

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. RM98-1-000]

**Regulations Governing Off-the-Record Communications; Public Notice**

November 21, 2000.

This constitutes notice, in accordance with 18 CFR 385.220(h), of the receipt of exempt and prohibited off-the-record communications.

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days.

None were received.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00-30209 Filed 11-27-00; 8:45 am]

**BILLING CODE 6717-01-M**

**ENVIRONMENTAL PROTECTION AGENCY****Proposed Settlement Agreements**

**AGENCY:** Environmental Protection Agency.

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

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of proposed settlement agreements in *American Chemistry Council, et al. v. EPA*, No. 94-1359 and consolidated cases (D.C. Cir.), and *National Environmental Development Association's Clean Air Regulatory Project v. EPA*, No. 94-1511 and consolidated cases (D.C. Cir.). These cases concern respectively: (1) the rule establishing General Provisions for Hazardous Air Pollutants issued under Clean Air Act Section 112 (59 FR 12430, March 16, 1994), and (2) the rule establishing procedures for equivalent emission limitations by permit under Clean Air Act Section 112(j) (59 FR 26449, May 20, 1994). The proposed settlement agreements were lodged with the United States Court of Appeals for the District of Columbia Circuit on October 26, 2000.

**DATES:** Written comments on the proposed settlement agreements must be received by December 28, 2000.

**ADDRESSES:** Written comments should be sent to Timothy D. Backstrom, Air and Radiation Law Office (2344A), Office of General Counsel, U.S.

Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. Copies of the proposed settlement agreements are available from Phyllis J. Cochran, (202) 564-7606. Copies of the proposed settlement agreements were also lodged in the respective cases with the Clerk of the United States Court of Appeals for the District of Columbia Circuit on October 26, 2000.

**SUPPLEMENTARY INFORMATION:** In 1994, EPA promulgated a final rule establishing General Provisions for National Emission Standards for Hazardous Air Pollutants issued under Clean Air Act Section 112 (59 FR 12430, March 16, 1994), and a final rule establishing procedures for equivalent emission limitations by permit under Clean Air Act Section 112(j) (59 FR 26449, May 20, 1994). Various businesses and trade associations filed petitions in the D.C. Court of Appeals challenging various aspects of those final rules. These petitions were consolidated in *American Chemistry Council, et al. v. EPA*, No. 94-1359 et al. (includes petitioners American Chemistry Council, Coalition for Clean Air Implementation, General Electric Company, American Petroleum Institute, National Mining Association, and American Forest and Paper Association), and *National Environmental Development Association's Clean Air Regulatory Project v. EPA*, No. 94-1511 et al. (D.C. Cir.) (includes petitioners National Environmental Development Association's Clean Air Regulatory Project, Coalition for Clean Air Implementation, Electronic Industries Clean Air Task Force, American Chemistry Council, and Clean Air Implementation Project).

Thereafter EPA entered into settlement discussions with the various petitioners in these consolidated cases. These discussions continued over a period of years and have now culminated in tentative negotiated settlements in the pending cases. Under the terms of these tentative settlement agreements as lodged with the Circuit Court on October 26, 2000, EPA has agreed to issue a notice of proposed rulemaking to amend the rules in question within four months of the date the agreements were executed. The text of that notice of proposed rulemaking, and of the proposed amendments to the rules, has been agreed to by the parties, and is available upon request.

The proposed amendments include changes responsive to some but not all of the concerns expressed by the petitioners in the associated cases. The

proposed amendments also include a number of revisions to the rules in question deemed otherwise desirable by EPA and agreed to by the petitioners.

The proposed amendments to the General Provisions rule, 40 CFR part 63, subpart A, include revisions addressing the presumptive applicability of the General Provisions to individual Maximum Achievable Control Technology (MACT) standards; the definitions of "affected source" and other terms; prohibited activities and circumvention; preconstruction review; startup, shutdown, and malfunction plans; compliance provisions; monitoring requirements; notification requirements; and recordkeeping and reporting requirements. The proposed amendments to the rule governing equivalent emission limitations by permit under Clean Air Act Section 112(j), 40 CFR part 63, subpart B, §§ 63.50-60.56, include revisions addressing applicability requirements, definitions, the approval process for a section 112(j) determination, the content of a section 112(j) application, preconstruction review, and enforcement liability. The proposed amendments to both regulations also include a number of revisions addressing the relationship between sequential case-by-case MACT determinations under section 112(g) and section 112(j), and the relation between case-by-case MACT determinations and a subsequently promulgated MACT standard issued under section 112(d) or section 112(h).

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement agreements 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 inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, following the comment period, that consent is inappropriate, the settlement agreement will then be executed by the parties.

Dated: November 20, 2000.

**Anna Wolgast,**

*Acting General Counsel.*

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