



REGION 6

DALLAS, TX 75270

October 17, 2024

Mr. Cory Chism, Director
Office of Air
Texas Commission on Environmental Quality (MC 122)
Post Office Box 13087
Austin, Texas 78711-3087

Re: Objection to Title V Permit No. O4581
Gladieux Metals Recycling, LLC, Freeport Plant
Brazoria County, Texas

Dear Mr. Chism:

This letter is in response to the Texas Commission on Environmental Quality submittal to our office containing the proposed initial issuance of the title V permit for the Gladieux Metals Recycling (Gladieux) permit referenced above. The United States Environmental Protection Agency has a 45-day review period which began on September 3, 2024 and ends on October 18, 2024.

EPA has reviewed the TCEQ's proposed title V permit action and Statement of Basis. In accordance with 40 CFR § 70.8(c) and 42 U.S.C. § 7661d(b)(1), EPA is objecting to the proposed permitting action. Section 505(b)(1) of the federal Clean Air Act (CAA) requires EPA to object to the issuance of a proposed title V permit during its 45-day review period if EPA determines that the permit is not in compliance with applicable requirements of the CAA or requirements under 40 CFR Part 70. The following objections provide a description of the terms and conditions that the permit must include to respond to each objection.

Section 505(c) of the CAA and 40 CFR § 70.8(c)(4) provide that if the permitting authority fails, within 90 days of the date of the objection, to submit a permit revised to address the objections, then EPA will issue or deny the permit in accordance with the requirements of 40 CFR Part 71. Because the State must respond to our objection within 90 days, we suggest that the revised permit be submitted with sufficient advance notice so that any outstanding objection issues may be resolved prior to the expiration of the 90-day period.

EPA Region 6 has conducted an analysis using EPA's EJScreen to assess key demographic and environmental indicators within a five-kilometer radius of the Gladieux facility. This analysis shows a total population of approximately 11,286 residents within a five-kilometer radius of the facility, of

which approximately 55% are low income and 21% have less than a high school education. In addition, the EPA reviewed the EJSscreen EJ Indices, which combine certain demographic indicators with 13 environmental indicators. The results show that 7 of the 13 EJ Indices in this five-kilometer radius area exceed the 80th percentile in the State of Texas, with 4 of the 13 EJ Indices exceeding the 90th percentile. We also reviewed the AirToxScreen Mapping Tool and found the air toxics cancer risk (lifetime risk per million) is 40.

We are committed to working with the TCEQ to ensure that the final title V permit is consistent with all applicable title V permitting requirements and the EPA approved Texas title V air permitting program. If you have questions or wish to discuss this further, please contact Cynthia Kaleri, Air Permits Section Supervisor at (214) 665-6772, or Aimee Wilson, Texas Permit Coordinator at (214) 665-7596. Thank you for your cooperation.

Sincerely,

David F. Garcia
Director
Air and Radiation Division

ENCLOSURE

cc: Gladieux

ENCLOSURE
EPA Objections to TCEQ Title V Permit O4581

1. Objection for Failure to Properly Identify All Emission Units Authorized by PBR

Under title V of the CAA, the EPA's part 70 regulations, and Texas's EPA-approved title V program rules, every title V permit must include all applicable requirements that apply to a source, as well as any permit terms necessary to assure compliance with these requirements. 42 U.S.C. § 7661c(a). "Applicable requirements," as defined in the EPA's and TCEQ's rules, include the terms and conditions of preconstruction permits issued by TCEQ, including requirements contained in a PBR that is claimed by a source, as well as source-specific emission limits established through certified registrations associated with PBRs. See 40 C.F.R. § 70.2; 30 TAC§ 122.10(2)(H).

EPA appreciates that Gladieux has provided a Permit By Rule (PBR) Supplemental Table that includes registration numbers for all registered PBRs. However, the New Source Review (NSR) Authorization References by Emissions Unit table does not indicate that any of the listed emission units are authorized by a PBR. This fails to conform with TCEQ's EPA-approved regulations, 30 TAC § 122.142(2)(B)(i), as well as the agreements underpinning the EPA's approval of the Incorporation By Reference (IBR) of PBRs - namely that "PBRs will be cited to the lowest level of citation necessary to make clear what requirements apply to the facility." 66 Fed. Reg. at 63322 n.4.

Specifically, the title V permit appears to be missing emission units from the Applicable Requirements Summary Table and the NSR Authorization References by Emissions Unit table. The NSR Authorization References by Emissions Unit table fails to include the following "Unit ID No.s" LAB, MHDFSUBURN, WELDING, HANDHELD, GRAC, FRNHRTH, and 66.13. TCEQ should verify if the emission units listed above need to be added to the title V permit. In addition, TCEQ should verify that Gladieux doesn't have any claimed PBRs as the PBR Supplemental Tables in the application does not indicate the correct regulated entity number (RN) or title V permit number. In addition, for any PBRs that do not apply only to insignificant units, TCEQ must explain to which emission units PBR Nos. 146702, 153108, and 79434 apply. To accomplish this, TCEQ could update the title V permit and list these PBRs next to the applicable emission units in the New Source Review Authorization References by Emission Unit Table.

2. Objection to Improperly Incorporating Confidential Emission Calculations

In reviewing the title V permit, EPA found it necessary to review the underlying NSR permits. When doing so, it was found that the NSR permit 1157C that is incorporated by reference into the title V permit, contained confidential emission calculations in the application that are referenced in the permit at special condition 12. Special condition 12 of permit 1157C indicates that the storage tank through put and service are limited to representation in the confidential emission calculations in the application.

The CAA limits the types of information that may be treated as confidential under title V, and therefore withheld from the public. As a general matter, some information may be protected as a trade secret under section 114(c) of the CAA. 42 U.S.C. § 7414(c). However, the CAA specifically limits this protection: "The contents of a [title V] permit shall not be entitled to [confidential] protection under section [114(c)]." 42 U.S.C. § 7661b(e). Regarding the contents of a title V permit, the CAA further requires that "Each permit issued under this subchapter shall include enforceable emission limitations and standards, ... and such other conditions as are necessary to assure

EPA Objections to TCEQ Title V Permit O4581

compliance with applicable requirements" 42 U.S.C. § 7661c(a). EPA regulations further require that the contents of a title V permit include "emissions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance." 40 C.F.R. §70.6(a)(1). Further, "terms and conditions in a part 70 permit... are enforceable by the Administrator and citizens under the Act." 40 C.F.R. §70.6(b)(1). Additionally, information which is considered emission data, as well as standards or limitations, are also not entitled to confidential treatment. *See CAA § 114(c) ("other than emissions data"); 40 C.F.R. §2.301(f).* It is not clear in the current permit record whether the title V permit contains all the necessary emissions limitations and standards, including those emission methodologies and inputs, operational requirements and limitations that assure compliance with all applicable requirements, or if some of that information may be inappropriately treated as confidential resulting in the title V permit not complying with the CAA.

In responding to this objection, TCEQ should review the NSR permit application for permit 1157C submitted on December 30, 2020, and revised on April 23, 2021, to determine if the relevant emissions data, standards, or limitations and emissions calculation methodologies and inputs required to determine compliance needs to remain in the confidential portion of the permit record. TCEQ should conduct a reevaluation to ensure that this information is neither part of the title V permit, establishing binding, enforceable permit terms, nor considered emissions data for purposes of CAA 503(e) and 40 C.F.R. § 2.301(a)(2)(i)(B). If TCEQ can establish that this confidential information is not part of the title V permit operational limit, emissions data, or contains emissions calculation methodologies and inputs to determine compliance, TCEQ will still need to establish the basis or details in the permit record for why it is not necessary to enforce these as a term or condition of the title V permit. Otherwise, TCEQ should take appropriate action to ensure the emission calculations (including calculation methodologies and inputs required) and/or throughput and operation limits are transferred into non-confidential portion of the permitting record.