

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7065-6]

**Notice of Prevention of Significant Deterioration Final Determination for Chehalis Generating Facility****AGENCY:** Environmental Protection Agency ("EPA")**ACTION:** Notice of Final Action

**SUMMARY:** This document announces that on August 20, 2001, the Environmental Appeals Board ("EAB") of EPA denied a petition for review of a permit issued for the Chehalis Generating Facility by EPA, Region 10 and the State of Washington's Energy Facility Site Evaluation Council ("EFSEC") pursuant to EPA's Prevention of Significant Deterioration of Air Quality ("PSD") regulations, under 40 CFR 52.21.

**DATES:** The effective date for the EAB's decision is August 20, 2001. Judicial review of this permit decision, to the extent it is available pursuant to section 307(b)(1) of the Clean Air Act ("CAA"), may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of September 26, 2001.

**ADDRESSES:** The documents relevant to the above action are available for public inspection during normal business hours at the following address: EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. To arrange viewing of these documents, call Daniel Meyer at (206) 553-4150.

**FOR FURTHER INFORMATION CONTACT:** Daniel Meyer, EPA, Region 10, 1200 Sixth Avenue (OAQ-107), Seattle, Washington, 98101.

**SUPPLEMENTARY INFORMATION:** This supplemental information is organized as follows:

- A. What Action is EPA Taking?
- B. What is the Background Information?
- C. What did the EAB Decide?

**A. What Action Is EPA Taking?**

We are notifying the public of a final decision by EPA's EAB on a permit issued by EPA Region 10 and EFSEC ("permitting authorities") pursuant to the PSD regulations found at 40 CFR 52.21.

**B. What Is the Background Information?**

In 1997, the permitting authorities jointly issued a PSD permit pursuant to Section 165 of the CAA, 42 U.S.C. 7475, 40 CFR 52.21, and the terms and conditions of EFSEC's delegation of

authority from EPA Region 10 under 40 CFR 52.21(u), for what ultimately will be a 520-megawatt electric power generation facility. The facility is subject to PSD for nitrogen oxides ("NO<sub>x</sub>"), carbon monoxide ("CO"), volatile organic compounds ("VOC"), and particulate matter ("PM"). The original PSD permit required installation of Best Available Control Technology ("BACT") which was determined to be advanced dry-low NO<sub>x</sub> combustor technology and included a short-term emission limit for NO<sub>x</sub> of 9.9 parts per million dry volume ("ppmdv"). In November, 1998, the permitting authorities jointly extended the original PSD permit. The extension authorized Chehalis Power to commence construction by no later than June 18, 2000. On May 18, 2000, EFSEC published a notice informing the public of a proposed permit amendment for the Chehalis Generating Facility. In March, 2001, EPA Region 10 and Chehalis Power signed an administrative order on consent that required Chehalis Power to request additional revisions to its PSD permit, including the installation of select catalytic reduction ("SCR") to control NO<sub>x</sub> emissions, as well as a reduction in both annual and short-term NO<sub>x</sub> emissions. The permitting authorities approved an amended PSD permit in April, 2001, reflecting these changes. Subsequent to issuance of the PSD permit amendment, REBOUND ("Petitioner"), which represents the Seattle/King County Building & Construction Trades Council, filed a petition challenging the PSD permit amendment.

**C. What Did the EAB Decide?**

On August 20, 2001, the EAB denied review of the petition because Petitioner failed to show clear error or other reason for the EAB to grant review with respect to: (1) the permitting authorities' determination that no new BACT analysis was required for NO<sub>x</sub>, CO, VOC, or PM, in light of Chehalis Power's agreement to install SCR and to reduce its short-term emission limit for NO<sub>x</sub> from 9.9 to 3 ppmdv with 10ppmdv ammonia slip; (2) the permitting authorities' decision not to reopen the public comment period in order to allow for comment on changes made to the amended PSD permit relating to startup and shutdown NO<sub>x</sub> emissions and ammonia emissions, because Petitioner had previously commented on startup and shutdown NO<sub>x</sub> emissions and ammonia emissions; and (3) EFSEC's failure to include a description of appeal rights in the amended PSD permit as mandated by the 1992 delegation of authority from

EPA Region 10 to EFSEC, because Petitioner did not properly preserve this issue for review. The EAB did not address the merits of Petitioner's claim that Chehalis Power had not commenced construction within 18 months of receiving its PSD permit extension because Petitioner did not address any of the specific factors discussed in EFSEC's response to comments explaining its commencement of construction determination.

Pursuant to 40 CFR 124.19(f)(1), for purposes of judicial review, final Agency action occurs when a final PSD permit is issued and Agency review procedures are exhausted. This notice is being published pursuant to 40 CFR 124.19(f)(2), which requires notice of any final agency action regarding a permit to be published in the **Federal Register**. This notice being published today in the **Federal Register** constitutes notice of the final Agency action denying review of the PSD permit and, consequently, notice of the permitting authorities' issuance of an amended PSD permit No. EFSEC/95-02 Amendment 1 to Chehalis Power. If available, judicial review of these determinations under section 307(b)(1) of the CAA may be sought only by the filing of a petition for review in the United States Court of Appeals for the Ninth Circuit, within 60 days from the date on which this notice is published in the **Federal Register**. Under section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: September 17, 2001.

**Ronald A. Kreizenbeck,**

*Acting Regional Administrator, Region 10.*

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7063-4]

**Meeting of the Mobile Sources Technical Review Subcommittee****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Act, Public Law 92-463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet three times annually. This is an open meeting. The theme will be "The Energy Plan"