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

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; and Sierra Club, 85 Second Street, 2d Floor, San Francisco, California 94105, (415) 977-5500.

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 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 such 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) for the following categories of major sources of hazardous air pollutants:

(1) Publicly Owned Treatment Works, 64 Fed. Reg. 57,572 (Oct. 26, 1999) (40 C.F.R. Part 63 Subpart VVV);
(4) Manufacturing of Nutritional Yeast, 66 Fed. Reg. 27,876 (May 21, 2001) (40 C.F.R. Part 63 Subpart CCC);
(8) Surface Coating of Metal Coil, 67 Fed. Reg. 39,794 (June 10, 2002) (40 C.F.R. Part 63 Subpart SSSS);
(9) Cellulose Products Manufacturing, 67 Fed. Reg. 40,044 (June 11, 2002) (40 C.F.R. Part 63 Subpart UUUU);
(10) Primary Copper Smelting, 67 Fed. Reg. 40,478 (June 12, 2002) (40 C.F.R. Part 63 Subpart QQ);
(14) Generic MACT II – Cyanide Chemicals Manufacturing, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, UU);
(15) Generic MACT II - Ethylene Production, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, XX, UU);
(20) Coke Ovens: Pushing, Quenching, and Battery Stacks, 68 Fed. Reg. 18,008 (Apr. 14, 2003) (40 C.F.R. Part 63 Subpart CCCCC);
(22) Refractory Products Manufacturing, 68 Fed. Reg. 18,730 (Apr. 16, 2003) (40 C.F.R. Part 63 Subpart SSSSS);
(30) Engine Test Cells/Stands, 68 Fed. Reg. 28,774 (May 27, 2003) (40 C.F.R. Part 63 Subpart PPPPPP);
(33) Site Remediation, 68 Fed. Reg. 58,172 (Oct. 8, 2003) (40 C.F.R. Part 63 Subpart GGGGG);
(37) Surface Coating of Metal Cans, 68 Fed. Reg. 64,432 (Nov. 13, 2003) (40 C.F.R. Part 63 Subpart KKKKK);
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 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) Publicly Owned Treatment Works, 64 Fed. Reg. 57,572 (Oct. 26, 1999) (40 C.F.R. Part 63 Subpart VVV);
(4) Manufacturing of Nutritional Yeast, 66 Fed. Reg. 27,876 (May 21, 2001) (40 C.F.R. Part 63 Subpart CCC);
(8) Surface Coating of Metal Coil, 67 Fed. Reg. 39,794 (June 10, 2002) (40 C.F.R. Part 63 Subpart SSSS);
(9) Cellulose Products Manufacturing, 67 Fed. Reg. 40,044 (June 11, 2002) (40 C.F.R. Part 63 Subpart UUUU);
(10) Primary Copper Smelting, 67 Fed. Reg. 40,478 (June 12, 2002) (40 C.F.R. Part 63 Subpart QQQQ);
(15) Generic MACT II - Ethylene Production, 67 Fed. Reg. 46,258 (July 12, 2002) (40 C.F.R. Part 63 Subpart YY, XX, UU);
(20) Coke Ovens: Pushing, Quenching, and Battery Stacks, 68 Fed. Reg. 18,008 (Apr. 14, 2003) (40 C.F.R. Part 63 Subpart CCCC);
(22) Refractory Products Manufacturing, 68 Fed. Reg. 18,730 (Apr. 16, 2003) (40 C.F.R. Part 63 Subpart SSSS);
(30) Engine Test Cells/Stands, 68 Fed. Reg. 28,774 (May 27, 2003) (40 C.F.R. Part 63 Subpart PPPPPP);
(33) Site Remediation, 68 Fed. Reg. 58,172 (Oct. 8, 2003) (40 C.F.R. Part 63 Subpart GGGGG);
(37) Surface Coating of Metal Cans, 68 Fed. Reg. 64,432 (Nov. 13, 2003) (40 C.F.R. Part 63 Subpart KKKK);
(38) Miscellaneous Coating Manufacturing, 68 Fed. Reg. 69,164 (Dec. 11, 2003) (40 C.F.R. Part 63 Subpart HHHHH);

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 pursuant to section 112(d)(6) 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 (California Communities Against Toxics and Sierra Club) 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 August 23, 2013. 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,

[Signature]

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