



January 19, 2021

Mr. Andrew Wheeler  
Administrator  
Environmental Protection Agency  
1101A EPA Headquarters  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, NW  
Washington D.C. 20460  
[wheeler.andrew@epa.gov](mailto:wheeler.andrew@epa.gov)

BY CERTIFIED MAIL

RE: Notice of Intent to Bring Clean Air Act Citizen Suit Concerning Unreasonably Delayed Emissions Guidelines for the Synthetic Organic Chemical Manufacturing Industry

Dear Administrator Wheeler,

This letter is submitted on behalf of California Communities Against Toxics (P.O. Box 845, Rosamond, CA 935360), Environmental Integrity Project (1000 Vermont Ave. NW, Suite 1100, Washington, DC 20005), Louisiana Environmental Action Network (P.O. Box 66323 Baton Rouge, LA 70896), Ohio Valley Environmental Coalition (PO Box 6753, Huntington, WV 25773), RISE St. James (8581 Hwy 18, St. James, LA 70086), Sierra Club (2101 Webster Street, Suite 1300, Oakland, CA 94612), and Texas Environmental Justice Advocacy Services (900 North Wayside Drive, Houston, TX 77023) to provide notice under section 7604 that the above organizations intend to sue the U.S. Environmental Protection Agency (“EPA”) for “agency action unreasonably delayed” under 42 U.S.C. § 7604(a) of the Clean Air Act. This notice is provided to you in your official capacity as Administrator of the U.S. Environmental Protection Agency (“EPA”) as a prerequisite to bringing a civil action. 42 U.S.C. § 7604(a); 40 C.F.R. Part 54.

**Section 7411(d) - Standards of performance for existing Synthetic Organic Chemical Manufacturing Industry (“SOCMI”) sources.** SOCMI facilities are regulated under section 7411 of the Clean Air Act due to their emission of volatile organic compounds. Under section 7411(d), the Administrator “shall” establish by regulation a procedure under which States “shall” submit to the Administrator their plan to establish, implement, and enforce standards of performance for existing sources (which would be subject to a standard of performance if new) of air pollutants (not already subject to air quality criteria or regulated under section 7412).

The implementing regulations require EPA to promulgate a final guideline document before states are required to submit their plan to the Administrator. 40 C.F.R. § 60.23(a)(1) (requiring states to adopt and submit a plan to the Administrator “within 9 months after notice of the availability of a final guideline document”).



The Administrator is required to publish such a draft guideline document “[c]oncurrently upon or after proposal” of New Source Performance Standards, and to finalize the guideline document after public notice and comment, and “upon or after promulgation” of New Source Performance Standards. 40 C.F.R § 60.22(a).

EPA has not published the required draft or final guideline document despite proposing and promulgating new source standards of performance for the following source categories of synthetic organic chemical plants and units:

- (1) SOCMCI Air Oxidation Unit Processes, 40 C.F.R. Part 60, Subpart III, 40 C.F.R. §§ 60.610-60.618 (originally promulgated through 55 Fed. Reg. 26,922 (June 29, 1990), update promulgated at 65 Fed. Reg. 78,275 (Dec. 14, 2000));
- (2) SOCMCI Distillation, 40 C.F.R. Part 60 Subpart NNN, 40 C.F.R. § 60.660-60.668 (originally promulgated through Final Rule, 55 Fed. Reg. 26,922 (June 29, 1990), update promulgated at 65 Fed. Reg. 78,275 (Dec. 14, 2000));
- (3) SOCMCI Reactor Processes, 40 C.F.R. Part 60 Subpart RRR, 40 C.F.R. § 60.700-60.708 (originally promulgated through 58 Fed. Reg. 45,962 (Aug. 31, 1993), update promulgated 65 Fed. Reg. 78,275 (Dec. 14, 2000)); and
- (4) SOCMCI Equipment Leaks, 40 C.F.R. Part 60, Subpart VV, VVa, 40 C.F.R. § 60.480-60.489 (originally promulgated 48 Fed. Reg. 48,335 (Oct. 18, 1983), update promulgated 72 Fed. Reg. 64,883 (Nov. 16, 2007)), 40 C.F.R. § 60.480a.-60.489a (originally promulgated 72 Fed. Reg. 64,883 (Nov. 16, 2007)).

For the first three source categories above, more than twenty-one years have passed since EPA last took action that triggered its duties to propose and finalize emission guidelines. For the fourth, fourteen years have passed since EPA took such action.

Therefore, EPA has unreasonably delayed action to promulgate final emissions guidelines for the above listed categories to satisfy section 7411(d) and 40 C.F.R. § 60.22(a). Thus, EPA has violated and is in continuing violation of section 7411(d) for the above listed categories. 42 U.S.C. § 7604(a).

EPA’s failure to promulgate emissions guidelines—thereby delaying required states’ plans to establish, implement, and enforce standards of performance for existing SOCMCI sources—leaves emissions from existing SOCMCI sources unregulated under section 7411(d). Notably, the above New Source Performance Standards themselves are also overdue for review and revision, because EPA has delayed action so long and the agency should act promptly to review and strengthen all of these air standards to ensure effective protection for public health, particularly for fence-line communities exposed to SOCMCI sources’ emissions.<sup>1</sup> EPA’s failures to act and unreasonable delay leave people exposed to harmful pollution, including volatile organic compounds that contribute to ozone formation and the health and environmental effects, such as asthma and death. With each passing day, EPA’s continuing violation recurs and becomes more

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<sup>1</sup> See Complaint at 16-17, *Texas Environmental Justice Advocacy Services v. Wheeler*, No. 1:20-cv-03733-RJL (D.D.C. Dec. 18, 2020).



harmful. EPA must promulgate final emissions guidelines for the above listed categories to satisfy section 7411(d) without any further delay.

**180-Day Notice.** Under Clean Air Act section 7604(a), the above listed organizations intend to commence a citizen suit to compel you to promulgate emissions guidelines for the relevant source categories on or after 180 days from the postmark of this letter. 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 at the addresses or phone numbers listed below.

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Adam Kron  
Senior Attorney  
ENVIRONMENTAL INTEGRITY PROJECT  
1000 Vermont Avenue NW, Suite 1100  
Washington, D.C. 20005  
[akron@environmentalintegrity.org](mailto:akron@environmentalintegrity.org)  
(202) 263-4451

*Counsel for Environmental Integrity  
Project*

Sincerely,

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**Kathleen Riley**  
Associate Attorney  
Emma Cheuse  
Staff Attorney  
EARTHJUSTICE  
1001 G Street, NW, Suite 1000  
Washington, D.C. 20001  
[kriley@earthjustice.org](mailto:kriley@earthjustice.org)  
[echeuse@earthjustice.org](mailto:echeuse@earthjustice.org)  
(202) 667-4500 ext. 5220 or 5224

*Counsel for California Communities  
Against Toxics, Louisiana  
Environmental Action Network, Ohio  
Valley Environmental Coalition,  
RISE St. James, Sierra Club, and  
Texas Environmental Justice  
Advocacy Services*