

preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

k. **Competing Development Application**—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

l. **Notice of Intent**—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

m. **Proposed Scope of Studies under Permit**—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

n. **Comments, Protests, or Motions to Intervene**—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. **Filing and Service of Responsive Documents**—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION",

"PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. **Comments, protests, and interventions** may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

q. **Agency Comments**: Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7514-2]

Prevention of Significant Deterioration (PSD) Program; Massachusetts; Notice of Ending of Delegation Agreement Between EPA and Massachusetts Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: This notice announces that effective March 3, 2003, the Massachusetts Department of Environmental Protection (DEP) ended its agreement with EPA to implement the Prevention of Significant Deterioration (PSD) program. Therefore, effective that date, EPA is the implementing authority for the PSD

program in Massachusetts. This notice explains the consequences of this change for owners and operators of sources that have PSD permits or that will need such permits in the future.

DATES: Massachusetts' decision to end the agreement between the State and EPA that allowed DEP to implement the Federal PSD program became effective on March 3, 2003.

ADDRESSES: Copies of the documents relevant to Massachusetts PSD program delegation are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA during normal business hours.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, EPA Region I, (617) 918-1652, or send email to Mccahill.Brendan@epa.gov.

SUPPLEMENTARY INFORMATION: By letter dated February 27, 2003, the DEP has notified the Regional Administrator of EPA New England that the DEP will not accept authority for the implementation of the amended PSD program and is ending its June 30, 1982, agreement with EPA to assume responsibility for implementing the Federal PSD regulations (1982 Agreement).

On December 31, 2002, EPA published in the **Federal Register** revisions to the Federal PSD regulations (67 FR 80186). A final rule revising the Federal portions of implementation plans in 40 CFR part 52 to include the revisions to the Federal PSD regulations was published in the **Federal Register** on March 10, 2003. Both of these actions were effective on March 3, 2003.

The letter from the DEP explained that the DEP will no longer implement the Federal PSD program as of March 3, 2003. Consequently, as of March 3, 2003, sources of air pollution located in Massachusetts that are subject to the Federal PSD program must apply for and receive a PSD permit from EPA New England before beginning actual construction. Developers planning projects in Massachusetts that are expected to increase air pollution should refer to 40 CFR 52.21 or contact Brendan McCahill (*see* "FOR FURTHER INFORMATION CONTACT" above) at the EPA New England office for information regarding program applicability and permit application requirements.

Please note that the DEP's air permitting requirements under 310 CMR 7.02 are not affected by the state's decision to end the 1982 Agreement. The DEP interprets its regulations as

requiring PSD project applicants to apply for a 310 CMR 7.02 Plan Approval. For the convenience of the project applicants and to reduce duplicative efforts, EPA New England will coordinate closely with the DEP on the application process and the development of permit requirements. When preparing PSD application submissions for EPA New England, we will work with applicants to develop the appropriate information that meets both the Federal PSD and State permitting requirements. For information regarding the application of the State permitting rules, please contact Donald Squires at Donald.Squires@state.ma.us or refer to the DEP's Web site at <http://www.state.ma.us/dep/bwp/daqc/aqforms.htm>.

The 1982 Agreement also gave the DEP lead responsibility for "preliminary enforcement" of all PSD permits issued by EPA before 1982 and for all future PSD permits issued by the DEP. Preliminary enforcement included activities such as inspection, compliance testing, information requirements and identification of violations. The DEP has identified the following facilities that are currently operating under a PSD permit issued by EPA or the DEP:

Stony Brook Energy Center (formally the Massachusetts Municipal Wholesale Electric Company);
Fall River Sewage Sludge Incinerator;
FlexCon Company;
Norton Company;
Natick Paperboard;
Covanta Haverhill (formally the Haverhill Resource Recovery Facility);
Wheelabrator North Andover (formally NESWC Resource Recovery Facility);
SEMASS Partnership (formally Rochester Resource Recovery Facility);
Berkshire Power LLC;
ANP Bellingham;
Bellingham Cogeneration;
ANP Blackstone;
Millennium Power Partners LP;
Mirant—Kendall LLC;
Cabot Power Corporation;
Exelon Mystic LLC (formally Sithe Mystic Development LLC);
General Electric;
SEMASS Partnership (formally SEMASS RRF);
Masspower Cogeneration;
Exelon Fore River Development;
Lowell Cogeneration;
Wheelabrator Milbury;
ECO Springfield LLC.

With the DEP's decision to end the 1982 Agreement, the DEP no longer has preliminary enforcement authority for

the PSD program. EPA will conduct these activities. Therefore, as of March 3, 2003, the facilities listed above must now submit to EPA all emission data reports used to show compliance with a PSD permit limit. These facilities may already be submitting some of this data to EPA pursuant to Federal 40 CFR part 60 New Source Performance Standards, 40 CFR part 72 and 75 Acid Rain regulations or other Federal programs. Thus, for some pollutants, there would be no change in reporting.

As noted previously, the ending of the 1982 Agreement has no impact on obligations under Massachusetts law in general and Plan Approvals under 310 CMR 7.02 in particular. Therefore, the change in reporting for purposes of the PSD program does not change any requirement to submit to the DEP any emission report used to show compliance with any applicable 310 CMR 7.02 Plan Approval.

Dated: June 4, 2003.

Robert W. Varney,

Regional Administrator, EPA New England.

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ENVIRONMENTAL PROTECTION AGENCY

[IL217-1;FRL-7513-7]

Notice of Prevention of Significant Deterioration (PSD); Final Determination for Kendall New Century Development, Plano, Kendall County, IL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on April 29, 2003, the Environmental Appeals Board (EAB) of the United States Environmental Protection Agency (EPA) dismissed a petition for review of certain conditions of a permit issued by the Illinois Environmental Protection Agency (IEPA) pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations.

DATES: The effective date for the Board's decision is April 29, 2003. Judicial review of this permit decision, to the extent it is available pursuant to section 307(b)(1) of the Clean Air Act, may be sought by filing a petition for review in the United States Court of Appeals for the Seventh Circuit within 60 days of today's date.

ADDRESSES: The documents relevant to the above action are available for public inspection during normal business hours at the following address by calling to arrange a visit: IEPA, Bureau of Air, 1021 North Grand Avenue East, Springfield, Illinois 62702, at (217) 782-3397.

FOR FURTHER INFORMATION CONTACT:

Constantine Blathras (AR-18J), EPA Region 5, 77 W. Jackson Boulevard., Chicago, Illinois, 60604 at (312) 886-0671.

SUPPLEMENTARY INFORMATION: On January 14, 2000, IEPA issued a PSD permit to Kendall New Century Development (Kendall). However, Kendall did not begin construction of the facility within the 18-month period allowed by the PSD regulations. Shortly before the construction period expired, on June 28, 2001, Kendall submitted an application for extension of the PSD permit for an additional 18-month period. IEPA required Kendall to submit a new Best Available Control Technology (BACT) demonstration and air quality impact analysis, and it reviewed the application as if it were a new PSD permit. IEPA issued the new PSD permit on November 27, 2002 (PSD permit number 093801AAN).

On January 7, 2003, the EAB received an undated petition filed by Verena Owen, asking the EAB to review a PSD determination by IEPA. Ms. Owen argues (1) that the carbon monoxide (CO) BACT limit of 25 parts per million on a dry volume basis (ppmdv) is too high (she contends it should be as low as 7.4 ppmv); (2) that IEPA improperly eliminated use of a catalyst as BACT for CO; (3) that the CO BACT limit should take into account the size and magnitude of this facility; and (4) that IEPA should have processed the permit as a request for an extension of Kendall's previous PSD permit, rather than as a new permit application.

On April 29, 2003, the EAB denied the petition for review on the grounds that: (1) The reasons stated in general terms in IEPA's response to comments are not clearly erroneous nor otherwise warrant review; (2) the issues were not raised during the public comment period; and (3) the plaintiff had not shown clear error in IEPA's decision.

Dated: June 6, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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