



ENVIRONMENTAL PROTECTION AGENCY

[FRL 9920-79-OGC]

Proposed Settlement Agreement

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"), notice is hereby given of a proposed settlement agreement to address lawsuits filed by Oxy Vinyls, LP; The Vinyl Institute, Inc. ("Vinyl Institute"); PolyOne Corp. (now, Mexichem Specialty Resins, Inc.); Saint-Gobain Corp. and CertainTeed Corp. (collectively "Petitioners") in the United States Court of Appeals for the District of Columbia Circuit (Case Nos. 12-1260, 12-1265, 12-1266, and 12-1267). Between June 14, 2012 and June 18, 2012, Petitioners filed petitions for review of EPA's final rule entitled "National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production," (April 17, 2012). The proposed settlement agreement establishes deadlines for EPA to take 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 number EPA-HQ-OGC-2014-0899, online at www.regulations.gov (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail 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 3334, 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 Word 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: Mark M. Kataoka, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-5584; fax number (202) 564-5603; email address: kataoka.mark@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

The proposed settlement agreement will partially resolve lawsuits seeking review of EPA's final rule entitled "National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production," 77 FR 22848, April 17, 2012, ("PVC NESHAP" or "2012 Rule). On June 18, 2012, Petitioner Vinyl Institute and others petitioned for reconsideration and to stay the 2012 Rule pending reconsideration with EPA, and on September 28, 2012, EPA granted administrative reconsideration of the 2012 Rule on at least Petitioners' claims that the public was not afforded a reasonable opportunity to comment on emission limits in the final 2012 Rule for process wastewater. The proposed settlement agreement states that no later than January 21, 2015, EPA will sign a direct final rule and parallel proposal withdrawing the total non-vinyl chloride organic hazardous air pollutant ("TOHAP") process wastewater emission limits for new and existing area sources. The proposed settlement agreement provides that to the extent that EPA establishes new TOHAP process wastewater emission limits for existing and new area sources, those emission

limits will be set pursuant to the reconsideration process or other separate rulemaking, and not through the direct final or final rule described in the settlement agreement. Under the proposed settlement agreement, if EPA receives adverse comments on and withdraws the direct final rule, EPA will make its best efforts to sign a notice taking final action on the parallel proposal within 15 days of the close of the comment period. In addition, the proposed settlement agreement states that Oxy Vinyls, LP will move to dismiss its petition for review, and the remaining Petitioners will move to dismiss the issue of the existing and new area source TOHAP process wastewater emission limits from their petitions for review within 7 days following the effective date of the direct final rule or a final rule withdrawing the existing and new area source TOHAP process wastewater limits. Nothing in the proposed settlement agreement limits or modifies EPA's discretion under the Clean Air Act in either the related direct final rulemaking process or otherwise.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept 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 this settlement agreement should be withdrawn, 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 Settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2014-0899) 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. You may use the 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 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 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, 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 15, 2014.

Lorie J. Schmidt,
Associate General Counsel.

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