

Generating Station are available electronically at: <http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2001.htm>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

I. Con Edison's 74th Street Station

On May 14, 2001, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for the Consolidated Edison 74th Street Station. The petition raises issues regarding the permit application, the permit issuance process, and the permit itself. NYPIRG asserts that: (1) The permit does not assure compliance with all applicable requirements as mandated by 40 CFR 70.1(b) and 70.6(a)(1) because many individual permit conditions lack adequate monitoring and are not practically enforceable; (2) DEC violated the public participation requirements of 40 CFR 70.7(h) by inappropriately denying NYPIRG's request for a public hearing; (3) the permit is based on an incomplete permit application in violation of 40 CFR 70.5(c); (4) the permit is accompanied by an insufficient statement of basis as required by 40 CFR 70.7(a)(5); (5) the permit distorts the annual compliance certification requirement of Clean Air Act section 114(a)(3) and 40 CFR 70.6(c)(5); (6) the permit does not assure compliance with all applicable requirements as mandated by 40 CFR 70.1(b) and 70.6(a)(1) because it illegally sanctions the systematic violation of applicable requirements during startup/shutdown, malfunction, maintenance, and upset conditions; and (7) the permit does not require prompt reporting of all

deviations from permit requirements as mandated by 40 CFR 70.6(a)(3)(iii)(B).

On February 19, 2003, the Administrator issued an order partially granting and partially denying the petition on the Con Edison 74th Street Station. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Include annual tune-ups and necessary parametric monitoring to ensure the turbines' compliance with their NO_x RACT emission limits; (2) revise recordkeeping provisions to require that records relating to sulfur monitoring be kept for five years; (3) include appropriate conditions for particulate matter monitoring that meets the requirements of § 70.6(a)(3)(i)(B); (4) include record keeping and reporting requirements with regard to the use of architectural coatings and sealers; (5) note the existence and applicability of the Episodic Action Plan; and (6) incorporate "Appendix A" of the opacity consent order. The order also explains the reasons for denying NYPIRG's remaining claims.

NYPIRG raises each of the above seven issues, except for the public hearing issue, in the petitions for the Danskammer Generating Station and the Lovett Generating Station, as well. In the Danskammer Generating Station petition, NYPIRG raises five additional issues: (1) The permit lacks federally enforceable conditions that govern the procedures for permit renewal; (2) the permit fails to include federally enforceable emission limits established under pre-existing permits; (3) the permit does not properly include CAA section 112(r) requirements; (4) the permit improperly describes the annual compliance certification due date; and (5) the permit does not assure Danskammer's compliance with applicable sulfur dioxide (SO₂) emission limitations. In the petition on the Lovett Generating Station, NYPIRG raises three additional issues: (1) The proposed permit lacks a compliance schedule designed to bring the Lovett Generating Station into compliance with PSD requirements; (2) the proposed permit fails to include federally enforceable emission limits established under pre-existing permits; and (3) the proposed permit does not correctly include the CAA section 112(r) requirements. In each of these petitions, the issue on monitoring is subdivided into several detailed points, some of which are permit-specific and some of which are shared among the other permits.

II. Danskammer Generating Station

On December 10, 2001, the EPA received a petition from NYPIRG,

requesting that EPA object to the issuance of the title V operating permit for the Danskammer Generating Station, on the grounds listed above. On February 14, 2003, the Administrator issued an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Specify normal operating ranges for ESP parameters and (2) delete language allowing digital recording of COM data to be replaced by manual recording. The order also explains the reasons for denying NYPIRG's remaining claims.

III. Lovett Generating Station

On November 26, 2001, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for the Lovett Generating Station, on the grounds listed above. On February 19, 2003, the Administrator issued an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Incorporate opacity monitoring to assure compliance with New York State regulations at 6 NYCRR section 211.3; and (2) incorporate all necessary requirements from the opacity consent order. The order also explains the reasons for denying NYPIRG's remaining claims.

Dated: March 6, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 125

[FRL-7472-2]

RIN-2040-AD85

Withdrawal of Direct Final Rule; National Pollutant Discharge Elimination System—Amendment of Final Regulations Addressing Cooling Water Intake Structures for New Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because EPA received adverse comment, we are withdrawing the direct final rule for "National Pollutant Discharge Elimination System—Amendment of Final Regulations Addressing Cooling Water