

**Don't Undermine Memphremagog's Purity Inc.
PO Box 1402
Newport, Vermont 05855**

**Vermont Agency of Natural Resources/Department of Environmental Conservation
Air Quality and Climate Division
Draft Air Pollution Control Permit to Construct AP-25-043
New England Waste Services of Vermont, Inc.
Construction and Operation of Surface Active Foam Fractionation System
Comments by Don't Undermine Lake Memphremagog's Purity, Inc (DUMP)**

Introduction

These comments are filed by Don't Undermine Memphremagog's Purity, Inc. (DUMP). DUMP was formed in 2018 and has approximately 200 members, most of whom reside in the Lake Memphremagog basin. DUMP's mission is to restore and protect the water quality of the Lake Memphremagog watershed in Vermont and related international waters and its objective is to address the impacts of Vermont's only solid waste landfill on the ecosystems surrounding Lake Memphremagog and on the health of the region's residents.

These comments provide DUMP's reaction to, and questions about, the draft Air Pollution Control Permit to Construct AP-25-043 ("the Permit") circulated on July 17, 2026 by the Air Quality and Climate Division (AQCD) of the Department of Environmental Conservation.

The draft Permit responds to the application submittal dated August 15, 2025 by Sanborn, Head & Associates on behalf of NEWSVT Inc. The application states that the purpose of the installation and use of a Surface Active Foam Fractionation (SAFF) system at the landfill facility in the Town of Coventry is "to reduce perfluoroalkyl and polyfluoroalkyl substances (PFAS) in the landfill leachate prior to its disposal at a licensed wastewater treatment facility permitted to accept landfill leachate." Although the draft Permit will apparently authorize the SAFF as a "pilot" operation", the application itself does not explicitly present the SAFF as a "pilot" operation.

Operation of the SAFF

The SAFF began operation in the fall of 2023 as a "test" according to representations made by the applicant in correspondence with the AQCD. NEWSVT Inc. then filed an amendment application on November 17, 2023 with the AQCD of the DEC for approval of the SAFF as an "open loop system" and a proposal to reduce sulfur content at the existing landfill gas flare system. The AQCD confirmed jurisdiction under its regulations by ruling the application administratively complete and commencing a substantive review. On April 3 and June 3, 2024 NEWSVT Inc. informed the AQCD of a design modification to the "test" SAFF system. This "closed loop" modification was intended to prevent releases of any hazardous contaminant emissions from the pilot system that may be released into the ambient atmosphere. The AQCD indicated on June 7, 2024 that a permit was not required based on NEWSVT Inc.'s proposal of a modified "closed loop" design for its pilot treatment system.

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DUMP contends that the installation and ongoing use of the SAFF system without benefit of permitting by the AQCD is a violation of applicable Vermont laws and regulations. The SAFF – whether an “open” or “closed” loop” system – required an amended permit because the SAFF “...emits or **may** (emphasis added) emit any air contaminant” (See AQCD Rule 5-101) and did not qualify for an exemption from AQCD permitting under the “operational flexibility” provisions of AQCD Rule 5-1014. It is more likely than not that the operation of the SAFF over the course of the last three years has resulted in emissions of contaminants into the ambient atmosphere without any benefit of formal AQCD oversight and an opportunity for public participation on the impacts to the health of Northeast Kingdom residents and its ecosystems.

DUMP further notes that the SAFF system is not eligible for processing as a “minor permit amendment” because the draft permit acknowledges that a HMSER is required and AQCD Rule 5-1002 does not allow projects that require a HMSER to be processed as a “minor”. DUMP views the descriptions of the SAFF as a “test” or a “pilot” as a difference without a distinction. Regardless of how the applicant describes the project, a permit was and is required under the AQCD rules. The SAFF has thus operated in violation of the AQCD rules and should be shut down until -if- a permit is issued.

In summary, as set out in more detail below, DUMP contends that the draft Permit is insufficient and the application should be denied.

Inadequate Findings of Fact

In addition to the requirements of 10 VSA Chapter 23 and the AQCD Rules, the issuance of a decision in response to an application for an AQCD permit is also subject to the provisions of the Vermont Administrative Procedure Act that requires adequate findings of fact in support of the decision by the administrative entity. (See 3 VSA 812 and related provisions).

No PFAS Evidence

The draft permit proposes to authorize a pretreatment system that will remove PFAS from leachate and generate PFAS air emissions, but the draft findings state no evidence or any reference to any PFAS compound types or levels - despite Attachment A to Pretreatment Discharge Pretreatment Permit #3-1406 that delineates the presence of at least 22 PFAS compounds in the leachate flow.

Non-compliance with Manufacturers recommendations

Information we have reviewed from the manufacturer (EPOC Enviro) and the US distributor (Allonnia) indicates the importance of managing air emissions, and a critical engineering requirement is closed-loop air emissions, to ensure that volatile or aerosolized PFAS do not escape into the atmosphere. GAC filtering should be applied as a pollution control on any exhaust vent.

No PFAS Standards

The draft permit contains no standards for PFAS air emissions from the SAFF. DUMP is aware that the current AQCD rules do not recognize any PFAS substances defined as Hazardous Air Contaminants

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(HACs) under AQCD Rule 5-101(Also see Appendices B and C of the AQCD rules). Having reviewed the content of the draft permit circulated on July 17th, DUMP filed a petition on August 3rd for the adoption of interim PFAS air emission standards by the Secretary of the Agency of Natural Resources pursuant to the provisions of AQCD Rule 5-261(6). At a minimum, the processing of the SAFF application should be suspended until the interim standards are adopted. The failure of the State to have adopted at least interim standards for PFAS air emissions since the tragic discovery of PFAS, and specifically PFOA contamination in the Bennington region due to the operation of the Chem Fab/Saint Gobain Teflon coating plant is inexplicable.

Inappropriate HMSER Determination

The draft Permit (at pages 20 to 24) acknowledges that the SAFF will result in emissions of HACs and the AQCD acknowledges that a Hazardous Most Stringent Emission Rate (HMSER) is therefore required. (See AQCD Rule 5-101). The draft Permit would authorize the operation of the SAFF in reliance on the existing HMSER for the overall landfill. That HMSER consists of the existing gas collection and flaring system at the landfill. This HMSER determination for the HAC emissions from the SAFF is flawed and inconsistent with AQCD Rules because the SAFF will not be physically connected to the gas collection and flaring system.

Impermissible “Conditions Subsequent”

The draft permit relies on conditions as a substitute for adequate evidentiary proof under the AQCD Rules prior to the issuance of a permit. Conditions 22 and 23 in the draft Permit are examples of such conditions. These are “conditions subsequent” that are conditions contained in regulatory approvals as impermissible substitutes for sufficient facts upon which a permit is based. Permit conditions which will ensure compliance with substantive affirmative findings stated in an administrative decision – such as requiring proof that applicable standards will be met after the project commences operation as represented by an applicant in the design of a project in order to obtain a permit– are common and permissible. But “conditions subsequent” have been rejected by the Vermont judiciary in its reviews of decisions by state regulatory entities and municipal development review boards. [See, eg, the Vermont Supreme Court’s holding in In re Treetop Development Co. Act 250 Development #2015-168 (2016)]

Condition 22

Condition 22 includes one of the few specific references to PFAS in the entire draft decision. The condition requires that the permittee develop a “feasibility study” for one time testing both upstream and on the exhaust side of the GAC odor control canister.*The condition cites three sample methods: OTM 50-Volatile PFAS ,OTM 45-Acidic PFAS and future OTM-55 and targeted analysis for FTOHs and select 8270 compounds. DUMP believes that such a feasibility study should have been a prerequisite prior to issuance of a draft permit. Condition 22 is a “condition subsequent”.

*DUMP agrees with the need for “upstream” and “downstream” compliance testing of the air emission content of the leachate flow if an adequate permit may eventually be produced for the SAFF system. Relatedly, DUMP believes that any such compliance testing for PFAS emissions may be most useful if testing is for “untargeted” PFAS. However, DUMP’s strongly preferred position is that testing will be for specified PFAS compounds and in the context of interim standards adopted by the ANR Secretary. The interim standards should include, at a minimum, standards for most common PFAS air emissions found at landfill facilities: PFDA, PFHxA, PFDoA, PFOA and PFHpA.

Condition 23

Condition 23 sets out the details for a one-time stack testing on the SAFF exhaust. The condition includes a table of some 53 chemical compounds to be included in the chemical analysis of stack test samples. There are no PFAS compounds included in the table despite the fact that the primary purpose of the SAFF is to reduce PFAS content in the leachate flow. It is reasonable to conclude that the leachate flow contains concentrated levels of the HACs generated by the landfill - as well as PFAS. The absence of PFAS compounds in the table makes impermissible "condition subsequent" condition 23 even more deficient. One time testing of the air emissions from the SAFF is unacceptable. Monitoring of the air emissions must be ongoing and DUMP understands that technology may exist for "real time" online viewing of monitoring results.

Failure to Collect Data

DUMP questions why NEWSVT apparently collected no data on actual emissions during the 3 year "test" run of the SAFF; at least such data is not mentioned in the draft permit or available to the public. NEWSVT's proposal is based on a house of cards of "estimated" HACs, VOCs and PFAS levels.

Unacceptable Postponement of HMSER Determination

The aforementioned inadequate finding (at page 21 of the draft Permit) regarding a HMSER for the SAFF system is in practical effect an additional "condition subsequent". That finding indicates that once the results of the one-time stack testing become available, the AQCD will rely on them in the development of "the subsequent Title V Operating Permit for the Facility". DUMP understands this "Operating Permit" to be the eventual draft permit for the renewal of the Operating Permit for the landfill that expired in 2023. Postponing a HMSER for the SAFF until issuance of a final renewal Operating Permit is unacceptable.

Dated August 28, 2026.

Respectfully,

Effie Brown
Henry Coe
Teresa Gerade
Ann Lembo
Ed Stanak
Gillian Staniforth

Members of the DUMP board of directors