

December 19, 2014

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**Re: Notice of Intent to File Citizen Suit**

Dear Ms. McCarthy:

By this letter, our client, the Halogenated Solvents Industry Alliance, Inc. ("HSIA") gives the Environmental Protection Agency ("EPA") notice of its intent to file a citizen suit against you and EPA under § 304(a)(2) of the Clean Air Act, 42 U.S.C. § 7604(a)(2). We give you this notice in your official capacity as EPA's Administrator pursuant to § 304(b)(2), 42 U.S.C. § 7604(b)(2). You have failed to fulfill your nondiscretionary duty to timely respond to HSIA's petition to list n-Propyl Bromide ("nPB") as a hazardous air pollutant subject to § 112 of the Clean Air Act.

Section 112 of the Clean Air Act allows any person to petition EPA to modify the list of hazardous air pollutants under § 112. 42 U.S.C. § 7412(b)(3)(A). Under the statute, "[w]ithin 18 months after receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision." 42 U.S.C. § 7412(b)(3)(A). EPA has failed to respond to two separate petitions to list nPB within the time frame mandated by the statute -- HSIA's petition and a petition filed by the New York State Department of Environmental Conservation.

HSIA petitioned EPA to list nPB as a hazardous pollutant pursuant to 42 U.S.C. § 7412(b)(3)(A) on October 28, 2010. On April 10, 2012, Stephen Page notified HSIA that the petition had been found to be incomplete. On November 30, 2012, HSIA submitted comprehensive exposure/risk assessments for several different types of facilities based on known usage of nPB, as well as a more complete discussion of available studies on the health effects of nPB. We understand that EPA considered the HSIA petition complete as of November 30, 2012.

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On March 6, 2014, we sent you a letter reminding you that the 18-month deadline for a decision on HSIA's petition under 42 U.S.C. § 7412(b)(3)(A) was fast approaching. We urged EPA promptly to grant HSIA's petition and list nPB as a hazardous air pollutant. On March 30, 2014, Stephen Page informed HSIA that "the agency is still reviewing your petition and has yet to make a completeness determination." The May 30 deadline came and went without EPA's response.

The petition filed by the New York State Department of Environmental Conservation has received similar treatment. On November 18, 2014, over three years after New York filed its petition on October 24, 2011, EPA thanked New York for its "patience" and indicated that it "continue[d] to review" the petition.

EPA's lack of action is unacceptable. EPA's duty to grant or deny these petitions within 18 months under 42 U.S.C. § 7412(b)(3) is a nondiscretionary duty that is enforceable under the citizen suit provision of the Clean Air Act. 42 U.S.C. § 7604. EPA failed to act on HSIA's petition within 18 months allotted by the statute. HSIA intends to exercise its right to file a citizen suit. Accordingly, this letter constitutes a 60-day notice pursuant to 42 U.S.C. § 7604(b) and 40 C.F.R. § 54.3 of intent to sue EPA.

As required by 40 C.F.R. § 54.3, the person providing this notice is:

Halogenated Solvents Industry Alliance, Inc.  
3033 Wilson Boulevard, Suite 700  
Arlington, VA 22201

While EPA regulations require this information, please direct all correspondence and communications regarding this matter to the undersigned counsel.

Sincerely,

Squire Patton Boggs (US) LLP

  
W. Caffey Norman