

Title V/Clean Air Act: Petition to Object Filed Addressing Rochester, New Hampshire Solid Waste Facility Permit



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Sixteen individuals (collectively, "Petitioners") filed a February 9th Title V Petition to Object ("Petition") before the United States Environmental Protection Agency ("EPA") related to Waste Management of New Hampshire, Inc., d/b/a Turnkey Recycling and Environmental Enterprises ("Waste Management").

The Title V Petition objects to the New Hampshire Department of Environmental Services ("DES") issuance of a Title V Permit Modification to Waste Management's Rochester, New Hampshire, solid waste facility.

Title V of the Clean Air Act requires certain stationary sources of air pollution to obtain Operating Permits. States that administer Title V do so through adopted implementation plans. These plans are submitted to and approved by the United States Environmental Protection Agency ("EPA"). The intent of a Title V permit is to organize in a single document all the requirements which apply to the permit holder.

42 U.S.C. §7661 requires that states submit each proposed Title V permit to EPA for review. §505(v)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 receipt of the proposed permit (and all necessary supporting documentation) if the federal agency determines that it was not in compliance with the applicable requirements under the Clean Air Act.

If EPA does not object to a permit, §505(v)2 provides that any person may petition the EPA administrator, within sixty (60) days of the expiration of the 45-day review period to object to the permit.

The Title V Permit Modification is stated to be applicable to a solid waste landfill operated by Waste Management.

The Petition states that DES issued the modified permit on October 25, 2023. EPA's 45-day review period is stated to have ended on December 11, 2023. Therefore, the opportunity for the Petitioners to petition EPA is stated to end on February 9th.

The Petitioners cite as grounds for objection to the Title V Permit Modification:

- DES has violated the United States Code Title 42, Section 7661a (b) (6) by failing to provide an adequate, streamlined, and reasonable Title V review for the Turnkey landfill.
- DES has violated the Clean Air Act § 70.8 (c) (3) (ii) by failing to "submit any information necessary to review adequately the proposed permit."
- The DES permit decision is arbitrary and unreasonable because it excludes from official consideration the majority of public comments that DES received during the public comment period.
- DES failed to provide an adequate and reasonable process due to a decision to categorize some public comments as germane and some as non-germane. This action determined which comments

are part of DES' official Findings of Fact and Director's Decision and which comments are part of DES' unofficial Response to Comments.

- DES violated the Clean Air Act § 70.8 (c) (3) (ii) by failing to "submit any information necessary to review adequately the proposed permit."
- DES claims the Response to Comments addresses non-germane comments from the public, but petitioners object to the process and DES' conclusion. ALL comments are sought to be part of the Findings of Fact and Director's Decision.
- DES has violated the United States Code Title 42, Section 7661a (b) (6) by failing to provide an adequate, streamlined, and reasonable Title V review for the Turnkey landfill.
- DES has violated the Clean Air Act § 70.8 (c) (3) (ii) by failing to "submit any information necessary to review adequately the proposed permit."

The Petitioners request that EPA rescind its support for the Title V permit due to DES' non-compliance with the United States Code Title 42, Section 7661a(b)(6) and non-compliance with the Clean air Act § 70.8(c)(3)(11).

Petitioners also request that EPA:

1. Instruct DES to incorporate into the Findings of Fact and Director's Decision those comments that presently comprise the Response to Comments and the Combined Public Comments; and
2. Evaluate cumulative impacts related to the Turnkey landfill.

A copy of the Petition to Object can be downloaded [here](#).