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**ENVIRONMENTAL PROTECTION AGENCY
[FRL-9614-3]**

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 between Sierra Club and the U.S. Environmental Protection Agency. On March 2, 2011, Sierra Club submitted to Lisa Jackson, Administrator, United States Environmental Protection Agency (“EPA”) a Notice of intent to sue, pursuant to CAA section 304(b)(2), for alleged failure to make determinations of whether certain areas designated nonattainment for the 1997 8-hour ozone national ambient air quality standard (“8-Hour ozone standard”) have attained that standard, pursuant to section 181(b)(2) of the CAA. Sierra Club’s Notice alleged that EPA failed to perform nondiscretionary duties under the CAA as to whether seven 1997 8-hour ozone areas: 1) Boston-Lawrence-Worcester (Eastern Massachusetts), 2) Chicago-Gary-Lake County (Illinois portion), 3) New York-Northern New Jersey-Long Island (New York, New Jersey, and Connecticut portions), 4) Springfield (Western Massachusetts), 5) St. Louis (Illinois and Missouri portions), 6) Charlotte-Gastonia-Rock Hill (North Carolina and South Carolina portions), and 7) Boston-Manchester-Portsmouth (New Hampshire portion) attained the 1997 8-hour ozone standard by the applicable attainment date. The proposed settlement agreement includes the Parties’ agreement that EPA has taken actions with respect to three of these

areas -- the Boston-Manchester-Portsmouth, Charlotte-Gastonia-Rock Hill, and Chicago-Gary-Lake County areas -- that have rendered moot the allegations in Sierra Club's Notice related to these areas. The proposed settlement agreement establishes deadlines for EPA to make determinations for the remaining four areas: New York-Northern New Jersey-Long Island (NY, NJ, CT) Springfield (Western MA), Boston-Lawrence-Worcester (Eastern MA), and St. Louis (IL, MO).

DATES: Written comments on the proposed settlement agreement must be received by [insert date 30 days after publication date].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2011-1021, online at www.regulations.gov (EPA's preferred method); by e-mail to 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: Kendra Sagoff, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-5591; fax number (202) 564-5603; email address: sagoff.kendra@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

The proposed settlement agreement would avoid a lawsuit seeking to compel the Administrator to take various actions related to whether seven areas: 1) Boston-Lawrence-Worcester (Eastern Massachusetts), 2) Chicago-Gary-Lake County (Illinois portion), 3) New York-Northern New Jersey-Long Island (New York, New Jersey, and Connecticut portions), 4) Springfield (Western Massachusetts), 5) St. Louis (Illinois and Missouri portions), 6) Charlotte-Gastonia-Rock Hill (North Carolina and South Carolina portions), and 7) Boston-Manchester-Portsmouth (New Hampshire portion), which are designated as nonattainment for ozone, attained the 1997 8-hour ozone NAAQS by the applicable attainment date. The proposed settlement agreement states that Sierra Club and EPA have agreed that EPA has taken actions with regard to the Boston-Manchester-Portsmouth, Charlotte-Gastonia-Rock Hill, and Chicago-Gary-Lake County areas, rendering the allegations regarding those areas moot.

The proposed settlement agreement provides various dates by which EPA must propose a determination and make a final determination as to whether each of the four remaining areas listed in the Notice has attained the 1997 8-hour ozone standard by the applicable attainment date. These areas are: New York-Northern New Jersey-Long Island (NY, NJ, CT), Springfield (Western MA), Boston-Lawrence-Worcester (Eastern MA), and St. Louis (IL, MO).

No later than 15 business days following signature on each notice related to a proposed or final determination 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.

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-2011-1021) 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 www.regulations.gov. You may use 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 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 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 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: December 22, 2011.

Patricia Embrey
Acting Associate General Counsel

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