

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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