



ENVIRONMENTAL PROTECTION AGENCY

Proposed Settlement Agreement

[FRL-9915-20-OGC]

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 ("Act"), notice is hereby given of a proposed settlement agreement to address lawsuits filed by WildEarth Guardians and National Parks Conservation Association ("NPCA") (collectively "Petitioners") in the United States Court of Appeals for the Tenth Circuit: WildEarth Guardians v. EPA, No. 13-9520 (10th Cir.) and National Parks Conservation Association v. EPA, No. 13-9525 (10th Cir.). On February 25, 2013, WildEarth Guardians filed a petition for review challenging EPA's approval of the Colorado regional haze SIP. Specifically, WildEarth Guardians challenged EPA's approval of certain BART and reasonable progress determinations for Units 1, 2, and 3 of the Craig Generating Station; Units 1 and 2 of the Comanche Power Station; Boilers 4 and 5 of the Colorado Energy Nations Company, LLLP facility at the Coors Brewery in Golden, Colorado; and the time by which the Colorado regional haze SIP required emission limits to be met at these facilities. On March 1, 2013, NPCA filed a petition for review challenging EPA's approval of the NO_x emission limits for Craig Units 1, 2, and 3. The proposed settlement agreement seeks to resolve all of Petitioners' claims regarding the Craig Generating Station and establishes deadlines for the State of Colorado to submit a SIP revision to EPA and for EPA to take action on that SIP revision.

DATES: Written comments on the proposed settlement agreement must be received by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-

OGC-2014-0580, 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: Matthew C. Marks, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-3276; fax number (202) 564-5603; email address: marks.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

The proposed settlement agreement will resolve lawsuits seeking to overturn EPA's final action approving the Colorado regional haze SIP submitted by the Colorado Department of Public Health and Environment ("CDPHE"), specifically EPA's approval of the requirements related to the Craig Generating Station. 77 FR 76871 (December 31, 2012) ("Final Rule"). The proposed settlement agreement states that, within ten business days of the final effective date of the agreement, EPA will file a motion with the Tenth Circuit, seeking a voluntary remand to EPA of those portions of the Final Rule regarding EPA's approval of the Colorado regional haze SIP relating to Craig Unit 1. The proposed settlement agreement also states that CDPHE intends to submit a proposal to revise its

SIP to EPA no later than July 31, 2015, which will include a determination that the NO_x BART emission limit for Craig Unit 1 is 0.07 lb/MMBtu, calculated on a 30 boiler-operating-day rolling average, and with a compliance deadline of August 31, 2021. The proposed SIP revision will not alter any emission limit or compliance deadline for Craig Unit 2 or 3. If CDPHE determines that it will not be able to submit the proposed SIP revision to EPA by July 31, 2015, or that the terms of the proposed SIP revision will not be in accordance with those set forth in the proposed settlement agreement, then all parties must be notified immediately.

In addition, the proposed settlement agreement states that no later than December 31, 2016, EPA will either take final action on the proposed SIP revision, or take final action on the remanded portion of the Colorado regional haze SIP if CDPHE has not submitted the proposed SIP revision by December 31, 2015. If, however, CDPHE submits a proposed SIP revision that is in accordance with the proposed settlement agreement after December 31, 2015, EPA may, at its election, take final action on that submission by December 31, 2016, rather than taking final action on the remanded portion of the Colorado regional haze SIP. Nothing in the proposed settlement agreement limits or modifies EPA's discretion under the Clean Air Act in any future notice-and-comment rulemaking or otherwise.

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-2014-0580) 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 the 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: August 6, 2014.

Lorie J. Schmidt,
Associate General Counsel.

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