

proposed settlement agreement, EPA would publish a proposed rulemaking by September 30, 2004 and a final rulemaking by September 30, 2005 setting forth its actions to comply with the remand order.

**DATES:** Written comments on the proposed settlement agreement must be received by January 7, 2004.

**ADDRESSES:** Submit your comments, identified by docket ID number OGC-2003-0006, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto: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:** M. Lea Anderson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. telephone: (202) 564-5571.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Additional Information About the Proposed Settlement**

Pursuant to section 166 of the Clean Air Act, EPA promulgated regulations on October 17, 1998 to prevent significant deterioration of air quality due to emissions of nitrogen oxides. 53 FR 40656. These regulations were challenged, and on March 13, 1990, the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") remanded the regulations to EPA. *Environmental Defense Fund v. EPA*, 898 F.2d 183 (D.C. Cir. 1990). At that time, the court declined to establish a deadline for EPA to act on this remand. *Id.*

The settlement agreement provides, among other things, that: (1) By September 30, 2004, EPA shall sign for publication in the **Federal Register** a notice of proposed rulemaking setting forth its proposed action to fully comply with the Court's remand order in *Environmental Defense Fund v. EPA*, including any proposed regulations necessary to comply with that remand order; (2) By September 30, 2005, EPA shall sign for publication in the **Federal**

**Register** a notice of final rulemaking setting forth its final action to fully comply with the Court's remand order in *Environmental Defense Fund v. EPA*, including any final regulations necessary to comply with that remand order; and (3) EPA shall file quarterly status reports on the Agency's progress.

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 interveners 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-2003-0006 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 of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

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 in EPA's electronic public docket as EPA receives them and 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 EPA's 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.

Your use of EPA's electronic public docket 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