n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–201 Filed 2–5–04; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7619–2]**

## Proposed Settlement Agreement, Clean Air Act Petitions For Review

**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 (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address one of four issues briefed in lawsuits filed by Sierra Club and Georgia ForestWatch (collectively, ''Petitioners''): *Sierra Club* v. *Leavitt,* Nos. 03–10262–F & 03–10263–F, and *Georgia ForestWatch* v. *Leavitt,* Nos. 03–10264–F and 03–10265–F (11th Cir.) (consolidated). On or about January 16, 2003, Petitioners filed petitions for review of four orders in which the Administrator denied Petitioners' administrative petitions requesting that EPA object to operating permits issued by the Georgia Department of Natural Resources, Environmental Protection Division (''Georgia EPD''), under title V of the Act for four facilities in Georgia. The petitions for review, which have been consolidated, seek a court order requiring EPA to object to the permits based on Petitioners' allegations that the permits fail to comply with aspects of Georgia's title V program, the Act and EPA's title V implementing regulations. One of Petitioners' allegations is that EPA was required to object to the title V operating permit issued by Georgia EPD for the Monroe Power facility in Monroe (Walton County), Georgia, because the permit contains inadequate monitoring for carbon monoxide. Under the terms of the proposed settlement agreement, EPA and Petitioners (collectively, the ''Parties'') jointly would request that the court stay the oral argument (scheduled for January 29, 2004) and hold the consolidated cases in abeyance while Georgia EPD proposes to reopen and revise the Monroe Power title V permit to require continuous monitoring of carbon monoxide emissions from two combustion turbines and to include certain related requirements. If the permit were revised consistent with the draft permit revisions attached to the proposed settlement agreement, the Parties jointly would notify the court that their dispute concerning the Monroe Power carbon monoxide monitoring issue had been resolved and would ask that the court set a date for oral argument on the remaining issues in the consolidated cases.

**DATES:** Written comments on the proposed settlement agreement must be received by March 8, 2004.

**ADDRESSES:** Submit your comments, identified by docket ID number OGC–2004–0002, 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

On or about January 16, 2003, Petitioners filed four petitions for review with the U.S. Court of Appeals for the Eleventh Circuit challenging four orders in which the Administrator of the EPA denied administrative petitions filed by Sierra Club and Georgia ForestWatch. The administrative petitions asked the Administrator to object to operating permits issued by the Georgia Department of Natural Resources, Environmental Protection Division (''Georgia EPD''), pursuant to title V of the Clean Air Act (''Act''), 42 U.S.C. 7661–7661f, for four facilities in Georgia: (1) King America Finishing, Inc.; (2) Monroe Power Company; (3) Shaw Industries, Inc., Plant No. 2; and (4) Shaw Industries, Inc., Plant No. 80 (collectively, ''Shaw'').[1] The petitions for review asked the court to order EPA to object to the permits based on Petitioners' allegations that the permits violate aspects of Georgia's title V operating permits program and fail to meet certain requirements of the Act and EPA's title V implementing regulations at 40 CFR part 70. Specifically, Petitioners sought to require EPA to object to the permits issued to King Finishing, Monroe Power and Shaw based on the State's requirements for reporting monitoring results and the content of the State's public notices of draft permits. Sierra Club also sought to require EPA to object to the King Finishing permit because Georgia EPD did not use a mailing list as one of several means of providing public notice of the draft permit. Finally, Sierra Club sought to require EPA to object to the Monroe Power permit based on allegations that the permit contains inadequate monitoring requirements for carbon monoxide (''CO'') emissions from two combustion turbines. The permit relies on continuous monitoring of nitrogen

[1] EPA published notice of the orders at 67 FR 69739, 69740 (November 19, 2002), and at 67 FR 79610, 79611 (December 30, 2002). The orders are available at: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2001.htm.*

oxides (''$NO_X$'') as a surrogate for CO, rather than direct monitoring of CO. In an order signed on October 9, 2002, the Administrator found that this approach complies with the Act and therefore denied Sierra Club's administrative petition for an objection to the Monroe Power permit based on the adequacy of the CO monitoring requirements.

The proposed settlement agreement only concerns the Parties' dispute over the adequacy of the CO monitoring requirements in the Monroe Power permit. It does not address the other issues in the consolidated cases. Under the proposed settlement agreement, the Parties jointly would request that the court stay the oral argument (scheduled for January 29, 2004) and hold the consolidated cases in abeyance while Georgia EPD proposes to reopen and revise the title V operating permit issued for the Monroe Power facility in Monroe (Walton County), Georgia, to require continuous monitoring of CO emissions and to include certain related requirements as set forth in the draft permit revisions attached to the proposed settlement agreement.[2] Petitioners could ask the court to lift the stay if certain events specified in the proposed settlement agreement occur (*e.g.*, if Georgia EPD did not propose the draft permit revisions within a certain time) and the Parties could not resolve their dispute through mediation. If the permit were revised consistent with the draft permit revisions attached to the proposed settlement agreement, the Parties jointly would notify the court that their dispute concerning the Monroe Power CO monitoring issue had been resolved and would ask that the court set a new date for oral argument on the remaining issues in the consolidated cases. The proposed settlement agreement would reserve Petitioners' right to seek attorneys' fees from the court.

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.

[2] The Parties filed a ''Joint Motion To Stay Proceedings Pending Settlement Discussions'' on January 13, 2004. In an order dated January 14, 2004, U.S. Circuit Judge R. Lanier Anderson granted the joint motion and directed EPA to file monthly status reports every thirty (30) days beginning February 17, 2004.

## II. Additional Information About Commenting on the Proposed Settlement

### *A. How Can I Get a Copy of the Settlement?*

EPA has established an official public docket for this action under Docket ID No. OGC–2004–0002 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 through EPA's electronic public docket, 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: January 28, 2004.

**Lisa K. Friedman,**

*Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.*

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