

personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov). The <http://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center—Public Reading Room, EPA/DC, EPA West, Room 3334; 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Superfund docket is (202) 566-0276.

**FOR FURTHER INFORMATION CONTACT:** Chip Love, phone: (703) 603-0695, e-mail: [love.chip@epa.gov](mailto:love.chip@epa.gov), Construction and Post Construction Management Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology

Innovation (mail code 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** EPA's interim final guidance on *Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites* addresses some of the common issues that may be encountered during the cleanup process and provides recommendations on how ICs can complement other response actions (such as engineered response action components) at a site. This interim final guidance also provides an overview of EPA's policy regarding the roles and responsibilities of the parties involved in the various aspects of planning, implementing, maintaining, and enforcing institutional controls. The guidance is available at <http://www.regulations.gov>. This guidance does not represent a regulation, and is not subject to the formal provisions of the Administrative Procedures Act. However, EPA recognizes the potential importance of this guidance to its Federal, state, local, and tribal partners, to the regulated community, and to the public, and therefore through this Federal Register notice seeks public input on the topics addressed in this interim final guidance and its implementation. This public input opportunity will be available until January 14, 2011.

EPA intends to evaluate whether any changes to the interim final guidance are appropriate and expects to issue a final version of this guidance. For purposes of this Federal Register notice, EPA in particular seeks input on the following:

- Are there ways EPA can better evaluate the capacity, willingness, and financial assurance of state, tribal and local governments to assist with ICs and engineering controls when such controls are necessary at a site?
- What potential barriers exist with respect to state, local, and tribal government involvement with ICs and what tools or possible solutions could EPA promote to improve the awareness of and involvement in IC activities?
- How can site managers better engage and involve affected community stakeholders and local land use decision-makers concerning ICs that may be needed and relied upon to complement other response actions (i.e., engineered response action components) at cleanup sites?
- How can information concerning ICs and the underlying land and/or resource use restrictions be made more

available to local land use decision-makers?

- How can EPA better identify and account for the full life cycle costs of ICs?

EPA intends to accept input on the interim final guidance until January 14, 2011. EPA also intends to fully consider all public input in evaluating whether changes to the interim final guidance are appropriate, and to issue a final version of this guidance.

Dated: November 23, 2010.

**Mathy Stanislaus,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 2010-30111 Filed 11-29-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9234-1]

### Proposed Consent Decree, Clean Air Act Citizen Suit

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

**ACTION:** Notice of Proposed Consent Decree; Request for Public Comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by WildEarth Guardians: *WildEarth Guardians v. Jackson*, Civil Action No. 1:10-cv-01672-RPM (D. CO). On or about July 14, 2010, WildEarth Guardians filed a complaint alleging that EPA Administrator Jackson failed to fulfill a mandatory duty to respond to an administrative petition to object to issuance of air permit No. 96OPMR129 to the Public Service Company of Colorado doing business as Xcel Energy to operate the Pawnee coal-fired power plant in Morgan County, Colorado (the "Pawnee Petition") within the 60 days specified in section 505(b)(2) of the Clean Air Act and asking the court to enter judgment: (i) Declaring that EPA has violated the Clean Air Act by failing to grant or deny the administrative petition; and, (ii) Ordering EPA to grant or deny the administrative petition in accordance with an expeditious schedule prescribed by the Court. On September 1, 2010, WildEarth Guardians filed a first amended complaint alleging that EPA Administrator Jackson failed to fulfill a mandatory duty to respond to administrative petitions to object to the issuance of air permit No. 96OPAD137 to Xcel Energy to operate the Cherokee

coal-fired power plant in Denver, Colorado (the "Cherokee Petition") and air permit No. 960PBO131 to Xcel Energy to operate the Valmont coal-fired power plant in Boulder County, Colorado (the "Valmont Petition"). Under the terms of the proposed consent decree, EPA agrees to: (i) Sign a response to the Pawnee Petition no later than June 30, 2011; (ii) sign a response to the Valmont Petition no later than September 30, 2011; and, (iii) sign a response to the Cherokee Petition no later than October 31, 2011.

**DATES:** Written comments on the proposed consent decree must be received by *December 30, 2010*.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2010-0984, online at <http://www.regulations.gov> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Richard H. Vetter, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone:* (919) 541-2127; *fax number* (919) 541-4991; *e-mail address:* [vetter.rick@epa.gov](mailto:vetter.rick@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Additional Information About the Proposed Consent Decree**

On or about July 14, 2010, WildEarth Guardians, a non-profit conservation organization, filed a complaint in the United States District Court for the District of Colorado (Civil Action No. 1:10-cv-01672-RPM). In the complaint, WildEarth Guardians alleges that EPA has failed to fulfill a mandatory duty to respond to an administrative petition to object to issuance of air permit No. 96OPMR129 to the Colorado Public Service Company, doing business as Xcel Energy for the Pawnee coal-fired power plant in Morgan County, Colorado (the "Pawnee Petition") within the 60 days specified in section 505(b)(2) of the Clean Air Act. On September 1, 2010, WildEarth Guardian

filed a first amended complaint alleging that EPA Administrator Jackson failed to fulfill a mandatory duty to respond to administrative petitions to object to the issuance of air permit No. 960PAD137 to Xcel Energy to operate the Cherokee coal-fired power plant in Denver, Colorado (the "Cherokee Petition") and air permit No. 960PBO131 to Xcel Energy to operate the Valmont coal-fired power plant in Boulder County, Colorado (the "Valmont Petition") within the 60 days specified in section 505(b)(2) of the Clean Air Act.

The EPA and WildEarth Guardians chose to enter into a proposed consent decree to avoid protracted and costly litigation and to preserve judicial resources. Under the terms of the proposed consent decree, EPA is to: (i) Sign a response to the Pawnee Petition no later than June 30, 2011; (ii) sign a response to the Valmont Petition no later than September 30, 2011; and, (iii) sign a response to the Cherokee Petition no later than October 31, 2011.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Clean Air Act. Unless EPA or the Department of Justice determines that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

##### **II. Additional Information About Commenting On the Proposed Consent Decree**

###### *A. How can I get a copy of the consent decree?*

Direct your comments to the official public docket for this action under Docket ID No. EPA-HQ-OGC-2010-0984 which contains a copy of the consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through <http://www.regulations.gov>. You may use the <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number, then select "search."

It is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing online at <http://www.regulations.gov> without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

###### *B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD-ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification,

EPA may not be able to consider your comment.

Use of the <http://www.regulations.gov> Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through <http://www.regulations.gov>, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 23, 2010.

**Richard B. Ossias,**

*Associate General Counsel.*

[FR Doc. 2010-30106 Filed 11-29-10; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9234-5]

### Proposed Consent Decree, Clean Air Act Citizen Suit

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

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or the "Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sierra Club and Kentucky Environmental Foundation (collectively "Plaintiffs") in the United States District Court for the District of Columbia: *Sierra Club, et al. v. Jackson*, No. 10-cv-00889-CKK (D. DC). On May 26, 2010, Plaintiffs filed a complaint alleging that EPA failed to perform nondiscretionary duties, under section 110(k)(2) of the CAA, 42 U.S.C. 7410(k)(2), to take action on certain State Implementation Plan ("SIP") submittals by the State of Kentucky. The proposed consent decree establishes deadlines for EPA to take action.

**DATES:** Written comments on the proposed consent decree must be received by *December 30, 2010*.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2010-0956, online at <http://www.regulations.gov> (EPA's

preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); by mail to EPA Docket Center, Environmental Protection Agency, *Mailcode:* 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

#### FOR FURTHER INFORMATION CONTACT:

Winifred Okoye, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564-5446; fax number (202) 564-5603; e-mail address: [okoye.winifred@epa.gov](mailto:okoye.winifred@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit seeking to compel action by the Administrator to take final action under section 110(k) of the CAA on certain Kentucky SIP submissions. The proposed consent decree requires EPA, on or before April 15, 2011, to sign and thereafter forward within fifteen (15) business days to the Office of Federal Register for review and publication a notice of final action on the Commonwealth of Kentucky's May 27, 2008 SIP submittals titled as follows: (a) Ozone maintenance plan SIP revision for a portion of Greenup County located within the Kentucky portion of the Huntington-Ashland 8-hour ozone 110(a)(1) maintenance area; (b) the Edmonson County 8-hour ozone 110(a)(1) maintenance area; and (c) the Lexington 8-hour ozone 110(a)(1) maintenance area (Fayette and Scott Counties).

The proposed consent decree also requires EPA, on or before March 15, 2012, to sign and thereafter forward within fifteen (15) days to the Office of Federal Register for review and publication a notice of final action on the Commonwealth of Kentucky's June 25, 2008 SIP submittal of a Regional Haze State Implementation Plan.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the

Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

##### II. Additional Information About Commenting on the Proposed Consent Decree

###### A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2010-0956) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through <http://www.regulations.gov>. You may use <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search".

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at <http://www.regulations.gov> without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available