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October 27, 2024

Colorado Air Pollution Control Commission
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246

Submitted via email to cdphe_apcd_airpermitcomments@state.co.us

Re: Public comment opportunity on limited revisions to Suncor Plant 2 Title V operating permit

Adams County (County) appreciates the opportunity to provide comments on the proposed revisions to Permit #95OPAD108 for Suncor Oil Refinery (the Refinery, Suncor) prepared by the Air Pollution Control Division (APCD, Division) and noticed for public comment on September 27, 2024. The County provides these comments solely to protect the health, well-being, and safety of its residents who live near the Refinery. Disproportionately Impacted Community (DIC) members that reside in the unincorporated areas of Adams County surrounding the Refinery have been impacted by the day-to-day operations and unplanned releases from the Refinery, and Adams County has a unique perspective to share.

While we appreciate the revisions to the permit to address some concerns raised by the Petitioners and the Environmental Protection Agency (EPA), we believe that there are still issues the Division should address before considering this permit. The County has comments pertaining to Colorado Department of Public Health and Environment's (CDPHE) Technical Review Document (TRD) response to EPA and corresponding permit changes, focusing on: Claim 1, Claim 3, Claim 6, Claim 7, and Claim 8. We are particularly concerned that the permit changes are not enough to reduce exceedance events and keep the Refinery in compliance given EPA's recent Notice of Violation (NOV) dated July 2, 2024, and APCD's Compliance Advisory dated June 1, 2023, to the Refinery. However, we would first like to address our concerns pertaining to the inaccessibility of the permit materials for public comment and how the Division could improve their public engagement process.

Adams County supports the concerns raised by Denver Department of Public Health and Environment and Earth Justice.

Adams County is concerned with the inaccessibility of the documentation for public comment.

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Adams County acknowledges the Division wants comments during this Public Commenting Period to focus on specific changes made in the permit and described in the complimentary TRD. However, the County feels the need to provide comment on the inaccessibility of the documentation for which the public is supposed to provide comment. We believe the documentation is not presented in an accessible way to the public, particularly for a 30-day commenting period and a majority of the affected public residing within a DIC. Thus, the Division should expect public comments to be those they deem largely irrelevant, as it is difficult to discern what portions of the revised permit are relevant for commenting.

The Division has a goal of increasing accessibility and community engagement with DICs. Adams County shares this goal and is concerned that the Division's public commenting process obfuscates information and makes it difficult for the public to identify those permit modifications for which the Division seeks comment. For instance, multiple hyperlinks provided in the Division's public notification email were broken obscuring the TRD from the public. We suggest that the division improve their processes to include checklists to ensure that all required documentation is easily accessible and that all included links work at the beginning of the 30-day commenting period. Additionally, the TRD contains the responses from CDPHE to EPA's comments and concerns as well as changes to the permit, however, no permit language changes were included in the TRD. Without specific language changes, additional time and resources are required to understand the new requirements addressed in the draft permit for Plant 2. It is difficult enough for air quality engineers and experts to sift through all of the documents to provide thorough and thoughtful comments on the specific changes made to the permit within the 30-day comment period, let alone a member of the public.

Navigating within the permit to understand the exact language changes is also time-consuming and difficult. Near the end of the draft permit in Appendix F, there is a table containing Permit Modifications that lists all the changes made that are subject to public notice and comment. The Division displays the ability to hyperlink internally within a document and to other documents, as shown in the Table of Contents and other tables within the bulk of the permit. Unlike the rest of the document, however, the Permit Modification table in Appendix F contains no page numbers or internal hyperlinks to the sections that were modified, which greatly increases the time to find specific changes within the permit itself. We suggest that page numbers and hyperlinks be included in the Permit Modifications table. We also suggest that a redlined version of a permit be provided to the public so that specific changes can be easily seen. The Division regularly utilizes redlines as a tool for highlighting proposed changes to an existing regulation as part of its petition for rulemaking to the Air Quality Control Commission (AQCC), so it should not be difficult to implement a similar process for permit revisions.

We have additional concerns about the public accessibility of further documentation that would be beneficial in our permit review. For example, the Onbase platform¹ APCD uses to house the

¹ APCD Map Portal and Records Search Tool.

<https://cdphe.maps.arcgis.com/apps/webappviewer/index.html?id=ae184f93b6954f269234ba2b62b74ea1> Colorado Department of Public Health and Environment. Web. Accessed October 21, 2024.

Refinery's permits and other information only contains documents from 2020 onwards due to the system's restrictions. Unlike the databases for other Title V facilities, the Suncor database does not contain state inspections. Adams County is concerned with the lack of compliance records and transparency for one of the biggest air pollution sources in the state. It was not until EPA's NOV that the County was able to understand the quantity and magnitude of violations at the Refinery. Searching for and within individual files is also challenging in this database. Information is obfuscated within Suncor's report submittals because of the way individually scanned documents are combined into a single portable document format (PDF) file that is then sent to APCD rather than directly combining each electronic document. This method of combining scanned records into one PDF file effectively renders the submitted report unsearchable. It is unclear to the County why Suncor is allowed to submit reports in any other format than a searchable PDF, which would make the reports simpler to review and increase transparency. The County strongly urges the Division to require all monitoring, malfunction, excess emission, and other report submissions from the Refinery be provided as searchable PDFs. The County also requests that the Division add all monitoring and reporting records predating 2020 to the Onbase platform, as well as Division compliance inspection reports for the Refinery to improve transparency and access to permit records.

The following comments will specifically address the Division's response to EPA's concerns with the Refinery's permit and the subsequent permit changes.

Pertaining to CDPHE's response to Claim 1, Adams County is concerned by the Division's reliance on the Kearney Report's flawed Root Cause Analysis as the basis for additional requirements for Suncor.

Since the initial permitting process, EPA has issued the Refinery an NOV dated July 2, 2024. The NOV sheds additional light on the Refinery's continuous pattern of exceedance events, non-compliance, and then waiting for "resolution" via compliance order on consent before addressing issues. Adams County is concerned that the Division's permit changes presented in the TRD response to Claim 1 will not be enough to ensure compliance.

As discussed extensively in Adams County's previous letter from April 28, 2021, we have major concerns with the Kearney Report. We believe that it did not conduct a thorough root cause analysis and instead focused on how the response to events could be handled more efficiently. In our previous letter, we raised the following concern:

“The Kearney Investigation Report does not satisfy even the basic requirements for a Root Cause Investigation, and a Failure Modes and Effects Analysis or Fault Tree Analysis should be required to determine why the facility cannot comply with permit conditions for all emission sources.”²

² Supplemental Comments on Suncor Energy (U.S.A.) Inc. Commerce City Refinery—Plant 2- Adams County, Title V Operating Permit Renewal (950PAD108). Adams County Colorado. April 28, 2021.

Our concerns that the Kearney Report did not conduct a thorough root cause analysis have only increased due to EPA's recent NOV, in which many non-compliance issues are outlined that the County does not believe will be addressed in full by the recommended changes from the Kearney Report. Based on the Kearney Report, the Division has modified the permit in the following ways:

- 1) Training simulator,
- 2) Digitizing key processes,
- 3) Digitalization to allow remote engagement with technical experts,
- 4) Requiring periodic Process Hazards Analysis, and
- 5) Imposing permit conditions to ensure proper function of the automated shutdown system for the Fluidized Catalytic Cracking Unit (FCCU).

The modifications listed above help with human error and response to events, but they do not address the root causes of the events occurring in the first place. Adams County is concerned that the root cause of the increase in exceedance events may instead be due to aging equipment and infrastructure and lack of maintenance at the Refinery. The permit changes appear to have primarily addressed effectiveness and efficiency of response actions after an event had occurred. Adams County once again requests that the Division require a Failure Modes and Effects Analysis (FMEA), Fault Tree Analysis (FTA), or other similarly robust process consequence analysis to fully evaluate past exceedance events and potential events at the Refinery.

Adams County believes the Refinery's aging equipment and infrastructure and reliance on "grandfathered" or regulation-exempt equipment are a significant concern. The County looked for relevant records within EPA's RACT/BACT/LAER Clearinghouse (RBLC) database³ with independent searches of each the following: CORPORATE/COMPANY OR FACILITY NAME CONTAINS "refinery", "Valero", "Suncor", "Phillips", and "Conoco"; and FACILITY State "CO". Each of these searches were completed from January 1, 1970 (the start date of the RBLC database) to October 2024. The Suncor Oil Refinery did not appear in any of the independent search results, including the search of all Colorado permits within the RBLC database. While inclusion in the RBLC database is voluntary for Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) determinations, it is required for all Lowest Achievable Emission Rate (LAER) determinations.⁴ LAER is required for any major new or modified source within a non-attainment area (NAA).⁴ Colorado has been in and out of ozone attainment since 1978 and continuously out of attainment since 2008.⁵ Adams County finds it concerning that the Division has not seen it fit to require a full Prevention of Significant Deterioration (PSD)/BACT review since the ozone NAA was established and LAER was

³ RBLC Basic Search. EPA. <https://cfpub.epa.gov/rblc/index.cfm?action=Search.BasicSearch&lang=en>. Web. Accessed October 14, 2024.

⁴ Data Catalog. RACT/BACT/LAER Clearinghouse (RBLC). <https://catalog.data.gov/dataset/ract-bact-laer-clearinghouse-rblc> Accessed October 25, 2024.

⁵ Colorado Department of Public Health and Environment. History of ozone in Colorado. <https://cdphe.colorado.gov/ozone-and-your-health/history-of-ozone-in-colorado> Accessed October 25, 2024.

required (1989)⁴ for either Plants 1/3 or Plant 2. Over this time period, Suncor made significant modifications to the facility, including new processes, that expanded production capacity. Due to this lack of oversight, the Refinery has continued to operate equipment that has passed its expected lifetime. When performing a BACT/RACT/LAER analysis, engineers assume a lifetime of equipment, such as boilers, to be approximately 15 to 20 years according to multiple manufacturers.^{6, 7} After such time, manufacturers advise replacement because equipment is likely not to function as efficiently, will require additional maintenance, and possibly lead to electrical issues, faults, failures, and emission exceedance events.⁸

The Division acknowledges that older equipment is prone to failures that can cause emission exceedance events and lower efficiency and that these exceedance events should be limited in the ozone NAA, as shown by the vehicle emissions testing program.⁹ Vehicle emissions testing is required every two years on cars over seven years old that are registered in the ozone NAA to ensure that there are no issues with the control system that could cause an increase in pollutant emissions from a vehicle. The age of a vehicle is important because control technology may fail or become less effective over time. A leaking gas cap can greatly increase emissions from a vehicle and is thus required to be fixed before the vehicle owner can complete their vehicle's registration. EPA's NOV to Suncor demonstrated that like a car's leaking gas cap causing non-compliance, Suncor has had open-ended lines when inspected by the state on multiple occasions. Vehicles also have computer systems and tailpipes (like Suncor's stacks) that are checked during emissions testing. The primary corrective action when a vehicle fails an emissions test is not to change how the owner drives the vehicle but to replace faulty sensors, computer systems, and/or emissions controls. In the case of Suncor, the Division is instead relying on training and behavior changes from individual operators to address excess emission events caused by equipment or process system failures rather than requiring Suncor to upgrade or replace old equipment. Much of Suncor's equipment is over 30 years old (older than the equipment's assumed lifetime), as shown in Section I.5. Summary of Emission Units (p. 3 – p. 8) of the permit. Not specifying conditions within the permit requiring additional repairs or replacement of equipment that has passed its assumed lifetime as the most effective means to limit exceedance events will undoubtedly lead to more exceedance events in the future.

In addition, part of a BACT analysis is to determine the reasonability of the cost of the control strategy over the equipment's lifetime. We argue that operating old sources beyond their intended lifetime is not considered BACT, let alone LAER, and that a full PSD/BACT review should be conducted for Plant 2. It is not an unreasonable burden or cost for a business to plan for and replace equipment in a timely manner to ensure the safety of employees, steady

⁶ Industrial Boilers America. <https://www.industrialboilersamerica.com/blog/how-long-do-industrial-boilers-last/>. Web. Accessed October 14, 2024.

⁷ McKenna Boiler. <https://www.mckennaboiler.com/how-long-do-industrial-boilers-last/>. Web. Accessed October 14, 2024.

⁸ Industrial Boilers America. <https://www.industrialboilersamerica.com/blog/how-long-do-industrial-boilers-last/>. Web. Accessed October 14, 2024.

⁹ Colorado Department of Revenue. Division of Motor Vehicles. <https://dmv.colorado.gov/emissions> Web. Accessed October 14, 2024.

operational conditions nearing the end of the equipment’s useful life, and compliance with permit emission limits.

Pertaining to APCD’s permit modifications due to Claim 1, Adams County is concerned with the Division’s narrow implementation of additional permit requirements that solely address the FCCU.

The County is further concerned that APCD too narrowly implemented changes suggested by the Kearney Report that focus solely on preventing FCCU permit limit and emission exceedance events. APCD’s Compliance Advisory and EPA’s NOV show a clear pattern of violations at Suncor across Plant 2, and not limited to the FCCU. Given the many violations, including the continuous operation of equipment without a having filed an Air Pollutant Emission Notice (APEN), many carbon monoxide (CO) and opacity exceedance events, and leaking lines and seals found upon inspection,¹⁰ the County believes such a limited approach will fail to address the Refinery’s systemic non-compliance.

Many changes impacting the FCCU could be implemented more broadly across Plant 2. For example, a Process Hazard Analysis (PHA) and automated shutdown system and/or maintenance plan would be beneficial to more operations than just the FCCU. In EPA’s NOV, EPA found that opacity exceedances occurred even when the FCCU was out of service. EPA stated, “an out-of-service FCCU should not emit [particulate matter] PM to cause opacity exceedances while out-of-service.”¹¹ It is unclear whether the FCCU or a separate operating unit caused the opacity exceedances during these time periods, and thus, more robust PHA requirements should be applied to all covered processes and point sources within the Plant 2 permit.

Also pertaining to APCD’s permit modifications due to Claim 1, Adams County is concerned about the Division’s reliance of on self-monitoring and reporting within the permit.

Suncor has a history of repeated permit violations and inability to fully report compliance events to the Division, which demonstrates a clear lack of internal oversight across the facility. Adams County is concerned that the Division’s reliance on additional self-reporting requirements will not compel Suncor to operate Plant 2 in compliance with its permit. As shown in the recent NOV from EPA, Suncor has repeatedly failed to report exceedance events to the Division.^{12,11} EPA reviewed the continuous opacity monitoring (COM) data for the Plant 2 FCCU, and there were many exceedances of the 20% opacity limit between February 2022 and June 2023 that were not included in the Refinery’s semi-annual report submissions to APCD, accounting for

¹⁰ Compliance Advisory; In the Matter of Suncor Energy (U.S.A) Inc. Air Pollution Control Division. Colorado Department of Public Health and Environment. June 1, 2023.

¹¹ Notice of Violation to Suncor Energy (U.S.A.) Inc. United States Environmental Protection Agency Region 8. July 2, 2024. p. 69

¹² Notice of Violation to Suncor Energy (U.S.A.) Inc. United States Environmental Protection Agency Region 8. July 2, 2024. p. 71

approximately 40% of the total exceedance time.¹³ APCD and Suncor’s neighbors rely on the Refinery self-reporting exceedance events so they can keep the community safe and ensure exceedance events are not long-lasting. The County is concerned that Suncor’s inability to self-monitor and self-report jeopardizes the health and safety of DICs surrounding the facility.

The lack of internal oversight at Suncor is also concerning. The Refinery violated Regulation 3 Part B Section II.A.1 by running an emergency engine beyond permitted limits. Suncor reported that lead time for repairs was extensive, however, this does not justify running an emergency air compressor without a permit and exceeding the 580 hr/yr of runtime for this compressor. APCD’s Compliance Advisory dated June 1, 2023, additionally states compliance violations at the Refinery. This document demonstrates the pattern of violations and lack of reporting at Suncor. Violations shown in this document include many unreported hours of opacity exceedances and multiple open-ended leaking lines.¹⁴ EPA also stated in the NOV, “Multiple [Continuous Monitoring Systems] CMS and [Continuous Emissions Monitoring Systems] CEMS at the Commerce City Refinery are not properly calibrated to provide accurate emission measurements and Suncor failed to take necessary corrective action.”¹⁵ Adams County is concerned that Suncor has failed to follow basic permit guidelines and required procedures to ensure equipment is in compliance.

Even in cases where Suncor acknowledges a concern raised by APCD, they fail time and time again to produce a full root cause investigation for the compliance incident. Repeatedly, the response from Suncor to APCD about exceedances and other violations, as demonstrated in the Refinery’s Annual Compliance Certification 2024,¹⁶ comprises boilerplate language with little substantive content added. The following figures are snapshots from different dates of the Refinery’s responses to various issues raised by APCD.

¹³ Notice of Violation to Suncor Energy (U.S.A.) Inc. United States Environmental Protection Agency Region 8. July 2, 2024. p. 68 – 69.

¹⁴ Compliance Advisory; In the Matter of Suncor Energy (U.S.A) Inc. Air Pollution Control Division. Colorado Department of Public Health and Environment. June 1, 2023.

¹⁵ Notice of Violation to Suncor Energy (U.S.A.) Inc. United States Environmental Protection Agency Region 8. July 2, 2024. p. 74

¹⁶ Suncor Energy (U.S.A.) Inc. Commerce City Refinery (East Plant 2) Title V Operating Permit (95OPAD108) – Semi-Annual Deviation Report January 1, 2024 –June 30, 2024. Suncor Energy. August 30, 2024.

MEASURES TAKEN TO PREVENT A REOCCURRENCE OF THE PROBLEM

Suncor continuously reviews all operations procedures to ensure that all steps are taken to eliminate and minimize emissions during malfunctions and process upsets. Procedures are also evaluated during and after an event and potential changes are identified and reviewed to determine if changes to the procedure would be beneficial.

DATES OF UPSETS/EMERGENCIES REPORTED (IF APPLICABLE)

Suncor initially notified the CDPHE on January 15, 2024, at approximately 10:57 hours.

Division Code QA:

DEVIATION CODE: 1

Figure 1. Example from Suncor to show response to "Measures Taken to Prevent Reoccurrence of the Problem." This specific example shows the response to an H₂S exceedance at the Plant 2 Flare.¹⁷

MEASURES TAKEN TO PREVENT A REOCCURRENCE OF THE PROBLEM

The cooling fan and associated equipment are already included on the Suncor preventative maintenance schedule to ensure that high priority equipment is inspected to ensure reliable operation. Prior to this incident there were no indications of any potential issues with the cooling fan or the fan's motor. Additionally, the importance of fully understanding and addressing every alarm that comes into the operator's board was reiterated to affected Suncor personnel.

Suncor continuously reviews all operations procedures to ensure that all steps are taken to eliminate and minimize emissions during the startup process. Procedures are also evaluated during the startup process and potential changes are identified and reviewed to determine if changes to the procedure would be beneficial.

DATES OF UPSETS/EMERGENCIES REPORTED (IF APPLICABLE)

Suncor notified CDPHE on June 18, 2024, at approximately 11:36 hrs.

Division Code QA: _____

DEVIATION CODE: 1

Figure 2. Example from Suncor to show response to "Measures Taken to Prevent Reoccurrence of the Problem." This specific example shows the response to an SO₂ exceedance at the Plant 2 Sulfur Recovery Unit Incinerator.¹⁸

These responses do not adequately address the root causes of the issues leading to the exceedances or how Suncor learned from these events to prevent similar issues from occurring on other equipment. More appropriate responses would include the steps taken to perform the investigation and the key findings of what caused the event. The County is worried that APCD repeatedly accepts these responses with little comment. We believe the response,

¹⁷ Suncor Energy (U.S.A.) Inc. Commerce City Refinery (East Plant 2) Title V Operating Permit (95OPAD108) – Semi-Annual Deviation Report January 1, 2024 –June 30, 2024. Suncor Energy. August 30, 2024.

¹⁸ Suncor Energy (U.S.A.) Inc. Commerce City Refinery (East Plant 2) Title V Operating Permit (95OPAD108) – Semi-Annual Deviation Report January 1, 2024 –June 30, 2024. Suncor Energy. August 30, 2024.

“Suncor continuously reviews all operations procedures to ensure that all steps are taken to eliminate and minimize emissions during malfunctions and process upsets. Procedures are also evaluated during and after an event and potential changes are identified and reviewed to determine if changes to the procedure would be beneficial.”¹⁹

is inadequate in demonstrating root cause investigation was conducted by the Refinery in order to prevent similar events from occurring in the future. Suncor has shown that they do not respond proactively, but they instead only respond once they are required to do so through the enforcement process. The Refinery shows a pattern of disregard for its neighbors through its lackluster investigations into permit exceedance events and regulatory violations that directly impact residents of Adams County. The County continues to advocate for increased external oversight of the Refinery. We believe that an external FTA and/or FMEA of the entire Plant 2 conducted by a third-party petroleum refining industry expert would be a good first step to increase oversight at the Refinery.

Pertaining to Claim 3, Adams County supports EPA and Denver’s position that stack testing requirements should be considered by APCD.

Claim 3 addresses the use of specific lower AP-42 emission factors for particulate matter (PM). APCD stated they believe that there is not a significant difference between refinery fuel and natural gas. EPA disagrees with APCD and specifically stated:

“the Petitioners have demonstrated that it may not be appropriate for the units combusting refinery fuel gas to rely on the AP-42 emission factor associated with combusting natural gas.”²⁰

The petitioners brought up in Claim 2, denied by EPA, that they were concerned with the reliance of AP-42 factors concerning NO_x and SO₂ emissions from Plant 2. Adams County supports the stance from the petitioners that AP-42 emissions factors may not be representative of the emissions at Suncor. It is common in upstream oil and gas for individual emission factors to be tested and determined by the company.

Additionally, the County believes that equipment that has passed its useful age may have potentially higher emissions than well-maintained newer equipment. There are many factors that impact emissions from equipment, and APCD is aware that age is one such factor. The Division acknowledges that standardized emission factors do not represent true emissions in the case of their vehicle emissions testing program in the ozone NAA. Older cars are tested to ensure they do not have faulty equipment causing them to have higher emission factors than the assumed standard emission factor. As stated previously in this letter, Adams County is concerned that Suncor uses increasingly old equipment that they fail to upgrade or replace. In the Supplemental

¹⁹ Suncor Energy (U.S.A.) Inc. Commerce City Refinery (East Plant 2) Title V Operating Permit (95OPAD108) – Semi-Annual Deviation Report January 1, 2024 –June 30, 2024. Suncor Energy. August 30, 2024.

²⁰ 95OPAD108_DRAFT_InfoToSupport.pdf, United States Environmental Protection Agency. p. 37

Information, EPA stated, “It seems likely that stack testing may be possible for at least some of the affected units, and the record contains no explanation for why CDPHE rejected this approach for these units.”²¹ We agree with EPA’s recommendation for stack testing, for like tailpipe testing for older vehicles registered in the ozone NAA, stack testing would ensure that the Refinery’s old equipment has representative emission factors.

Pertaining to APCD’s response to Claim 6, Adams County is concerned about the Division’s continual use of an SO₂ and NO_x threshold of 40tpy of each pollutant.

Adams County believes that APCD did not adequately address why they continued to use an outdated emission limit in the TRD response to EPA. They instead deflected the question entirely and wrote additional information as to why the NAAQS would not be violated. EPA made multiple statements that the reliance on PS Memo 10-01 was problematic:

“Earthjustice Petition Ex. 34 at 28. More specifically, that report found that PS Memo 10-01: (i) improperly relied on annual thresholds (designed for determining whether a project constitutes a major modification) as a minor source modeling threshold for 1-hour standards; (ii) directly conflicted with CDPHE’s own analysis of the appropriate SIL levels to be used for modeling (the thresholds in PS Memo 10-01 are 20 times higher than the SILs established by CDPHE); and (iii) lacked a justified means of satisfying the relevant SIP requirement to ensure that permits do not cause an exceedance of the NAAQS. *Id.* at 31. EPA agrees that CDPHE’s reliance on PS Memo 10-01 is problematic for the reasons described in that report.”²²

“Overall, to the extent CDPHE relied exclusively on the thresholds in PS Memo 10-01 in determining that individual projects would not cause a violation of the NAAQS, the Petitioners have demonstrated that this decision was not based ‘on reasonable grounds properly supported on the record’ and appears ‘unreasonable or arbitrary.’ Appleton Order at 5. For the foregoing reasons, EPA grants Claims 5 and 6 with respect to SO₂ emissions from Modification 1.28, NO_x emissions from Modification 1.29, and NO_x emissions from Modification 1.36.”²³

Adams County agrees with EPA that the use of thresholds in PS Memo 10-01 was problematic and not supported by legislation. Being that the Suncor refinery is located in the ozone NAA and is one of the largest sources of ozone precursor emissions, among other pollutants, the County contends that application of the strictest standards within the Title V permit is imperative if

²¹ 95OPAD108_DRAFT_InfoToSupport.pdf, United States Environmental Protection Agency. p. 37

²² 95OPAD108_DRAFT_InfoToSupport.pdf, United States Environmental Protection Agency. p. 61

²³ 95OPAD108_DRAFT_InfoToSupport.pdf, United States Environmental Protection Agency. p. 62

Colorado is to attain and maintain compliance with the National Ambient Air Quality Standards for ozone.

Pertaining to APCD’s response to Claim 7, Adams County agrees with EPA that the current standards should apply to the relaxation for modification 1.33.

Adams County agrees with EPA and does not believe that the Division provided ample evidence for utilizing a long-outdated emissions threshold instead of the current limit for determining if a relaxation would be considered a major or minor source. The petitioners originally raised this issue to which EPA agreed.

“EPA agrees with the Petitioner that CDPHE should have applied the 25 tpy VOC significance threshold in effect at that time when evaluating whether this “relaxation in any enforceable limitation” on the LPG loading rack triggered NNSR. Because CDPHE’s NNSR non-applicability determination appears to not ‘comply with its SIP-approved regulations governing [NSR] permitting’ and was not based ‘on reasonable grounds properly supported on the record,’ EPA grants Claim 7 with respect to this modification.”²⁴

The County is concerned that APCD’s argument for using the more lenient standard was in part to dissuade companies from making incremental improvements and to avoid major changes that would full PSD/BACT review. We believe this argument is moot because Suncor has already repeatedly avoided full PSD/BACT review. In this specific case, the less strict standard from the initial permit enables Suncor to continually evade full PSD/BACT review.

In addition, the County is concerned that APCD does not see the need to apply stricter standards to come into compliance with EPA in the ozone NAA. The Refinery is located within the ozone NAA, which has undergone multiple reclassifications due to continual non-compliant status. We feel that the strictest relevant standards should be applied to Suncor so that the ozone NAA can come into compliance with EPA and protect the health and wellbeing of the residents of the County.

Pertaining to APCD’s response to Claim 8, Adams County agrees with EPA that there is sufficient evidence to support the four flares to be considered one project.

Adams County agrees with EPA and does not believe the Division provided ample evidence supporting their decision of treating each of the four flares as four separate projects. As the petitioners stated and EPA reiterated, the flares should be considered one project because the Refinery had the choice of upgrading all the flares or to reroute some of the gases to a fewer number of units. EPA stated:

“the basis for this apparent change in position is not sufficiently documented in the

²⁴ 95OPAD108_DRAFT_InfoToSupport.pdf, United States Environmental Protection Agency. p. 71

permit record, nor is it otherwise clear that there is a rational basis to support that conclusion. Thus, the Petitioners have demonstrated that CDPHE's decision was not based 'on reasonable grounds properly supported on the record' and was potentially 'unreasonable or arbitrary.'" ²⁵

The Division's response to EPA was not convincing. APCD reiterated previous statements for why they believe the projects may be considered unrelated, however, we believe they did not make any additional convincing arguments for why the flares should be considered multiple projects instead of one large project.

To summarize, Adams County raises many concerns with the current Suncor Energy (U.S.A.) Inc. permit draft #95OPAD108 for Plant 2, as well as the Division's lack of transparency and accessibility of relevant documents within its public notice.

The County provides certain suggestions to the Division for ways in which they can increase accessibility of the Refinery's information and documentation as it pertains to both this commenting period and more generally with the aim of improving public engagement in a process that impacts all facets of our residents' lives. As enumerated above, the County also specifically addresses remaining issues with the Division's response to Claims 1, 3, 6, 7, and 8, all of which EPA granted, at least in part, to the Petitioners and directly inform changes within the current draft permit for Plant 2. The County respectfully requests that the Division consider the concerns enumerated herein as critical to protecting the safety and well-being of Adams County residents before issuing the Title V permit for Plant 2. The County believes that the recommended changes and enhancements to the Refinery Plant 2 Title V identified herein will assist the Division in demonstrating their increased commitment to reducing environmental injustices in DICs.

Sincerely,



Tehya Stockman
Air Quality Policy and Program Specialist



Katie Keefe
Environmental Programs Manager

²⁵ 95OPAD108_DRAFT_InfoToSupport.pdf, United States Environmental Protection Agency. p. 76