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## Secondary National Ambient Air Quality Standards/Clean Air Act: Center for Biological Diversity Notice of Intent to Sue U.S. Environmental Protection Agency for Failure to Review SOX, NOX and PM

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The Center for Biological Diversity (“CBD”) sent a February 2nd Notice of Intent to Sue (“Notice”) to the United States Environmental Protection Agency (“EPA”) alleging a failure to:

... complete a mandatory review of the secondary National Ambient Air Quality Standards (NAAQS) for Sulfur Oxides (SO<sub>x</sub>), Nitrogen Oxides (NO<sub>x</sub>), and particulate matter (PM).

The Notice further alleges a violation of failure to revise and, as may be appropriate, promulgate new NAAQS for the previously referenced criteria air pollutants.

Secondary NAAQS provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Primary standards provide public health protection including protecting the health of sensitive populations such as asthmatics, children and the elderly.

A secondary standard as defined in Section 109(b)(2) of the Clean Air Act must:

... specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

Welfare effects are defined in Section 302(h) to include, but are not limited to:

... effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and wellbeing.

CBD states in the Notice that EPA has not undertaken, within the required five-year period, a review of the secondary NAAQS for SO<sub>x</sub>, NO<sub>x</sub>, and particulate matter as required under Section 109 of the Clean Air Act. The organization states that EPA’s last review for SO<sub>x</sub> and NO<sub>x</sub> was completed in 2012. The federal agency’s most recent review of the secondary NAAQS for particulate matter is stated to have been 2013.

CBD alleges that the failure of EPA to conduct these reviews is a violation of a mandatory Clean Air Act duty. The organization states it is its intent to file a complaint in the United States District Court if the matter is not resolved in the next 60 days.

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