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Citizen Suit Enforcement/Clean Air Act: Center for Biological Diversity Notice of Intent to Sue U.S. Environmental Protection Agency for Alleged Failure to Perform Nonattainment Nondiscretionary Duty

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The Center for Biological Diversity and the Center for Environmental Health (collectively, “CBD”) sent a Clean Air Act Notice of Intent to Sue the United States Environmental Protection Agency (“EPA”) on February 4th alleging a failure to perform an act or duty which is not discretionary with the Administrator.

CBD specifically alleges that EPA is required to determine by February 3, 2025, whether the 2015 Ozone National Ambient Air Quality Standard (“NAAQS”) moderate nonattainment areas attained the 2015 Ozone NAAQS by the August 3, 2024, attainment date.

The Notice of Intent also alleges that EPA was required to publish notice in the Federal Register of those determinations identifying the new classifications of areas that failed to maintain.

EPA is alleged to have failed to perform these not mandatory duties for five areas:

- Louisville, Kentucky-Indiana;
- Mariposa County, California;
- Phoenix-Mesa, Arizona;
- Washington, D.C.- Maryland-Virginia;
- Uinta Basin, Utah.

CBD notes that the organizations would prefer to resolve the matter without need for litigation. However, they indicate if they do not hear from EPA within 60 days, a Clean Air Act Citizen Suit Action will be filed.

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