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Ozone National Ambient Air Quality Standards/Clean Air Act: Environmental Organizations File Judicial Action Alleging U.S. Environmental Protection Agency Failure to Determine Attainment for 30 Cities

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Earthjustice on behalf of several other environmental organizations filed a Complaint for Declaratory and Injunctive Relief (“Complaint”) on June 7th against the United States Environmental Protection Agency (“EPA”) for an alleged failure to undertake certain Clean Air Act responsibilities. See USDC District of Columbia, Civil Action No. 1:22-cv-1606.

The Complaint is filed on behalf of the following organizations:

- Alliance of Nurses for Healthy Environments
- Downwinders at Risk
- Heal Utah
- Sierra Club

(collectively “Earthjustice”)

Earthjustice alleges that EPA has not fulfilled its obligation to determine whether certain marginal nonattainment areas associated with 30 cities attained or did not attain the 2015 National Ambient Air Quality Standards (“NAAQS”) for ozone by the statutory deadline.

NAAQS are set for a limited number of pollutants. Once established the states are required to develop State Implementation Plans (“SIPs”) to ensure that its air quality meets the NAAQS. The SIPs are subject to EPA approval. A change in NAAQS will also require a revision in the SIP.

EPA revised the ozone NAAQS in 2015. The federal agency was then required to determine which areas of the country are in attainment or nonattainment for the NAAQS. Areas are then designated as being either in:

- Attainment
- Unattainment

- Unclassifiable

Earthjustice argues that EPA completed designations and classifications for the 2015 ozone standard on June 4, 2018, for the 30 cities named in the Complaint (excepting eight counties in the San Antonio, Texas, metropolitan area).

The Complaint further alleges that EPA was required to publish a Federal Register Notice no later than six months after an area's attainment deadline (August 3, 2021) for the majority of areas stating whether they did or did not timely attain the NAAQS. It further states that:

. . . Any area that remains in violation of an ozone NAAQS on its attainment date must be reclassified to a higher classification that is subject to more effective protections.

The relevant deadlines are stated to have passed and EPA has not finalized attainment determinations and published the required notice in the Federal Register for marginal nonattainment areas under the 2015 NAAQS.

A copy of the Complaint, which includes a list of the referenced cities, can be downloaded [here](#).