



EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

VIA CERTIFIED MAIL -- RETURN RECEIPT REQUESTED AND EMAIL

February 3, 2015

Ms. Gina McCarthy
Administrator
Environmental Protection Agency
1101A EPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Washington D.C. 20460
mccarthy.gina@epa.gov

RE: Notice of Citizen Suit Concerning Clean Air Act Deadlines

Dear Administrator McCarthy,

This is a notice of “a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator” within the meaning of section 304(a)(2) of the Clean Air Act (“CAA”), 42 U.S.C. § 7604(a)(2). This notice is provided to you as Administrator of the U.S. Environmental Protection Agency (“EPA”), in your official capacity, pursuant to section 304(b)(2), 42 U.S.C. § 7604(b)(2), and 40 C.F.R. Part 54 as a prerequisite to bringing a civil action.

The organizations giving this notice are: California Communities Against Toxics, P.O. Box 845, Rosamond, CA 93560, (661) 510-3412; Californians Against Waste Foundation, 921 11th Street, Suite 420, Sacramento, CA 95814, (916) 443-5422; Coalition For A Safe Environment, 1601 North Wilmington Boulevard, Wilmington, CA 90744; Del Amo Action Committee, 4542 Irone Avenue, Rosamond, CA 93560; Desert Citizens Against Pollution, P.O. Box 845, Rosamond, CA 93560, (661) 510-3412; Louisiana Bucket Brigade, 4226 Canal Street, New Orleans, LA 70119, (504) 484-3433; Louisiana Environmental Action Network, P.O. Box 66323, Baton Rouge, LA 70896; Neighbors for Clean Air, P.O. Box 10544, Portland, OR 97296, (540) 903-0534; and Ohio Citizen Action, 2330 Victory Parkway, Suite 401, Cincinnati, OH, 45206, (513) 221-2100.

Section 112(f) - Standards to Protect Health and Environment. Section 112(f) of the Clean Air Act provides that:

(A) . . . [T]he Administrator shall, within 8 years after promulgation of standards for each category or subcategory of sources pursuant to [§ 112(d)], promulgate standards for such category or subcategory if promulgation of such standards is required in order to provide an ample margin of safety to protect

WASHINGTON, DC OFFICE 1625 MASSACHUSETTS AVENUE, SUITE 702 WASHINGTON, DC 20036

T: 202.667.4500 F: 202.667.2356 DCOFFICE@EARTHJUSTICE.ORG WWW.EARTHJUSTICE.ORG

public health in accordance with this section (as in effect before November 15, 1990) or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. . . . If standards promulgated pursuant to [§ 112(d)] and applicable to a category or subcategory of sources emitting a pollutant (or pollutants) classified as a known, probable or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million, the Administrator shall promulgate standards under this subsection for this source category.

...

(C) The Administrator shall determine whether or not to promulgate such standards and, if the Administrator decides to promulgate such standards, shall promulgate the standards 8 years after promulgation of the standards under [§ 112(d)] for each source category or subcategory concerned.

42 U.S.C. § 7412(f)(2). More than eight years have passed since EPA promulgated the following standards under CAA § 112(d), 42 U.S.C. § 7412(d), for the following categories of major sources of hazardous air pollutants:

- (1) Solvent Extraction for Vegetable Oil Production, 66 Fed. Reg. 19,006 (Apr. 12, 2001) (40 C.F.R. Part 63 Subpart GGGG);
- (2) Boat Manufacturing, 66 Fed. Reg. 44,218 (Aug. 22, 2001) (40 C.F.R. Part 63 Subpart VVVV);
- (3) Surface Coating of Metal Coil, 67 Fed. Reg. 39,794 (June 10, 2002) (40 C.F.R. Part 63 Subpart SSSS);
- (4) Cellulose Products Manufacturing, 67 Fed. Reg. 40,044 (June 11, 2002) (40 C.F.R. Part 63 Subpart UUUU);
- (5) Primary Copper Smelting, 67 Fed. Reg. 40,478 (June 12, 2002) (40 C.F.R. Part 63 Subpart QQQ);
- (6) Rubber Tire Manufacturing, 67 Fed. Reg. 45,588 (July 9, 2002) (40 C.F.R. Part 63 Subpart XXXX);
- (7) Generic MACT II - Carbon Black Production, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, UU);
- (8) Generic MACT II – Cyanide Chemicals Manufacturing, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, UU);
- (9) Generic MACT II - Ethylene Production, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, XX, UU);
- (10) Surface Coating of Large Appliances, 67 Fed. Reg. 48,254 (July 23, 2002) (40 C.F.R. Part 63 Subpart NNNN);

- (11) Paper and Other Web Coating, 67 Fed. Reg. 72,330 (Dec. 4, 2002) (40 C.F.R. Part 63 Subpart JJJJ);
- (12) Municipal Solid Waste Landfills, 68 Fed. Reg. 2227 (Jan. 16, 2003) (40 C.F.R. Part 63 Subpart AAAA);
- (13) Coke Ovens: Pushing, Quenching, and Battery Stacks, 68 Fed. Reg. 18,008 (Apr. 14, 2003) (40 C.F.R. Part 63 Subpart CCCCC);
- (14) Hydrochloric Acid Production, 68 Fed. Reg. 19,076 (Apr. 17, 2003) (40 C.F.R. Part 63 Subpart NNNNN);
- (15) Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills, 66 Fed. Reg. 3180 (Jan. 12, 2001) (40 C.F.R. Part 63 Subpart MM);
- (16) Reinforced Plastics Composites Production, 68 Fed. Reg. 19,375 (Apr. 21, 2003) (40 C.F.R. Part 63 Subpart WWW);
- (17) Asphalt Processing and Asphalt Roofing Manufacturing, 68 Fed. Reg. 22,976 (Apr. 29, 2003) (40 C.F.R. Part 63 Subpart LLLLL);
- (18) Integrated Iron & Steel Manufacturing, 68 Fed. Reg. 27,646 (May 20, 2003) (40 C.F.R. Part 63 Subpart FFFFF);
- (19) Iron and Steel Foundries, 69 Fed. Reg. 21,906 (Apr. 22, 2004) (40 C.F.R. Part 63 Subpart EEEEE);
- (20) Semiconductor Manufacturing, 68 Fed. Reg. 27,913 (May 22, 2003) (40 C.F.R. Part 63 Subpart BBBB);
- (21) Engine Test Cells/Stands, 68 Fed. Reg. 28,774 (May 27, 2003) (40 C.F.R. Part 63 Subpart PPPP);
- (22) Surface Coating of Wood Building Products, 68 Fed. Reg. 31,746 (May 28, 2003) (40 C.F.R. Part 63 Subpart QQQQ);
- (23) Site Remediation, 68 Fed. Reg. 58,172 (Oct. 8, 2003) (40 C.F.R. Part 63 Subpart GGGG);
- (24) Miscellaneous Organic Chemical Manufacturing, 68 Fed. Reg. 63,852 (Nov. 10, 2003) (40 C.F.R. Part 63 Subpart FFFF);
- (25) Surface Coating of Metal Cans, 68 Fed. Reg. 64,432 (Nov. 13, 2003) (40 C.F.R. Part 63 Subpart KKKK);
- (26) Miscellaneous Coating Manufacturing, 68 Fed. Reg. 69,164 (Dec. 11, 2003) (40 C.F.R. Part 63 Subpart HHHH);
- (27) Surface Coating of Miscellaneous Metal Parts and Products, 69 Fed. Reg. 130 (Jan. 2, 2004) (40 C.F.R. Part 63 Subpart MMMM);
- (28) Lime Manufacturing Plants, 69 Fed. Reg. 394 (Jan. 5, 2004) (40 C.F.R. Part 63 Subpart AAAA);
- (29) Organic Liquids Distribution (Non-Gasoline), 69 Fed. Reg. 5038 (Feb. 3, 2004) (40 C.F.R. Part 63 Subpart EEEE);
- (30) Stationary Combustion Turbines, 69 Fed. Reg. 10,512 (Mar. 5, 2004) (40 C.F.R. Part 63 Subpart YYYY);
- (31) Surface Coating of Plastic Parts and Products, 69 Fed. Reg. 20,968 (Apr. 19, 2004) (40 C.F.R. Part 63 Subpart PPPP);
- (32) Surface Coating of Automobiles and Light-Duty Trucks, 69 Fed. Reg. 22,602 (Apr. 26, 2004) (40 C.F.R. Part 63 Subpart IIII); and

- (33) Plywood and Composite Wood Products, 69 Fed. Reg. 45,944 (July 30, 2004) (40 C.F.R. Part 63 Subpart DDDD).

Nonetheless, you have neither promulgated standards for these categories pursuant to CAA § 112(f), nor determined that such standards are not “required in order to provide an ample margin of safety to protect public health in accordance with this section . . . or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.” 42 U.S.C. § 7412(f)(2). There are no section 112(f)(2) standards or final residual risk determinations currently in force or effect after publication in the Federal Register for these sources. Accordingly, you have failed to perform a nondiscretionary duty within the meaning of Clean Air Act § 304(a)(2) for each of the above-listed standards and source categories.

Section 112(d)(6) – MACT Review and Revision. Section 112(d)(6) of the Clean Air Act requires EPA to “review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under [§ 112] no less often than every 8 years.” 42 U.S.C. § 7412(d)(6). More than eight years have passed since EPA promulgated CAA § 112 regulations for the following categories:

- (1) Solvent Extraction for Vegetable Oil Production, 66 Fed. Reg. 19,006 (Apr. 12, 2001) (40 C.F.R. Part 63 Subpart GGGG);
- (2) Boat Manufacturing, 66 Fed. Reg. 44,218 (Aug. 22, 2001) (40 C.F.R. Part 63 Subpart VVVV);
- (3) Surface Coating of Metal Coil, 67 Fed. Reg. 39,794 (June 10, 2002) (40 C.F.R. Part 63 Subpart SSSS);
- (4) Cellulose Products Manufacturing, 67 Fed. Reg. 40,044 (June 11, 2002) (40 C.F.R. Part 63 Subpart UUUU);
- (5) Primary Copper Smelting, 67 Fed. Reg. 40,478 (June 12, 2002) (40 C.F.R. Part 63 Subpart QQQ);
- (6) Rubber Tire Manufacturing, 67 Fed. Reg. 45,588 (July 9, 2002) (40 C.F.R. Part 63 Subpart XXXX);
- (7) Generic MACT II - Carbon Black Production, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, UU);
- (8) Generic MACT II – Cyanide Chemicals Manufacturing, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, UU);
- (9) Generic MACT II - Ethylene Production, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, XX, UU);
- (10) Surface Coating of Large Appliances, 67 Fed. Reg. 48,254 (July 23, 2002) (40 C.F.R. Part 63 Subpart NNNN);
- (11) Paper and Other Web Coating, 67 Fed. Reg. 72,330 (Dec. 4, 2002) (40 C.F.R. Part 63 Subpart JJJ);
- (12) Municipal Solid Waste Landfills, 68 Fed. Reg. 2227 (Jan. 16, 2003) (40 C.F.R. Part 63 Subpart AAAA);
- (13) Coke Ovens: Pushing, Quenching, and Battery Stacks, 68 Fed. Reg. 18,008 (Apr. 14, 2003) (40 C.F.R. Part 63 Subpart CCCCC);
- (14) Hydrochloric Acid Production, 68 Fed. Reg. 19,076 (Apr. 17, 2003) (40 C.F.R. Part 63 Subpart NNNNN);

- (15) Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills, 66 Fed. Reg. 3180 (Jan. 12, 2001) (40 C.F.R. Part 63 Subpart MM);
- (16) Reinforced Plastics Composites Production, 68 Fed. Reg. 19,375 (Apr. 21, 2003) (40 C.F.R. Part 63 Subpart WWW);
- (17) Asphalt Processing and Asphalt Roofing Manufacturing, 68 Fed. Reg. 22,976 (Apr. 29, 2003) (40 C.F.R. Part 63 Subpart LLLLL);
- (18) Integrated Iron & Steel Manufacturing, 68 Fed. Reg. 27,646 (May 20, 2003) (40 C.F.R. Part 63 Subpart FFFFF);
- (19) Iron and Steel Foundries, 69 Fed. Reg. 21,906 (Apr. 22, 2004) (40 C.F.R. Part 63 Subpart EEEEE);
- (20) Semiconductor Manufacturing, 68 Fed. Reg. 27,913 (May 22, 2003) (40 C.F.R. Part 63 Subpart BBBB);
- (21) Engine Test Cells/Stands, 68 Fed. Reg. 28,774 (May 27, 2003) (40 C.F.R. Part 63 Subpart PPPP);
- (22) Surface Coating of Wood Building Products, 68 Fed. Reg. 31,746 (May 28, 2003) (40 C.F.R. Part 63 Subpart QQQQ);
- (23) Site Remediation, 68 Fed. Reg. 58,172 (Oct. 8, 2003) (40 C.F.R. Part 63 Subpart GGGG);
- (24) Miscellaneous Organic Chemical Manufacturing, 68 Fed. Reg. 63,852 (Nov. 10, 2003) (40 C.F.R. Part 63 Subpart FFFF);
- (25) Surface Coating of Metal Cans, 68 Fed. Reg. 64,432 (Nov. 13, 2003) (40 C.F.R. Part 63 Subpart KKKK);
- (26) Miscellaneous Coating Manufacturing, 68 Fed. Reg. 69,164 (Dec. 11, 2003) (40 C.F.R. Part 63 Subpart HHHH);
- (27) Surface Coating of Miscellaneous Metal Parts and Products, 69 Fed. Reg. 130 (Jan. 2, 2004) (40 C.F.R. Part 63 Subpart MMMM);
- (28) Lime Manufacturing Plants, 69 Fed. Reg. 394 (Jan. 5, 2004) (40 C.F.R. Part 63 Subpart AAAAA);
- (29) Organic Liquids Distribution (Non-Gasoline), 69 Fed. Reg. 5038 (Feb. 3, 2004) (40 C.F.R. Part 63 Subpart EEEE);
- (30) Stationary Combustion Turbines, 69 Fed. Reg. 10,512 (Mar. 5, 2004) (40 C.F.R. Part 63 Subpart YYYY);
- (31) Surface Coating of Plastic Parts and Products, 69 Fed. Reg. 20,968 (Apr. 19, 2004) (40 C.F.R. Part 63 Subpart PPPP);
- (32) Surface Coating of Automobiles and Light-Duty Trucks, 69 Fed. Reg. 22,602 (Apr. 26, 2004) (40 C.F.R. Part 63 Subpart IIII); and
- (33) Plywood and Composite Wood Products, 69 Fed. Reg. 45,944 (July 30, 2004) (40 C.F.R. Part 63 Subpart DDDD).

Nonetheless, you have not reviewed and revised EPA's emission standards for these categories, as section 112(d)(6) of the Clean Air Act requires. There are no revised, final standards promulgated as a result of the requisite section 112(d)(6) review, or a section 112(d)(6) determination currently in force or effect after publication in the Federal Register for these sources. Accordingly, you have failed to perform a nondiscretionary duty within the meaning of Clean Air Act § 304(a)(2).

60-Day Notice. Under section 304 of the Clean Air Act, 42 U.S.C. § 7604, the above-listed organizations may commence a citizen suit to compel you to perform any or all of the above duties at any time beginning sixty days from the postmark date of this letter, which is February 3, 2015. *See* 40 C.F.R. § 54.2(d).

Contact Information. We are acting as attorneys for the above-listed organizations in this matter. Please contact us at your earliest convenience regarding this matter. Please address any communications to us at the address and telephone number set forth below.

Sincerely,



Nicholas Morales
Emma C. Cheuse
James S. Pew
Earthjustice
1625 Massachusetts Ave., NW, Suite 702
Washington, D.C. 20036-2243
Tel: (202) 667-4500
nmorales@earthjustice.org
echeuse@earthjustice.org
jpew@earthjustice.org

cc: Avi S. Garbow, General Counsel, Office of General Counsel, EPA
Janet McCabe, Acting Assistant Administrator, Office of Air and Radiation, EPA
Steve Page, Director, Office of Air Quality Planning and Standards, EPA