

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2016-0612; FRL-9954-48-OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of proposed consent decree; 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 consent decree to address a lawsuit filed by Air Alliance Houston, Community In-Power and Development Association, Inc., Louisiana Bucket Brigade and Texas Environmental Justice Advocacy Services (“Plaintiffs”), in the United States District Court for the District of Columbia: *Air Alliance Houston, et al. v. McCarthy*, No. 1:16-cv-01998 (D.D.C.). On October 6, 2016, Plaintiffs filed a complaint that EPA failed to perform nondiscretionary duties under Clean Air Act. Specifically, Plaintiffs allege that EPA failed to review and, if necessary, revise the emissions factor for volatile organic compounds (“VOCs”) from flares at natural gas production facilities at least once every three years. The consent decree would require EPA to propose action by June 5, 2017, and take final action by February 5, 2018.

DATES: Written comments on the proposed consent decree must be received by November 25, 2016.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2016-0612, online at www.regulations.gov. For comments submitted at www.regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from 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: Susan Stahle, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564-1272; fax number (202) 564-5603; email address: stahle.susan@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Additional Information About the Proposed Consent Decree**

The proposed consent decree would settle Plaintiffs’ claims in a deadline suit alleging EPA failed to perform nondiscretionary duties pursuant to CAA section 130 to review, and, if necessary, revise the VOC emission factor for elevated flares and enclosed ground flares at natural gas production sites in the source category entitled “Crude Oil and Natural Gas Production, Transmission and Distribution” (ONG source category) at least once every three years (“Natural Gas VOC emissions factor”). The proposed consent decree would require EPA, by June 5, 2017, to review and either propose revisions to the Natural Gas VOC emissions factor under CAA section 130, or propose a determination under CAA section 130 that revision of the Natural Gas VOC emissions factor is not necessary. The proposed consent decree would also require EPA, by February 5, 2018, to issue final revisions to the Natural Gas VOC emissions factor under CAA section 130, or issue a final determination under CAA section 130 that revision of the Natural Gas VOC emissions factor is not necessary. EPA will post each proposed revision or determination (or combination thereof), and each final revision or determination (or combination thereof), on its AP-42 Web site (located at <https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-compilation-air-emission-factors>) on the dates indicated above. In addition, EPA will provide a copy of each such action to Plaintiffs’ counsel within seven days of posting. Under the proposed consent decree, once EPA has met these obligations, and any claims by Plaintiffs for costs of litigation have been resolved pursuant to the process provided in the proposed consent decree, the court would dismiss the suit with prejudice.

For a period of 30 days following the date of publication of this notice, the

Agency will receive written comments relating to the proposed consent decree 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 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 determines that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action under Docket ID No. EPA-HQ-OGC-2016-0612 contains a copy of the consent decree. 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 email 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* Web site 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, email 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 (email) system is not an "anonymous access" system. If you send an email comment directly to the Docket without going through *www.regulations.gov*, your email 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: October 17, 2016.

Gautam Srinivasan,

Acting Associate General Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9954-44-OLEM]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 128(a); Notice of Grant Funding Guidance for State and Tribal Response Programs for FY2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) will accept requests, from November 1, 2016 through December 31, 2016, for grants to establish and enhance State and Tribal Response Programs. This notice provides guidance on eligibility for funding, use of funding, grant mechanisms and process for awarding funding, the allocation system for distribution of funding, and terms and reporting under these grants. EPA has consulted with state and tribal officials in developing this guidance.

The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements of a response program and establishing a public record. Another goal is to provide funding for other activities that increase the number of response actions conducted or overseen by a state or tribal response program. This funding is not intended to supplant current state or tribal funding for their response programs. Instead, it is to supplement their funding to increase their response capacity.

For fiscal year 2017, EPA will consider funding requests up to a maximum of \$1.0 million per state or tribe. Subject to the availability of funds, EPA regional personnel will be available to provide technical assistance to states and tribes as they apply for and carry out these grants.

DATES: This action is effective as of November 1, 2016. EPA expects to make non-competitive grant awards to states and tribes which apply during fiscal year 2017.

ADDRESSES: Mailing addresses for EPA Regional Offices and EPA Headquarters can be found at *www.epa.gov/brownfields* and at the end of this Notice. Funding requests may be submitted electronically to the EPA Regional Offices.

FOR FURTHER INFORMATION CONTACT: EPA's Office of Solid Waste and Emergency Response, Office of Brownfields and Land Revitalization,

(202) 566-2745 or the applicable EPA Regional Office listed at the end this Notice.

SUPPLEMENTARY INFORMATION:

I. General Information

Section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes a noncompetitive \$50 million grant program to establish and enhance state¹ and tribal² response programs. CERCLA section 128(a) response program grants are funded with categorical³ State and Tribal Assistance Grant (STAG) appropriations. Section 128(a) cooperative agreements are awarded and administered by the EPA regional offices. Generally, these response programs address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination. This document provides guidance that will enable states and tribes to apply for and use Fiscal Year 2016 section 128(a) funds.⁴

The Catalogue of Federal Domestic Assistance entry for the section 128(a) State and Tribal Response Program cooperative agreements is 66.817. This grant program is eligible to be included in state and tribal Performance Partnership Grants under 40 CFR part 35 Subparts A and B, with the exception of funds used to capitalize a revolving loan fund for brownfield remediation under section 104(k)(3); or purchase environmental insurance or developing a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State or Tribal response program.

Requests for funding will be accepted from November 1, 2016 through December 31, 2016. Requests EPA receives after December 31, 2016 will not be considered for FY2017 funding. Information that must be submitted with the funding request is listed in Section IX of this guidance. States or tribes that do not submit the request in the appropriate manner may forfeit their ability to receive funds. First time requestors are strongly encouraged to

¹ The term "state" is defined in this document as defined in CERCLA section 101(27).

² The term "Indian tribe" is defined in this document as it is defined in CERCLA section 101(36). Intertribal consortia, as defined in the **Federal Register** Notice at 67 FR 67181, Nov. 4, 2002, are also eligible for funding under CERCLA section 128(a).

³ Categorical grants are issued by the U.S. Congress to fund state and local governments for narrowly defined purposes.

⁴ The Agency may waive any provision of this guidance that is not required by statute, regulation, Executive Order or overriding Agency policies.