

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CALIFORNIA COMMUNITIES AGAINST  
TOXICS  
P.O. Box 845  
Rosamond, CA 93560;

CLEAN AIR COUNCIL  
135 S. 19th Street, Suite 300  
Philadelphia, PA, 19103;

CLEAN POWER LAKE COUNTY  
1245 St. John Avenue  
Highland Park, IL 60035;

DELAWARE CONCERNED RESIDENTS  
FOR ENVIRONMENTAL JUSTICE  
719 N. Shipley Street  
Wilmington, DE 19801;

GREATER-BIRMINGHAM ALLIANCE TO  
STOP POLLUTION  
2320 Highland Avenue S, Suite 270  
Birmingham, AL 35205;

KENTUCKY RESOURCES COUNCIL  
P.O. Box 1070  
Frankfort, KY 40602;

NEW CASTLE PREVENTION COALITION  
19 Lambson Lane  
New Castle, DE 19720;

UNITED CONGREGATIONS OF METRO-  
EAST  
13 Vieux Carre Drive, Suite 2  
East St. Louis, IL 62203; and

SIERRA CLUB  
2101 Webster Street, Suite 1300  
Oakland, CA 94612,

*Plaintiffs,*

v.

Civil Action No. 1:22-cv-1457

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

MICHAEL S. REGAN, Administrator, )  
U.S. Environmental Protection Agency, in )  
his official capacity, )  
1200 Pennsylvania Ave., NW )  
Washington, DC 20460, )  
*Defendant.* )

## INTRODUCTION

1. This is a suit to compel the Administrator of the U.S. Environmental Protection Agency (“EPA”) to take actions required by the Clean Air Act (“Act”). 42 U.S.C. §§ 7401-7671. The Act requires that EPA limit emissions of toxic, cancer-causing chemicals by promulgating national emission standards for hazardous air pollutants (NESHAP). 42 U.S.C. § 7412(d). It also requires EPA to “review, and revise” these standards “no less often than every eight years.” *Id.* § 7412(d)(6).

2. EPA finalized NESHAP for chemical manufacturing area sources in December 2012. 77 Fed. Reg. 75,740 (December 21, 2012); 40 C.F.R. Part 63, Subpart VVVVVV. Although more than eight years have passed since those standards were promulgated, EPA has not reviewed and revised those standards. EPA, therefore, has violated and is in ongoing violation of the Act.

3. The chemical manufacturing industry is a significant source of pollution, including volatile organic compounds and hazardous air pollutants known to cause cancer, among a host of other illnesses. EPA’s failure to review and revise the NESHAP for chemical manufacturing area sources allows these facilities to operate without requirements ensuring the use of current pollution control technology and without preventing the facilities from emitting excessive hazardous air pollution. EPA’s inaction harms Plaintiffs and their members, many of whom live, work, and recreate near these sources and who have no choice but to breathe the hazardous air pollutants they emit.

4. Some chemical manufacturing facilities also emit significant amounts of ethylene oxide, a hazardous air pollutant that EPA classifies as a human carcinogen. EPA's Office of Inspector General recently found that ethylene oxide emissions create an unacceptable risk of cancer in some communities where Plaintiffs' members live, work, and recreate. The current chemical manufacturing area source standards do not set limits for ethylene oxide. Although a 2021 EPA Office of Inspector General report recommended that EPA develop NESHAP for chemical manufacturing area sources that emit ethylene oxide, EPA has yet to do so. As a result, EPA's failure to review and revise the NESHAP for chemical manufacturing area sources harms Plaintiffs' members who are exposed to unregulated emissions of ethylene oxide from these sources.

5. To remedy EPA's failure to comply with its statutory obligation, Plaintiffs seek declaratory and injunctive relief compelling EPA to review and, if necessary, revise the NESHAP for the chemical manufacturing area source category as expeditiously as possible.

#### **JURISDICTION, VENUE, AND NOTICE**

6. This action arises under the Clean Air Act. 42 U.S.C. § 7412(d)(6).

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1361 and 42 U.S.C. § 7604(a)(2).

8. This Court may grant the requested relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, as well as 28 U.S.C. § 1361 and 42 U.S.C. § 7604(a)(2).

9. Venue is vested in this Court under 28 U.S.C. § 1391(e) because the Defendant, EPA Administrator Michael S. Regan, resides in this district.

10. By certified mail postmarked March 18, 2022, Plaintiffs gave notice of this action to the Administrator as required under 42 U.S.C. § 7604(b)(2) and 40 C.F.R. §§ 54.1-54.3.

11. As more than sixty days have passed since that submission, Plaintiffs have satisfied the notice requirements of section 7604(b)(2).

### **PARTIES**

12. Plaintiff California Communities Against Toxics (“CCAT”) is a nonprofit organization headquartered in Rosamond, California. CCAT is an environmental justice network of members and member groups that advocates for environmental justice and protection from toxic air pollution in the State of California and nationally. Through public education, advocacy, and community organizing, CCAT aims to reduce individuals’ exposure to pollution, to expand knowledge about the effects of toxic chemicals on human health and the environment, and to protect the most vulnerable people from harm.

13. Plaintiff Clean Power Lake County (“CPLC”) is a nonprofit organization headquartered in Highland Park, Illinois. CPLC is a community-driven coalition committed to local action to secure environmental, economic, and racial justice. CPLC’s mission is to ensure clean air, clean water, and healthy soil for every Lake County community member and to achieve the self-determination of those disproportionately impacted by environmental pollution.

14. Plaintiff Delaware Concerned Residents for Environmental Justice (“DCR4EJ”) is a nonprofit organization headquartered in Wilmington, Delaware. DCR4EJ is an environmental justice collective where individuals, health advocates,

native indigenous peoples, and organized groups are united around a shared commitment to a bottom-up process rooted in principles to combat toxic chemicals, processes and pollution, the climate crisis, food access, and public health. DCR4EJ's mission is to inform and empower communities to take action to protect the fundamental rights to clean air, water, land, and food.

15. Plaintiff Greater-Birmingham Alliance to Stop Pollution ("GASP") is a nonprofit organization headquartered in Birmingham, Alabama. GASP's mission is to advance healthy air & environmental justice in the greater-Birmingham area through education, advocacy, and collaboration. GASP envisions a healthy, just, and sustainable Alabama for everyone who lives, works, learns, and worships there. GASP strives to reduce air pollution, to educate the public on the health risks associated with poor air quality, and to encourage community leaders to serve as role models for clean air and clean energy development.

16. Plaintiff Kentucky Resources Council ("KRC") is a nonprofit organization headquartered in Frankfort, Kentucky. KRC's mission is to protect built and natural communities from pollution and environmental damage. KRC combines policy and legal advocacy to protect the Commonwealth's natural resources and ensure environmental justice for Kentucky's most vulnerable people and communities.

17. Plaintiff New Castle Prevention Coalition ("NCPC") is a nonprofit organization headquartered in New Castle, Delaware. NCPC works to build community resilience and strength by coalescing with residents and other stakeholders to address the impacts and root causes of issues affecting the Route 9 Corridor communities, including environmental injustice.

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