

The revised ozone standard was challenged and on May 14, 1999, the DC Circuit issued an opinion that, among other things, called into question EPA's authority to implement the revised standard. *American Trucking Assoc. v. EPA*, 175 F.3d 1027 (DC Cir. 1999). On rehearing, the Court made minor modifications to the portion of its decision regarding implementation, but did not change its earlier conclusions regarding EPA's implementation authority. *American Trucking Assoc. v. EPA*, 195 F.3d 4 (DC Cir. 1999). EPA sought review in the Supreme Court of several aspects of the DC Circuit's decision, including the ruling on EPA's implementation authority.

In the interim, due to the uncertainty regarding its implementation authority, on October 25, 1999, EPA proposed to reinstate the one-hour standard in all areas in which it had been revoked. 64 FR 57425. The preamble to that proposed rule provides a more thorough history of EPA's revocation rules and the DC Circuit rulings. See 64 FR at 57424-57425.

On July 20, 2000, EPA issued a final rule reinstating the one-hour standard in all areas in which it had been revoked. 65 FR 45182. EPA also modified the regulatory provision for determining the one-hour standard no longer applies to provide: "\* \* \* after the 8-hour standard has become fully enforceable under part D of title I of the CAA and subject to no further legal challenge, the 1-hour standards set forth in this section will no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard."

On February 27, 2001, the Supreme Court issued a decision, remanding the implementation issue to the Agency to develop a reasonable interpretation that provides a role for subpart 2 in implementing the eight-hour ozone NAAQS.

Each Settlement Agreement provides that upon finalization of the Settlement Agreement, the Parties will jointly seek a stay of the litigation pending the following actions. First, no later than three months following the finalization of the Settlement Agreement, EPA will propose a stay of its authority under 40 CFR 50.9(b) to determine that an area has attained the one-hour standard and that therefore the one-hour standard no longer applies in that area. The basis for the proposed stay would be for EPA to consider through rulemaking whether this provision in 40 CFR 50.9(b) should be modified in light of the Supreme Court's decision in *Whitman v. American Trucking Assoc.*, 121 S.Ct. 903 (2001). In that proposed stay, EPA would state that in the rulemaking

regarding whether that provision in 40 CFR 50.9(b) should be modified, EPA would take comment on which, if any, implementation activities for an eight-hour ozone standard, including designations and classifications, would need to occur before EPA would determine that the one-hour ozone standard no longer applied to an area, and the effect of revising the ozone NAAQS on existing designations for the pollutant ozone. EPA would take final action on its proposed stay no later than 6 months after the proposal is published in the **Federal Register**. Each Settlement Agreement provides for the Petitioners to dismiss their case if, consistent with the proposal, EPA's final action (a) stays the effectiveness of the provision in 40 CFR 50.9(b) regarding the determination of whether an area has met the one-hour standard until such time as EPA completes a subsequent rulemaking determining whether that provision should be modified; and (b) commits to consider and address in the subsequent rulemaking any comments concerning (i) which, if any, implementation activities for a revised ozone standard (including but not limited to designation and classification of areas) would need to occur before EPA would determine that the one-hour ozone standard no longer applied to an area, and (ii) the effect of revising the ozone NAAQS on existing designations for the pollutant ozone.

The sole remedy for the Petitioners under the Settlement Agreement is the right to ask the Court to lift the stay of proceedings and establish a schedule for further proceedings regarding the Revocation Rule.

For a period of thirty (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 interveners 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 determine, following the comment period, that consent is inappropriate, the Settlement Agreement will be final.

Dated: July 22, 2002

**Lisa Friedman,**

*Associate General Counsel.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7251-1]

### Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act

**AGENCY:** Environmental Protection Agency.

**ACTION:** Request for Public Comment.

**SUMMARY:** The Environmental Protection Agency is proposing to enter into a *de minimis* settlement pursuant to Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(g)(4). This proposed settlement is intended to resolve the liability under CERCLA of Specialty Castings Corporation ("Settling Party") for response costs incurred and to be incurred at the Malvern TCE Superfund Site, East Whiteland and Charlestown Townships, Chester County, Pennsylvania, relating to the Malvern TCE Superfund Site ("Site").

**DATES:** Comments must be provided by August 26, 2002.

**ADDRESS:** Comments should be addressed to Joan A. Johnson (3RC41), Assistant Regional Counsel, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, and should refer to the Malvern TCE Superfund Site, East Whiteland Township, Chester County, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Joan A. Johnson (3RC41), Assistant Regional Counsel, 215/814-2665, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

**SUPPLEMENTARY INFORMATION:** Notice of *de minimis* Settlement: In accordance with Section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Malvern TCE Superfund Site, in East Whiteland Chester County, Pennsylvania. The administrative settlement is subject to review by the public pursuant to this Notice. This agreement has been approved by the Attorney General, United States Department of Justice, or his designee.

Specialty Castings Corporation ("Settling Party") has agreed to pay \$50 to the Hazardous Substances Trust Fund subject to the contingency that EPA may elect not to complete the settlement if comments received from the public

during this comment period disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. This amount to be paid by the Settling Party was based upon EPA's review of financial information relating to the Settling Party and a determination by EPA that the Settling Party has a limited ability to pay monies to settle EPA's claims. Monies collected from the Settling Party will be applied towards past and future response costs incurred by EPA or PRPs performing work at or in connection with the Site.

EPA is entering into this agreement under the authority of Sections 107 and 122(g) of CERCLA, 42 U.S.C. 9607 and 9622(g). Section 122(g) authorizes early settlements with *de minimis* parties to allow them to resolve their liabilities at Superfund Sites without incurring substantial transaction costs. Under this authority, EPA proposes to settle with Settling Party in connection with the Malvern TCE Superfund Site, based upon a determination by EPA that Settling Party is responsible for 0.75 percent or less of the volume of hazardous substance sent to the Site.

The Environmental Protection Agency will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice. A copy of the proposed Administrative Order on Consent can be obtained from Joan A. Johnson (3RC41), Assistant Regional Counsel, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, or by contacting Joan A. Johnson at (215) 814-2619.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, United States Environmental Protection Agency, Region III.*  
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## ENVIRONMENTAL PROTECTION AGENCY

[OPPT-2002-0040; FRL-7190-8]

### Certain New Chemicals; Receipt and Status Information

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions

pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from June 23, 2002 to July 5, 2002, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The "S" and "G" that precede the chemical names denote whether the chemical identity is specific or generic.

**DATES:** Comments identified by the docket ID number OPPT-2002-0040 and the specific PMN number, must be received on or before August 26, 2002.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the

**SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT-2002-0040 and the specific PMN number in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. General Information

##### A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain

other available documents from the EPA Internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations"; "Regulations and Proposed Rules, and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket ID number OPPT-2002-0040. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260-7099.

##### C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT-2002-0040 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930.

3. *Electronically.* You may submit your comments electronically by e-mail to: [oppt.ncic@epa.gov](mailto:oppt.ncic@epa.gov), or mail your