



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAY - 5 2016

Mr. Stephen R. Gossett
Environmental Fellow
Eastman Chemical Company
P.O. Box 511
Kingsport, Tennessee 37662-5075

Dear Mr. Gossett:

The U.S. Environmental Protection Agency has reviewed the May 18, 2015, joint petition submitted by Eastman Chemical Company and the American Chemical Council, collectively referred to as Petitioners, for administrative reconsideration of the final rule, titled "National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations," (80 FR 14248, March 18, 2015). This petition seeks reconsideration of two issues: (1) the requirement to monitor pressure-relief devices on portable containers and (2) the equipment leak provisions for connectors. As you know, the EPA granted reconsideration of the pressure-relief-device monitoring requirement issue on February 8, 2016. After careful consideration and for the reasons explained below, the EPA denies the request for reconsideration of the equipment leak provisions for connectors.

The final OSWRO rule revised the national emission standards for OSWRO sources. Among other things, it promulgated new equipment leak provisions for connectors. The EPA had included these provisions in the proposed version of the rule, provided an opportunity for public comment on the provisions, and received comments on them. The new equipment leak provisions for connectors require facilities to conduct instrument-based monitoring for equipment leaks using EPA Method 21, instead of sensory monitoring, which is permitted for connectors in heavy liquid service, and establishes a leak definition of 500 parts per million for connectors in gas/vapor service and in light liquid service.

During the comment period for the OSWRO rulemaking Eastman and ACC submitted comments that expressed their concerns with the connector monitoring requirements.¹ The EPA responded to these comments in the final OSWRO rule preamble at 80 FR 14248 on pages 14,255-14,258 and in the "OSWRO Summary of Public Comments and Responses on Proposed Rule" on page 29. These documents are located in the docket for the OSWRO rule.²

Eastman and ACC now, by a joint petition, ask the EPA to reconsider the OSWRO rule to provide an additional opportunity to raise an objection it could have raised, and did raise, during the public-comment period. The petition claims that the reconsideration is warranted because it was impracticable for Eastman and ACC to raise these objections during the comment period for the OSWRO rule, as the grounds for the objections arose after the end of the public-comment period for the rule, and the issues

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² Document number EPA-HQ-OAR-2012-0360-0077 and EPA-HQ-OAR-2012-0360-0118, respectively.

raised are of central relevance to the outcome of the OSWRO rule. The petition provides little support for these claims. Instead, it reiterates the objections presented in Eastman's and ACC's comments on the proposed rule. The Petitioners argue that (1) Method 21 monitoring of connectors will not result in a statistically significant decrease in emission rates, (2) Method 21 monitoring of connectors is not cost effective, and (3) the EPA should reconsider the connector leak detection and repair (LDAR) provisions.

Section 307(d)(7)(B) of the Clean Air Act provides for reconsideration of a final rule if two criteria are met: (1) a person raising the objection must demonstrate either that it was impracticable to raise the objection during the public-comment period or that the grounds for the objection arose after the period for public comment but within the time specified for judicial review; and (2) the petitioner must show that the objection is of central relevance to the outcome of the rule.

The EPA has determined that the joint petition does not meet the Clean Air Act section 307(d)(7)(B) standard because it does not meet the first criterion. Eastman and ACC could have, and did, raise the objections presented in their petition during the public-comment period for the proposed rule. The petition contends that the Clean Air Act section 307(d)(7)(B) standard is met because it was impracticable for Eastman or ACC to raise these objections during the comment period for the OSWRO rule and that the grounds for the objections arose after the end of the public comment period for the rule. However, this is not the case. As noted above, Eastman and ACC did submit comments during the comment period for the OSWRO rulemaking. They acknowledge this fact in the petition, stating "ACC and Eastman actively participated in the development of the rule. Eastman submitted written comments on the proposed rule and also contributed to comments submitted by ACC." In these comments Eastman and ACC expressed their concerns with the connector monitoring requirements. Among other things, they presented summary-level data and analyses to the EPA regarding its estimates of emissions from connectors and the costs associated with an LDAR program. After careful consideration of the data and examination of the analyses, the EPA reaffirmed its conclusion that connector monitoring is cost effective. Based on this conclusion, the EPA took final action on the equipment leak provisions for connectors, as proposed. The petition demonstrates that Eastman and ACC continue to object to the connector monitoring requirements of the final rule. However, dissatisfaction with the outcome of the EPA's reasoned decision does not provide a basis for a petition for reconsideration. Because the petition fails to show that it was impracticable to raise the objection presented in their petition during the public-comment period or that the grounds for the objections arose after the comment period closed, it fails to establish that reconsideration is warranted under section 307(d)(7)(B) of the Clean Air Act. The EPA, therefore, denies the petition. The EPA also explains, in more detail below, why it continues to disagree with the objections that Eastman and ACC raised in the joint petition on the equipment leak provisions for connectors.

First, the petition asserts in more detail that the EPA's analysis of equipment leak emission reductions is flawed for the following reasons: (1) the equipment leak emission factor for connectors used in the EPA's analysis is higher than the factor used in ACC's study, (2) the EPA assumes that no emission reductions occur with sensory-based connector monitoring, and (3) the values the EPA uses for the initial and subsequent leak frequencies are inappropriate for OSWRO. Eastman and ACC submitted these same issues in their comments on the proposed OSWRO rule. The EPA responded to each of these issues in the final OSWRO rule preamble at 80 FR 14248. For each issue the EPA explained its assumptions and concluded by disagreeing with the commenters' claims. Nothing in the petition provides additional information to demonstrate that the data the EPA used in its analysis were flawed.

Second, the petition asserts that the EPA underestimated connector monitoring costs. The EPA responded to similar comments submitted during the public-comment period for the OSWRO rule by explaining that it conducted an additional analysis to consider how factors provided in comments would affect its cost-effectiveness determination for connector monitoring for the OSWRO source category. This discussion appears in the preamble to the final OSWRO rule at 80 FR 14248. The EPA also explained therein that using these alternative values did not change its cost-effectiveness determination.

Third, the petition asserts that the EPA based its analysis for OSWRO on rules for which connector monitoring is not in effect. This point is also addressed by the EPA in the final OSWRO rule preamble at 80 FR 14248. The EPA explains that one factor used in the analysis of OSWRO connector leak emissions was the same as that used in the analysis for the proposed National Uniform Standards for Storage Vessel and Transfer Operations, Equipment Leaks, and Closed Vent Systems and Control Devices, i.e., Uniform Standards. The analysis for both OSWRO and the Uniform Standards refer to industry-supplied data for facilities regulated by the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing. The EPA has been consistent in its use of the emission factors across regulations. Here again, the petition does not present information not previously considered by the agency or demonstrate that the EPA's conclusions in the final rule were in error.

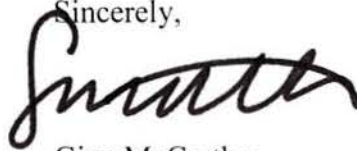
In summary, the EPA continues to disagree with the petition claims that (1) the analysis of equipment leak emissions and emissions reductions that would occur with Method 21 instrument-based monitoring of connectors is flawed or included any inappropriate values, (2) Method 21 monitoring for connectors is not cost-effective or that connector monitoring costs were underestimated in the EPA analysis, and (3) the use of data from previous rulemakings for rules that are currently not in effect should not be included in the analysis for OSWRO.

Finally, Eastman provided the EPA with additional comments and information in December 2015 after submitting their joint petition. This information does not, either by itself or in conjunction with the joint petition, demonstrate that reconsideration is warranted under Clean Air Act section 307(d)(7)(B). The additional comments and supplemental information submitted by Eastman reiterated the main petition comments and raised one new argument concerning the hazardous-air-pollutant-to-volatile-organic-chemical ratio the EPA used in its analysis of equipment leak emissions for the proposed rule. Although this issue was not raised by Eastman or ACC in their comments or in the petition, it was raised by another commenter during the comment period. The fact that another party commented on this ratio during the comment period demonstrates that it was possible to comment on this issue during the comment period. In fact, the preamble explicitly identifies the ratio to which Eastman now objects (80 FR 14257).

The EPA responded to the comment on this ratio in the final OSWRO rule preamble by agreeing with the commenter that the source of the ratio was the 1994 OSWRO background information document (Off-Site Waste and Recovery Operations: Background Information for Proposed Standards, EPA-453/R-94-070a, September 1994). The EPA did not change its analysis in the final rule because the EPA determined that the data provided by the commenter was not sufficient to justify a change. The supplemental information provided by Eastman presents only summary level information on the average HAP-to-VOC ratio of the total waste managed for a number of companies and does not provide sufficient detail to demonstrate that the EPA's analysis should be revised. Eastman also has not demonstrated that this information was unavailable during the comment period.

In conclusion, the EPA has determined that this objection does not meet the Clean Air Act section 307(d)(7)(B) standard because the petitioner has not demonstrated that it was impracticable to raise the objection during the period for public comment. In fact, the objection was raised during the public-comment period and was fully addressed by the EPA in the final OSWRO rule preamble. Thank you for your interest in the OSWRO rule. If you have any questions regarding our decision, please contact Emily Seidman in the Office of General Counsel at (202) 564-0906 or seidman.emily@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", written in a cursive style.

Gina McCarthy



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAY - 5 2016

Mr. Brett A. Sago
Director
Health, Safety and Environment Legal Services
Eastman Chemical Company
P.O. Box 511
Kingsport, Tennessee 37662-5075

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grounds for the objections arose after the end of the public-comment period for the rule, and the issues raised are of central relevance to the outcome of the OSWRO rule. The petition provides little support for these claims. Instead, it reiterates the objections presented in Eastman's and ACC's comments on the proposed rule. The Petitioners argue that (1) Method 21 monitoring of connectors will not result in a statistically significant decrease in emission rates, (2) Method 21 monitoring of connectors is not cost effective, and (3) the EPA should reconsider the connector leak detection and repair (LDAR) provisions.

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First, the petition asserts in more detail that the EPA's analysis of equipment leak emission reductions is flawed for the following reasons: (1) the equipment leak emission factor for connectors used in the EPA's analysis is higher than the factor used in ACC's study, (2) the EPA assumes that no emission reductions occur with sensory-based connector monitoring, and (3) the values the EPA uses for the initial and subsequent leak frequencies are inappropriate for OSWRO. Eastman and ACC submitted these same issues in their comments on the proposed OSWRO rule. The EPA responded to each of these issues in the final OSWRO rule preamble at 80 FR 14248. For each issue the EPA explained its assumptions and concluded by disagreeing with the commenters' claims. Nothing in the petition provides additional information to demonstrate that the data the EPA used in its analysis were flawed.

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Sincerely,



Gina McCarthy



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAY - 5 2016

Ms. Leslie A. Hulse
Assistant General Counsel
American Chemical Council
700 Second Street, NE
Washington, D.C. 20002

Dear Ms. Hulse:

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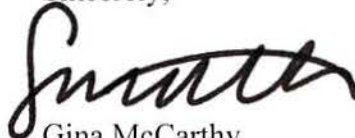
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Gina McCarthy