



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2024-0112; FRL-11804-01-OGC]

Proposed Settlement Agreement, Petition for Writ of Mandamus

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: Notice is given of a proposed settlement agreement to address a petition for writ of mandamus filed by the Ecology Center, the Center for Environmental Health, United Parents Against Lead & Other Environmental Hazards, and the Sierra Club (collectively, “Petitioners”) in the United States Court of Appeals for the Ninth Circuit: *Ecology Center, et al. v. U.S. EPA*, No. 23-70158 (9th Cir.). Petitioners filed a petition for writ of mandamus on August 22, 2023, requesting that the Ninth Circuit direct the Environmental Protection Agency (EPA) to “conclude a rulemaking under [TSCA] regulating lead wheel weights within six months.” The mandamus petition alleges that EPA’s 14-year delay violated the APA’s requirement that a Federal agency “conclude a matter presented to it . . . within a reasonable time,” and that the court has the authority to “compel agency action unlawfully withheld or unreasonably delayed.” EPA is providing notice of this proposed settlement agreement, which would resolve all claims in the case by establishing deadlines for EPA to take final action.

DATES: Written comments on the proposed settlement agreement must be received by

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2024-0112, online at <https://www.regulations.gov> (EPA’s preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action.

Comments received may be posted without change to <https://www.regulations.gov>, including any

personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Additional Information about Commenting on the Proposed Settlement Agreement” heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alyssa Gsell, Pesticides and Toxic Substances Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (202) 564-7413; email address Gsell.Alyssa@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Settlement Agreement

The official public docket for this action (Docket ID No. EPA-HQ-OGC-2024-0112) 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.

The electronic version of the public docket for this action contains a copy of the proposed settlement agreement and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and 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.”

II. Additional Information about the Proposed Settlement Agreement

In 2009, Petitioners petitioned EPA under the Toxic Substances Control Act (“TSCA”) section 21, requesting that EPA regulate lead wheel weights. EPA granted the 2009 Petition but did not issue either an Advanced Notice of Proposed Rulemaking or a Proposed Rule.

On August 22, 2023, Petitioners filed a petition for writ of mandamus requesting that the Ninth Circuit direct EPA to “conclude a rulemaking under [TSCA] regulating lead wheel weights within six months.” The mandamus petition alleged that EPA’s 14-year delay violated the APA’s requirement that a Federal agency “conclude a matter presented to it . . . within a reasonable time,” 5 U.S.C. 555(b), and that the court had authority to “compel agency action unlawfully withheld or unreasonably delayed.” *Id.* sec. 706.

In accordance with the EPA’s “Consent Decrees and Settlement Agreements to Resolve Environmental Claims Against the Agency” (March 18, 2022), for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to a proposed settlement agreement for these claims. 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, or inadequate.

III. Additional Information about Commenting on the Proposed Settlement Agreement

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2024-0112, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA’s docket at <https://www.regulations.gov> 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. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about

submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

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. 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 <https://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.

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.

Randolph L. Hill,
Associate General Counsel.