. The CalARP program does not directly implement any CAA provisions, it is not incorporated into the EPA-approved SIP, and it is not federally enforceable, but rather is governed by state law. In short, the CalARP program does not reflect an "applicable requirement" of the CAA; instead, it is what the EPA refers to as a "state-only" program. The EPA does not have any

[9] The EPA reiterated this position several times in the preamble to its part 68 rulemaking. *See* 61 Fed. Reg. at 31690 ("EPA has maintained that it is not appropriate to include risk management program elements as permit conditions . . . . As EPA has indicated, the RMP should not be submitted with the permit application or made part of the permit.").

[10] In fact, the Petitioner acknowledges part of the current Permit term that concerns RMP. *See* Petition at 11 (citing Permit Condition F24.1(a)). The EPA observes that Permit Condition F24.1 provides the following: "a). The operator shall comply with the accidental release prevention requirements pursuant to 40 CFR Part 68 and shall submit to the Executive Officer, as a part of an annual compliance certification, a statement that certifies compliance with all of the requirements of 40 CFR Part 68, including the registration and submission of a risk management plan (RMP). b). The operator shall submit any additional relevant information requested by the Executive Officer or designated agency." Permit Condition F24.1. This permit term is consistent with the EPA's part 68 regulations.

[11] More information about the CalARP program, including differences between California's program and the EPA's program, can be found here: *https://ochealthinfo.com/services-programs/environment-food-safety/hazardous-materials-waste/california-accidental-release*.

oversight over how that program is implemented, and the EPA cannot object to a title V permit or require changes to a title V permit based on concerns related to that program.[12]

The Petitioner also briefly mentions the facility's VRRP and requests that the EPA require updates to that plan to address the Petitioner's concerns related to HF and MHF. Again, the EPA cannot provide the requested relief. The facility's VRRP is based on a local rule: SCAQMD Rule 1402. *See* RTC at 3–5.[13] That local rule is not based on any CAA requirement, it is not incorporated into the EPA-approved SIP, and it is not federally enforceable. In short, it is not an "applicable requirement" of the CAA. The EPA does not have any oversight over that local rule, and the EPA cannot object to a title V permit or require changes to a title V permit based on concerns related to that local rule.

C. Claim 4: The Petitioner Claims That "Continued Refinery HF/MHF Use Needs to Be Put Under TSCA and RCRA."

Petition Claim: The Petitioner raises additional concerns with HF/MHF at the Ultramar refinery and requests permit terms that "go beyond the requirements of the [CAA] and [EO 13985]" in order to conform with the Toxic Substances Control Act (TSCA) and Resource Conservation and Recovery Act (RCRA). Petition at 12. The Petitioner suggests that the Permit include a number of measures, including ongoing inspections of piping and connections and an improved assessment or inventory of the amount of HF and MHF used or stored at various parts of the Ultramar refinery. *See id*. at 12–13.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on this claim.

As an initial matter, the Petitioner's concerns regarding TSCA and RCRA were not raised in any public comments, and the Petitioner has not demonstrated that it was impracticable to do so or that the grounds for doing so arose after the public comment period. Accordingly, this claim cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v).

Perhaps more importantly, as explained previously, the EPA's authority to object to a title V permit is limited to situations where a petitioner demonstrates that the permit does not satisfy CAA-based requirements. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.12(a)(2). In Claim 4, the Petitioner does not identify any CAA-based requirement with which the Permit does not comply. 40 C.F.R. § 70.12(a)(2)(ii). The EPA cannot object to a permit based on alleged problems concerning federal statutes unrelated to the CAA, such as TSCA and RCRA.

[12] The EPA also observes that SCAQMD does not directly implement the CalARP program; rather, it is overseen by the California Environmental Protection Agency at the state level, and, as relevant to the Ultramar refinery, by the Los Angeles Fire Department at the local level. RTC at 18.

[13] As SCAQMD explained, "Rule 1402 is not a SIP approved rule and therefore is implemented locally under the South Coast AQMD and State regulations, and these requirements are not federally enforceable." RTC at 5.

D. Claims 5, 6, 7, 8, 10, 11, 12, 13, 14, 16: The Petitioner Claims That "Enhanced Valero-Ultramar RMPs and RRPs [Are] Needed."

Petition Claim: Claims 5, 6, 7, 8, 10, 11, 12, 13, 14, and 16 involve various allegations and requests involving Ultramar's RMP (based either on the federal part 68 program or the state CalARP program) and VRRP. Petition at 13.[14]

In Claim 5, the Petitioner claims generally that the facility's RMP and VRRP should be updated and "upgraded" in order to be properly protective of public health and safety. *Id*. at 14. Within this Claim, the Petitioner suggests a variety of permit terms related to the preparation, submission, and review of conditions in the facility's RMP—including the facility's Emergency Response Manual (ERM) and Emergency Response Plan (ERP), both of which are part of the RMP—as well as the facility's VRRP. *Id*. The Petitioner elaborates on some of these requested permit terms in subsequent claims.

In Claims 6 and 7, the Petitioner requests Permit terms mandating additional details and guidance in the facility's ERM/ERP relating to a "Category-4" catastrophic HF/MHR release, including a release that goes outside the Ultramar refinery. *See id*. at 15–20. In Claim 8, the Petitioner claims that, due to the lack of more information regarding the types of releases discussed in Claims 6 and 7, the facility's RMP is not comprehensive. *Id*. at 21. In Claim 10, the Petitioner claims that more staff and organizations at the Ultramar Refinery should have access to the ERM. *Id*. at 23.

In Claims 11, 12, and 13, the Petitioner discusses the fact that Ultramar provides information to the Los Angeles Fire Department (LAFD) as the responsible Certified Unified Program Agency (CUPA). *Id*. at 23–29. In Claim 11, the Petitioner claims that LAFD should not be the only recipient of data submitted to it, since LAFD may not have the technical breadth or resources to evaluate this information. *Id*. at 23–24. In Claim 12, the Petitioner asserts that the "Ultramar Chemical Inventory" transmitted to LAFD is incomplete due to various issues, including the units of measurement, blank entries, and the age of the inventory. *Id*. at 25–27. In Claim 13, the Petitioner alleges that the facility's submission to LAFD was further incomplete because only 7 of 286 pages of "Chemical Description" were apparently delivered. *Id*. at 28–29.

In Claim 14, the Petitioner addresses Permit tables identifying the cancer risk from various chemicals. *Id*. at 29. The Petitioner claims that these tables are incorrect because they list a value of 0.00E+00 for certain chemicals. *Id*. The Petitioner requests various changes to the Permit to better characterize cancer risks. *See id*. at 30.

In Claim 16, the Petitioner requests yearly updates to Ultramar's RMP. *Id*. at 32. The Petitioner specifically refers to a "Risk Management and Prevention Plan (RMPP) Reduction Program" and the CalARP program. *Id*. In addition to annual updates, the Petitioner requests that the RMPP include voluntary risk thresholds for HF and MHF. *Id*. Additionally, the Petitioner requests that the facility develop and update a VRRP that addresses HF and MHF. *Id*.

[14] The Petitioner indicates that Claims 5 through 16 implicate the facility's RMP and VRRP. Petition at 13. However, Claims 9 and 15 address different topics, and therefore this Order addresses those issues separately after addressing Claims 5, 6, 7, 8, 10, 11, 12, 13, 14, and 16.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on these claims.

As an initial matter, many of the issues raised in Claims 5, 6, 7, 8, 10, 11, 12, 13, 14, and 16 were not raised in public comments, and therefore cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v).

Perhaps more importantly, as explained previously, the EPA's authority to object to a title V permit is limited to situations where a petitioner demonstrates that the permit does not satisfy CAA-based requirements. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.12(a)(2).

Claims 5, 6, 7, 8, 10, 11, 12, 13, and 16 relate in part to the facility's RMP.[15] Although the Petitioner does not specifically mention part 68 or any other specific federal regulations, some of these claims may have been intended to address the facility's obligations under the federal part 68 RMP rules. To the extent these claims relate to the federal RMP program, as explained in the EPA's response to Claim 3, title V permits are not required to contain information related to an RMP beyond the requirements specified in 40 C.F.R. § 68.215. The Petitioner does not allege that the Permit does not satisfy or include the requirements of 40 C.F.R. § 68.215. Instead, the Petitioner seeks to use the title V permitting process to revise the terms of the facility's underlying RMP itself, among other issues related to RMP implementation. However, that is not something that the EPA can mandate through an objection to the title V permit issued by SCAQMD.

To the extent that Claims 5, 6, 7, 8, 10, 11, 12, 13, and 16 relate to the facility's RMP obligations under the CalARP program,[16] as explained in the EPA's response to Claim 3, the CalARP program is not an "applicable requirement" of the CAA. The EPA does not have any oversight over how that state-only program is implemented, and the EPA cannot object to a title V permit or require changes to a title V permit based on concerns related to that program.

Claims 5, 14, and 16 relate in part to the facility's VRRP.[17] As explained in the EPA's response to Claim 3, facility's VRRP is based on a local rule: SCAQMD Rule 1402, and that rule is not an "applicable requirement" of the CAA. The EPA does not have any oversight over that local rule, and the EPA cannot object to a title V permit or require changes to a title V permit based on concerns related to that local rule.

[15] Claims 5, 6, 8, and 16 expressly mention the facility's RMP. Claims 5, 6, 7, and 10 discuss the facility's ERM or ERP, which are part of the facility's RMP. Claims 11, 12, and 13 discuss chemical storage inventory and other chemical information that Ultramar transmits to LAFD, apparently related to the facility's ERM or ERP.

[16] The only Petition claim to specifically reference the CalARP program is Claim 16. *See* Petition at 32. In addition to specifically mentioning the CalARP program, the Petitioner also mentions the "Risk Management and Prevention Plan (RMPP) Reduction Program," which was the predecessor to the CalARP program.

[17] Claims 5 and 16 expressly mention the facility's VRRP. Claim 14 concerns cancer risk tables that are part of the facility's VRRP.

E. Claim 9: The Petitioner Claims That "40 CFR_Part-63_Subpart-UUU Applies to Alkylation Unit."

Petition Claim: The Petitioner claims that the facility's Alkylation and Isomerization Unit is a catalytic reforming process, subject to requirements in 40 C.F.R. part 63, subpart UUU that apply to catalytic reforming processes. Petition at 21. More specifically, the Petitioner argues that the Alkylation and Isomerization unit should be considered a catalytic reforming process because it "uses Modified Hydrofluoric Acid (MHF) as a catalyst to enable reforming of butanes and isobutanes into more profitable alkanes, such as octane." *Id*. For support, the Petitioner references a document attached to the petition (Petition Doc-17), as well as the definition of "continuous regeneration reforming" in 40 C.F.R. § 63.1579, among other things. *Id*. The Petitioner requests additional permit terms that would require the Alkylation and Isomerization Unit to comply with the requirements of Table 22 to Subpart UUU and to impose a continuous monitoring system for hydrogen chloride (HCl) emissions. *Id*. at 22.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on this claim.

As an initial matter, no public comments raised any arguments concerning the applicability of 40 C.F.R. part 63, subpart UUU to the Alkylation and Isomerization Unit. The Petitioner has not demonstrated that it was impracticable to do so or that the grounds for doing so arose after the public comment period. Accordingly, this claim cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v). As the EPA explained in the proposal to the original title V regulations:

> The EPA believes that Congress did not intend for Petitioners to be allowed to create an entirely new record before the Administrator that the [state or local permitting authority] has had no opportunity to address. Accordingly, the Agency believes that the requirement to raise issues "with reasonable specificity" places a burden on the Petitioner, absent unusual circumstances, to adduce before the [state or local permitting authority] the evidence that would support a finding of noncompliance with the Act.

56 Fed. Reg. 21712, 21750 (May 10, 1991).[18]

Even if this issue had been raised to SCAQMD during the public comment period, it would not present a basis for the EPA's objection to the Permit. The requirements of subpart UUU are not applicable to the Alkylation and Isomerization Unit. The requirements that the Petitioner identifies or alludes to (the HCl limits in Table 22 and the HCl monitoring requirements in Table 24 of subpart UUU) apply to "catalytic reforming units." That term is defined to mean "a refinery process unit that reforms or changes the chemical structure of naphtha into higher octane aromatics through the use of a metal catalyst and chemical reactions that include dehydrogenation, isomerization, and hydrogenolysis." 40 C.F.R. § 63.1579. The alkylation process at issue in the Petition does not qualify as a catalytic reforming unit because it does not use a metal catalyst.[19] Moreover, unlike catalytic reforming processes, the

[18] The same principles would apply to all of the other Petition claims that were not first raised in public comments, to the extent those claims involve issues that would have been properly raised before SCAQMD in this title V permit proceeding.

[19] Instead, as the Petitioner states, the alkylation process uses MHF as a catalyst. Petition at 21. MHF—which the Petitioner states is composed of anhydrous HF and vapor pressure-reducing agents such as Sulfolane ($C_4H_8O_2S$)—is not a metal. *Id*.; *see also* Petition Doc-17 at 7 of 9.

alkylation process at issue does not use chlorinated chemicals to regenerate a metal catalyst, and accordingly this process is unlikely to emit HCl in appreciable quantities. It is therefore unclear why the Petitioner requests the non-applicable requirements from subpart UUU, which only directly address HCl, to be added to the Permit.

F. Claim 15: The Petitioner Claims That SCAQMD Should "Update 'Statement of Findings . . . and Mitigation Monitoring Plan.'"

Petition Claim: The Petitioner observes that the Permit requires Ultramar to comply with a document from 2002 titled "Statement of Findings, Statement of Overriding Considerations, and Mitigation Monitoring Plan." Petition at 31 (citing Permit Condition F8.1). The Petitioner takes issue with the fact that this document is over 20 years old, and the Petitioner claims that EPA should mandate an update to this document (and to include certain requirements related to HF and MHF in the update). *Id*.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on this claim.

As an initial matter, the Petitioner's concerns regarding this document were not raised in any public comments, and the Petitioner has not demonstrated that it was impracticable to do so or that the grounds for doing so arose after the public comment period. Accordingly, this claim cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v).

Perhaps more importantly, as explained previously, the EPA's authority to object to a title V permit is limited to situations where a petitioner demonstrates that the permit does not satisfy CAA-based requirements. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.12(a)(2). In Claim 15, the Petitioner does not identify any CAA-based requirement with which the Permit does not comply. 40 C.F.R. § 70.12(a)(2)(ii). The document identified by the Petitioner is based on a California Environmental Quality Act (CEQA) process. *See* Permit Condition F8.1 (identifying "CA PRC CEQA, 5-12-2017" as the basis for this permit term). The CEQA is not based on any CAA requirement, it is not incorporated into the EPA-approved SIP, and it is not federally enforceable. In short, it is not an "applicable requirement" of the CAA. Instead, it reflects a state-only requirement. The EPA does not have any oversight over the state's CEQA process, and the EPA cannot object to a title V permit or require changes to a title V permit based on concerns related to the CEQA.

G. Claims 17a and 17b: The Petitioner Claims That "HF/MHF Settler and Storage Tanks Need to Be Put Under Similar Requirements as Tanks Containing Petroleum Products" and "HF/MHF Transfer Station Needs to Be Put Under Similar Requirements to the Refinery 'Gasoline Loading Dock.'"

Petition Claims: In Claims 17a and 17b, the Petitioner observes that Section J of the Permit lists both "Storage Tanks" and a "Gasoline Loading Rack" as air toxics sources, and the Permit includes requirements related to controls, testing, procedures, monitoring, and reporting for these emission units. Petition at 17. The Petitioner alleges that the facility's on-site storage tanks for MHF need to be put under similar controls as the tanks containing petroleum products, and that the facility's HF/MHF transfer station needs to be put under similar controls as the gasoline loading rack. *Id*. The Petitioner

asserts that this is important due to the corrosive nature of HF and MHF, the need for special piping and seal materials and flanges, and in order to protect public health and safety. *Id*.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on these claims.

As an initial matter, the Petitioner's concerns regarding the need for air toxics standards for the HF/MHF Settler and Storage Tanks and HF/MHF Transfer Station were not raised in any public comments, and the Petitioner has not demonstrated that it was impracticable to do so or that the grounds for doing so arose after the public comment period. Accordingly, those issues cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v).

Even if these issues had been raised in public comments, they would not present a basis for the EPA's objection. As explained previously, the EPA's authority to object to a title V permit is limited to situations where a petitioner demonstrates that the permit does not satisfy CAA-based requirements. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.12(a)(2). For example, a petitioner might provide information to demonstrate that the title V permit improperly omits requirements from a NESHAP that are applicable requirements for a particular emission unit.

Here, it is unclear whether the Petitioner believes that the HF/MHF Settler and Storage Tanks and HF/MHF Transfer Station are legally subject to certain NESHAP requirements, or whether the Petitioner merely desires additional requirements that would be more protective of public health and safety (beyond what any applicable regulations would require). The latter would present no basis for the EPA's objection.

To the extent the Petitioner intended to claim that certain NESHAP standards are applicable to the HF/MHF Settler and Storage Tanks and HF/MHF Transfer Station, the Petitioner fails to demonstrate that the Permit lacks any applicable requirements for these units. The Petition contains only vague references to Section J of the Permit (which is 30 pages long and contains requirements from a variety of NESHAP standards).[20] The Petitioner does not identify any specific regulations or requirements that the Petitioner believes should also be applied to the HF/MHF settler and storage tanks or MHF transfer station, much less evaluate the relevant regulatory criteria in order to demonstrate that those regulations are applicable. Criteria for determining whether a NESHAP standard is applicable to a particular piece of equipment are included within the relevant NESHAP regulations, and these criteria generally depend on the characteristics of the emission units at issue. NESHAP standards that apply to equipment handling petroleum products may not be applicable to equipment that handles other substances, such as HF/MHF. Overall, the Petitioner's claims are too vague and general to demonstrate that any particular NESHAP standards apply to the emission units in question, or that any applicable requirements for those units are missing from the Permit.

[20] Regarding storage tanks, the Petitioner may have intended to refer either to the requirements for "Group 2" storage tanks regulated by 40 C.F.R. part 63, subpart CC, or "Group 1" storage tanks regulated by 40 C.F.R. part 63, subpart CC and part 60, subpart Kb, as reflected on pages 1311–13 of the Permit. Regarding loading operations, the Petitioner may have intended to refer to the requirements in 40 C.F.R. part 63, subparts CC and R, as reflected on page 1317 of the Permit. If so, the Petitioner has provided no information to demonstrate that any those standards are applicable to the HF/MHF units in question.

H. Claim 17c: The Petitioner Claims That "Refinery Asphalt Plant Needs to Be Put Under the New SCAQMD Rule 1180.1."

Petition Claim: In Claim 17c, the Petitioner first addresses a Permit table that lists 27 different emission units. Petition at 33. The Petitioner states that nine of the units are designated "Unit Not Included in Plan." *Id*. The Petitioner claims that many of those units need to be "Included in Plan" before the title V permit is issued. *Id*.

The Petitioner observes that four of these units are located in the Ultramar asphalt plant. *Id*. The Petitioner notes that on January 5, 2024, SCAQMD adopted Rule 1180.1, which applies to asphalt plants. *Id*. Thus, the Petitioner claims that the Permit must be revised to comply with Rule 1180.1, and that the four asphalt plant units should be "Included in Plan." *Id*.

The Petitioner then takes issue with items in the table marked "N/A." *Id*. The Petitioner requests that the Permit specify the meaning of "N/A," and that all N/A designations should be revisited, to see if Rule 1180.1 creates a new "Now Applicable" condition. *Id*.

Finally, the Petitioner requests that Rule 1180, Rule 1181.1, and Rule 1410 should be added to a list in Section K of the Permit. *Id*.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on this claim.

As an initial matter, none of the issues in Claim 17c were raised in public comments. Although the Petitioner's concerns regarding the newly finalized SCAQMD Rule 1180.1 could not have been raised (because that rule was not finalized until after the public comment period), the various other issues raised by the Petitioner could have been raised during the comment period. The Petitioner has not demonstrated that it was impracticable to do so or that the grounds for doing so arose after the public comment period. Accordingly, those issues cannot now be raised in this title V Petition. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. §§ 70.8(d), 70.12(a)(2)(v).

Perhaps more importantly, as explained previously, the EPA's authority to object to a title V permit is limited to situations where a petitioner demonstrates that the permit does not satisfy CAA-based requirements. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.12(a)(2). In Claim 17c, the Petitioner does not identify any CAA-based requirement with which the Permit does not comply. 40 C.F.R. § 70.12(a)(2)(ii). This claim involves a variety of SCAQMD rules. The Permit table that the Petitioner references is associated with the Permit's "Rule 1109.1 Implementation and Compliance Plan." *See* Permit at 1299–1304. Much of the Petitioner's claim focuses on the newly finalized SCAQMD Rule 1180.1. The Petitioner also briefly mentions SCAQMD Rules 1180, 1181.1, and 1410. None of those local rules are based on any CAA requirement, none of them are incorporated into the EPA-approved SIP, and none of them are federally enforceable. In short, these rules are not "applicable requirements" of the CAA. The EPA does not have any oversight over these local rules, and the EPA cannot object to a title V permit or require changes to a title V permit based on concerns related to these local rules.

I. Claim 17d: The Petitioner Claims That "Updated Flare Minimization Plans (FMP) [Are] Needed."

Petition Claim: The Petitioner asserts that the Permit must require an updated FMP under SCAQMD Rule 1118. Petition at 33. The Petitioner notes that the facility's FMP was previously updated every two years, but that it has been more than four years since the last update (on January 29, 2020). *Id*.

EPA Response: For the following reasons, the EPA denies the Petitioner's request for an objection on this claim.

The Petitioner does not identify any applicable requirement that would require an update to the facility's FMP under SCAQMD Rule 1118.[21] The fact that the facility's FMP has been revised on a more frequent basis in the past is not directly relevant to whether the FMP must be updated now. SCAQMD explained this in its RTC. Specifically, in responding to the Petitioner's comment requesting yearly scrutiny of the FMP, SCAQMD stated:

> A refinery is required to meet its annual SO_x flaring performance target based on their year 2004 crude processing capacity. Only if the refinery does not meet the annual performance target are they required to submit a Flare Minimization Plan (FMP) in accordance with Rule 1118. The submittal of FMP is not a yearly requirement, as claimed by the comment. The purpose of the FMP is to address the issues that caused the performance target exceedance (i.e., the type of flaring that led to the exceedance) and put into place prevention measures, corrective actions, policies, and procedures to minimize or eliminate, to the extent feasible and safe, this type of flaring to occur in the future. In the case of Ultramar, a Flare Minimization Plan was submitted in 2016, 2020, and 2021 since the last Title V Renewal.

RTC at 10; *see id*. at 12. The Petitioner does not acknowledge SCAQMD's explanation (as required by the EPA's rules governing title V petitions), much less demonstrate that it was incorrect. *See* 40 C.F.R. § 70.12(a)(2)(vi). Overall, the Petitioner has not demonstrated that the facility must update its FMP.

V. CONCLUSION

For the reasons set forth in this Order and pursuant to CAA § 505(b)(2) and 40 C.F.R. § 70.8(d), I hereby deny the Petition as described in this Order.

Dated: October 4, 2024

Michael S. Regan
Administrator

[21] Unlike the other SCAQMD rules discussed in this Order, Rule 1118 *is* part of the EPA-approved SIP, and accordingly it is a federally enforceable "applicable requirement." *See* 40 C.F.R. §§ 52.220(c)(586), 70.2 (definition of applicable requirement). Thus, it is appropriate for the EPA to consider the Petitioner's claim about whether the Permit assures compliance with this SCAQMD SIP provision.