

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7104-2]

Proposed Settlement Agreement**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, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in *Cement Kiln Recycling Coalition v. U.S. Environmental Protection Agency*, No. 99-1457 (D.C. Cir.).

This case concerns a challenge to the rule entitled National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, published in the **Federal Register** at 64 FR 52828 on September 30, 1999. These standards are based on the performance of Maximum Achievable Control Technology (MACT), and implement section 112(d) of the Clean Air Act.

A number of parties, representing different interests of both industrial sources and of the environmental community, sought judicial review of the rule. On July 24, 2001, the United States Court of Appeals for the District of Columbia Circuit granted the Sierra Club's petition for review and vacated the challenged portions of the rule. 255 F. 3d 855. The proposed settlement is between EPA and the Sierra Club and provides that EPA will promulgate final regulations fully compliant with the court's opinion and section 112(d) of the Clean Air Act by June 14, 2005.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

EPA and the other parties to this case also have filed a joint motion with the court requesting that the court stay issuance of its mandate until February 14, 2002 so that EPA may issue interim regulations (i.e. regulations bridging the gap between February 14, 2002 and June 14, 2005) establishing emission standards for hazardous waste combustors, and making certain other amendments relating to implementation of those standards. The joint motion,

and its attachment, set out in detail the steps EPA intends to take should the court grant the motion. Although this joint motion is not a settlement agreement, in order to provide context for the settlement agreement with Sierra Club which is the subject of this notice, we are also making available to the public for comment the joint motion and its attachment.

Copies of the settlement, and the joint motion plus attachment, are available from Phyllis Cochran, (202) 564-5566. Written comments should be sent to Steven Silverman, Office of General Counsel (2366A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and must be submitted on or before December 17, 2001.

Dated: November 1, 2001.

Alan W. Eckert,

Associate General Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6623-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27164).

Draft EISs

ERP No. D-AFS-J65342-00 Rating EC2, Wasatch-Cache National Forest Revised Land and Resource Management Plan, Implementation, several counties, UT and Uinta County, WY.

Summary: EPA expressed environmental concerns associated with user-created trails, and with inadequate protection of areas with wilderness values. These impacts, especially to water quality and biodiversity should be reduced, avoided or mitigated to meet the purpose and need and to protect ecosystem function.

ERP No. D-AFS-L65381-ID Rating EC2, Caribou National Forest Land and Resource Management Plan,

Implementation Revised Forest Plan, Bannock, Bear Lake, Bingham, Bonneville, Caribou, Franklin, Oneida and Power Counties, Cache and Rich Counties, UT, Lincoln County, WY.

Summary: EPA expressed environmental concerns about the inadequacies of the cumulative effects analysis and explanations of environmental consequences among the alternatives, and about the lack of discussion on further selenium impacts.

ERP No. D-AFS-L65389-OR Rating EC2, Shore 'Nuf Timber Sale, Timber Harvesting on the Detroit Ranger District, Willamette National Forest, Linn and Marion Counties, OR

Summary: EPA expressed environmental concerns with the lack of discussion on residual smoke expected to affect downwind communities as well as how the Forest Service (FS) will meet its obligations under the Safe Drinking Water Act. EPA requested that the FS identify a pre-burn action plan, collaborate with local and state agencies to protect water sources, and complete a survey for mollusks and the red tree vole.

ERP No. D-BLM-K65231-CA Rating LO, Northern and Eastern Mojave Planning Area (NEMO), Implementation, California Desert Conservation Area Plan Amendments, Mojave Desert, CA.

Summary: EPA had no objections to the proposed plan amendments, and recommended that BLM provide beneficial use designations for travel routes to be retained in the planning area.

ERP No. D-FHW-B50013-RI Rating EC2, Sakonnet River Bridge Rehabilitation or Replacement Project, Portsmouth & Tiverton, Newport County, RI.

Summary: EPA expressed environmental concerns and asked the FHWA/RIDOT to expand the analysis of stormwater controls, to evaluate means to better control emissions from diesel construction equipment, to consider end of pipe pollution control retrofits for construction equipment and to make sure the project is designed to avoid precluding future commuter rail service to the area.

ERP No. D-FHW-C40154-NY Rating EC2, Interstate 86/Route 15 Interchange and Route 15/Gang Mills Interchange, New Roadway and Ramp Construction, Intersection Reconstruction, New Bridges and Bridge Rehabilitation, Town of Erwin, Steuben County, NY.

Summary: EPA raised environmental concerns regarding indirect impacts to wetlands.

ERP No. D-FHW-E40790-00 Rating EC2, Corridor 19/Interstate 69 Proposed