

# Cadmium/Endangered Species Act: Center for Biological Diversity Notice of Intent to Sue for Alleged Violation of Section 7



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The Center for Biological Diversity (“CBD”) sent a December 16th Notice of Intent to Sue (“NOI”) to the United States Environmental Protection Agency (“EPA”) for alleged violations of Section 7 of the Endangered Species Act (“ESA”).

The NOI alleges that EPA’s violation of Section 7 is associated with the agency’s decision to revise the nationwide water quality criteria for cadmium under Section 304 of the Clean Water Act.

CBD alleges that EPA violated the ESA when it:

. . . failed to engage in programmatic consultation to consider the impacts of its decision to revise the nationwide water quality criteria for cadmium under CWA Section 304 on listed species.

CBD states that states must consider EPA’s criteria when establishing water quality standards. It further argues that EPA’s decision to change the criteria impacts endangered species nationwide. This is alleged to trigger the ESA’s low “may affect” threshold for consultation. Therefore, CBD states that:

. . . By revising the criteria for cadmium without first consulting with the Fish and Wildlife Service (“FWS”) and National Marine Fisheries Service (“NMFS”) (collectively “the Services”), EPA violated the ESA.

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