



Commissioners' Office
4430 S. Adams County Pkwy.
5th Floor, Suite C5000A
Brighton, CO 80601-8204
PHONE 720.523.6100 | FAX 720.523.6045
adcogov.org

March 8, 2022

K.C. Becker, Regional Administrator
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202

RE: Summary of Requested Modification of Suncor Energy, Inc. Plant 2, Operating Permit # 95OPAD108

Dear Regional Administrator Becker:

The Adams County Board of County Commissioners respectfully requests that the EPA approve the Suncor Energy, Inc. Plant 2 Draft Title V permit submitted by the Colorado Department of Public Health and Environment (CDPHE) with the following conditions:

1. Require enhanced monitoring, reporting and recordkeeping as set forth in our comments of March 17, 2021, and April 28, 2021 (attached);
2. Require Suncor to engage a third-party consultant, selected and supervised by U.S. EPA, to identify corrective actions to remedy the unacceptable number of excess emission events associated with vapor loss violations, the tail gas unit, Fluidized Catalytic Cracking Unit (FCCU), and Flaring and Fuel System Units.

Foundation for Requested Permit Modifications

Adams County provides these comments solely to protect the health, well-being, and safety of its citizens that live near or are impacted by the emissions from the Suncor Energy, Inc. Plant 2 refinery. Unincorporated areas of Adams County surround the refinery and as such Adams County is the only governmental body that can represent the needs and interests of citizens not within the jurisdiction of home rule municipalities. Adams County has been affected by all facets of the emissions and unplanned releases from the Suncor Energy, Inc. Plant 2 refinery.

Adams County's request is simple, clear, and eminently achievable: excess emission events and emissions from malfunctions should be quantified in pounds per hour and repeat events on specific equipment should identify the cause, whether the cause is similar in nature to a prior malfunction or excess emission event, and what steps will be taken to prevent a recurrence. These reports must be made available to the public to hold Suncor accountable for preventing malfunction recurrences and for decreasing the number of excess emission events.

In our comments of March 17, 2021, and April 28, 2021, Adams County provided the Air Pollution Control Division ("Division") with graphic summaries of the number of emission events and estimated volume of emissions, using information provided by the Division. The Division also provided, upon request, data that demonstrated Suncor had excess emissions of 57.8 tons of SO₂ in 2019 and 30.8 tons of

SO₂ in 2020 from the FCC unit despite operating at reduced capacity for much of the year. This excess emissions data shows that acute episodes comprise 10-14% of the Plant 2 total SO₂ emissions.

Adams County also extrapolated data on the hundreds to thousands of hours of vapor loss violations (see Figure 1, March 17, 2022, comments). The County is unaware of any other stationary source in the Denver metropolitan area at which uncontrolled vapor loss from pools of volatile liquids from their facility is sanctioned.

The Division's proposed Annual Emissions Report detailing total actual emissions is inadequate

In the Division's Technical Review Document, the permit staff was "directed to include the following requirements in the permit for Suncor":

- Disseminate continuous emissions monitoring data to the public via a web-based system.
- Submit an annual emission report detailing total actual emissions from the facility and the amount of emissions that occurred as a result of exceedances of any permit limit.
- Submit a quarterly community compliance report that will identify in an easy-to-understand format any emissions violations at the facility during the previous quarter.

While Adams County appreciates the more detailed annual quantification and reporting of "exceedances of any permit limit", the Division's requirements may provide little meaningful information. In the February 8, 2022, Division response to Adams County's comments (see Attachment B), the Division states, "It is possible to have a monitoring or permit deviation while still complying with emission limits."

In 2019, Suncor "experienced an average of 2.2 excursions per day, which was an increase from 0.7 [e]xcursions per day in 2018" (the Kearney Root Cause Investigation Report at page 24). Data provided in Figure 1 of the comments from Adams County on April 28, 2021, demonstrates that similarly frequent violations continued in 2020. It is our position that the only way to staunch the frequent upset and malfunction emissions is to require detailed excess emission reports (EERs) and malfunction reports (MRs) contemporaneously with the event. Similarly, if the detailed EER and/or MR reports do not contain an explanation of the event, previous corrective actions taken to resolve the cause, and steps to prevent future events, the on-going pattern of violations will continue. The information required in a malfunction report should substantiate the unavoidable nature of the failure, otherwise an affirmative defense is not founded.

The Division's rationale for not requiring the quantification of emissions and corrective actions for each excess emission event, found on page 9 of their February 8, 2002, response to Adams County's comments, is that, "calculating the mass emissions from either an excess emission event or an upset is not always possible," and that, "not all exceedances can be converted to a mass basis." Given the new permit requirement that Suncor provide annual reports of both total actual emissions and the amount of emissions that occurred as a result of exceedances of any permit limit, it remains unclear to the County as to why timely calculation of those excess emissions is not plausible. Nonetheless, the Division fails to answer the most basic question – why have EER and MR emissions increased after 15 enforcement orders by the Division and EPA?

The adage, "You cannot improve what you do not measure" applies to the Division's ability to accurately evaluate both the refinery's compliance with emission limits and the veracity of Suncor's calculated "actual" annual emissions. Unless excess emissions are quantified (or estimated) and recurring root causes identified in required event reports, Suncor cannot adequately fulfill the compliance requirements of Title V.

EPA should require Suncor to fund a third-party evaluation for compliance

As part of the Division's March 2020 compliance order, Suncor was ordered to conduct a Root Cause Investigation. Adams County provided a third-party critique of the Root Cause Investigation (April 28, 2021, comments, pages 4-8). In essence, the Kearney Report laid fault with the refinery's employees but stopped short of identifying the true root cause which is that such failures are always a result of management failure.

While we respect the diligence of the Division, the inability to bring the facility into compliance after issuance of 15 compliance orders requires a more detailed review of the facility's design and operating practices. In its response to Adams County's comments, the Division, "acknowledges that Suncor does have periods of non-compliance with emission limitations, however, these are intermittent exceedances and the Division fully expects that Suncor can and will comply with emission limitations." The issue is the vast number of intermittent and reoccurring exceedances at this facility and the lack of evidence that mass emissions fall within the bounds of the permit emission limitations. Clearly, Title V compliance requires evidence and not an article of faith.

There is no legal impediment to requiring enhanced monitoring, reporting and recordkeeping

The Colorado Air Quality Control Act contains no limitations on the scope of monitoring, reporting, and recordkeeping the Division can establish for a stationary source. The Division's Title V requirement, Regulation 3, C III.C.12 includes, "Data necessary to allow the Division to determine whether the source complies ..."

Additionally, the Colorado General Assembly, in 2021, specifically enacted H.B. 21-1189 and H.B. 21-1266 to address air emissions that affect disproportionately impacted communities. Specifically, C.R.S. § 25-7-114.5 (E) was amended to allow the Division to add, "Additional monitoring requirements for sources affecting disproportionately impacted communities," which may justify the inclusion of continuous emissions monitoring system and/or predictive emissions monitoring system requirements in addition to the existing compliance assurance monitoring system requirements in the facility's Title V permit.

Adams County strongly disagrees with the Division's conservative assessment of their jurisdictional authority to expand upon existing, or include additional, monitoring, reporting, and recordkeeping requirements within the Suncor Plant 2 Title V permit.

Summary

It is undisputed that the communities surrounding the Suncor refinery are disproportionately impacted communities. Suncor is the only stationary source in the Denver metropolitan area with a webpage, maintained by the Division, dedicated to its history of non-compliance and associated Consent Decrees. The Division specifically: "acknowledges that Suncor is located in an area that meets the Environmental Justice Act's statutory definition of Disproportionately Impacted Community because of its demographics" as defined in C.R.S. § 24-4-109(2)(b)(II). Specifically, 49.27% of the population in the census block group where the Suncor refinery is located (FIPS Code 080010089011) are people of color, which is above the statutory 40% threshold and further, "[t]he Division recognizes that this is an example of environmental injustice" (Division Responses to Comments, not attached).

Given President Biden’s Executive Orders dedicated to ensuring environmental justice, we respectfully request the EPA modify the draft Title V permit to ensure the chronic non-compliance at the Suncor refinery is remedied through enhanced monitoring, reporting, and an independent evaluation of the causes leading to recurring failures to comply with Title V requirements.

Sincerely,



Commissioner Eva J. Henry,
District 1



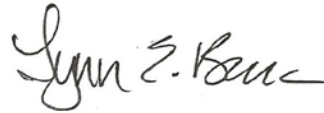
Commissioner Charles “Chaz”
Tedesco, District 2



Commissioner Emma Pinter,
District 3



Commissioner Steve O’Doriso, District
4



Commissioner Lynn Baca,
District 5