

Title V/Clean Air Act: Borough of Jessup Appeal of Lackawanna County Power Plant Permit Before the Pennsylvania Environmental Hearing Board



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The Borough of Jessup (“Borough”) filed an Averments in Support of Notice of Appeal (“Appeal”) of a Clean Air Act Title V Operating Permit (“Title V Permit”) for Lackawanna Energy Center, LLC, (“LEC”).

The Permit is stated to have been issued in draft to the LEC power plant facility (“Facility”) located in Lackawanna County, Pennsylvania, in 2015.

The Facility is stated to consist of three 1 x 1 power blocks which include three combustion gas turbines equipped with three heat recovery generators and three steam turbines.

Congress in 1990 added Title V to the Clean Air Act to assure stationary sources were subject to a comprehensive air permit. The Title V Operating Permit generally does not impose new substantive air quality control requirements.

Title V of the Clean Air Act requires certain stationary sources of air pollutants to obtain operating permits. The Clean Air Act provides that states administer Title V through adopted implementation plans. The intent of a Title V permit is to organize in a single document all the requirements that apply to the permit holder.

States are provided the opportunity to develop their own Title V program. They are required to submit them to EPA for approval. Pennsylvania has been delegated this program.

The Borough describes in its Appeal the approval of a Conditional Use Application for the Facility which is stated to have included a condition that:

. . . [t]he construction and operation of the Project shall conform to all representations made by Lackawanna Energy Center LLC (‘LEC’) in its application and at all public hearings, and these conditions.

The Borough Council is stated to have entered into a Host Community Agreement with LEC in 2016 which required that:

. . . [t]he Project shall abide by all final and non-appealable conditions of conditional use permit approval issued by the Borough.

The Pennsylvania Department of Environmental Protection approved the Facility's Title V permit application in 2023.

The Borough argues in challenging the Title V Permit that:

- The Title V Permit is inconsistent with Plan Approval.
- The Title V Permit is inconsistent with the Host Municipality Agreement, the Conditional Use Decision, and the application, hearing and conditions associated therewith.
- The Title V application failed to include the emissions for startup/shutdown events related to SO₂ and PM/PM₁₀/PM_{2.5} when calculating the Facility Potential to Emit ("PTE").
- The Title V Permit failed to include short-term (hourly) emission limits for SO₂, H₂SO₄, PM, PM₁₀ and PM_{2.5} during startup/shutdown events.
- The Title V Permit failed to include a limit of the number of each startup and shutdown events each year.
- The Title V application (supporting air quality modeling) and the Title V Permit failed to demonstrate that the short term NO_x and CO emission limit for each startup and shutdown event would not violate the 1-hour National Ambient Air Quality Standard for NO_x and CO, respectively.
- The Title V Permit should have limited annual operation of each combustion turbine to 5,800 hours in any 12 consecutive months to avoid the Facility SO₂ emissions exceeding 40 tons per year.

A copy of the Appeal can be downloaded [here](#).