

application for A new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2005.

A copy of the notice of intent is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208-1371. The notice may be viewed on <http://www.ferc.fed.gov> using the "RIMS" link, select "Docket #" and follow the instructions (call (202) 208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

**Magalie R. Salas,**  
Secretary.

[FR Doc. 02-8237 Filed 4-4-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7168-3]

### Proposed Settlement Agreement

**AGENCY:** Environmental Protection Agency.

**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 *Aluminum Association v. U.S. EPA*, No. 00-1211 (D.C. Circuit). This case concerns the National Emission Standard for Hazardous Air Pollutants for Secondary Aluminum Production, 40 CFR part 63, subpart RRR, published at 65 FR 15710 on March 23, 2000. The proposed settlement agreement was lodged with the United States Court of Appeals for the District of Columbia Circuit on April 1, 2002.

**DATES:** Written comments on the proposed settlement agreement must be received by May 6, 2002.

**ADDRESSES:** Written comments should be sent to Timothy D. Backstrom, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. A copy of the proposed settlement agreement is available from Phyllis J. Cochran, (202) 564-7606. A copy of the proposed settlement agreement was also lodged in the case with the Clerk of the United

States Court of Appeals for the District of Columbia Circuit on April 1, 2002.

**SUPPLEMENTARY INFORMATION:** EPA promulgated the National Emission Standard for Hazardous Air Pollutants for Secondary Aluminum Production, 40 CFR Part 63, Subpart RRR, on March 23, 2000. 65 FR 15710. The Aluminum Association filed a timely petition for review and settlement discussions followed.

The proposed settlement agreement provides that some revisions to Subpart RRR will be made by a proposed rule, and some more urgent revisions will be made by a direct final rule. The proposed rule and direct final rule are to be signed by the EPA Administrator by May 10, 2002, and final action on the proposed rule is due by December 13, 2002.

One issue addressed by the settlement agreement is the desire of the Petitioner to allow for different sources within a secondary aluminum facility to be ducted to the same emission controls. The existing rule expressly provides for emission averaging within a secondary aluminum processing unit or SAPU, an affected source which may include multiple emission units. However, due to statutory constraints, the rule does not permit new emission units to be included in the same SAPU with existing emission units. The amendments to be proposed address this issue in two ways: (1) By permitting existing emission units to be redesignated as new, and (2) by establishing criteria which would permit compliance demonstrations for other commonly ducted units.

The proposed rule also includes alternative procedures for adoption of an operation, maintenance, and monitoring (OM&M) plan, and technical amendments addressing compliance by unvented in-line flux boxes, compliance by sidewall furnaces, procedures for conducting performance tests, alternative monitoring methods, and recordkeeping for flux boxes which do not use reactive flux. The direct final rule will be used to resolve confusion in the structure of the current rule concerning compliance dates, and to defer a few early compliance obligations which would otherwise come due before the principal rulemaking process can be concluded.

For a period of thirty (30) days following the date of publication of this notice, EPA 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.

Dated: April 1, 2002.

**Alan W. Eckert,**

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 02-8297 Filed 4-4-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7168-5]

### Operating Permits Program; Notice of Location of Response Letters to Citizens Concerning Program Deficiencies in Texas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The EPA is adding a letter to its web site which responds to citizens' comments on alleged deficiencies in the Texas air operating permits programs. The citizen comments were submitted to EPA as a result of a 90-day comment period EPA provided for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs required by title V of the Clean Air Act (Act). The 90-day comment period was from December 11, 2000, until March 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jeff Herring, C304-04, Information Transfer and Program Integration Division, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711. Telephone: 919-541-3195. Internet address: [herring.jeff@epa.gov](mailto:herring.jeff@epa.gov).

**SUPPLEMENTARY INFORMATION:** On December 11, 2000 (65 FR 77376), EPA announced a 90-day comment period during which the public could submit comments identifying deficiencies they perceived to exist in State and local agency operating permits programs required by title V of the Act. The 90-day comment period ended on March 12, 2001.

The December 11, 2000 notice solicited comment from the public regarding either deficiencies in the elements of the approved program, such

as deficiencies in the States' approved regulations, or deficiencies in how a permitting authority was implementing its program. The Agency indicated that it would consider information received from the public and determine whether it agreed or disagreed with the purported deficiencies and would then publish notices of those findings. Where the Agency agreed that a claimed shortcoming constituted a deficiency, it indicated it would issue a notice of deficiency. Where the Agency disagreed as to the existence of a deficiency, it indicated it would respond to the citizen comments by December 1, 2001, for comments on programs granted interim approval as of December 11, 2000. For programs granted full approval as of December 11, 2000, EPA indicated it would respond to citizen comments by April 1, 2002.

In accordance with the procedures set forth in the December 11, 2000, notice and outlined above, EPA issued a notice of deficiency for Texas in connection with the citizen comment letters submitted pursuant to the December 11, 2000, notice (see 67 FR 732, January 7, 2002). The State of Texas must adopt appropriate corrections to its title V program and submit them to EPA for approval within the timeframes set out in the notice of deficiency or face highway and/or offsets sanctions under section 179(b) of the Act<sup>1</sup> and implementation of a whole or partial Federal operating permits program under part 71 if it fails to do so.

Also in accordance with the December 11, 2000, notice, EPA has issued Agency response letters to citizen comments which explain EPA's reasoning in those instances where the Agency disagrees that particular alleged problems constitute deficiencies within the meaning of part 70. The EPA hereby notifies the public that an EPA letter responding to citizen allegations concerning Texas is available at the following web address: (<http://www.epa.gov/air/oaqps/permits/response/>). In a previously published notice (67 FR 6709, January 13, 2002), EPA alerted the public to this same web site as the location for all EPA response letters that had been signed at that time. The EPA also notes that when it signs additional EPA response letters in the future, it will publish additional notices of availability to identify the location of its web site containing those letters.

The EPA notes further that the terms "deficiency" and "notice of deficiency" are terms of art under the operating permits regulations in part 70. Thus, as

explained in our letters responding to citizen comments, in some instances where EPA declined to issue a notice of deficiency, it was because the Agency disagreed that there was a problem with the State program or its implementation that requires correction. In other instances, however, EPA agreed in whole or in part with commenters that a program was not being properly implemented but nevertheless did not issue a notice of deficiency. Rather, EPA determined that the alleged deficiency had been corrected because the State had made a firm commitment to correct program implementation shortcomings where that could be accomplished on a timely basis by the State administratively without additional rulemaking or legislation.

### Background

Pursuant to section 502(b) of the Act, EPA has promulgated regulations establishing the minimum requirements for State and local air agency operating permits programs. We promulgated these regulations on July 21, 1992 (57 FR 32250), in part 70 of title 40, chapter I, of the Code of Federal Regulations. Section 502(d) of the Act requires each State to develop and submit to EPA an operating permits program meeting the requirements of the part 70 regulations and requires us to approve or disapprove the submitted program. In some cases, States have delegated authority to local city, county, or district air pollution control agencies to administer operating permits programs in their jurisdictions. These operating permits programs must meet the same requirements as the State programs. In accordance with section 502(g) of the Act and 40 CFR section 70.4(d), for 99 State and local operating permits programs, we granted "interim" rather than full approval because the programs substantially met, but did not fully meet, the provisions of part 70. For interim approved programs, we identified in the notice of interim approval those program deficiencies that would have to be corrected before we could grant the program full approval. As of December 11, 2000, some of those 99 programs had since been granted full approval and the remainder still had interim approval status.

After a State or local permitting program is granted full or interim approval, EPA has oversight of the program to insure that the program is implemented correctly and is not changed in an unacceptable manner. Section 70.4(i) of the part 70 regulations requires permitting authorities to keep us apprised of any proposed program

modifications and also to submit any program modifications to us for approval. Section 70.10(b) requires any approved operating permits program to be implemented " \* \* \* in accordance with the requirements of this part and of any agreement between the State and the Administrator concerning operation of the program."

Furthermore, sections 70.4(i) and 70.10(b) provide authority for us to require permitting authorities to correct program or implementation deficiencies. As explained previously, EPA has exercised these authorities by in some instances issuing notices of deficiency and in other instances issuing letters explaining why we do not agree that deficiencies exist.

### Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of EPA's action responding to the citizen letter on Texas' operating permits programs may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of April 5, 2002.

Dated: March 25, 2002.

**Robert G. Kella,**

*Acting Director, Information Transfer and Program Integration Division.*

[FR Doc. 02-8299 Filed 4-4-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6627-9]

### Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564-7167 or [www.epa.gov/oeca/ofa](http://www.epa.gov/oeca/ofa)  
Weekly receipt of Environmental Impact Statements

Filed March 25, 2002 Through March 29, 2002

Pursuant to 40 CFR 1506.9.

*EIS No. 020121, Draft Supplement, NOA, Regulatory Adjustment 2 to the Atlantic Tunas, Swordfish, and Sharks Fishery Management Plan, Proposed Rule to Reduce Sea Turtle Bycatch and Bycatch Mortality in Highly Migratory Species Fisheries, Comment Period Ends: May 20, 2002, Contact: Christopher Rogers (301) 713-2347.*

This document is available on the Internet at: (<http://www.nmfs.noaa.gov/sfa/hmspg.html>).

*EIS No. 020122, Draft Supplement, NPS, NV, Great Basin National Park (GRBA) Amendment to the General Management Plan (GMP), Proposal to*

<sup>1</sup> The EPA is in the process of promulgating a rule which will address the order of sanctions.