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## **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OGC-2016-0642; FRL 9956-69-OGC]**

### **Proposed Settlement Agreement, Clean Air Act Citizen Suit**

**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 (“CAA”), notice is hereby given of a proposed settlement agreement to settle a lawsuit filed by American Chemistry Council (“Petitioner”), in the United States Court of Appeals for the D.C. Circuit: American Chemistry Council v. EPA (Case Number 15-1146). On May 18, 2015, Petitioner and Eastman Chemical Company (“Eastman”) filed petitions for review of an EPA rule titled “National Emission Standards for Hazardous Air Pollutants for Major Sources: Off-Site Waste Recovery Operations,” published in the Federal Register on March 18, 2015 (the “Final Rule”). The proposed settlement agreement would establish deadlines for EPA to take specified actions.

**DATES:** Written comments on the proposed settlement agreement must be received by [INSERT DATE 30 DAYS AFTER PUBLICATION DATE].

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2016-0642, online at [www.regulations.gov](http://www.regulations.gov). For comments submitted at [www.regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (“CBI”) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish

to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Emily Seidman, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-0906; fax number (202) 564-5603; email address: [seidman.emily@epa.gov](mailto:seidman.emily@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Additional information about the proposed settlement agreement.**

On May 18, 2015, Petitioner and Eastman filed petitions for review of an EPA rule titled “National Emission Standards for Hazardous Air Pollutants for Major Sources: Off-Site Waste Recovery Operations,” published at 80 FR 14,248 (March 18, 2015) (the “Final Rule”). In addition, Petitioner and Eastman submitted to the EPA a Petition for Reconsideration of the Final Rule of two issues: (1) equipment leak detection provisions for connectors; and (2) monitoring requirements for pressure relief devices (“PRD”) on portable containers. The EPA granted the request for reconsideration of the Final Rule on the issue of PRD monitoring requirements for portable containers but denied the request for reconsideration of the equipment leak detection provisions for connectors. The EPA provided public notice of this denial through a Federal Register notice published on May 16, 2016 at 81 FR 30,182. On September 26, 2016, Eastman filed an unopposed motion for voluntary dismissal which the court granted.

The proposed settlement agreement would settle Petitioner's lawsuit. Under the terms of the proposed settlement agreement, the EPA will reconsider the Final Rule's provisions relating to PRDs and take an initial action no later than July 20, 2017 and a final action no later than January 18, 2018, as long as Petitioner provides the EPA with the requested data on PRDs identified in Appendix A of the settlement agreement by no later than October 28, 2016, or a later date, as provided for in the settlement agreement. Please review the settlement agreement for additional details, available in the public docket at EPA-HQ-OGC-2016-0642.

For a period of 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 determines that consent to the agreement should be withdrawn or withheld, 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 Proposed Settlement Agreement?*

The official public docket for this action under Docket ID No. EPA-HQ-OGC-2016-0642 contains a copy of the proposed 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 3334, 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 [www.regulations.gov](http://www.regulations.gov). You may use the [www.regulations.gov](http://www.regulations.gov) 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, key in the appropriate docket identification number then select “search”.

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 online at [www.regulations.gov](http://www.regulations.gov) 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 the 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.

Use of the [www.regulations.gov](http://www.regulations.gov) website 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 [www.regulations.gov](http://www.regulations.gov), 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: December 7, 2016.

Lorie J. Schmidt  
Associate General Counsel  
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