

Dated: August 21, 2013.

**Linda Arrington,**

*Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

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## ENVIRONMENTAL PROTECTION AGENCY

### Proposed Consent Decree, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sandra L. Bahr and David Matusow in the United States District Court for the District of Arizona: *Bahr, et al. v. McCarthy*, No. 2:13-cv-00872 SMM (D. AZ). On April 30, 2013, Plaintiffs filed a complaint alleging that EPA failed to perform a mandatory duty under CAA section 110(c)(1) to promulgate a federal implementation plan for the State of Arizona that arose as a result of EPA’s February 14, 2011, finding of failure to submit a revision to the state implementation plan required under CAA section 189(d), by the required deadline. The proposed consent decree establishes deadlines for EPA to take action.

**DATES:** Written comments on the proposed consent decree must be received by September 27, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2013-0609, online at [www.regulations.gov](http://www.regulations.gov) (EPA’s preferred method); by email to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey L. Wilcox, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW.,

Washington, DC 20460; telephone: (202) 564-5601; fax number (202) 564-5603; email address: [wilcox.geoffrey@epa.gov](mailto:wilcox.geoffrey@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by Sandra L. Bahr and David Matusow (“Plaintiffs”) seeking to compel the Administrator to take actions under CAA section 110(c)(1) to promulgate a federal implementation plan (“FIP”) for the State of Arizona. A portion of Arizona, including Maricopa County and a part of Pinal County, is designated nonattainment for the National Ambient Air Quality Standard (“NAAQS”) for particulate matter ten microns in diameter or less (“PM<sub>10</sub>”). This area is classified as a “serious” PM<sub>10</sub> nonattainment area. Because the area had not attained the NAAQS by the applicable statutory attainment date, Arizona was required to submit a revision to its state implementation plan (“SIP”) to meet the requirements of CAA section 189(d). On February 14, 2011, EPA found that Arizona failed to make the SIP submission required under CAA section 189(d) by the required deadline. This finding of failure to submit started a 2-year clock under CAA section 110(c)(1) for EPA to promulgate a FIP to meet the obligations of CAA section 189(d). EPA did not promulgate the required FIP by the statutory deadline and this is the basis for the Plaintiffs’ mandatory duty lawsuit at issue in the proposed consent decree.

The proposed consent decree provides that no later than January 14, 2014, a notice or notices of the Agency’s proposed action or actions to either approve a SIP, promulgate a FIP, or approve a SIP in part with the promulgation of a partial FIP to address the requirements of CAA section 189(d). The proposed consent decree also provides that no later than June 2, 2014, a notice or notices of the Agency’s final action or actions to either approve a SIP, promulgate a FIP, or approve a SIP in part with the promulgation of a partial FIP to address the requirements of CAA section 189(d). The proposed consent decree requires that no later than 15 business days following signature of each notice, EPA shall send the notice or notices to the Office of the Federal Register for review and publication in the **Federal Register**. After EPA fulfills its obligations under the proposed consent decree, the consent decree shall be terminated and the case dismissed with prejudice.

For a period of thirty (30) days following the date of publication of this

notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the decree will be affirmed.

#### II. Additional Information About Commenting on the Proposed Consent Decree

*A. How can I get a copy of the consent decree?*

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2013-0609) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through [www.regulations.gov](http://www.regulations.gov). You may use [www.regulations.gov](http://www.regulations.gov) to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at [www.regulations.gov](http://www.regulations.gov) without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public

docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

*B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the [www.regulations.gov](http://www.regulations.gov) Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an "anonymous access" system. If you send an email comment directly to the Docket without going through [www.regulations.gov](http://www.regulations.gov), your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: August 20, 2013.

**Lorie J. Schmidt,**

*Associate General Counsel.*

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9900-45-OA]

**Request for Nominations of Experts To Augment the Science Advisory Board Chemical Assessment Advisory Committee for the Review of the EPA's Draft Toxicological Assessments for Ammonia, Trimethylbenzenes and the Evaluation of Inhalation Carcinogenicity of Ethylene Oxide**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The EPA Science Advisory Board (SAB) Staff Office requests public nominations of scientific experts to augment the SAB Chemical Assessment Advisory Committee (CAAC) to form three panels for the review of: (1) The EPA's draft Toxicological Review of Ammonia; (2) the EPA's draft Toxicological Review of Trimethylbenzenes; and (3) the EPA's draft Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide In Support of Summary Information on the Integrated Risk Information System (IRIS).

**DATES:** Nominations should be submitted by September 18, 2013 per the instructions below.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this Notice and Request for Nominations may contact the appropriate Designated Federal Officer for the specific review, as identified below. Nominators unable to submit nominations electronically as described below may contact the Designated Federal Officers for assistance. General information concerning the EPA SAB can be found at the EPA SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:**

*Background:* The SAB (42 U.S.C. 4365) is a chartered Federal Advisory Committee that provides independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. The SAB Chemical Assessment Advisory Committee (CAAC) is a subcommittee of the SAB that provides advice through the chartered SAB regarding assessments of environmental chemicals available on EPA's Integrated

Risk Information System (IRIS). The SAB and the CAAC, augmented with additional experts, will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

The National Center for Environmental Assessment (NCEA) in the EPA's Office of Research and Development (ORD) develops toxicological reviews/assessments for various chemicals for EPA's Integrated Risk Information System (IRIS). NCEA has developed two separate draft IRIS assessments for ammonia and trimethylbenzenes, and a draft evaluation of the inhalation carcinogenicity for ethylene oxide for IRIS. NCEA has asked the SAB to peer review draft documents for ammonia, trimethylbenzenes, and ethylene oxide. The SAB Staff Office is seeking experts to augment the SAB CAAC to form three separate panels to conduct the peer reviews.

(1) NCEA's draft *Toxicological Review of Ammonia* (August 2013) represents a reassessment of the toxicity of ammonia. The assessment and proposed charge questions may be found at the following URL: [http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr\\_activites/IRIS%20Ammonia?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/IRIS%20Ammonia?OpenDocument). The ammonia assessment currently posted to the IRIS database includes an inhalation reference concentration (RfC, posted in 1991). For the 2013 draft review, NCEA evaluated epidemiological data, experimental animal data, and other relevant data from studies of the noncancer and cancer effects of ammonia. This reassessment includes an inhalation RfC and a qualitative cancer descriptor. The assessment does not include an oral reference dose (RfD) or a quantitative cancer assessment because NCEA considered that adequate information was not available.

(2) NCEA's draft *Toxicological Review of Trimethylbenzenes* (August 2013) is the first IRIS assessment developed for trimethylbenzenes (TMBs), including 1,2,3-TMB; 1,2,4-TMB; 1,3,5-TMB. The assessment and proposed charge questions may be found at the following URL: [http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr\\_activites/IRIS%20Trimethylbenzenes?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/IRIS%20Trimethylbenzenes?OpenDocument). NCEA has evaluated experimental animal data and other relevant noncancer data in this assessment. The assessment includes an inhalation RfC, oral RfD, and qualitative cancer descriptor for each isomer. The assessment does not include a quantitative cancer assessment.

(3) NCEA has developed a draft *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide* (July 2013 Draft). The draft evaluation and