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14 UNITED STATES DISTRICT COURT
15 FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

16 CITIZENS FOR CLEAN AIR, a project of)
ALASKA COMMUNITY ACTION ON TOXICS, and)
17 SIERRA CLUB,)

18 Plaintiffs,)

19 v.)

20 GINA MCCARTHY, in her official capacity as)
Administrator of the United States Environmental)
21 Protection Agency, and DENNIS MCLERRAN, in his)
official capacity as Regional Administrator of)
22 the United States Environmental Protection Agency)
Region 10,)

23 Defendants.)
24)

25 COMPLAINT)
(Case No.)

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INTRODUCTION

1

2 1. Fairbanks North Star Borough (the Borough) has the worst episodic fine

3 particulate matter (PM-2.5) pollution in the nation—“worse than Los Angeles, Milwaukee and

4 Detroit combined,” a local newspaper put it. *See* Exhibit 1 (Amanda Bohman, *Air pollution in*

5 *North Pole worse than Los Angeles, Milwaukee and Detroit combined*, Fairbanks News Miner

6 (May 27, 2016)). Defendants have known about Fairbanks’s PM-2.5 problem for more than half

7 a decade, but they have repeatedly failed to take action mandated by the Clean Air Act to address

8 the problem. Most recently, they have failed to meet a deadline for determining whether the

9 Fairbanks North Star Borough nonattainment area has attained the 24-hour fine particulate matter

10 National Ambient Air Quality Standard (NAAQS) defined in 2006. Under the Clean Air Act,

11 Defendants are required to make this determination and to publish notice of their finding in the

12 Federal Register within six months following the Borough’s attainment date. 42 U.S.C. §

13 7513(b)(2). If Defendants determine the area remains out of attainment, they must publish a

14 notice of reclassification of the area as a “serious” nonattainment area, which triggers stricter

15 pollution control measures. *Id.* Due in part to Defendants’ ongoing delay, the people of

16 Fairbanks, including children and the elderly, continue to be endangered by the harms of PM-2.5

17 exposure.

18 2. The Federal Government recognizes the dangers that PM-2.5 exposure poses to

19 the people of Fairbanks. Under the Clean Air Act, the U.S. Environmental Protection Agency

20 (EPA) regulates PM-2.5 pollution, imposing relevant 24-hour NAAQS. 62 Fed. Reg. 38,652

21 (July 18, 1997) (adopting 24-hour NAAQS for PM-2.5); 71 Fed. Reg. 61,144 (Oct. 17, 2006)

22 (codified at 40 C.F.R. § 50.13) (strengthening standards).

1 3. EPA designated the Borough a nonattainment area with respect to the 2006 24-
2 hour NAAQS for PM-2.5 in November 2009. 74 Fed. Reg. 58,688, 58,696, 58,702 (Nov. 13,
3 2009).

4 4. Since 2009, EPA has continued to document that the Borough has some of the
5 worst episodic PM-2.5 pollution in the nation, with ambient air concentrations frequently in
6 excess of the NAAQS for PM-2.5—currently by more than any other previously designated
7 nonattainment area. *See* Exhibit 2 at 1 (EPA, *PM 2.5 Design Values, 2015* at Tbl. 3b (Jul. 27,
8 2016)).

9 5. However, EPA has been derelict in its duties to protect the families of Fairbanks
10 from fine particulate matter pollution. EPA has previously missed two related deadlines in the
11 Borough’s Clean Air Act process, resulting in two previous suits before this Court. *See* Compl.,
12 *Citizens for Clean Air v. McCarthy*, No. 2:14-cv-00610-MJP (W.D. Wash. 2014), ECF No. 1;
13 Compl., *Citizens for Clean Air v. McCarthy*, No. 2:16-cv-00857-JCC (W.D. Wash. 2016), ECF
14 No. 1.

15 6. EPA has missed yet another deadline to enforce the Clean Air Act in Fairbanks.
16 Under the statute, the agency was required to determine whether the Borough had attained the
17 national standard for PM-2.5 as of December 31, 2015, *see* 42 U.S.C. § 7513(c)(1), and publish
18 notice of this determination within six months of that date, by June 30, 2016. *Id.* § 7513(b)(2).
19 If the standard had not been achieved, EPA was required also to publish notice that the Borough
20 had been reclassified by operation of law as a “serious” nonattainment area. *Id.* This
21 designation triggers stricter pollution control requirements. *Id.* § 7513a(b).

22 7. EPA failed to publish the required notice by June 30, 2016, and still has not
23 published this notice.

1 8. Accordingly, Plaintiffs CITIZENS FOR CLEAN AIR, a project of ALASKA
2 COMMUNITY ACTION ON TOXICS, and SIERRA CLUB bring this action to compel
3 Defendant GINA MCCARTHY, in her official capacity as EPA Administrator, and Defendant
4 DENNIS MCLERRAN, in his official capacity as Regional Administrator of EPA Region 10, to
5 perform their mandatory duties to ensure that the Federal Government is acting timely to provide
6 the residents of the Borough the protections promised to them by federal law.

7 **JURISDICTION**

8 9. The Court has jurisdiction over this action to compel the performance of EPA’s
9 non-discretionary duties under the Clean Air Act’s citizen suit provision, 42 U.S.C. § 7604(a),
10 and 28 U.S.C. § 1331. The Court also has authority to order declaratory and injunctive relief
11 pursuant to 28 U.S.C. §§ 2201 and 2202.

12 **NOTICE**

13 10. On August 3, 2016, Plaintiffs provided EPA written notice of the claim stated in
14 this action, as required by 42 U.S.C. § 7604(b)(2). *See* Exhibit 3 (K. Tsuda, counsel for
15 Plaintiffs, Letter to Gina McCarthy, Adm’r of EPA (Aug. 3, 2016)). A period of sixty days has
16 elapsed since EPA was notified of Plaintiffs’ claim, therefore, notice was proper. *See* 42 U.S.C.
17 § 7604(b)(2).

18 **VENUE**

19 11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e). Defendant EPA
20 resides in this judicial district. EPA Region 10, which has authority over Alaska, is
21 headquartered in Seattle. This civil action is brought against officers of the United States acting
22 in their official capacities, and a substantial part of the events or omissions giving rise to the
23 claims in this case occurred in the Western District of Washington. Further, because EPA

1 Region 10 is located within King County, assignment to the Seattle Division is proper under
2 Civil Local Rule 3(d)(1).

3 **PARTIES**

4 12. Plaintiff CITIZENS FOR CLEAN AIR, a project of ALASKA COMMUNITY
5 ACTION ON TOXICS, is a coalition of local community members and citizens groups in
6 Fairbanks, Alaska who are committed to cleaning up the air while keeping everyone warm in the
7 winter. Alaska Community Action on Toxics is a non-profit environmental health research and
8 advocacy organization whose mission is to assure justice by advocating for environmental and
9 community health.

10 13. Plaintiff SIERRA CLUB is a national nonprofit organization with 64 chapters and
11 over 630,000 members dedicated to exploring, enjoying, and protecting the wild places of the
12 Earth; to practicing and promoting the responsible use of the Earth’s ecosystems and resources;
13 to educating and enlisting humanity to protect and restore the quality of the natural and human
14 environment; and to using all lawful means to carry out these objectives. The Alaska Chapter of
15 the Sierra Club has over 1,450 members, including members in the Borough.

16 14. Plaintiffs’ members live, raise their families, work, recreate, and conduct
17 educational, advocacy, and other activities in the Borough. They are adversely affected by
18 continuing exposure to levels of PM-2.5 pollution that exceed the national, health-based
19 standards for 24-hour concentrations of PM-2.5 established under the Clean Air Act. The
20 adverse effects of such pollution include actual or threatened harm to their health; their families’
21 health; their professional, educational, and economic interests; and their aesthetic and
22 recreational enjoyment of the environment in the Borough.

23 15. EPA’s failure timely to perform the mandatory duties described in this Complaint
24 has injured and continues to injure the interests of Plaintiffs and their members. The relief

1 requested in this lawsuit would redress these injuries by compelling EPA to take the action
2 mandated by Congress in the Clean Air Act’s requirements for addressing and improving air
3 quality in areas violating national air quality standards, such as the Borough.

4 16. Defendant GINA MCCARTHY is sued in her official capacity as the
5 Administrator of EPA. She is responsible for taking various actions to implement and enforce
6 the Clean Air Act, including the mandatory duty at issue in this case.

7 17. Defendant DENNIS MCLERRAN is sued in his official capacity as EPA
8 Regional Administrator for Region 10. He is responsible for implementing and enforcing the
9 Clean Air Act in EPA Region 10, which includes the Fairbanks North Star Borough, Alaska.

10 **STATUTORY FRAMEWORK**

11 18. Congress enacted the Clean Air Act to “speed up, expand, and intensify the war
12 against air pollution in the United States with a view to assuring that the air we breathe
13 throughout the Nation is wholesome once again.” H.R. Rep. No. 91-1146, at 1 (1970), *reprinted*
14 *in* 1970 U.S.C.C.A.N. 5356, 5356. Consistent with these goals, the Act requires EPA to set
15 NAAQS for certain pollutants, “the attainment and maintenance of which . . . are requisite to
16 protect the public health” with “an adequate margin of safety,” 42 U.S.C. §§ 7409(a)-(b), and to
17 designate areas with air pollution levels that exceed the national standards as “nonattainment”
18 areas, 42 U.S.C. § 7407(d)(1).

19 19. The Clean Air Act requires that a nonattainment area that has been designated as
20 “moderate” must attain the NAAQS “as expeditiously as practicable but no later than the end of
21 the sixth calendar year after the area’s designation as nonattainment.” *See* 42 U.S.C. §
22 7513(c)(1) (stating rule for setting attainment dates for “moderate” PM-10 nonattainment areas);
23 *see also Nat. Res. Def. Council v. EPA*, 706 F.3d 428, 434-36 (D.C. Cir. 2013) (holding that

1 subpart four of the Clean Air Act, addressing PM-10 standards extends to PM-2.5 nonattainment
2 areas); 79 Fed. Reg. 31,566, 31,568 (June 2, 2014) (“[T]he EPA in this notice is identifying the
3 classification of all [PM-2.5] areas currently designated nonattainment for the 1997 and 2006
4 NAAQS as ‘Moderate.’”); *see also id.* at 31,570 (stating that the areas identified as moderate
5 under the rule “are subject to a Moderate area attainment deadline under subpart 4 of no later
6 than December 31, 2015.”); *WildEarth Guardians v. EPA*, No. 14-1145, 2016 WL 4056089, at
7 *10 (D.C. Cir. July 29, 2016) (observing that in EPA’s 2014 implementation rule “the agency
8 retained the attainment deadline of December 31, 2015”).

9 20. The Administrator shall determine whether a “moderate” nonattainment area has
10 attained the NAAQS by its attainment date within six months following that attainment date. 42
11 U.S.C. § 7513(b)(2). If the Administrator determines that the NAAQS was not attained, the area
12 shall be reclassified by operation of law as a “serious” nonattainment area. *Id.* § 7513(b)(2)(A).
13 The Administrator must then publish a notice in the Federal Register no later than six months
14 following the attainment date identifying the area as having failed to attain and giving notice of
15 the area’s reclassification as a “serious” nonattainment area. *Id.* § 7513(b)(2)(B).

16 21. If EPA fails to take a non-discretionary action, such as determining whether a
17 “moderate” nonattainment area has attained NAAQS and publishing notice of this determination
18 and potential reclassification by operation of law within six months of an area’s attainment date,
19 “any person may commence a civil action” to compel prompt action. 42 U.S.C. § 7604(a)(2).

20 **STATEMENT OF FACTS**

21 22. PM-2.5 refers to fine particles less than or equal to 2.5 micrometers in diameter,
22 including hazardous forms of dirt, soot, smoke, and liquid droplets found in the air. 71 Fed. Reg.
23 at 61,145. PM-2.5 is “produced chiefly by combustion processes and by atmospheric reactions
24

1 of various gaseous pollutants,” thus “[s]ources of fine particles include . . . motor vehicles, power
 2 generation, combustion sources at industrial facilities, and residential fuel burning.” *Id.* at
 3 61,146.

4 23. The detrimental effects of PM-2.5 on human health are significant. Exposure has
 5 been associated “with an array of health effects, notably premature mortality, increased
 6 respiratory symptoms and illnesses (e.g., bronchitis and cough in children), and reduced lung
 7 function.” 62 Fed. Reg. at 38,668. Numerous scientific studies have linked particle pollution
 8 exposure, especially exposure to fine particles, to a variety of problems, including premature
 9 death in people with heart or lung disease, non-fatal heart attacks, irregular heartbeat, aggravated
 10 asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the
 11 airways, coughing, or difficulty breathing, as well as possibly cancer, and reproductive and
 12 developmental harms. *See* Exhibit 4 (EPA, *Particulate Matter (PM)* (May 12, 2016)); Exhibit 5
 13 at 8 (Am. Lung Ass’n, *State of the Air 2015* at 31 (citing EPA, *Integrated Science Assessment*
 14 *for Particulate Matter*, EPA 600/R-08/139F (2009))).

15 24. EPA first adopted 24-hour NAAQS for PM-2.5 in 1997. 62 Fed. Reg. at 38,652.
 16 In 2006, EPA strengthened these standards, revising the maximum allowed 24-hour average
 17 concentration of PM-2.5 from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$. 71 Fed. Reg.
 18 at 61,144 (codified at 40 C.F.R. § 50.13).

19 25. Fairbanks North Star Borough has some of the worst PM-2.5 pollution in the
 20 nation, with ambient air concentrations frequently in excess of the 24-hour NAAQS. Of all
 21 previously designated nonattainment areas for 24-hour PM-2.5, measured by 2013-2015 design
 22 values, Fairbanks is the most polluted, with levels far in excess of the next most-polluted area, at
 23 354 percent of the 24-hour PM-2.5 NAAQS. *See* Exhibit 2 at 1. Within the United States, the

1 highest measures of episodic PM-2.5 are reported from a pollution monitor on Hurst Road in the
2 Borough’s North Pole area. See Exhibit 1.

3 26. On November 13, 2009, EPA designated the Fairbanks North Star Borough as a
4 nonattainment area with respect to 24-hour PM-2.5 NAAQS. 74 Fed. Reg. at 58,696, 58,702.

5 27. The Borough is a “moderate” non attainment area. 79 Fed. Reg. at 31,568 (“[T]he
6 EPA in this notice is identifying the classification of all [PM-2.5] areas currently designated
7 nonattainment for the 1997 and 2006 NAAQS as ‘Moderate.’”).

8 28. The Borough’s attainment date for the 24-hour PM-2.5 NAAQS was thus “no
9 later than the end of the sixth calendar year after the area’s designation as nonattainment,” 42
10 U.S.C. § 7513(c)(1), that is, no later than December 31, 2015. 79 Fed. Reg. at 31,570 (stating
11 that the areas identified as moderate under the rule “are subject to a Moderate area attainment
12 deadline under subpart 4 of no later than December 31, 2015.”); *WildEarth Guardians*, 2016 WL
13 4056089, at *10 (observing that in EPA’s 2014 implementation rule “the agency retained the
14 attainment deadline of December 31, 2015”).

15 29. Six months from the Borough’s attainment date passed on June 30, 2016.

16 30. To date, EPA has failed to publish notice in the Federal Register determining
17 whether the Borough had attained the NAAQS by its attainment date, and, if necessary,
18 identifying the reclassification of the area as a “serious” nonattainment area. See 42 U.S.C. §
19 7513(b)(2)(B).

20 **CLAIM FOR RELIEF**
21 **(Failure to publish notice regarding attainment and reclassification as a “serious”**
22 **nonattainment area)**

23 31. Plaintiffs reallege each and every allegation set forth above, as if fully set forth
24 herein.

1 32. The deadline for the Administrator to publish notice regarding the Borough's
2 attainment or otherwise with respect to the 2006 24-hour PM-2.5 NAAQS, and potentially of its
3 reclassification as a "serious" nonattainment area, was no later than June 30, 2016.

4 33. The Administrator has not published notice regarding the Borough's attainment of
5 the NAAQS, nor of its reclassification as a "serious" nonattainment area if it failed to attain the
6 standard.

7 34. Pursuant to 42 U.S.C. § 7513(b)(2), EPA had a mandatory duty to publish notice
8 regarding the Borough's attainment of the NAAQS, and, if the Borough failed to attain the
9 standard, of its reclassification as a "serious" nonattainment area within six months of the
10 Borough's attainment date, and thus no later than June 30, 2016.

11 35. EPA has failed to perform this mandatory duty.

12 36. Accordingly, EPA has been in continuous violation of the Clean Air Act, 42
13 U.S.C. § 7513(b)(2), since July 1, 2016, or earlier.

14 37. This Clean Air Act violation constitutes a "failure of the Administrator to perform
15 [an] act or duty under this chapter which is not discretionary with the Administrator," within the
16 meaning of the Clean Air Act's citizen suit provision. 42 U.S.C. § 7604(a)(2). The violation is
17 ongoing.

18 **PRAYER FOR RELIEF**

19 Wherefore, Plaintiffs respectfully request that the Court:

20 38. Declare that the Administrator is in violation of the Clean Air Act with regard to
21 her mandatory, nondiscretionary duty under 42 U.S.C. § 7513(b)(2) to publish notice regarding
22 the Borough's attainment or otherwise of the 2006 24-hour PM-2.5 NAAQS, and, if the Borough
23 failed to attain the standard, of its reclassification as a "serious" nonattainment area;

1 39. Issue an injunction requiring the Administrator to publish notice regarding the
2 Borough's attainment or otherwise of the 2006 24-hour PM-2.5 NAAQS, and, if the Borough
3 failed to attain the standard, of its reclassification as a "serious" nonattainment area;

4 40. Retain jurisdiction of this matter until such time as EPA has complied with its
5 non-discretionary duties under the Clean Air Act;

6 41. Award to Plaintiffs their reasonable costs of litigation, including attorneys' fees
7 and expert witness fees; and

8 42. Grant such further relief as the Court deems just and proper.

9 Respectfully submitted this 11th day of October, 2016.

10 s/ Janette K. Brimmer

11 Janette K. Brimmer (WSB #41271)

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Community Action on Toxics, and Sierra Club*

TABLE OF EXHIBITS

Exhibit No.	Description
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-
- | | |
|---|---|
| 1 | Bohman, Amanda, <i>Air pollution in North Pole worse than Los Angeles, Milwaukee and Detroit combined</i> , FAIRBANKS DAILY NEWS-MINER (May 27, 2016) |
| 2 | U.S. Environmental Protection Agency (EPA), PM2.5 Design Values, 2015) (Jul. 27, 2016) (excerpt), <i>available at</i> https://www.epa.gov/sites/production/files/2016-07/pm25_designvalues_20132015_final_07_29_16.xlsx |
| 3 | Tsuda, K., Earthjustice, Letter to G. McCarthy, EPA, Re. 60-Day Notice of Intent to File Clean Air Act Citizen Suit (Aug. 3, 2016) |
| 4 | EPA, <i>Particulate Matter (PM): Health</i> |
| 5 | American Lung Association, <i>State of the Air 2015</i> (excerpts) |

EXHIBIT 1

6/2/2016

Air pollution in North Pole worse than Los Angeles, Milwaukee and Detroit combined | Local News | newsminer.com

http://www.newsminer.com/news/local_news/air-pollution-in-north-pole-worse-than-los-angeles-milwaukee/article_a797d390-2315-11e6-a864-4714d8ec1790.html

Air pollution in North Pole worse than Los Angeles, Milwaukee and Detroit combined

Amanda Bohman, abohman@newsminer.com Updated May 27, 2016



Eric Engman/News-Miner

North Pole recorded its worst air quality ever on Sunday as cars drive through the pollution inversion along Badger Road a Road intersection Monday afternoon, January 5, 2015.

FAIRBANKS — The highest counts of episodic PM 2.5 particulate pollution reported in the country are coming from a pollution monitor on Hurst Road in North Pole.

The counts are not just high. They are outrageously high — almost twice as high as the next highest community in the nation, according to data collected by the U.S. Environmental Protection Agency.

http://www.newsminer.com/news/local_news/air-pollution-in-north-pole-worse-than-los-angeles-milwaukee/article_a797d390-2315-11e6-a864-4714d8ec1790.h... 1/4

6/2/2016

Air pollution in North Pole worse than Los Angeles, Milwaukee and Detroit combined | Local News | newsminer.com

“This level of pollution is rarely experienced in the United States,” said Claudia Vaupel, EPA air planning team leader.

On winter days, when chimneys are churning out smoke and the air is stagnant, a thick haze settles on the area off Badger Road, burning people’s eyes, throats and noses. It’s a health hazard, which is why the EPA requires the pollution monitoring and is urging the state to take action.

New data certified by the Alaska Department of Environmental Conservation in early May shows little meaningful air quality improvement.

State air quality regulator Cindy Heil said the nonattainment area in the Fairbanks North Star Borough continues to lead the nation with the highest design value for short-term particulate pollution.

Three years of data are averaged to come up with a design value, which is a tool used by the EPA to measure progress. The new design value for the Fairbanks borough’s nonattainment area is 124 micrograms per cubic meter. It went down from 139 last year. The design value remains far — the farthest in the country — from the goal of getting below 35.5 micrograms per cubic meter.

“We are still extremely high,” said Ron Lovell, borough air quality manager.

The design value here was much lower in previous years when the monitor of record was in the city of Fairbanks. A few years ago, a monitor was added in North Pole, and that became the official monitoring site last year. Under federal guidelines, the monitor showing the highest pollution counts becomes the official monitor.

“It’s the way the rules are set up,” said Barbara Trost, air monitoring and quality assurance program manager for the DEC.

Last year’s dramatic jump in the design value put the Fairbanks smoke pollution nonattainment area way above some major metropolitan areas who also deal with particulate spikes.

6/2/2016

Air pollution in North Pole worse than Los Angeles, Milwaukee and Detroit combined | Local News | newsminer.com

The design value for episodic particulate pollution in Los Angeles last year was 38 micrograms per cubic meter. Salt Lake City's design value was 43.

The San Joaquin Valley in California, which is showing the second-highest particulate pollution spikes, had a design value of 71 last year.

The American Lung Association also collects PM2.5 pollution data, but analyzes it differently. The organization makes its own list of cities with periodic dirty air and ranked Fairbanks No. 5 in its 2016 State of the Air report. It's the worst showing that Fairbanks has had on a lung association list of most-polluted cities. Only four areas — all in California — ranked worse than Fairbanks, including Bakersfield, Fresno and Modesto.

Fairbanks has been listed among the lung association's top 10 most-polluted cities since 2013. The borough started climbing the list after 2010 when it ranked 44th for episodic particulate pollution.

Vaupel, the EPA regulator, said that temperature inversions — when a mass of warm air sits aloft colder air, trapping pollutants — in the subarctic cities of Fairbanks and North Pole are stronger than experienced in other U.S. cities.

"The air is so still. That doesn't happen in the other areas that have inversions," she said.

Krystal Francesco lived off of Badger Road between 2010-2013 about two miles from the Hurst Road monitor. Part of the reason she moved was to get away from the smoke pollution, she said.

"We could smell chemicals outside the house and also coming into the room where me and my infant daughter at the time slept," she said.

Francesco said she took multiple trips to the emergency room in the wintertime because of her daughter's breathing problems.

"Doctors called it croup the first few times," Francesco said. "After that, her pediatrician called it asthma."

6/2/2016

Air pollution in North Pole worse than Los Angeles, Milwaukee and Detroit combined | Local News | newsminer.com

After the family moved, the ER visits stopped and Francesco said her daughter's coughing fits decreased.

Contact staff writer Amanda Bohman at 459-7587. Follow her on Twitter: @FDNMborough.

EXHIBIT 2

Table 3b. PM2.5 Design Value History for Previously Designated Nonattainment Areas for the PM2.5 2006 24-hour NAAQS, 2004-2006 through 2013-2015^{1,2,3,4}
 AQS Data Query: 2016-06-21 ; Last updated: 2016-07-27

Designated Area	State	EPA Region	2004-2006 Design Value ($\mu\text{g}/\text{m}^3$)	2005-2007 Design Value ($\mu\text{g}/\text{m}^3$)	2006-2008 Design Value ($\mu\text{g}/\text{m}^3$)	2007-2009 Design Value ($\mu\text{g}/\text{m}^3$)	2008-2010 Design Value ($\mu\text{g}/\text{m}^3$)	2009-2011 Design Value ($\mu\text{g}/\text{m}^3$)	2010-2012 Design Value ($\mu\text{g}/\text{m}^3$)	2011-2013 Design Value ($\mu\text{g}/\text{m}^3$)	2012-2014 Design Value ($\mu\text{g}/\text{m}^3$)	2013-2015 Design Value ($\mu\text{g}/\text{m}^3$)
Allentown	PA	03	37	37	36	34	32	33	32	32	29	30
Birmingham	AL	04	44	44	39	34	29	27	26	24	23	23
Canton-Massillon	OH	05	37	36	36	37	28	28	29	27	26	26
Charleston	WV	03	37	38	36	32	28	26	24	22	20	20
Chico	CA	09	56	55	69	59	51	35	34	34	28	29
Cleveland-Akron-Lorain	OH	05	43	42	38	36	33	30	30	29	27	27
Detroit-Ann Arbor	MI	05	44	43	37	35	32	32	28	26	25	26
Fairbanks	AK	10	43	39	41	44	63	63	47	45	139	124
Harrisburg-Lebanon-Carlisle-York	PA	03	38	38	36	34	33	32	31	32	34	34
Imperial County ⁵	CA	09	40	42	36	21	19	38	43	42	40	33
Johnstown	PA	03	39	39	36	32	30	30	30	30	28	28
Klamath Falls	OR	10	46	45	46	45	44	39	33	36	34	40
Knoxville-Sevierville-La Follette	TN	04	35	37								20
Lancaster	PA	03	39	40	37	35	33	31	31	31	31	32
Liberty-Clairton	PA	03	65	60	53	50	48	44	43	37	35	33
Logan	UT-ID	08, 10	64	42	36	40	46	42	37	46	45	46
Los Angeles-South Coast Air Basin ⁷	CA	09	57	55	53	49	41	38	36	36	38	41
Milwaukee-Racine	WI	05	41	41	37	37	33	32	29	27	27	25
New York-N. New Jersey-Long Island	NY-NJ-CT	01, 02	43	41	38	35	30	30	29	30	27	28
Nogales	AZ	09	38	39	40	31	32	30	28	27	27	28
Oakridge	OR	10	48	47	40	41	38	39	38	40	40	37
Philadelphia-Wilmington	PA-NJ-DE	02, 03	40	42	42	38	36	34	31	30	29	30
Pittsburgh-Beaver Valley	PA	03	45	43	39	37	35	34	33	29	26	25
Provo	UT	08	44	45	44	50	41	42	35	46	44	46
Sacramento	CA	09	57	62	58	51	40	35	31	36	32	35
Salt Lake City	UT	08	49	55	46	48	44	45	38	41	43	44
San Francisco Bay Area	CA	09	42	43	44	39	34	33	32	32	30	30
San Joaquin Valley ⁶	CA	09	69	74	70	70	65	62	58	65	71	79
Steubenville-Weirton	OH-WV	03, 05	43	44	41	37	31	28	27	26	25	25
Tacoma	WA	10	42	43	44	46	38	35	28	32	30	32
West Central Pinal	AZ	09	48	48	40	31	26	28	28	33	36	34
Yuba City-Marysville	CA	09	40	39	47	42	36	27	26	29	25	27

Notes:

- The level of the 2006 24-hour NAAQS for PM2.5 is 35 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). The design value for the 24-hour PM2.5 NAAQS is the 3-year average 98th percentile concentration.
- The design values shown here are computed for the latest design value period using Federal Reference Method or equivalent data reported by States, Tribes, and local agencies to EPA's Air Quality System (AQS) as of 2016-07-27. Concentrations flagged by States, Tribes, and local agencies as exceptional events (e.g., high winds, wildfires, volcanic eruptions, construction) and concurred by the associated EPA Regional Office are not included in the calculation of these design values. Data from special purpose monitors operating less than 24 month, data identified as 'non-regulatory' and other data judged by EPA as not meeting 40CFR58 monitoring requirements are not included in these design value calculations.
- In this table, all design values are calculated based on the rules specified in Appendix N for the 2012 PM2.5 NAAQS.
- For sites with approved seasonal sampling, the promulgated methodology may change the annual 98th percentile and 24-hour design value from the values posted on this website in previous years which were calculated under the 2006 NAAQS methodology. Data from 2012 and previous years processed using the 2006 rules can be found in the 2011 'PM2.5 Detailed Information' file posted here: <http://www.epa.gov/airtrends/values.html>. These changes in design values and corresponding changes in the trend are due to the new official calculation methodology and may not indicate a change in air quality observed for that area or location.
- Design value based on all valid data, including data in 2012 that were submitted to, but are not currently in, AQS. EPA considers these data valid for use per 40 CFR Part 50 and 58 (see Memorandum 'Data Used for the Calculation of the Imperial County Design Value' found in Docket No. EPA-HQ-OAR-2012-0918).
- San Joaquin Valley's 2015 design value site (Corcoran-Patterson) is based on concentration data from January 1, 2013 to February 6, 2015; data from February 7, 2015 to December 31, 2015 are not available due to a fire that destroyed the site. Based on design value calculation methodologies described in 40 CFR 50, Appendix N the design value for Corcoran-Patterson is considered valid despite the missing 2015 data. The second highest 2015 concentrations (annual PM2.5 DV of 20.8 and 24-hr PM2.5 DV of 77) at Bakersfield-Planz include data measured for three years (January 1, 2013 - December 31, 2015).
- This design value may not be appropriate for use in regulatory decisions due to unresolved issues with 2014 data.

Disclaimer: The information listed in this report and in these tables is intended for informational use only and does not constitute a regulatory determination by EPA as whether an area has attained a NAAQS. The information set forth in this report has no regulatory effect. To have regulatory effect, a final EPA determination as to whether an area has attained a NAAQS or attained a NAAQS as of its applicable attainment date can be accomplished only after rulemaking that provides an opportunity for notice and comment. No such determination for regulatory purposes exists in the absence of such rulemaking. This report does not constitute a proposed or final rulemaking.

EXHIBIT 3



August 3, 2016

Via Certified and Electronic Mail
Return Receipt Requested

The Hon. Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
E: McCarthy.Gina@epa.gov

Re: 60-Day Notice of Intent to File Clean Air Act Citizen Suit

Dear Administrator McCarthy:

Pursuant to 42 U.S.C. § 7604(b)(2) and 40 C.F.R. Part 54, we hereby give notice of intent to commence a civil action against the Administrator of the United States Environmental Protection Agency (“Administrator,” “EPA,” or “you”) for failing to perform a nondiscretionary duty under the Clean Air Act (“the Act”). As further specified below, you have failed to carry out your nondiscretionary duty under section 188 of the Act¹ to determine whether the Fairbanks North Star Borough non-attainment area has attained the 24-hour fine particulate matter National Ambient Air Quality Standard and to publish notice of that finding in the Federal Register, as well as potentially of reclassification of the area as a “serious” non-attainment area “no later than 6 months following the attainment date.”² The area’s attainment date was December 31, 2015, therefore the agency’s action was due on June 30, 2016. EPA has still not reached a determination and issued notice of the area’s attainment or reclassification.

¹ 42 U.S.C. § 7513(b)(2) (“Within 6 months following the applicable attainment date for a PM-10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date. If the Administrator finds that any Moderate Area is not in attainment after the applicable attainment date-- (A) the area shall be reclassified by operation of law as a Serious Area; and (B) the Administrator shall publish a notice in the Federal Register no later than 6 months following the attainment date”); *see also Nat. Res. Def. Council v. EPA*, 706 F.3d 428, 436 (D.C. Cir. 2013) (holding that Subpart four of the Clean Air Act, addressing PM₁₀ standards extends to PM_{2.5}).

² *See id.*

Inhalable airborne particles present serious air quality problems in many areas of the United States. Numerous scientific studies have linked particle pollution exposure, especially exposure to fine particles (particles, such as those found in smoke and haze, that are 2.5 micrometers in diameter or smaller, hereinafter “PM_{2.5}”), to a variety of problems, including premature death in people with heart or lung disease, non-fatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing,³ as well as possibly cancer, and reproductive and developmental harms.⁴ Of all previously designated nonattainment areas for PM_{2.5}, measured by 2013-2015 design values, Fairbanks has the worst episodic pollution, with levels far in excess of the next most-polluted area, at 354 percent of the 24-hour PM_{2.5} National Ambient Air Quality Standard (NAAQS).⁵

In 1997, EPA established a 24-hour NAAQS for PM_{2.5} that was revised by the agency in 2006 to provide increased protection for public health and welfare.⁶ EPA established its air quality designations for the 24-hour PM_{2.5} NAAQS on November 13, 2009, identifying the Fairbanks North Star Borough as a “nonattainment area” for the revised standard.⁷ The Borough’s attainment date for the 24-hour PM_{2.5} 2006 NAAQS was “no later than the end of the sixth calendar year after the area’s designation as nonattainment,”⁸ thus no later than December 31, 2015.

³ See EPA, *Particulate Matter (PM)* (Feb. 23, 2016), available at <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>.

⁴ See Am. Lung Ass’n, *State of the Air 2015* at 31, available at http://www.stateoftheair.org/2015/assets/ALA_State_of_the_Air_2015.pdf (citing EPA, *Integrated Science Assessment for Particulate Matter*, EPA 600/R-08/139F (2009)).

⁵ See EPA, *PM 2.5 Design Values, 2015* at tbl. 3b (Jul. 29, 2016) available at https://www.epa.gov/sites/production/files/2016-07/pm25_designvalues_20132015_final_07_29_16.xlsx.

⁶ See 71 Fed. Reg. 61,144, 61,144, 61,147 (Oct. 17, 2006).

⁷ 74 Fed. Reg. 58,688, 58,702 (Nov. 13, 2009).

⁸ See 42 U.S.C. § 7513(c)(1) (“[T]he attainment dates for PM-10 nonattainment areas shall be as follows . . . For a Moderate Area, the attainment date shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area’s designation as nonattainment.”); see also *Nat. Res. Def. Council*, 706 F.3d at 434. On June 2, 2014, EPA issued a rule that acknowledged the Fairbanks North Star Borough as a “moderate” nonattainment area. 79 Fed. Reg. 31,566, 31,568 (June 2, 2014) (“[T]he EPA in this notice is identifying the classification of all PM_{2.5} areas currently designated nonattainment for the 1997 and 2006 NAAQS as ‘Moderate.’”); see also *id.* at 31,570 (stating that the areas identified as moderate under the rule “are subject to a Moderate area attainment deadline under subpart 4 of no later than December 31, 2015.”); *WildEarth Guardians v. EPA*, No. 14-1145, 2016 WL 4056089, at *10 (D.C. Cir. July 29, 2016) (observing that in EPA’s 2014 implementation rule “the agency retained the attainment deadline of December 31, 2015”).

Within six months of the Borough's attainment date—that is, by June 30, 2016—EPA was required to determine whether the area had attained the NAAQS, and to publish notice of that finding, and potentially reclassification of the area as serious, in the Federal Register.⁹ That deadline has passed, and you have not reached such a determination and published it in the Federal Register, as you are required by law.

The parties listed below intend to commence a civil action to enforce your nondiscretionary duty to determine whether the Borough has attained the NAAQS and to publish notice of that finding, and potentially reclassification of the area as a serious non-attainment area, in the Federal Register, unless EPA has fully performed this duty within 60 days of the postmark date of this letter. As required by 40 C.F.R. § 54.3(a), this notice letter is submitted on behalf of the following organizations:

Citizens for Clean Air, a project of Alaska Community Action on Toxics
505 West Northern Lights Blvd., Suite 205
Anchorage, Alaska 99503
T: 907.222.7714

Sierra Club
85 Second St., 2nd Floor
San Francisco, CA 94105
T: 415.977.5500

Citizens for Clean Air (CCA) is a coalition of local community members and citizens groups in Fairbanks, Alaska who are committed to cleaning up the air while keeping everyone warm in the winter. CCA is a project of Alaska Community Action on Toxics (ACAT), a non-profit environmental health research and advocacy organization whose mission is to assure justice by advocating for environmental and community health. The Sierra Club is America's largest and most influential grassroots environmental organization, with more than 64 chapters and 645,000 members nationwide, including in Fairbanks, Alaska.

I am legal counsel for the above-named organizations in this matter. Please feel free to contact me to discuss further the basis for this claim or to explore possible options for resolving this claim short of litigation. Any communications should be addressed to me using the contact information indicated below.

⁹ See 42 U.S.C. § 7513(b)(2); see also *Nat. Res. Def. Council*, 706 F.3d at 436; *WildEarth Guardians*, 2016 WL 4056089 at *2 (“Should an area fail to attain the requisite standard by the moderate-area attainment date, it is reclassified by operation of law as a [s]erious [a]rea.” (internal quotation mark omitted)).

Sincerely,

A handwritten signature in blue ink, appearing to read "Kenta Tsuda".

Kenta Tsuda
EARTHJUSTICE
325 Fourth Street
Juneau, AK 99801
T: 907.500.7129
E: ktsuda@earthjustice.org

cc via e-mail:

Dennis McLerran, Regional Administrator, Region 10, mclerran.dennis@epa.gov

Lorie Schmidt, Air and Radiation Law Office, Office of General Counsel,
schmidt.lorie@epa.gov

EXHIBIT 4

6/3/2016

Health | Particulate Matter | Air & Radiation | US EPA

<https://www3.epa.gov/pm/health.html>

Particulate Matter (PM) Health

The size of particles is directly linked to their potential for causing health problems. Small particles less than 10 micrometers in diameter pose the greatest problems, because they can get deep into your lungs, and some may even get into your bloodstream.

Exposure to such particles can affect both your lungs and your heart. Small particles of concern include "inhalable coarse particles" (such as those found near roadways and dusty industries), which are larger than 2.5 micrometers and smaller than 10 micrometers in diameter; and "fine particles" (such as those found in smoke and haze), which are 2.5 micrometers in diameter and smaller.

The Clean Air Act requires EPA to set air quality standards to protect both public health and the public welfare (e.g. visibility, crops and vegetation). Particle pollution affects both.

Health Effects

Particle pollution - especially fine particles - contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including:

- premature death in people with heart or lung disease,
- nonfatal heart attacks,
- irregular heartbeat,
- aggravated asthma,
- decreased lung function, and
- increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.

People with heart or lung diseases, children and older adults are the most likely to be affected by particle pollution exposure. However, even if you are healthy, you may experience temporary symptoms from exposure to elevated levels of particle pollution. For more information about asthma, visit www.epa.gov/asthma.

Environmental Effects

Visibility impairment

Fine particles (PM_{2.5}) are the main cause of reduced visibility (haze) in parts of the United States, including many of our treasured national parks and wilderness areas. For more information about visibility, visit www.epa.gov/visibility.

Environmental damage

Particles can be carried over long distances by wind and then settle on ground or water. The effects of this settling include: making lakes and streams acidic; changing the nutrient balance in coastal waters and large river basins; depleting the nutrient balance in soil; damaging sensitive forests and farm crops; and affecting the diversity of ecosystems. More information about the effects of particle pollution and acid rain.

Aesthetic damage

Particle pollution can stain and damage stone and other materials, including culturally important objects such as statues and monuments. More information about the effects of particle pollution and acid rain.

You will need Adobe Acrobat Reader to view the Adobe PDF files on this page. See [EPA's PDF page](#) for more information about getting and using the free Acrobat Reader.

For more information on particle pollution, health and the environment, visit:

Particle Pollution and Your Health (PDF) (2pp, 320k): Learn who is at risk from exposure to particle pollution, what health effects you may experience as a result of particle exposure, and simple measures you can take to reduce your risk.

How Smoke From Fires Can Affect Your Health: It's important to limit your exposure to smoke -- especially if you may be susceptible. This publication provides steps you can take to protect your health.

Integrated Science Assessment for Particulate Matter (December 2009): This comprehensive assessment of scientific data about the health and environmental effects of particulate matter is an important part of EPA's review of its particle pollution standards.

Last updated on 5/12/2016

<https://www3.epa.gov/pm/health.html>

1/2

EXHIBIT 5



STATE OF THE AIR 2015





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Two types of air pollution dominate in the U.S.: ozone and particle pollution.¹ These two pollutants threaten the health and the lives of millions of Americans. Thanks to the Clean Air Act, the U.S. has far less of both pollutants now than in the past. Still, more than 138.5 million people live in counties where monitors show unhealthy levels of one or both—meaning the air a family breathes could shorten life or cause lung cancer.

So what are ozone and particle pollution?

Ozone Pollution

It may be hard to imagine that pollution could be invisible, but ozone is. The most widespread pollutant in the U.S. is also one of the most dangerous.

Scientists have studied the effects of ozone on health for decades. Hundreds of research studies have confirmed that ozone harms people at levels currently found in the United States. In the last few years, we've learned that it can also be deadly.

What Is Ozone?

Ozone (O₃) is a gas molecule composed of three oxygen atoms. Often called "smog," ozone is harmful to breathe. Ozone aggressively attacks lung tissue by reacting chemically with it.

The ozone layer found high in the upper atmosphere (the stratosphere) shields us from much of the sun's ultraviolet radiation. However, ozone air pollution at ground level where we can breathe it (in the troposphere) causes serious health problems.

Where Does Ozone Come From?

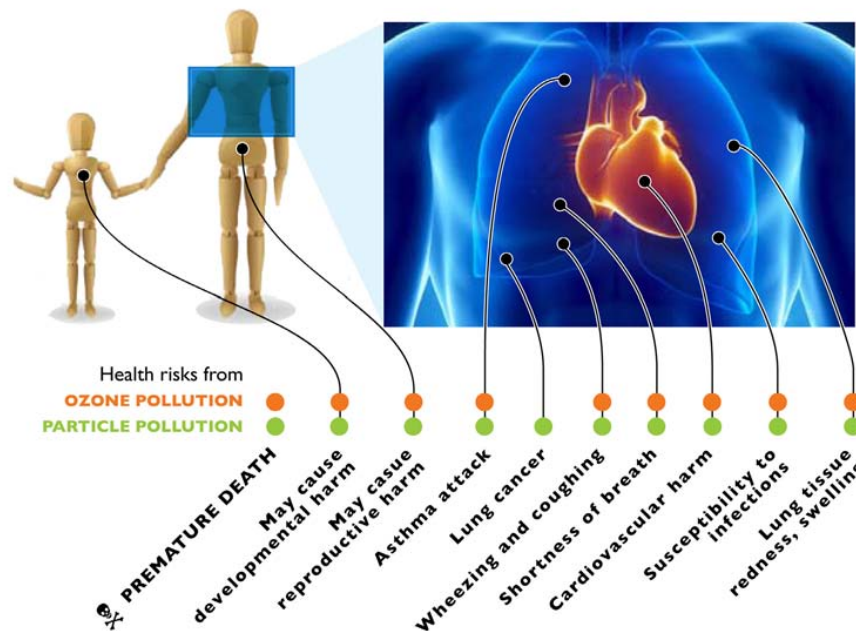
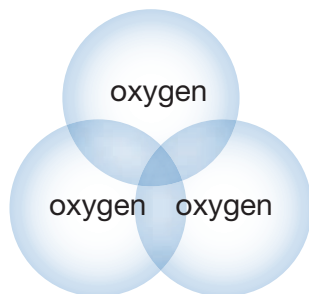
Ozone develops in the atmosphere from gases that come out of tailpipes, smokestacks and

many other sources. When these gases come in contact with sunlight, they react and form ozone smog.

The essential raw ingredients for ozone come from nitrogen oxides (NO_x), hydrocarbons, also called volatile organic compounds (VOCs) and carbon monoxide (CO). They are produced primarily when fossil fuels like gasoline, oil or coal are burned or when some chemicals, like solvents, evaporate. NO_x is emitted from power plants, motor vehicles and other sources of high-heat combustion. VOCs are emitted from motor vehicles, chemical plants, refineries, factories, gas stations, paint and other sources. CO is also primarily emitted from motor vehicles.²

If the ingredients are present under the right conditions, they

Air pollution remains a major danger to the health of children and adults.



react to form ozone. And because the reaction takes place in the atmosphere, the ozone often shows up downwind of the sources of the original gases. In addition, winds can carry ozone far from where it began.



You may have wondered why “ozone action day” warnings are sometimes followed by recommendations to avoid activities such as mowing your lawn or driving your car. Lawn mower exhaust and gasoline vapors are VOCs that could turn into ozone in the heat and sun.

Who is at risk from breathing ozone?

Anyone who spends time outdoors where ozone pollution levels are high may be at risk. Five groups of people are especially vulnerable to the effects of breathing ozone:

- children and teens³;
- anyone 65 and older⁴;
- people who work or exercise outdoors⁵;
- people with existing lung diseases, such as asthma and chronic obstructive pulmonary disease (also known as COPD, which includes emphysema and chronic bronchitis)⁶; and
- people with cardiovascular disease.⁷

In addition, some evidence suggests that other groups—including women, people who suffer from obesity and people with low incomes—may also face higher risk from ozone.⁸ More research is needed to confirm these findings.

The impact on your health can depend on many factors, however. For example, the risks would be greater if ozone levels are higher, if you are breathing faster because you’re working outdoors or if you spend more time outdoors.

Lifeguards in Galveston, Texas, provided evidence of the impact of even short-term exposure to ozone on healthy, active adults in a study published in 2008. Testing the breathing capacity of these outdoor workers several times a day, researchers found that many

lifeguards had greater obstruction in their airways when ozone levels were high. Because of this research, Galveston became the first city in the nation to install an air quality warning flag system on the beach.⁹

How Ozone Pollution Harms Your Health

Premature death. Breathing ozone can shorten your life. Strong evidence exists of the deadly impact of ozone in large studies conducted in cities across the U.S., in Europe and in Asia. Researchers repeatedly found that the risk of premature death increased with higher levels of ozone.¹⁰ Newer research has confirmed that ozone increased the risk of premature death even when other pollutants also exist.¹¹

Even low levels of ozone may be deadly. A large study of 48 U.S. cities looked at the association between ozone and all-cause mortality during the summer months. Ozone concentrations by city in the summer months ranged from 16 percent to 80 percent lower than the U.S. Environmental Protection Agency (EPA) currently considers safe. Researchers found that ozone at those lower levels was associated with deaths from cardiovascular disease, strokes, and respiratory causes.¹²

Immediate breathing problems. Many areas in the United States produce enough ozone during the summer months to cause health problems that can be felt right away. Immediate problems—in addition to increased risk of premature death—include:

- shortness of breath, wheezing and coughing;
- asthma attacks;
- increased risk of respiratory infections;
- increased susceptibility to pulmonary inflammation; and
- increased need for people with lung diseases, like asthma or chronic obstructive pulmonary disease (COPD), to receive medical treatment and to go to the hospital.¹³

Cardiovascular effects. Inhaling ozone may affect the heart as well as the lungs. A 2006 study linked exposures to high ozone levels for as little as one hour to a particular type of cardiac arrhythmia that itself increases the risk of premature death and stroke.¹⁴ A French study found that exposure to elevated ozone levels for one to two days increased the risk of heart attacks for middle-aged

adults without heart disease.¹⁵ Several studies around the world have found increased risk of hospital admissions or emergency department visits for cardiovascular disease.¹⁶

Long-term exposure risks. New studies warn of serious effects from breathing ozone over longer periods. With more long-term data, scientists are finding that long-term exposure—that is, for periods longer than eight hours, including days, months or years—may increase the risk of early death.

- Examining the records from a long-term national database, researchers found a higher risk of death from respiratory diseases associated with increases in ozone.¹⁷
- New York researchers looking at hospital records for children’s asthma found that the risk of admission to hospitals for asthma increased with chronic exposure to ozone. Younger children and children from low income families were more likely than other children to need hospital admissions even during the same time periods.¹⁸
- California researchers analyzing data from their long-term Southern California Children’s Health Study found that some children with certain genes were more likely to develop asthma as adolescents in response to the variations in ozone levels in their communities.¹⁹
- Studies link lower birth weight and decreased lung function in newborns to ozone levels in their community.²⁰ This research provides increasing evidence that ozone may harm newborns.

Breathing other pollutants in the air may make your lungs more responsive to ozone—and breathing ozone may increase your body’s response to other pollutants. For example, research warns that breathing sulfur dioxide and nitrogen oxide—two pollutants common in the eastern U.S.—can make the lungs react more strongly than to just breathing ozone alone. Breathing ozone may also increase the response to allergens in people with allergies. A large study published in 2009 found that children were more likely to suffer from hay fever and respiratory allergies when ozone and PM_{2.5} levels were high.²¹

EPA finds ozone causes harm. The EPA released their most recent review of the current research on ozone pollution in February

2013.²² The EPA had engaged a panel of expert scientists, the Clean Air Scientific Advisory Committee, to help them assess the evidence; in particular, they examined research published between 2006 and 2012. The EPA concluded that ozone pollution posed multiple, serious threats to health. Their findings are highlighted in the box below.

EPA Concludes Ozone Pollution Poses Serious Health Threats

- Causes respiratory harm (e.g. worsened asthma, worsened COPD, inflammation)
- Likely to cause early death (both short-term and long-term exposure)
- Likely to cause cardiovascular harm (e.g. heart attacks, strokes, heart disease, congestive heart failure)
- May cause harm to the central nervous system
- May cause reproductive and developmental harm

—U.S. Environmental Protection Agency, *Integrated Science Assessment for Ozone and Related Photochemical Oxidants*, 2013. EPA/600/R-10/076F.

Particle Pollution

Ever look at dirty truck exhaust?

The dirty, smoky part of that stream of exhaust is made of particle pollution.

Overwhelming evidence shows that particle pollution—like that coming from that exhaust smoke—can kill. Particle pollution can increase the risk of heart disease, lung cancer and asthma attacks and can interfere with the growth and work of the lungs.

What Is Particle Pollution?

Particle pollution refers to a mix of very tiny solid and liquid particles that are in the air we breathe. But nothing about particle pollution is simple. And it is so dangerous it can shorten your life.

Size matters. Particles themselves are different sizes. Some are one-tenth the diameter of a strand of hair. Many are even tinier; some are so small they can only be seen with an electron microscope. Because of their size, you can’t see the individual particles. You can only see the haze that forms when millions of particles blur the spread of sunlight.

The differences in size make a big difference in how they affect us. Our natural defenses help us to cough or sneeze larger particles out of our bodies. But those defenses don't keep out smaller particles, those that are smaller than 10 microns (or micrometers) in diameter, or about one-seventh the diameter of a single human hair. These particles get trapped in the lungs, while the smallest are so minute that they can pass through the lungs into the bloodstream, just like the essential oxygen molecules we need to survive.

Researchers categorize particles according to size, grouping them as coarse, fine and ultrafine. Coarse particles fall between 2.5 microns and 10 microns in diameter and are called PM_{10-2.5}. Fine particles are 2.5 microns in diameter or smaller and are called PM_{2.5}. Ultrafine particles are smaller than 0.1 micron in diameter²³ and are small enough to pass through the lung tissue into the blood stream, circulating like the oxygen molecules themselves. No matter what the size, particles can harm your health.

"A mixture of mixtures." Because particles are formed in so many different ways, they can be composed of many different com-

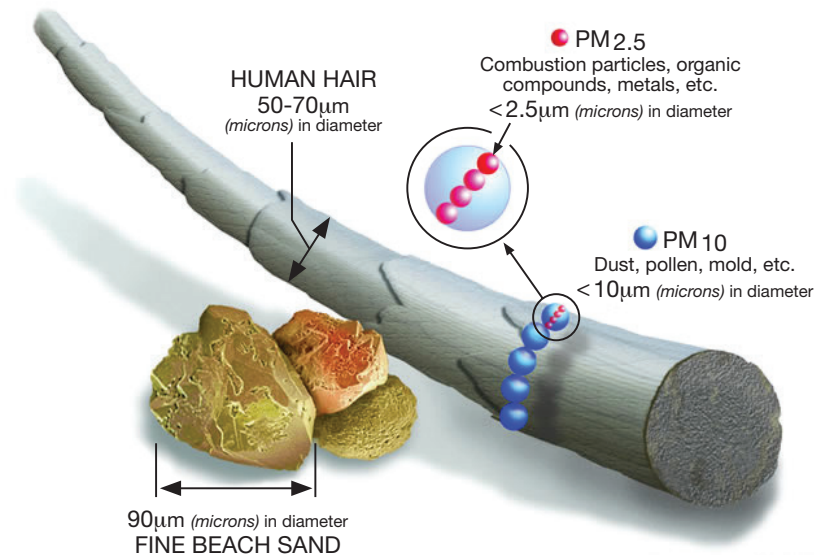


Image courtesy of the U.S. EPA

pounds. Although we often think of particles as solids, not all are. Some are completely liquid; some are solids suspended in liquids. As the EPA puts it, particles are really "a mixture of mixtures."²⁴

The mixtures differ between the eastern and western United States and in different times of the year. For example, the Midwest, Southeast and Northeast states have more sulfate particles than the West on average, largely due to the high levels of sulfur dioxide emitted by large, coal-fired power plants. By contrast, nitrate particles from motor vehicle exhaust form a larger proportion of the unhealthy mix in the winter in the Northeast, Southern California, the Northwest, and North Central U.S.²⁵

Who Is at Risk?

Anyone who lives where particle pollution levels are high is at risk. Some people face higher risk, however. People at the greatest risk from particle pollution exposure include:

- Infants, children and teens²⁶;
- People over 65 years of age²⁷;
- People with lung disease such as asthma and chronic obstructive pulmonary disease (COPD), which includes chronic bronchitis and emphysema;
- People with heart disease²⁸ or diabetes²⁹;
- People with low incomes³⁰; and
- People who work or are active outdoors.³¹

Diabetics face increased risk at least in part because of their higher risk for cardiovascular disease.³² A 2010 study examined prevalence of diagnosed diabetes in relation to fine particle pollution in 2004-2005. The evidence suggested that air pollution is a risk factor for diabetes.³³

What Can Particles Do to Your Health?

Particle pollution can be very dangerous to breathe. Breathing particle pollution may trigger illness, hospitalization and premature death, risks that are showing up in new studies that validate earlier research.

Thanks to steps taken to reduce particle pollution, good news is growing from researchers who study the drop in year-round levels of particle pollution.

- Looking at air quality in 545 counties in the U.S. between 2000 and 2007, researchers found that people had approximately four months added to their life expectancy on average due to cleaner air. Women and people who lived in urban and densely populated counties benefited the most.³⁴
- Another long-term study of six U.S. cities tracked from 1974 to 2009 added more evidence of the benefits. Their findings suggest that cleaning up particle pollution had almost immediate health benefits. They estimated that the U.S. could prevent approximately 34,000 premature deaths a year if the nation could lower annual levels of particle pollution by 1 $\mu\text{g}/\text{m}^3$.³⁵

These studies add to the growing research that cleaning up air pollution improves life and health.³⁶ Other researchers estimated that reductions in air pollution can be expected to produce rapid improvements in public health, with fewer deaths occurring within the first two years after reductions.³⁷

Researchers are exploring possible differences in health effects of the three sizes of particles and particles from different sources, such as diesel particles from trucks and buses or sulfates from coal-fired power plants. So far, the evidence remains clear that particles of all sizes from all sources can be dangerous.³⁸

Short-Term Exposure Can Be Deadly

First and foremost, short-term exposure to particle pollution can kill. Peaks or spikes in particle pollution can last for hours to days. Deaths can occur on the very day that particle levels are high, or within one to two months afterward. Particle pollution does not just make people die a few days earlier than they might otherwise—these are deaths that would not have occurred if the air were cleaner.³⁹

Particle pollution also diminishes lung function, causes greater use of asthma medications and increased rates of school absenteeism, emergency room visits and hospital admissions. Other adverse effects can be coughing, wheezing, cardiac arrhythmias and heart attacks. According to the findings from some of the latest studies, short-term increases in particle pollution have been linked to:

- death from respiratory and cardiovascular causes, including strokes^{40,41,42,43};

- increased mortality in infants and young children⁴⁴;
- increased numbers of heart attacks, especially among the elderly and in people with heart conditions⁴⁵;
- inflammation of lung tissue in young, healthy adults⁴⁶;
- increased hospitalization for cardiovascular disease, including strokes and congestive heart failure^{47,48,49};
- increased emergency room visits for patients suffering from acute respiratory ailments⁵⁰;
- increased hospitalization for asthma among children^{51,52,53}; and
- increased severity of asthma attacks in children.⁵⁴

Again, the impact of even short-term exposure to particle pollution on healthy adults showed up in the Galveston lifeguard study. In addition to the harmful effects of ozone pollution, lifeguards had reduced lung volume at the end of the day when fine particle levels were high.⁵⁵

Year-Round Exposure

Breathing high levels of particle pollution day in and day out also can be deadly, as landmark studies in the 1990s conclusively showed⁵⁶ and as other studies confirmed.⁵⁷ Chronic exposure to particle pollution can shorten life by one to three years.⁵⁸

In late 2013, the International Agency for Research on Cancer, part of the World Health Organization, concluded that particle pollution could cause lung cancer. The IARC reviewed the most recent research and reported that the risk of lung cancer increases as the particle levels rise.⁵⁹

Year-round exposure to particle pollution has also been linked to:

- increased hospitalization for asthma attacks for children living near roads with heavy truck or trailer traffic^{60,61};
- slowed lung function growth in children and teenagers^{62,63};
- significant damage to the small airways of the lungs⁶⁴;
- increased risk of death from cardiovascular disease⁶⁵; and
- increased risk of lower birth weight and infant mortality.⁶⁶

Research into the health risks of 65,000 women over age 50 found that those who lived in areas with higher levels of particle pollution faced a much greater risk of dying from heart disease than had been previously estimated. Even women who lived

within the same city faced differing risks depending on the annual levels of pollution in their neighborhood.⁶⁷

The EPA completed their most recent review of the current research on particle pollution in December 2009.⁶⁸ The EPA had engaged a panel of expert scientists, the Clean Air Scientific Advisory Committee, to help them assess the evidence. The EPA concluded that particle pollution caused multiple, serious threats to health. Their findings are highlighted in the box below.

EPA Concludes Fine Particle Pollution Poses Serious Health Threats

- Causes early death (both short-term and long-term exposure)
- Causes cardiovascular harm (e.g. heart attacks, strokes, heart disease, congestive heart failure)
- Likely to cause respiratory harm (e.g. worsened asthma, worsened COPD, inflammation)
- May cause cancer
- May cause reproductive and developmental harm

—U.S. Environmental Protection Agency, Integrated Science Assessment for Particulate Matter, December 2009. EPA 600/R-08/139F.

Where Does Particle Pollution Come From?

Particle pollution is produced through two separate processes—mechanical and chemical.

Mechanical processes break down bigger bits into smaller bits with the material remaining essentially the same, only becoming smaller. Mechanical processes primarily create coarse particles.⁶⁹ Dust storms, construction and demolition, mining operations, and agriculture are among the activities that produce coarse particles. Tire, brake pad and road wear can also create coarse particles. Bacteria, pollen, mold, and plant and animal debris are also included as coarse particles.⁷⁰

By contrast, chemical processes in the atmosphere create most of the tiniest fine and ultrafine particles. Combustion sources burn fuels and emit gases. These gases can vaporize and then condense to become a particle of the same chemical compound. Or, they can react with other gases or particles in the atmosphere to form a particle of a different chemical compound. Particles formed by

this latter process come from the reaction of elemental carbon (soot), heavy metals, sulfur dioxide (SO₂), nitrogen oxides (NO_x) and volatile organic compounds with water and other compounds in the atmosphere.⁷¹ Burning fossil fuels in factories, power plants, steel mills, smelters, diesel- and gasoline-powered motor vehicles (cars and trucks) and equipment generate a large part of the raw materials for fine particles. So does burning wood in residential fireplaces and wood stoves or burning agricultural fields or forests.

Focusing on Children's Health

Children face special risks from air pollution because their lungs are growing and because they are so active.

Just like the arms and legs, the largest portion of a child's lungs will grow long after he or she is born. Eighty percent of their tiny air sacs develop after birth. Those sacs, called the alveoli, are where the life-sustaining transfer of oxygen to the blood takes place. The lungs and their alveoli aren't fully grown until children become adults.⁷² In addition, the body's defenses that help adults fight off infections are still developing in young bodies.⁷³ Children have more respiratory infections than adults, which also seems to increase their susceptibility to air pollution.⁷⁴

Furthermore, children don't behave like adults, and their behavior also affects their vulnerability. They are outside for longer periods and are usually more active when outdoors. Consequently, they inhale more polluted outdoor air than adults typically do.⁷⁵

Air Pollution Increases Risk of Underdeveloped Lungs

The Southern California Children's Health study looked at the long-term effects of particle pollution on teenagers. Tracking 1,759 children who were between ages 10 and 18 from 1993 to 2001, researchers found that those who grew up in more polluted areas face the increased risk of having underdeveloped lungs, which may never recover to their full capacity. The average drop in lung function was 20 percent below what was expected for the child's age, similar to the impact of growing up in a home with parents who smoked.⁷⁶

Community health studies are pointing to less obvious, but serious effects from year-round exposure to ozone, especially for children. Scientists followed 500 Yale University students and

determined that living just four years in a region with high levels of ozone and related co-pollutants was associated with diminished lung function and frequent reports of respiratory symptoms.⁷⁷ A much larger study of 3,300 school children in Southern California found reduced lung function in girls with asthma and boys who spent more time outdoors in areas with high levels of ozone.⁷⁸

Cleaning Up Pollution Can Reduce Risk to Children

There is also real-world evidence that reducing air pollution can help protect children.

A just-published follow-up to that Southern California Children's Health study showed that reducing pollution could improve children's health. This time they tracked a different group of 863 children living in the same area, but growing up between 2007 and 2011, when the air in Southern California was much cleaner. They compared these children to those who had been part of their earlier studies when the air was dirtier. Children growing up in the cleaner air had much greater lung function, a benefit that may help them throughout their lives. As the researchers noted, their study suggested that "all children have the potential to benefit from improvements in air quality."⁷⁹

In Switzerland, particle pollution dropped during a period in the 1990s. Researchers there tracked 9,000 children over a nine-year period, following their respiratory symptoms. After taking other factors such as family characteristics and indoor air pollution into account, the researchers noted that during the years with less pollution, the children had fewer episodes of chronic cough, bronchitis, common cold, and conjunctivitis symptoms.⁸⁰

Disparities in the Impact of Air Pollution

to such pollution. Many studies have explored the differences in harm from air pollution to racial or ethnic groups and people who are in a low socioeconomic position, have less education, or live nearer to major sources,⁸¹ including a workshop the American

The burden of air pollution is not evenly shared. Poorer people and some racial and ethnic groups are among those who often face higher exposure to pollutants and who may experience greater responses

Lung Association held in 2001 that focused on urban air pollution and health inequities.⁸²

Many studies have looked at differences in the impact on premature death. Results have varied widely, particularly for effects between racial groups. Some studies have found no differences among races,⁸³ while others found greater responsiveness for Whites and Hispanics, but not African Americans,⁸⁴ or for African Americans but not other races or ethnic groups.⁸⁵ Other researchers have found greater risk for African Americans from air toxics, including those pollutants that also come from traffic sources.⁸⁶

Socioeconomic position has been more consistently associated with greater harm from air pollution. Recent studies show evidence of that link. Low socioeconomic status consistently increased the risk of premature death from fine particle pollution among 13.2 million Medicare recipients studied in the largest examination of particle pollution mortality nationwide.⁸⁷ In the 2008 study that found greater risk for premature death for African Americans, researchers also found greater risk for people living in areas with higher unemployment or higher use of public transportation.⁸⁸ A 2008 study of Washington, DC found that while poor air quality and worsened asthma went hand-in-hand in areas where Medicaid enrollment was high, the areas with the highest Medicaid enrollment did not always have the strongest association of high air pollution and asthma attacks.⁸⁹ However, two other recent studies in France have found no association with lower income and asthma attacks.⁹⁰

Scientists have speculated that there are three broad reasons why disparities may exist. First, groups may face greater exposure to pollution because of factors ranging from racism to class bias to housing market dynamics and land costs. For example, pollution sources may be located near disadvantaged communities, increasing exposure to harmful pollutants. Second, low social position may make some groups more susceptible to health threats because of factors related to their disadvantage. Lack of access to health care, grocery stores and good jobs, poorer job opportunities, dirtier workplaces or higher traffic exposure are among the factors that could handicap groups and increase the risk of harm. Finally, existing health conditions, behaviors, or traits may predispose some groups to greater risk. For example, diabetics are

among the groups most at risk from air pollutants, and the elderly, African Americans, Mexican Americans and people living near a central city have higher incidence of diabetes.⁹¹

Communities of color also may be more likely to live in counties with higher levels of pollution. Non-Hispanic Blacks and Hispanics were more likely to live in counties that had worse problems with particle pollution, researchers found in a 2011 analysis. Non-Hispanic Blacks were also more likely to live in counties with worse ozone pollution. Income groups, by contrast, differed little in these exposures. However, since few rural counties have monitors, the primarily older, non-Hispanic white residents of those counties lack information about the air quality in their communities.⁹²

Unemployed people, those with low income or low education and non-Hispanic Blacks were found to be more likely to live in areas with higher exposures to particle pollution in a 2012 study. However, the different racial/ethnic and income groups were breathing often very different kinds of particles; the different composition and structure of these particles may have different health impacts.⁹³

Highways May Be Especially Dangerous for Breathing

Being in heavy traffic, or living near a road, may be even more dangerous than being in other places in a community. Growing evidence shows that the vehicle emissions coming directly from those highways may be higher than in the community as a whole, increasing the risk of harm to people who live or work near busy roads.

The number of people living “next to a busy road” may include 30 to 45 percent of the urban population in North America, according to the most recent review of the evidence. In January 2010, the Health Effects Institute published a major review of the evidence by a panel of expert scientists. The panel looked at over 700 studies from around the world, examining the health effects. They concluded that traffic pollution causes asthma attacks in children, and may cause a wide range of other effects including: the onset of childhood asthma, impaired lung function, premature death and death from cardiovascular diseases, and cardiovascular morbidity. The area most affected, they concluded, was roughly 0.2 mile to 0.3 mile (300 to 500 meters) from the highway.⁹⁴

Children and teenagers are among the most vulnerable—though not the only ones at risk. A Danish study found that long-term exposure to traffic air pollution may increase the risk of developing chronic obstructive pulmonary disease (COPD). They found that those most at risk were people who already had asthma or diabetes.⁹⁵ Studies have found increased risk of premature death from living near a major highway or an urban road.⁹⁶ Another study found an increase in risk of heart attacks from being in traffic, whether driving or taking public transportation.⁹⁷ Urban women in a Boston study experienced decreased lung function associated with traffic-related pollution.⁹⁸

How to Protect Yourself from Ozone and Particle Pollution

To minimize your exposure to ozone and particle pollution:

- Pay attention to forecasts for high air pollution days to know when to take precautions;
- Avoid exercising near high-traffic areas;
- Avoid exercising outdoors when pollution levels are high, or substitute an activity that requires less exertion;
- Do not let anyone smoke indoors and support measures to make all places smokefree; and
- Reduce the use of fireplaces and wood-burning stoves.

Bottom line: Help yourself and everyone else breathe easier. Support national, state and local efforts to clean up sources of pollution. Your life and the life of someone you love may depend on it.

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1. Ozone and particle pollution are the most widespread, but they aren't the only serious air pollutants. Others include carbon monoxide, lead, nitrogen dioxide, and sulfur dioxide, as well as scores of toxins such as mercury, arsenic, benzene, formaldehyde, and acid gases. However, the monitoring networks are not as widespread nationwide for the other pollutants.
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

See attachment.

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

See attachment.

DEFENDANTS

See attachment.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): See attachment. Brief description of cause: See attachment.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE John C. Coughenour DOCKET NUMBER 2:16-cv-00857-JCC

DATE 10/11/2016 SIGNATURE OF ATTORNEY OF RECORD s/ Janette K. Brimmer

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ATTACHMENT TO CIVIL COVER SHEET

I. (a)

PLAINTIFFS

CITIZENS FOR CLEAN AIR, a project of ALASKA COMMUNITY ACTION ON TOXICS

SIERRA CLUB

DEFENDANTS

GINA MCCARTHY, in her official capacity as Administrator of the United States
Environmental Protection Agency

DENNIS MCLERRAN, in his official capacity as Regional Administrator of the United States
Environmental Protection Agency Region 10

I. (b)

County of Residence of First Listed Plaintiff

Fairbanks North Star Borough, Alaska

I. (c) ATTORNEYS FOR PLAINTIFFS

Janette K. Brimmer
EARTHJUSTICE
705 Second Avenue, Suite 203
Seattle, WA 98104
206.343.7340

Erik Grafe
EARTHJUSTICE
441 W 5th Avenue, Suite 301
Anchorage, AK 99501
907.792.7102

Kenta Tsuda
EARTHJUSTICE
325 Fourth Street
Juneau, AK 99801
907.500.7129

1 **VI. CAUSE OF ACTION**

2 **Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes**
3 **unless diversity):**

4 Clean Air Act citizen suit provision, 42 U.S.C. § 7604

5 **Brief description of cause:**

6 Challenge to the U.S. Environmental Protection Agency's failure to fulfill its statutory duty to
7 publish notice of its determination of whether the Fairbanks North Star Borough, Alaska ("the
8 Borough") has attained the 24-hour National Ambient Air Quality Standard for fine particulate
9 matter, and if not, the Borough's reclassification as a "serious" nonattainment area.
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United States District Court

for the
Western District of Washington

CITIZENS FOR CLEAN AIR, a project of ALASKA
COMMUNITY ACTION ON TOXICS, and SIERRA
CLUB,

Plaintiff

v.

GINA MCCARTHY, in her official capacity as
Administrator of the United States Environmental
Protection Agency, and DENNIS MCLERRAN, in his
official capacity as Regional Administrator of the United
States Environmental Protection Agency Region 10,

Defendant

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Gina McCarthy, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460

A lawsuit has been filed against you.

Within ___ days after service of this summons on you (not counting the day you received it) - or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal
Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Janette K. Brimmer
EARTHJUSTICE
705 Second Avenue, Suite 203
Seattle, WA 98104

Erik Grafe
EARTHJUSTICE
441 W. 5th Avenue, Suite 301
Anchorage, AK 99501

Kenta Tsuda
EARTHJUSTICE
325 Fourth Street
Juneau, AK 99801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

PROOF OF SERVICE

This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1)

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

I personally served the summons and complaint on the individual at *(place)*

_____ on *(date)* _____ ; or

I left the summons and complaint at the individual's residence or usual place of abode with *(name)*

_____, a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons and complaint on *(name of individual)* _____

who is designated by law to accept service of process on behalf of *(name of organization)*

_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.

United States District Court

for the
Western District of Washington

CITIZENS FOR CLEAN AIR, a project of ALASKA
COMMUNITY ACTION ON TOXICS, and SIERRA
CLUB,

Plaintiff

v.

GINA MCCARTHY, in her official capacity as
Administrator of the United States Environmental
Protection Agency, and DENNIS MCLERRAN, in his
official capacity as Regional Administrator of the United
States Environmental Protection Agency Region 10,

Defendant

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Dennis McLerran, Regional Administrator
United States Environmental Protection Agency, Region 10
1200 Sixth Avenue
Mail Code: RA-140
Seattle, WA 98101

A lawsuit has been filed against you.

Within ___ days after service of this summons on you (not counting the day you received it) - or ⁶⁰___ days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Janette K. Brimmer
EARTHJUSTICE
705 Second Avenue, Suite 203
Seattle, WA 98104

Erik Grafe
EARTHJUSTICE
441 W. 5th Avenue, Suite 301
Anchorage, AK 99501

Kenta Tsuda
EARTHJUSTICE
325 Fourth Street
Juneau, AK 99801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

PROOF OF SERVICE

This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1)

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

I personally served the summons and complaint on the individual at *(place)*

_____ on *(date)* _____ ; or

I left the summons and complaint at the individual's residence or usual place of abode with *(name)*

_____, a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons and complaint on *(name of individual)* _____

who is designated by law to accept service of process on behalf of *(name of organization)*

_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.

United States District Court

for the
Western District of Washington

CITIZENS FOR CLEAN AIR, a project of ALASKA
COMMUNITY ACTION ON TOXICS, and SIERRA
CLUB,

Plaintiff

v.

GINA MCCARTHY, in her official capacity as
Administrator of the United States Environmental
Protection Agency, and DENNIS MCLERRAN, in his
official capacity as Regional Administrator of the United
States Environmental Protection Agency Region 10,

Defendant

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Loretta E. Lynch, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within ___ days after service of this summons on you (not counting the day you received it) - or ⁶⁰___ days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Janette K. Brimmer
EARTHJUSTICE
705 Second Avenue, Suite 203
Seattle, WA 98104

Erik Grafe
EARTHJUSTICE
441 W. 5th Avenue, Suite 301
Anchorage, AK 99501

Kenta Tsuda
EARTHJUSTICE
325 Fourth Street
Juneau, AK 99801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

PROOF OF SERVICE

This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1)

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

I personally served the summons and complaint on the individual at *(place)*

_____ on *(date)* _____ ; or

I left the summons and complaint at the individual's residence or usual place of abode with *(name)*

_____, a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons and complaint on *(name of individual)* _____

who is designated by law to accept service of process on behalf of *(name of organization)*

_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.

United States District Court

for the
Western District of Washington

CITIZENS FOR CLEAN AIR, a project of ALASKA
COMMUNITY ACTION ON TOXICS, and SIERRA
CLUB,

Plaintiff

v.

GINA MCCARTHY, in her official capacity as
Administrator of the United States Environmental
Protection Agency, and DENNIS MCLERRAN, in his
official capacity as Regional Administrator of the United
States Environmental Protection Agency Region 10,

Defendant

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Annette L. Hayes, Interim U.S. Attorney
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, WA 98101

A lawsuit has been filed against you.

Within ___ days after service of this summons on you (not counting the day you received it) - or ⁶⁰___ days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Janette K. Brimmer
EARTHJUSTICE
705 Second Avenue, Suite 203
Seattle, WA 98104

Erik Grafe
EARTHJUSTICE
441 W. 5th Avenue, Suite 301
Anchorage, AK 99501

Kenta Tsuda
EARTHJUSTICE
325 Fourth Street
Juneau, AK 99801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

PROOF OF SERVICE

This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1)

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

I personally served the summons and complaint on the individual at *(place)*

_____ on *(date)* _____ ; or

I left the summons and complaint at the individual's residence or usual place of abode with *(name)*

_____, a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons and complaint on *(name of individual)* _____

who is designated by law to accept service of process on behalf of *(name of organization)*

_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.