

restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

*Title:* General Conformity of Federal Actions to State Implementation Plans (40 CFR part 51, subpart W; part 93, subpart B) (Renewal).

*Abstract:* Before any agency, department, or instrumentality of the Federal government engages in, supports in any way, provides financial assistance for, licenses, permits, or approves any activity, that agency has the affirmative responsibility to ensure that such action conforms to the State Implementation Plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS).

The Federal government uses information collected to ensure that general Federal actions conform to applicable provisions of the SIP and that the Federal action does not impede the goal of attaining and maintaining the NAAQS throughout the country. The State and local air agencies use the results from conformity determinations to determine applicability of the general conformity requirements, to demonstrate that their actions satisfy both the emissions and air quality criteria stipulated in the regulation, and to demonstrate that their actions conform to applicable provisions of the SIP.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 35 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and

requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* Entities potentially affected by this action are those which take Federal Actions, or are subject to Federal Actions, and emit pollutants above de minimis levels.

*Estimated Number of Respondents:* 674.

*Frequency of Response:* One time, or every five years.

*Estimated Total Annual Hour Burden:* 9,435 hours.

*Estimated Total Annual Cost:* \$592,763, which includes \$0 annualized capital/startup costs, \$0 annual O&M costs, and \$592,763 annual labor costs.

*Changes in the Estimates:* There is a decrease of 811 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is applicable to the Non-Federal, State, and Local agencies which are the entities more affected. This number is calculated based on Non-Federal, State, and Local agencies only.

Dated: April 26, 2005.

**Oscar Morales,**

*Director, Collection Strategies Division.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

**Regional Docket Nos. V-2004-1, -2; [IL 225-1, FRL-7907-8]**

### Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permits for Midwest Generation Fisk and Crawford Stations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action.

**SUMMARY:** This document announces that the EPA Administrator has responded to two citizen petitions asking EPA to object to operating permits issued by the Illinois Environmental Protection Agency (IEPA) to two facilities. Specifically, the Administrator has partially granted and partially denied each of the petitions submitted by the Chicago Legal Clinic to object to the operating permits issued to the Midwest Generation Fisk and Crawford stations.

Pursuant to section 505(b)(2) of the Clean Air Act (Act), Petitioner may seek

judicial review of those portions of the petitions which EPA denied in the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days from the date this notice appears in the **Federal Register**, pursuant to section 307 of the Act.

**ADDRESSES:** You may review copies of the final orders, the petitions, and other supporting information at the EPA Region 5 Office, 77 West Jackson Boulevard, Chicago, Illinois 60604. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. Additionally, the final orders for the Midwest Generation Fisk and Crawford stations are available electronically at: <http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2004.htm>.

**FOR FURTHER INFORMATION CONTACT:** Pamela Blakley, Chief, Air Permitting Section, Air Programs Branch, Air and Radiation Division, EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886-4447.

**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.

On January 22, 2004, the EPA received from the Chicago Legal Clinic petitions requesting that EPA object to the issuance of the title V operating permits to the Midwest Generation Fisk and Crawford stations. The petitions raise issues regarding the permit application, the permit issuance process, and the permits themselves. Chicago Legal Clinic asserts that the permits: (1) Lack compliance schedules designed to bring the Midwest Generation Fisk and Crawford stations into compliance with Clean Air Act requirements; (2) contain language that fails to include conditions that meet the legal requirements for monitoring; (3) contain language that violates the requirements related to credible evidence; (4) contain language regarding

startup, malfunction and breakdown that violates EPA policy; and (5) contain language that violates EPA policy requiring a permit to be practically enforceable.

On March 25, 2005, the Administrator issued orders partially granting and partially denying the petitions. The orders explain the reasons behind EPA's conclusion that the IEPA must reopen the permits to: (1) Address Petitioner's significant comments; (2) include periodic monitoring in compliance with 40 CFR § 70.6(a)(3)(i)(B); (3) remove the note stating that compliance with the carbon monoxide limit is inherent; (4) explain in the statement of basis how it determined in advance that the permittee had met the requirements of the Illinois State Implementation Plan (SIP) or to specify in the permit that continued operation during malfunction or breakdown will be authorized on a case-by-case basis if the source meets the SIP criteria; (5) remove language which is not required by the underlying applicable requirement or explain in the permit or statement of basis how this language implements the meaning and intent of the underlying applicable requirement; (6) remove "established startup procedures," include the startup procedures in the permit, or include minimum elements of the startup procedures that would "affirmatively demonstrate that all reasonable efforts have been made to minimize startup emissions, duration of individual startups and frequency of startups;" (7) require the owner or operator of the sources to report to the agency "immediately" or explain how the phrase "as soon as possible" meets the requirements of the SIP; (8) remove "reasonably" and "reasonable" from relevant permit terms or define or provide criteria to determine "reasonably" and "reasonable" that meet the requirements of the SIP; (9) remove the term "reasonable" from the relevant permit conditions in accordance with the language in Part 70, Section 504 of the Clean Air Act or Section 39.5 of the Environmental Protection Act; (10) remove the ability to waive the testing requirements or explain how such a waiver would meet the requirements of part 70; (11) define "extraordinary circumstances" in a manner consistent with the requirements of the SIP or remove the language from the permit; and (12) remove "summary of compliance" from the permit or clarify the term such that the reader understands what a "summary of compliance" must contain and how the summary relates to the control measures. The orders also

explain the reasons for denying Chicago Legal Clinic's remaining claims.

Dated: April 19, 2005.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 05-8869 Filed 5-3-05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[MI 86-01; FRL-7907-9]

### Notice of Final Determination for the Final Determination for the Indeck-Niles Energy Center, L.L.C. located in Niles, MI

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action.

**SUMMARY:** This notice announces that on September 30, 2004, the Environmental Appeals Board (EAB or Board) of the United States EPA denied a petition for review of a Federal Prevention of Significant Deterioration (PSD) permit issued to Indeck-Niles L.L.C. (Indeck) by the Michigan Department of Environmental Quality (MDEQ).

**DATES:** The effective date for the EAB's decision is September 30, 2004. Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Sixth Circuit within 60 days of May 4, 2005.

**ADDRESSES:** The documents relevant to the above action are available for public inspection during normal business hours at the following address: Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604. To arrange viewing of these documents, call Laura L. David at (312) 886-0661.

**FOR FURTHER INFORMATION CONTACT:**

Laura L. David, Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard (AR-18J), Chicago, Illinois 60604. Anyone who wishes to review the EAB decision can obtain it at <http://www.epa.gov/eab/orders/indeck2004.pdf>.

**SUPPLEMENTARY INFORMATION:** In the Board's September 30, 2004 Order Denying Review, the Board made the following findings. On November 2, 2000, Indeck-Niles, L.L.C. applied to MDEQ for permission to construct a new 656-MW simple-cycle natural gas-fired electrical generating facility, to be transformed into a 1,076-MW

combined-cycle facility approximately twelve to eighteen months after startup of the simple-cycle facility. Indeck proposed to site the new facility (Indeck-Niles Energy Center) in the southwestern corner of the State of Michigan, in Cass County, northeast of the City of Niles, Michigan, and not far from South Bend, Indiana. That portion of the State was designated as attainment or unclassifiable for carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), ozone (measured as volatile organic compounds (VOCs)), and particulate matter (PM) at the time of permit issuance.

In the first phase of the project, Indeck proposed to install four natural gas-fired combustion turbines for operation in simple-cycle mode. In the second phase, Indeck proposed to convert the four simple-cycle turbines into combined-cycle units through the addition of heat recovery steam generators and natural gas-fired duct burners to increase steam output. The conversion would take place within twelve to eighteen months after operation of the simple-cycle turbines commences. The steam produced would be piped to two steam condensing turbines to produce additional power. In this configuration, the proposed facility has the potential to emit NO<sub>x</sub>, CO, VOCs, and PM in quantities sufficient to trigger the requirement for emissions limitations reflecting Best Available Control Technology (BACT). Accordingly, as part of the permit application process, Indeck conducted BACT analyses for the relevant pollutants and proposed BACT emissions limits for the pollutants of concern.

In December 2001, MDEQ approved Indeck's analyses and issued a permit to the company for the proposed facility (New Source Review Permit to Install No. 364-00). However, a number of individuals timely petitioned the Board for review of that permit, which prevented the permit from going into effect at that time. On March 11, 2002, the Board issued an order denying the individuals' petition for review and the permit therefore became final on that date. Notably, however, Indeck failed to commence construction of its new facility within eighteen months of issuance of the final PSD permit. Under the State of Michigan's air pollution control regulations (which are based on the Federal PSD rules), such a lack of action within the prescribed time frame renders the permit void (Mich. Admin. Code r. 336.1201(4)).

A year and a half later, in June 2003, Indeck requested that MDEQ reissue the PSD permit for the proposed Indeck-