

Counsel, phone 202-502-8947, e-mail: [gordon.wagner@ferc.gov](mailto:gordon.wagner@ferc.gov).

**Magalie R. Salas,**  
Secretary.

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7555-1]

### Proposed Consent Decree, Clean Air Act Citizen Suit

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

**ACTION:** Notice of proposed Consent Decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed Consent Decree. On August 15, 2003, Environmental Defense filed a complaint pursuant to section 304(a) of the Act, 42 U.S.C. 7604(a), alleging that the Environmental Protection Agency had failed to meet its mandatory duty to promulgate guidelines and requirements for Best Available Retrofit Technology ("BART") for certain major stationary sources. *Environmental Defense v. Marianne Lamont Horinko*, No. 1:03CV01737 RMU (D.D.C.). On August 19, 2003, the United States Environmental Protection Agency lodged the proposed Consent Decree with the United States District Court for the District of Columbia Circuit. The proposed Consent Decree establishes a time frame for EPA to promulgate the BART regulations and guidelines.

**DATES:** Written comments on the Proposed Consent decree must be received by October 8, 2003.

**ADDRESSES:** Written comments should be sent to 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. Copies of the proposed Consent Decree are available from Phyllis J. Cochran, (202) 564-5566.

#### SUPPLEMENTARY INFORMATION:

Environmental Defense alleges that EPA failed to promulgate BART regulations and guidelines by the Congressionally-enacted deadline.

Pursuant to sections 169A and 169B of the Clean Air Act, EPA promulgated regulations on July 1, 1999 to protect visibility in Federal Class I areas. 64 FR 35714 ("regional haze rule"). In addition, pursuant to section 169A(b),

EPA proposed to promulgate guidelines for the implementation of the BART requirements of the regional haze rule on July 20, 2001, 66 FR 38108, but has not published final guidelines. The regional haze rule was challenged, and on May 24, 2002, the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") vacated and remanded to EPA the BART provisions of the regional haze rule. *American Corn Growers Assoc. v. EPA*, 291 F.3d 1 (D.C. Cir. 2002).

Section 169B(e) of the CAA provides that EPA must carry out its regulatory responsibilities under section 169A of the Act to promulgate regulations to protect visibility by December 10, 1997.<sup>1</sup> These regulations must require each applicable implementation plan to contain measures to assure reasonable progress toward the national visibility goal, including requirements that certain major stationary sources procure, install, and operate BART. CAA section 169A(b)(2). The CAA also requires EPA to provide guidelines to the States on the implementation of the visibility program, including guidelines for the determination of BART emission limits for fossil-fuel fired generating plants with a total generating capacity in excess of 750 megawatts. CAA section 169A(b).

The Consent Decree provides that EPA will sign a notice of proposed rulemaking setting forth its proposed BART regulations and guidelines no later than April 15, 2004. It further provides that EPA will submit the notice of proposed rulemaking to the Office of Federal Register no later than five days following signature. The Decree also provides that EPA shall sign a final notice of rulemaking setting forth its BART regulations and guidelines no later than April 15, 2005, and that EPA will submit the notice of final rulemaking to the Office of Federal Register no later than five days following signature.

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 Consent Decree 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 Consent Decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or

<sup>1</sup> Section 169B(e)(1) of the CAA requires EPA to issue regional haze rules within 18 months of the receipt of the final report of the Grand Canyon Visibility Transport Commission. This report was received by EPA on June 10, 1996.

inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, following the comment period, that consent is inappropriate, the Consent Decree will be final.

Dated: August 22, 2003.

**Lisa K. Friedman,**  
Associate General Counsel.

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7554-7]

### Control of Emissions From New Highway Vehicles and Engines

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

**ACTION:** Notice of denial of petition for rulemaking.

**SUMMARY:** A group of organizations petitioned EPA to regulate emissions of carbon dioxide and other greenhouse gases from motor vehicles under the Clean Air Act. For the reasons set forth in this notice, EPA is denying the petition.

**EFFECTIVE DATE:** September 8, 2003.

**ADDRESSES:** Information relevant to this action is contained in Docket No. A-2000-04 at the EPA Docket Center, Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. Dockets may be inspected at this location from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on Government holidays. You can reach the Air Docket by telephone at (202) 566-1742 and by facsimile at (202) 566-1741. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

**FOR FURTHER INFORMATION CONTACT:** Chitra Kumar, Office of Air and Radiation, (202) 564-1389.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 20, 1999, the International Center for Technology Assessment (ICTA) and a number of other organizations<sup>1</sup> petitioned EPA to

<sup>1</sup> Alliance for Sustainable Communities, Applied Power Technologies, Bio Fuels America, California Solar Energy Industries Association, Clements Environmental Corporation, Environmental Advocates, Environmental and Energy Study Institute, Friends of the Earth, Full Circle Energy Project, Green Party of Rhode Island, Greenpeace USA, Network for Environmental and Economic Responsibility of the United Church of Christ, New Jersey Environmental Watch, New Mexico Solar