



January 9, 2020

Andrew Wheeler  
Administrator  
Anne Idsal  
Acting Assistant Administrator, Office of Air and Radiation  
U.S. Environmental Protection Agency  
Attn: Ms. Tegan Lavoie, Ms. Caparoso  
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*Submitted via email*

Re: Request for public hearing in Louisiana communities with extreme cancer risk from hazardous air pollutants, such as ethylene oxide, emitted by MON sources; National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (MON) – EPA-HQ-OAR-2018-0746

Dear Administrator Wheeler, Acting Assistant Administrator Idsal, Ms. Lavoie and Ms. Caparoso:

Earthjustice submits this letter, on behalf of Louisiana Environmental Action Network, Sierra Club, Another Gulf is Possible, Mossville Environmental Action Now, RISE St. James, Concerned Citizens of St. John, Justice and Beyond, and Environmental Justice Health Alliance, requesting that EPA hold at least one public hearing on the proposed amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Miscellaneous Organic Chemical Manufacturing (MON) sources in a community in Louisiana where there are significant cancer risk hot spots near chemical plants regulated by these standards.<sup>1</sup> We also request EPA provide at least 30 days public notice of such public hearing.

In addition, this letter calls on EPA to meet with and provide immediate fence-line monitoring near the chemical plants in Louisiana currently causing the highest cancer risk.

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<sup>1</sup> See, e.g., Sharon Lerner, *A Tale of Two Toxic Cities*, The Intercept (Feb. 24, 2019, 9:00 AM), <https://theintercept.com/2019/02/24/epa-response-air-pollution-crisis-toxic-racial-divide/>.

Finally, the letter seeks an additional extension of the comment deadline due to the need for affected community residents to be able to meaningfully evaluate EPA's rulemaking record and respond to its request to provide relevant information for the agency's consideration.

EPA has acknowledged that the current health threats people are experiencing from the MON source category's pollution are "unacceptable" under the Clean Air Act – something that people living near these sources have known for a long time.<sup>2</sup> This is particularly true for children who are both more exposed and more vulnerable to the effects of toxic ethylene oxide and other air pollution. Communities have faced this unacceptable health threat for years while EPA has failed to fulfill its legal obligation to strengthen the national regulations that are supposed to protect them from this pollution. EPA also admits that this pollution poses significant environmental justice concerns for exposed communities, who are disproportionately communities of color and low-income.

Louisiana communities need immediate relief from these health threats, starting with requiring fence-line monitoring so communities know what pollution is being spewed into their homes and into their bodies and all relevant parties can ensure the unhealthy levels of pollution end, without further delay. And, we call on EPA to fully satisfy the Act's legal and procedural requirements in this important rulemaking—starting by providing the required, meaningful opportunity for public participation—and issue a stronger final rule that will eliminate the unacceptable health threats and provide the required "ample margin of safety to protect public health," as well as meet all applicable requirements in the parallel review and revision rulemaking under § 7412(d).<sup>3</sup>

The proposed MON rule regulates approximately 200 sources that emit over 2,500 tons per year of hazardous air pollutants, including 9.5 tons per year of the potent carcinogen ethylene oxide, as well as 1,3-butadiene, toluene, hexane, benzene, hydrochloric acid, acrolein, polycyclic organic matter, toxic metals, and other carcinogenic and otherwise hazardous pollutants. In the proposed rule, EPA has finally recognized that the risk from these sources is unacceptable—as high as 2,000 in 1 million from breathing air near a MON source, and 3,000 in 1 million from breathing air near a facility with a MON source—20 to 30 times EPA's presumptive benchmark of unacceptable cancer risk.<sup>4</sup> Additionally, EPA

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<sup>2</sup> Proposed National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing Residual Risk and Technology Review, 84 Fed. Reg. 69,182, 69,213 (Dec. 17, 2019), [hereinafter Proposed MON Rule].

<sup>3</sup> 42 U.S.C. § 7412(f)(2).

<sup>4</sup> Proposed MON Rule at 69,211, Table 4 (Dec. 17, 2019), (facility-wide risk comes in part from Synthetic Organic Chemical Manufacturing and Polyether Polyols Production sources).

determined these sources have an acute hazard quotient of 6—6 times EPA’s harm threshold.<sup>5</sup>

Communities in Louisiana, primarily communities of color and low-income communities, face the highest cancer risk in the country,<sup>6</sup> due in part to emissions of hazardous air pollutants such as ethylene oxide and chloroprene and due in part to pollution from sources at regulated by this rule.<sup>7</sup> Seventeen MON sources are located in Louisiana—the second-most of any individual state.<sup>8</sup> Fifteen MON sources are concentrated between New Orleans and Baton Rouge. At least seven facilities, six in between New Orleans and Baton Rouge, and Sasol Chemicals near Mossville, Louisiana, emit ethylene oxide, according to industry-reported 2014 and 2017 National Emission Inventory data.<sup>9</sup>

In response to the high health threats from MON sources and to account for developments in pollution control, EPA is proposing to reduce hazardous air pollutants by up to 379 tons per year—a 14% reduction.<sup>10</sup> Additionally, EPA is proposing to reduce ethylene oxide emissions from 8 MON sources, including 2 between New Orleans and Baton Rouge, Louisiana, by about 9 tons per year—a 93% reduction from the ethylene oxide-emitting MON sources.<sup>11</sup>

However, even with these reductions, risk from MON sources remains far too high—as high as 200 to 300 in 1 million, 2 to 3 times EPA’s presumptive benchmark for unacceptable cancer risk. EPA proposes to try to ignore these impacts to communities by considering a so-called “alternative” to EPA scientists’ 2016 Integrated Risk Information System (IRIS) final, peer-reviewed risk factor for ethylene oxide that would be 5 times less health-protective. EPA’s shocking

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<sup>5</sup> *Id.*

<sup>6</sup> Sharon Lerner, *A Tale of Two Toxic Cities*, The Intercept (Feb. 24, 2019, 9:00 AM), <https://theintercept.com/2019/02/24/epa-response-air-pollution-crisis-toxic-racial-divide/>.

<sup>7</sup> *Id.*; 2014 NATA Map, <https://www.epa.gov/national-air-toxics-assessment/2014-nata-map>.

<sup>8</sup> MON\_RTR\_Emiss\_Inventory.xlsx, available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0746-0011> (identifying 17 facilities, those emitting ethylene oxide are bolded: Angus Chemical in Ouachita Parish, **BASF Corp in Ascension Parish**; CF Industries in Ascension Parish; Denka in St. Johns Parish; ExxonMobil (Chemical) in East Baton Rouge Parish; ExxonMobil (Plastics) in East Baton Rouge Parish; Honeywell International in East Baton Rouge Parish; Honeywell in Ascension Parish; Lion Copolymer in Ascension Parish; Monsanto in St. Charles Parish; Occidental Chemicals in Ascension Parish; **Rubicon in Ascension Parish**; **Sasol Chemicals in Calcasieu Parish**, **Shell Chemical in Ascension Parish**; **Syngenta in Iberville Parish**; **Dow Chemical in Iberville Parish**; and **Union Carbide in St. Charles Parish**).

<sup>9</sup> 2017 NEI data, <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>; MON\_RTR\_Emiss\_Inventory.xlsx, available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0746-0011>.

<sup>10</sup> Proposed MON Rule at 69,230.

<sup>11</sup> MON\_RTR\_Emiss\_Inventory.xlsx, available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0746-0011>, identifies 9 MON sources that emit ethylene oxide (as opposed to facilities that emit ethylene oxide), including 2 in Louisiana: BASF Corp in Ascension Parish and Dow Chemical in Iberville Parish.

proposal to refuse to apply the IRIS value in setting the revised standards is out of step with the Clean Air Act and does not reflect the best available science.<sup>12</sup>

Further, despite the colossal health threat from this pollution already present in Louisiana, more plants are seeking approval.<sup>13</sup> The massive proposed Formosa Petrochemicals plant, which would emit up to 7.7 tons of ethylene oxide,<sup>14</sup> would be an additional major source of this pollutant and other toxic chemicals. Communities are calling on EPA and state regulators to stop that facility from being built and from contributing to the already unacceptable cancer risks in St. James Parish and neighboring parishes.<sup>15</sup>

EPA has now recognized the need to hold at least one hearing outside of Washington, D.C., in Houston, but that is still quite far for people in Louisiana and many affected community members there will not be able to take time off work or find the ability to travel to Houston or Washington for the scheduled hearings. In order to provide a reasonable opportunity for public involvement, as required by the Clean Air Act,<sup>16</sup> we urge EPA to hold at least one public hearing, with at least 30 days' notice, in an affected Louisiana community.<sup>17</sup>

We respectfully request that EPA: (1) consult with the organizations joining this letter, and schedule a public hearing at a place and time where and when at least some affected community members could participate in person; (2) arrange and provide public notice regarding a remote participation method for those unable to attend, such as a teleconference call; and (3) publicize the date, location, and remote participation method for such a hearing with sufficient advance notice—at least 30 days' notice—so that affected community members are aware of and could participate, if they wish to do so. *See* 42 U.S.C. § 7607(d)(5); § 7607(h) (“a reasonable period for public participation of at least 30 days,” not limited to public comment in writing). EPA must provide the affected public the opportunity to provide informative testimony, consistent with EPA’s responsibilities under the Clean Air

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<sup>12</sup> *See, e.g.*, M. Hawthorne, *Amid chemical industry lobbying, Trump EPA reconsiders risk of cancer-causing ethylene oxide*, Chicago Trib. (Dec. 20, 2019), <https://www.chicagotribune.com/news/environment/ct-ethylene-oxide-chemical-industry-epa-standardas-20191220-2gv6ryk5ejc5lddky46uggh3ia-story.html>.

<sup>13</sup> Tristan Baurick, Lylla Younes, & Joan Meiners, *In Parts of Louisiana’s ‘Cancer Alley,’ Toxic Emissions Set to Rise with a Raft of New Plants*, Nola.com (Oct. 30, 2019), [https://www.nola.com/news/environment/article\\_49fe4540-f74a-11e9-8d20-eb0f97323b91.html](https://www.nola.com/news/environment/article_49fe4540-f74a-11e9-8d20-eb0f97323b91.html).

<sup>14</sup> *See* Comments of RISE St. James, LABB, et al. (filed Aug. 12, 2019), <https://edms.deq.louisiana.gov/app/doc/view.aspx?doc=11819373>.

<sup>15</sup> *Id.*; Sharon Lerner, *A Tale of Two Toxic Cities*, The Intercept (Feb. 24, 2019, 9:00 AM), <https://theintercept.com/2019/02/24/epa-response-air-pollution-crisis-toxic-racial-divide/>; 2014 NATA Map, <https://www.epa.gov/national-air-toxics-assessment/2014-nata-map>.

<sup>16</sup> *See, e.g.*, 42 U.S.C. § 7607(d)(5).

<sup>17</sup> For example, EPA has previously held a community-based hearing on the 2016 reconsideration of the Refinery Rule. *See, e.g.*, 81 Fed. Reg. 76,550 (holding public hearing at the Hartman Park Community Center in the Manchester neighborhood of Houston, Texas).

Act. For this reason as well, we request that EPA extend the comment deadline on this rule to allow a sufficient time to present written comments after the public hearings are held.

There is a strong need for EPA to hear from people exposed to this pollution so EPA can consider the real-world impacts of its proposed action. The people most affected by this action must have a meaningful opportunity to persuade the agency to strengthen the emission standards and protect communities', especially children's, health.

Thank you for your time and consideration of this matter. You may contact the above-listed groups directly to discuss scheduling a public hearing, or contact Emma Cheuse at (202) 745-5220 or [echeuse@earthjustice.org](mailto:echeuse@earthjustice.org); Corinne Van Dalen at (415) 283-2335 or [cvandalen@earthjustice.org](mailto:cvandalen@earthjustice.org); or Kathleen Riley at (202) 745-5227 or [kriley@earthjustice.org](mailto:kriley@earthjustice.org).

Sincerely,

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