

1303, 02–1304, and 02–1325) (D.C. Cir.). On or about September 18, 2002, and thereafter, Petitioners filed petitions for review challenging EPA's interpretation of the sufficiency monitoring rules under the Act's Title V operating permits program, 40 CFR 70.6(c)(1) and 71.6(c)(1), as stated in the preamble to an interim final rule published on September 17, 2002 (67 FR 58529), and challenging EPA's State and Federal operating permits program rules in 40 CFR parts 70 and 71, as interpreted. Under the terms of the proposed settlement agreement, Petitioners and EPA (collectively, the "Parties") will promptly file a stipulation for dismissal of the petitions for review if EPA takes final action: (1) Declining to adopt the proposed revision to the text of §§ 70.6(c)(1) and 71.6(c)(1) published on September 17, 2002 (67 FR 58561); and (2) indicating that notwithstanding the recitation in §§ 70.6(c)(1) and 71.6(c)(1) of monitoring as a permit element, EPA has determined that the correct interpretation of §§ 70.6(c)(1) and 71.6(c)(1) is that these provisions do not establish a separate regulatory standard or basis for requiring or authorizing review and enhancement of existing monitoring independent of any review and enhancement as may be required under 40 CFR 70.6(a)(3) and 71.6(a)(3). EPA also has indicated that it does not intend in such final action "to address what constitutes a "gap" under [sections] 70.6(a)(3)(i)(B) and 71.6(a)(3)(i)(B) or criteria for how that "gap" should be filled."

DATES: Written comments on the proposed settlement agreement must be received by December 22, 2003.

ADDRESSES: Submit your comments, identified by docket ID number OGC–2003–0005, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to oei.docket@epa.gov; mailed 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 B102, 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 Wordperfect 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: Kerry E. Rodgers, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 564–5671.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement Agreement

Title V of the Clean Air Act requires major stationary sources of air pollution to obtain comprehensive operating permits that assure compliance with applicable requirements under the Act. EPA's regulations in 40 CFR parts 70 and 71 establish minimum requirements for State and Federal Title V operating permits programs, which include monitoring requirements. Petitioners in these consolidated cases challenged EPA's interpretation of the Title V sufficiency monitoring rules, §§ 70.6(c)(1) and 71.6(c)(1), as stated in the preamble to an interim final rule published on September 17, 2002 (67 FR 58529), as well as EPA's State and Federal operating permits program rules in 40 CFR parts 70 and 71, as interpreted.¹ On September 17, 2002, EPA also published a proposed rule (67 FR 58561) requesting public comment on the same interpretation as that set forth in the interim final rule.

The proposed settlement agreement provides that within two days of its execution by the Parties, the Parties will file a joint motion notifying the Court of the agreement and requesting that briefing in these cases be suspended and that the cases be held in abeyance pending implementation of the agreement. The proposed settlement agreement further provides that the Parties will promptly file a stipulation for dismissal of the petitions for review if EPA issues a final action: (1) Declining to adopt the proposed revision to the text of §§ 70.6(c)(1) and 71.6(c)(1) published on September 17, 2002 (67 FR 58561); and (2) indicating that notwithstanding the recitation in §§ 70.6(c)(1) and 71.6(c)(1) of monitoring as a permit element, EPA has determined that the correct interpretation of §§ 70.6(c)(1) and 71.6(c)(1) is that these provisions do not establish a separate regulatory standard or basis for requiring or authorizing review and enhancement of existing monitoring independent of any review and enhancement as may be required under §§ 70.6(a)(3) and 71.6(a)(3). EPA also has indicated that it does not intend in such final action "to address what constitutes a 'gap' under [sections] 70.6(a)(3)(i)(B) and 71.6(a)(3)(i)(B) or criteria for how that 'gap' should be filled."

¹ Case No. 02–1304 did not raise this second challenge.

Under the proposed settlement agreement, if EPA does not issue such final action by January 15, 2004, or if EPA otherwise fails to comply with the terms of the proposed settlement agreement, Petitioners may request that the Court lift the stay and establish a schedule for briefing and argument in these cases and EPA will join Petitioners in a motion making that request. Petitioners will not challenge any final action that is the same in substance as items (1) and (2) above, although Petitioners reserve any rights they may have to challenge any portion of such final action that is not the same in substance.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive 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 determine, based on any comment which may be submitted, that consent to the 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?

EPA has established an official public docket for this action under Docket ID No. OGC–2003–0005 which contains a copy of the 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 B102, 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 EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents