

**New York State Department of Environmental Conservation
Division of Environmental Permits**

NYSDEC Headquarters
625 Broadway
Albany, NY 12233
(518) 402-9167



January 17, 2025

CPV VALLEY LLC
8403 Colesville Rd Ste 915
Silver Spring, MD 20910

Re: DEC ID # 3-3356-00136/00010
CPV VALLEY ENERGY CENTER

Dear Applicant :

Please be advised that your application for a DEC permit(s) is complete and a technical review has commenced. Notice and the opportunity for public comment is required for this application. Enclosed is a Notice of Complete Application for your project. Please have the Notice published in the newspaper identified below once during the week of 01/20/2025 on any day Monday through Friday.

TIMES HERALD-RECORD
40 MULBERRY ST
PO BOX 2046
MIDDLETOWN, NY 10940

On the Notice of Complete Application, that information presented between the horizontal lines, on the enclosed page(s) should be published. Do not print this letter or the information contained below the second horizontal line. Please request the newspaper publisher to provide you with a Proof of Publication for the Notice. Upon receipt of the Proof of Publication promptly forward it to this office. You must provide the Proof of Publication before a final decision can be rendered on your application. You are responsible for paying the cost of publishing the Notice in the newspaper.

Notification of this complete application is also being provided by this Department in the NYSDEC Environmental Notice Bulletin.

This notification does not signify approval of your application for permit. Additional information may be requested from you at a future date, if deemed necessary to reach a decision on your application. Your project is classified major under the Uniform Procedures Act. Accordingly, a decision is due within 90 days of the date of this notice unless a public hearing is held, which may extend this time frame. If a public hearing is necessary, you will be notified.

If you have any questions please contact me at the above address or phone number above.

Sincerely,

EVAN H HOGAN
Division of Environmental Permits

Combined Notice of Complete Application and Determination to Hold a Public Hearing

January 17, 2025

Applicant:

CPV Valley LLC
3330 Route 6
Middletown, NY 10940

Facility:

CPV Valley Energy Center
3330 Route 6
Middletown, NY 10940

DEC Application IDs:

1. 3-3356-00136/00010 (Article 19 Air Title V Facility)
2. 3-3356-00136/00003 (Article 19 Title IV (Phase II Acid Rain))
3. 3-3356/00136/00001 (Air State Facility/Renewal)

Project Description:

The New York State Department of Environmental Conservation (NYSDEC) has prepared a draft permit and made a tentative determination, subject to public comment(s) or other information, to approve an Air Title V Facility (ATV) and Title IV (Phase II Acid Rain) (AT4) Permit for the CPV Valley Energy Center (the Facility). The draft permit renewal would allow for the continued operation of existing infrastructure and would not include any new, expanded, or modified operations. The Facility is a nominal net 680-megawatt (MW) combined-cycle gas turbine electric generating facility in the Town of Wawayanda, Orange County. The facility is currently operated by CPV Valley LLC (CPV), and each combined-cycle unit consists of a combustion turbine generator (CTG), a Heat Recovery Steam Generator (HRSG), with supplemental duct firing, and a steam turbine generator (STG). The facility will continue to use Ultra-Low Sulfur Diesel (ULSD) oil as a back-up fuel, and the auxiliary equipment on-site will include a low Nitrogen Oxide (NOx) natural gas-fired auxiliary boiler, which is used to keep the HRSGs warm during turbine shutdown periods and to provide sealing steam during startups.

Potential emissions of NOx, Volatile Organic Compounds (VOCs), Particulate Matter (PM), and Carbon Monoxide (CO) exceed major source thresholds subjecting the facility to Title V permitting. The main source of the contaminants of concern is the combustion of natural gas in the electric generating equipment. The facility has Continuous Emission Monitors (CEMs) for NOx, CO, Ammonia, and Carbon Dioxide (CO2) emissions.

There are multiple air pollution controls onsite including dry low NO_x burners and Selective Catalytic Reduction using Ammonia, which control NO_x emissions, and act as an oxidation catalyst, which controls CO emissions. The facility is subject to monitoring and record keeping requirements under 6 NYCRR Parts 201, 225, 227, and 231. Under Part 201-7, CPV is subject to a Particulate Matter (PM-2.5) emissions cap of 190,000 pounds per year. Under Part 231, the plant is subject to Lowest Achievable Emissions Rate (LAER) requirements for NO_x and VOC emissions, as well as Best Available Control Technology (BACT) requirements for Particulate, Sulfur dioxide (SO₂), CO, and Sulfuric Acid emissions.

The Facility was initially authorized by the NYSDEC when the initial Air State Facility Permit (DEC ID: 3-3356-00136/00001) was issued on August 1, 2013. The ASF permit expired on July 31, 2018, and upon review of the timely and sufficient renewal application, NYSDEC denied the renewal of the ASF permit on August 1, 2018 and required the submission of an Article 19 ATV Permit Application. On August 2, 2018, CPV requested an adjudicatory hearing pursuant to 6 NYCRR §§ 201-6.2(a) and 201-1.2(a) based on NYSDEC's August 1, 2018 denial. Two public comment hearings to receive unsworn statements from the public on CPV's ASF permit renewal application, NYSDEC's notice of denial, and CPV's request for a hearing were held in Goshen, NY on September 26, 2018. Written comments were received through October 5, 2018. On November 29, 2018, a pre-adjudicatory issues conference regarding same was held in Middletown, NY. CPV submitted applications for an ATV and AT4 permit on August 24, 2018 pursuant to 6 NYCRR Part 201. On May 30, 2019, NYSDEC determined that CPV's permit applications were complete in accordance with 6 NYCRR Part 621. On May 30, 2019, NYSDEC requested a suspension of the adjudicatory proceeding pending the resolution of CPV's ATV and AT4 permits.

Pursuant to an Order of Albany County Supreme Court issued on August 15, 2018, CPV was allowed to continue operating the Facility under the terms of the initial ASF permit pending a final determination on the previously denied permit renewal. On August 31, 2018, CPV submitted applications for the ATV and Title IV permits pursuant to 6 NYCRR Part 201. Pursuant to a subsequent Decision, Order and Judgment of Albany County Supreme Court issued on February 13, 2019, NYSDEC's August 1, 2018 permit expiration determination was vacated, and CPV has been allowed to continue operating pending final administrative resolution of the ASF renewal or until NYSDEC issued a final determination on ATV and AT4 permit applications.

Orange County is designated as being in attainment with respect to the National Ambient Air Quality Standards for all criteria pollutants except for ozone. Based upon the Facility's potential to emit estimates, it is subject to Prevention of Significant Deterioration requirements for emissions of CO, NO_x, PM with a diameter equal to or less than 10 microns, greenhouse gases (GHGs), and sulfuric acid mist.

In accordance with NYSDEC's Nonattainment New Source Review (NNSR) permitting program, the Facility is subject to NNSR for emissions of NO_x and VOCs. CPV has capped emissions of PM with a diameter equal to or less than 2.5 microns to less than the NNSR applicability threshold.

To authorize the continued operation of the Facility, the conditions in the draft Title V and Title IV air permits must ensure conformance with all applicable State and federal air pollution control regulations, including the requirements of 6 NYCRR Parts 201, 225, 227, 231, 242, 243, 244, 245 and 257, as well as all New Source Performance Standards (NSPS) at 40 Code of Federal Regulations (CFR) Part 60. Information regarding the demonstration of the Lowest Achievable

Emission Rate or Best Available Control Technology or both is included within the draft permits prepared by NYSDEC.

Pursuant to the requirements of 6 NYCRR Subpart 231-5, the Facility is subject to NNSR review for NO_x and VOC. Based on the applicability of NNSR, the Facility purchased 216 tons per year (tpy) of NO_x Emission Reduction Credits (ERCs) and 75 tpy of VOC ERCs to comply with the rule. The sources of the ERCs are as follows (below) and have not changed from those in NYSDEC's initial approval.

NO_x: SONY Electronics, Inc. – 216 tpy

VOC: Airbill Industries, Inc. – 17 tpy, S. Walter Packaging Corp. (Uniflex Holdings, Inc.) [DEC ID # 1-2822-00367] – 58 tpy

In accordance with 6 NYCRR Parts 621.7(d)(9) and 201-6.3(c), the Administrator of the United States Environmental Protection Agency (USEPA) has the authority to bar issuance of any Title V Facility Permit if it is determined not to be in compliance with applicable requirements of the Clean Air Act or 6 NYCRR Part 201.

Persons wishing to inspect the subject Title V files, including the application with all relevant supporting materials, the draft permit, and all other materials available to the NYSDEC (the "permitting authority") that are relevant to this permitting decision should contact the NYSDEC representative listed below. The Draft Permit and Permit Review Report may be viewed and printed from NYSDEC's web site at: <https://dec.ny.gov/environmental-protection/air-quality/controlling-pollution-from-facilities/permits-registrations-fees>.

NYSDEC has determined to hold a public comment hearing on the air permit applications and draft permit(s) as further described below. A copy of NYSDEC's permit hearing procedures is available at: <https://dec.ny.gov/regulatory/permits-licenses/environmental-permits/guide-to-permit-hearings>. Written comments can be submitted to NYSDEC by March 10, 2025 as described below.

Pursuant to the requirements of Section 7(2) of the Climate Leadership and Community Protection Act (Climate Act), Chapter 106 of the Laws of 2019, NYSDEC requested and received information regarding the CPV Valley Energy Center's consistency with the Climate Act, including whether the Facility interferes with the attainment of the statewide GHG emissions limits established in article 75 of the Environmental Conservation Law. CPV provided an assessment of additional GHG mitigation measures that could be employed at the Facility immediately upon permit issuance, if it is determined that the Facility is justified and such mitigation measures are necessary to ensure compliance with the Climate Act. Any such measures would be incorporated into the draft ATV and AT4 Permits, pending receipt of any comments during the public comment period.

Pursuant to Section 7(3) of the Climate Act, NYSDEC and other agencies must ensure that its permitting and other administrative decisions do not disproportionately burden Disadvantaged Communities (DAC). NYSDEC has requested and received information from CPV regarding the Facility's potential impact on DACs, as identified pursuant to the Climate Act. It was determined that the Facility has the potential to impact a DAC, and therefore, at NYSDEC's request, CPV submitted a DAC Burden Analysis for review. While CPV asserts that the Facility would not

disproportionately burden any DAC, NYSDEC has not yet made a final determination. Prior to issuing any permits for the Facility, NYSDEC will ensure compliance with the requirements of Climate Act Section 7(3).

While NYSDEC is making the draft ATV and AT4 permits available for public review and comment, no final determination to issue a permit for the Facility has been made. Prior to issuing any final decision(s), NYSDEC will ensure that the project meets the requirements of Section 7(2) and Section 7(3) of the Climate Act, and NYSDEC has yet to make either determination. Additional information may be requested from the Applicant to facilitate making these legally required determinations.

State Environmental Quality Review (SEQR) Determination:

NYS DEC completed its SEQRA review of the Facility in connection with the issuance of the ASF permit in 2013 (ASF Permit ID: 3-3356-00136/00001) noted above, and, as an involved agency, issued a SEQR Findings Statement on July 25, 2013. The Town of Wawayanda Planning Board served as the SEQR lead agency and accepted a Final Environmental Impact Statement (Final EIS) on February 12, 2012. The Final EIS is available as indicated below.

State Historic Preservation Act (SHPA) Determination:

The proposed activity is not subject to review in accordance with SHPA. The application type is exempt and/or the project involves the continuation of an existing operational activity.

Coastal Management:

This project is not located in a Coastal Management area and is not subject to the Waterfront Revitalization and Coastal Resources Act.

Environmental Justice:

It has been determined that the proposed action is subject to CP-29.

Availability of Application Documents:

Filed application documents related to ATV and Title IV air permit applications, and SEQR, are available at: <https://cpv.com/our-projects/cpv-valley-energy-center/archive-documents/>.

Persons wishing to inspect the subject Title V files, including the application with all relevant supporting materials, the draft permit, and all other materials available to the NYSDEC (the "permitting authority") that are relevant to this permitting decision should contact the NYSDEC representative listed below. The Draft Permit and Permit Review Report may be viewed and printed from NYSDEC's web site at: <https://dec.ny.gov/environmental-protection/air-quality/controlling-pollution-from-facilities/permits-registrations-fees>.

Written Comments:

All written comments on the draft ATV and Title IV Acid Rain permit must be submitted to the NYSDEC by March 10, 2025. Comments should be submitted to the DEC using the Smart Comment application available here, <https://nydec.commentinput.com?id=j9pkaH85Z>, or by emailing DEPEnergy@dec.ny.gov.

Public Hearing and Written Public Comment Period:

Two virtual public comment hearings pursuant to 6 NYCRR Part 621 (Uniform Procedures) to receive unsworn comments from the public on the ATV/AT4 applications and draft permits will be held on March 4, 2025 before an Administrative Law Judge (ALJ), beginning at 1:00 p.m. and 6:00 p.m. The hearings will be conducted electronically through the Webex platform.

All persons, organizations, corporations, or government agencies who may be affected by the project are invited to attend the hearing and comment on the ATV/AT4 applications. The ALJ will limit the time available for oral comments to three (3) minutes per person to ensure that all persons have an opportunity to be heard. Attendees wishing to comment on the ATV/AT4 applications at the virtual hearings must register using the link included below no later than 4:00 p.m. on March 4, 2025.

Tuesday, March 4, 2025, 1:00 PM

Registration Link:

<https://meetny.gov.webex.com/weblink/register/rdd1a56543f1f5ef9b75cb19257ada772>

Webinar Number: 2822 312 3448

Webinar Password: Welcome1

Join by phone only: Call 415-527-5035. Enter access code 2822 312 3448 and password 93526631

Tuesday, March 4, 2025, 6 PM

Registration Link:

<https://meetny.gov.webex.com/weblink/register/reff9da2956d7f22c6f674194b8c74937>

Webinar Number: 2824 502 2334

Webinar Password: Welcome1

Join by phone only: Call 415-527-5035. Enter access code 2824 502 2334 and password 93526631

When you register, you will be asked whether you wish to make a public statement. Once registration is complete, you will receive an email confirmation regarding how to join the hearing. All participants will be muted upon entry into the hearing. Speakers will be called in the order they registered, with elected officials being called first. It is recommended that lengthy comments be submitted in writing. Equal weight will be given to both oral and written comments. The hearing will be recorded for inclusion in the record.

Language interpretation services shall be made available to persons with limited English proficiency, including American Sign Language, at no cost. Requests must be received 10

calendar days before the meeting, but NYSDEC will make every effort to fulfill requests received closer to the hearing date. Requests can be directed to the NYSDEC Division of Communication, Education, and Engagement by mail (address: NYSDEC, 625 Broadway, Albany, New York 12233-4500), e-mail (language@dec.ny.gov), or phone (518) 402-8028.

Written statements and comments on the application are encouraged, and any statements and comments may be filed prior to the hearing, but no later than the deadline for written comments, which is March 10, 2025.

Following the hearing, NYSDEC will determine whether substantive or significant issues have been raised as defined in 6 NYCRR Part 621 Uniform Procedures, and if an adjudicatory public hearing should be scheduled before an administrative law judge. In order to raise substantive and significant issues, written comments expressing objections or opposition to the applications must explain the basis of that opposition and identify the specific grounds which could lead NYSDEC to deny or impose significant permit conditions on the project.

A copy of NYSDEC's permit hearing procedures is available upon request or on NYSDEC's website at: <https://dec.ny.gov/regulatory/permits-licenses/environmental-permits/guide-to-permit-hearings>.

All written filed comments and electronically submitted comments must be received no later than 5:00 p.m. on March 10, 2025.

Contact:

Evan H. Hogan
Division of Environmental Permits
Bureau of Energy Project Management
625 Broadway, 4th Floor
Albany, NY 12233-1750
Phone: (518) 408-4814
E-mail: DEPEnergy@dec.ny.gov
