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Air Quality Criteria/National Ambient Air Quality Standards: Center for Biological Diversity Citizen Suit Action Alleging U.S. Environmental Protection Agency Failure to Update NO₂ and SO₂

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The Center for Biological Integrity and Center for Environmental Health ("Collectively CBD") filed a Citizen Suit Action in the United States District Court (Northern District of California) alleging that the United States Environmental Protection Agency ("EPA") failed to undertake certain mandatory obligations under the Clean Air Act.

In summary, CBD describes the mandatory duties that EPA has allegedly failed to perform as follows:

... Specifically, the Clean Air Act establishes mandatory deadlines for Defendant to complete a thorough review of the air quality criteria for Sulphur Oxides ("SO_x") and the National Ambient Air Quality Standards ("NAAQS") for Nitrogen Dioxide ("NO₂") and Sulphur Dioxide ("SO₂"), to make such revisions to the air quality criteria and NAAQS as may be appropriate, to promulgate such new NAAQS as may be appropriate, and to publish notice of such actions in the Federal Register. Administrator McCarthy failed to meet these deadlines. . .

Section 108 of the Clean Air Act requires that EPA identify pollutants that "may reasonably be anticipated to endanger public health and welfare" and to issue air quality criteria for those pollutants. Further, Section 109 requires EPA to promulgate primary NAAQS for the air pollutants identified under Section 108. The primary NAAQS are required to be sufficient to protect public health.

EPA established air quality criteria and NAAQS for SO₂ and nitrogen oxide a number of years ago. However, Section 109 of the Clean Air Act requires that EPA review the air quality criteria published under 108 and the NAAQS at five-year intervals and make such revisions to the criteria and NAAQS as may be appropriate.

CBD describes SO₂ and NO_x and alleges that EPA has violated its nondiscretionary duty to update the air quality criteria and NAAQS.

[A copy of the complaint can be downloaded here.](#)