



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2016-0613; FRL-9954-39-OGC]

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 the Center for Biological Diversity, Association of Irrigated Residents, and Sierra Club (Plaintiffs), in the United States District Court for the Northern District of California: *Center For Biological Diversity et al. v. United States Environmental Protection Agency et al*, No. 4:16-cv-01946-SBA (N.D. Cal.). On April 14, 2016, Plaintiffs filed a complaint alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency, and Jared Blumenfeld, in his official capacity as Regional Administrator of the United States Environmental Protection Agency (collectively, “EPA”), failed to perform a nondiscretionary duty to grant or deny within 60 days a petition submitted by Plaintiffs on December 16, 2014, requesting that EPA object to an Authority to Construct/Certificate of Conformity issued by the San Joaquin Valley Air Pollution Control District to the Alon USA—Bakersfield, California Refinery Facility. The proposed settlement agreement would establish two deadlines for EPA to take specified action.

DATES: Written comments on the proposed settlement agreement must be received by

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2016-0613, online at *www.regulations.gov*. For comments submitted at *www.regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA generally will not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Dan Conrad, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-0903; email address: conrad.daniel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

The proposed settlement agreement would resolve a lawsuit filed by the Plaintiffs seeking to compel the Administrator to take actions under CAA section 505(b)(2). Under the terms of

the proposed settlement agreement, EPA would agree to sign its response granting or denying one specified section of the petition filed by Plaintiffs regarding the Alon USA—Bakersfield, California Refinery Facility on or before December 30, 2016. Additionally, EPA would agree to sign its response granting or denying two other specified sections of the petition filed by Plaintiffs regarding the Alon USA—Bakersfield, California Refinery Facility on or before July 31, 2016.

Under the terms of the proposed settlement agreement, EPA would expeditiously deliver notice of EPA’s responses to the Office of the Federal Register for review and publication following signature of each response. In addition, the proposed settlement agreement sets out a framework for resolving any request for costs of litigation, including attorney fees.

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 are 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 agreement 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 settlement 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-

2016-0613) 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 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, confidential business information (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 such 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: October 15, 2016.

Gautam Srinivasan

Acting Associate General Counsel

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