

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: August 26, 2011.

**Patricia Embrey,**

*Acting Associate General Counsel.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9458-3]

### Proposed Settlement Agreement, Clean Air Act Citizen Suit

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

**ACTION:** Notice of proposed settlement agreement; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or the "Act"), notice is hereby given of a proposed settlement agreement to address a lawsuit filed by Sierra Club and WildEarth Guardians in the United States District Court for the Northern District of California: *Sierra Club et al. v. Jackson*, No. 3:10-cv-04060-CRB (N.D. Cal.). On August 10, 2011, Plaintiffs filed a second amended complaint alleging that EPA failed to perform a duty mandated by CAA section 110(c)(1), to promulgate Federal Implementation Plans ("FIPs") within twenty-four (24) months after issuing a finding of failure to submit State Implementation Plans ("SIPs") meeting applicable requirements of CAA section 110(a)(2), for North Dakota, Hawaii, Alaska, Idaho, Oregon, Washington, Maryland, Virginia, Arkansas, Arizona, Florida and Georgia with regard to the 1997 8-hour ozone National Ambient Air Quality Standards ("NAAQS"). In addition, Plaintiffs also alleged that EPA failed to perform a duty mandated by CAA section 110(k)(2), to take final action on the SIP submittals or portions of submittals meeting applicable requirements of CAA section 110(a)(2), submitted by Maryland, Virginia, Arkansas, Oklahoma, Florida, Georgia, Nevada, North Carolina, Tennessee, and Arizona with regard to the 1997 8-hour ozone NAAQS. The proposed settlement

agreement establishes deadlines for EPA to take these actions. In addition, the proposed settlement agreement requires EPA to take action, as appropriate, on a petition for rulemaking filed by the Sierra Club on an issue related to existing SIP provisions.

**DATES:** Written comments on the proposed settlement agreement must be received by *October 3, 2011*.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2011-0722, 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:** Geoffrey L. Wilcox, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564-5601; fax number (202) 564-5603; e-mail address: [wilcox.geoffrey@epa.gov](mailto:wilcox.geoffrey@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Additional Information About the Proposed Settlement Agreement

The proposed settlement agreement would resolve a lawsuit seeking to compel the Administrator to take various actions related to the "infrastructure" SIP submissions of specific states for the 1997 8-hour ozone NAAQS. First, the proposed settlement agreement would require the Administrator either to promulgate a FIP, or to approve a SIP submission from the state in lieu thereof, pursuant to CAA section 110(c)(1), addressing the applicable requirements of section 110(a)(2), for North Dakota, Hawaii, Alaska, Idaho, Oregon, Washington, Maryland, Virginia, Arkansas, Arizona, Florida and Georgia with regard to the 1997 8-hour ozone NAAQS. Second, the proposed settlement agreement would also require the Administrator to take final action pursuant to CAA section 110(k)(2), on the SIP submittals or portions of submittals addressing the applicable requirements of section 110(a)(2), for Maryland, Virginia,

Arkansas, Oklahoma, Florida, Georgia, Nevada, North Carolina, Tennessee, and Arizona with regard to the 1997 8-hour ozone NAAQS.

The proposed settlement agreement provides various dates by which EPA must propose action or take final action with respect to each of these duties, depending upon the state in question and the element or elements of section 110(a)(2) at issue. No later than 15 business days following signature on each notice related to a proposed or final action specified in the proposed settlement agreement, EPA is required to send the notice to the Office of the Federal Register for review and publication in the Federal Register. After EPA fulfills all of its obligations under the agreement to take actions required by section 110(c) or section 110(k) with respect to the various elements of section 110(a)(2) for the respective states, the Plaintiffs agree to file a motion for voluntary dismissal, with prejudice.

In addition to specific actions required by section 110(c)(1) and section 110(k), the proposed settlement agreement obligates EPA to respond to a petition for rulemaking from the Sierra Club concerning existing provisions in SIPs related to excess emissions from sources during periods of startup, shutdown, or malfunction ("SSM") that may be contrary to the CAA and EPA's policies addressing such emissions. The proposed settlement agreement requires EPA either to grant or to deny the petition with respect to the allegedly illegal SSM provisions by a specified date. If EPA grants the petition with respect to a provision, EPA agrees to promulgate either a SIP call pursuant to section 110(k)(5) or an error correction pursuant to section 110(k)(6), as EPA deems appropriate.

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 settlement agreement 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 settlement agreement 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 settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

## II. Additional Information About Commenting on the Proposed Settlement Agreement

### A. How can I get a copy of the settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2011-0722) contains a copy of the proposed settlement agreement. 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 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> website 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: August 26, 2011.

**Patricia Ambrey,**

*Acting, Associate General Counsel.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9458-5]

### Request for Nominations of Experts for the Science Advisory Board's Animal Feeding Operation Emission Review Panel

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

**ACTION:** Notice.

**SUMMARY:** The EPA Science Advisory Board (SAB) Staff Office is requesting

public nominations of technical experts to serve on an expert panel under the auspices of the SAB to conduct a peer review of EPA's development of air emission estimating methodologies for animal feeding operations.

**DATES:** Nominations should be submitted by September 22, 2011 per instructions below.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this Notice and Request for Nominations may contact Mr. Edward Hanlon, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564-2134, or via e-mail at [hanlon.edward@epa.gov](mailto:hanlon.edward@epa.gov).

General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at <http://www.epa.gov/sab>. For questions concerning EPA's air emission estimating methodologies for animal feeding operations, please contact Mr. Larry Elmore of EPA's Office of Air Quality Planning and Standards by phone at (919) 541-5433, or via e-mail at [elmore.larry@epa.gov](mailto:elmore.larry@epa.gov).

### SUPPLEMENTARY INFORMATION:

**Background:** The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization (ERDDAA) Act, codified at 42 U.S.C. 4365 to provide independent scientific and technical advice to the EPA Administrator on the technical basis for EPA actions. The EPA's Office of Air and Radiation (OAR) has requested the SAB to review EPA's draft air emission estimating methodologies (EEMs) for animal feeding operations (AFOs). EPA developed the draft methodologies to address requirements of a voluntary air compliance consent agreement signed in 2005 between EPA and nearly 14,000 broiler, dairy, egg layer, and swine AFO operations. The goals of the agreement are to reduce air pollution, monitor AFO emissions, promote a national consensus on methodologies for estimating emissions from AFOs, and ensure compliance with the requirements of the Clean Air Act (CAA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA).

The pollutants monitored under the agreement include: Ammonia, hydrogen sulfide, particulate matter, and volatile organic compounds. As part of the agreement, EPA is charged with developing EEMs for broiler, dairy, egg layer, and swine AFO sectors. EPA has requested the SAB to provide advice on