

Clean Air Act Title V Petitions to Object: U.S. Environmental Protection Agency Proposed Revisions

Arkansas Environmental, Energy, and Water Law Blog



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08/31/2016

The United States Environmental Protection Agency ("EPA") posted an August 24th Federal Register Notice that it is proposing a rule to:

...revise its regulations to streamline and clarify processes related to submission and review of title V petitions.

The 1990 amendments to the Clean Air Act provided a process by which the EPA Administrator can object to a Title V permit issued by a delegated state.

42 U.S.C. § 7661 d(a) requires that states submit each proposed Title V operating permit to EPA for review. Section 505(b)(1) of the Clean Air Act requires that EPA object to the issuance of a proposed Title V permit in writing within 45 days of the receipt of the proposed permit (and all necessary supporting information) if the federal agency determines that it is not in compliance with the applicable requirements under the Clean Air Act. If EPA does not object to a permit, Section 505(b)(2) provides that any person may petition the EPA Administrator, within 60 days of the expiration of the 45-day review period, to object to the permit.

The proposed rule covers five areas related to submission and review of Title V petitions. EPA's purpose in proposing the rule is stated to be the increase of stakeholder access to an understanding of the petition process along with facilitating the agency's review of petitions.

The five areas addressed by the proposed rule include:

- Regulatory provisions that provide direction as to how petitions should be submitted to the agency
- Regulatory provisions that describe the expected format and minimum required content for Title V petitions
- Clarification that permitting and authorities are required to respond to significant comments received during the public comment period for draft Title V permits (and to provide that response with the proposed Title V permit to EPA for the agency's 45-day review period)
- Guidance in the form of "recommended practices" for various stakeholders to help ensure Title V permits have complete administrative records and comport with the requirements of the Clean Air Act
- Increase familiarity with the post-petition process (i.e., information on the agency's interpretation of certain Title V provisions/implementing regulations regarding the steps following an EPA objection in response to a Title V petition)

[A copy of the Federal Register Notice can be downloaded here.](#)

