

Wed Dec 30 14:33:04 EST 2015

Leavy.Jacqueline@epamail.epa.gov

FW: Notice of Intent to Sue Pursuant to § 304(a)(2) (failure to perform nondiscretionary duty) of the Clean Air Act for Failure to Respond to a Petition to Object Filed Pursuant to § 505(b)(2)

To: CMS.OEX@epamail.epa.gov

From: Bunge, Susan M (27564) [mailto:SMBunge@michaelbest.com] **On Behalf Of** Hemaidan, Jordan J (24431)

Sent: Wednesday, December 30, 2015 1:53 PM

To: Mccarthy, Gina <McCarthy.Gina@epa.gov>

Cc: Hemaidan, Jordan J (24431) <JHemaidan@michaelbest.com>; Palmer, Todd E (24432) <tepalmer@michaelbest.com>

Subject: Notice of Intent to Sue Pursuant to § 304(a)(2) (failure to perform nondiscretionary duty) of the Clean Air Act for Failure to Respond to a Petition to Object Filed Pursuant to § 505(b)(2)

Dear Administrator McCarthy:

Attached please find Appleton Coated, LLC and Wisconsin Paper Council, Inc.'s Notice of Intent to Sue Pursuant to § 304(a)(2) (failure to perform nondiscretionary duty) of the Clean Air Act for Failure to Respond to a Petition to Object Filed Pursuant to § 505(b)(2).

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December 30, 2015

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED AND ELECTRONIC MAIL
(mccarthy.gina@epa.gov)

The Hon. Gina McCarthy, Administrator
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Re: Notice of Intent to Sue Pursuant to § 304(a)(2)(failure to perform nondiscretionary duty) of the Clean Air Act for Failure to Respond to a Petition to Object Filed Pursuant to § 505(b)(2)

Dear Administrator McCarthy:

This firm represents Appleton Coated, LLC ("Appleton") and Wisconsin Paper Council, Inc. ("WPC"). Appleton is the holder of a Clean Air Act Title V Operating Permit for Appleton's paper manufacturing plant in Wisconsin (Wisconsin Permit No. 445031290-P10) (the "Permit"). WPC, which is headquartered in Appleton, Wisconsin, is a non-profit membership organization representing the interests of pulp and paper manufacturers and allied industries in Wisconsin.

This letter constitutes formal notice pursuant to Clean Air Act 304(a)(2), 42 U.S.C. § 7604(b)(2) and 40 C.F.R. Part 54 that Appleton and WPC intend to file suit pursuant to Clean Air Act 304(a) and 42 U.S.C. § 7604(a). The Clean Air Act permits an action "against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator." 42 U.S.C. § 7604(a)(2). By this letter, Appleton and WPC put you on notice that they intend to file an action against you for your failure to grant or deny a petition filed on November 19, 2013 by Appleton and WPC pursuant to Clean Air Act § 505(b)(2) and 40 C.F.R. § 70.8(d) regarding the Permit (the "Petition").

Pursuant to Clean Air Act § 505(b)(2), 42 U.S.C. § 7661d(b)(2), "[t]he Administrator shall grant or deny such petition within 60 days after the petition is filed." The sixty day period expired on January 18, 2013, and the Administrator has neither granted nor denied the Petition. Pursuant to the requirement of 40 C.F.R. § 54.3, the persons giving this notice are:

MICHAEL BEST

& FRIEDRICH LLP

Administrator Gina McCarthy

December 30, 2015

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Appleton Coated, LLC
540 Prospect Street
Combined Locks, WI 54113

Wisconsin Paper Council, Inc.
5485 Grande Market Drive, Ste. B
Appleton, WI 54913

I request that you direct all correspondence to me, as counsel for Appleton and WPC.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Jordan J. Hemaidan

J.J.H.smb