

February 10, 2026

Lee M. Zeldin
Administrator
U.S. Environmental Protection Agency
Office of the Administrator
Mail Code: 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

By Certified Mail

RE: Notice of intent to sue under the Clean Air Act for failure to designate areas under the 2024 Particulate Matter National Ambient Air Quality Standards as required by 42 U.S.C. § 7407(d)(1)(B) & (d)(2).

Dear Administrator Zeldin:

Pursuant to 42 U.S.C. § 7604(a)(2), (b)(2) and 40 C.F.R. Part 54, we hereby give notice of our intent to commence a civil action against the Administrator of the United States Environmental Protection Agency (“Administrator,” “EPA,” or “you”) for failing to perform certain nondiscretionary duties under the Clean Air Act (“the Act”). As further specified below, you have failed to carry out your nondiscretionary duty under Section 107(d) of the Act, 42 U.S.C. § 7407(d), to promulgate, via publication in the Federal Register, designations of all areas throughout the nation as nonattainment, attainment, or unclassifiable under the primary annual national ambient air quality standard (“NAAQS”) for fine particulate matter (“PM_{2.5}”) that was promulgated on February 7, 2024, and published in the Federal Register on March 6, 2024 (“2024 PM_{2.5} NAAQS”). Mem. from Joseph Goffman, Ass’t Adm’r, EPA, at 1 (Feb. 7, 2024);¹ 89 FR 16,202.

For decades, EPA and public health researchers have found that even low levels of particulate matter air pollution cause premature death and other serious illnesses with debilitating symptoms such as respiratory and cardiovascular diseases that impact millions of people. *See, e.g.*, 89 FR 16203/3-04/1. The 2024 PM_{2.5} NAAQS strengthened the annual standard for fine particulate matter to a more health-protective level that EPA determined will save lives and improve public health. But for the public to fully and timely experience the health benefits of the 2024 PM_{2.5} NAAQS, EPA must first fulfill its statutory duty to determine which areas in the United States suffer from levels of ambient air pollution that violate the NAAQS and promulgate designations accordingly.

Specifically, Section 107(d)(1)(A) of the Act requires that not later than one year after promulgation of a new or revised NAAQS for any pollutant under Section 109 of the Act, the Governor of each State shall submit to the Administrator a list designating all areas (or portions

¹ Available at https://www.epa.gov/system/files/documents/2024-02/pm-naaqs-designations-memo_2.7.2024_-jg-signed.pdf.

thereof) in the State as nonattainment, attainment, or unclassifiable under the new or revised NAAQS. 42 U.S.C. § 7407(d)(1)(A). Section 107(d)(1)(B) of the Act requires that upon promulgation or revision of any NAAQS, the Administrator shall promulgate the designations of all areas (or portions thereof) submitted by the States under Section 107(d)(1)(A)² as expeditiously as practicable, but in no case later than two years from the date of promulgation of the new or revised NAAQS. *Id.* § 7407(d)(1)(B)(i). This two-year period may be extended with respect to certain areas for up to one year, but only when the Administrator determines there is “insufficient information to promulgate the designations” for those areas. *Id.* Pursuant to Section 107(d)(2)(A) of the Act, to promulgate designations as required under Section 107(d)(1), the Administrator must publish a notice in the Federal Register. *Id.* § 7407(d)(2)(A).

On February 7, 2024, the Administrator promulgated a primary annual NAAQS for fine particulate matter. Mem. from Joseph Goffman, Ass’t Adm’r, EPA, at 1 (Feb. 7, 2024). That final action triggered the Administrator’s nondiscretionary duty under Section 107(d)(1)(B) to promulgate designations under the 2024 PM2.5 NAAQS for all areas as expeditiously as practicable, but no later than February 7, 2026, and to publish a notice in the Federal Register promulgating those designations pursuant to Section 107(d)(2). Nearly all states submitted their lists of designations, and, understandably, EPA did not attempt to invoke an extension under Section 107(d)(1)(B)(i).

In November 2025, without notice or public input, or disputing the overwhelming scientific evidence supporting the strengthened NAAQS, EPA reversed its position defending the 2024 PM2.5 NAAQS in ongoing litigation and requested that the U.S. Court of Appeals for the D.C. Circuit vacate the NAAQS prior to the February 7, 2026, designation deadline. Respondents’ Motion for Vacatur 1, *Kentucky v. EPA*, No. 24-1050 (D.C. Cir. Nov. 24, 2025). The D.C. Circuit has not yet ruled on this motion, and the February 7, 2026, statutory deadline remains in effect.

February 7, 2026, has passed, and EPA has not promulgated the designations as required by Section 107(d)(1)(B) of the Act or published a Federal Register notice as the method of promulgating such designations as required by Section 107(d)(2), nor did it extend its deadline for promulgating such designations for all areas. Accordingly, you are in violation of your nondiscretionary duties under Section 107(d)(1)(B) of the Act to promulgate designations under the 2024 PM2.5 NAAQS by February 7, 2026, and under Section 107(d)(2)(A) to publish a Federal Register notice promulgating such designations by February 7, 2026.

Pursuant to 40 C.F.R. § 54.3, the undersigned submit this notice letter on behalf of the following organizations:

² If the Governor of a state fails to submit the list in whole or in part, as required under § 107(d)(1)(A), then § 107(d)(1)(B)(ii) requires the Administrator to promulgate the designation that the Administrator deems appropriate for any area (or portion thereof) not designated by the State. Because EPA’s duty to issue designations thus encompasses all areas, regardless of whether a Governor submitted a designation, we do not further differentiate in this letter areas based on whether a Governor submitted designations for them.

Alliance of Nurses for Healthy Environments PO Box 25 Mount Rainier, MD 20712	American Lung Association 55 W. Wacker Drive Suite 1150 Chicago, IL 60601
American Public Health Association 800 I (Eye) Street NW Washington, DC 20001	American Thoracic Society Church Street Station PO Box 3421 New York, NY 10008
Center for Biological Diversity PO Box 710 Tucson, AZ 85702	Citizens for Pennsylvania's Future 610 North Third Street Harrisburg, PA 17101
Clean Air Council 1617 JFK Boulevard Suite 1130 Philadelphia, PA 19103	CleanAIRE NC PO Box 5311 Charlotte, NC 28299
Conservation Law Foundation 62 Summer Street Boston, MA 02110	Environmental Defense Fund 2060 Broadway Suite 300 Boulder, CO 80302
Michigan Environmental Council 602 W. Ionia Street Lansing, MI 48933	Natural Resources Defense Council 40 West 20th Street New York, NY 10011
Northeast Ohio Community Resilience Centre 18115 Harvard Avenue Cleveland, OH 44128	Rio Grande International Study Center 4100 San Bernardo, Ste 4, 5 Laredo, TX 78041
RiSE for Environmental Justice (“RiSE4EJ”) ³ PO Box 7039 Kansas City, MO 64113	Savannah Riverkeeper PO Box 60 Augusta, GA 30903
Sierra Club 2101 Webster Street Suite 1300 Oakland, CA 94612	Georgia Interfaith Power & Light 701 South Columbia Drive Decatur, GA 30030

³ RiSE4EJ is a fiscal project of Social and Environmental Entrepreneurs (SEE), 23564 Calabasas Road, Suite 201, Calabasas, CA 91302.

These organizations intend to commence a civil action to enforce the nondiscretionary duties described in this letter unless EPA has fully performed these duties within sixty days of the postmark date of this letter.

We are acting as legal counsel for the above-named organizations in this matter. We would be happy to discuss the concerns raised in this letter with you; feel free to contact us at the phone numbers or email addresses indicated below.

Sincerely,

/s/ Sage Lincoln

Sage Lincoln
Seth L. Johnson
Earthjustice
1250 I (Eye) Street NW, 4th Floor
Washington, DC 20005
(202) 830-3311
(202) 797-5245
slincoln@earthjustice.org
sjohnson@earthjustice.org

Counsel for Alliance of Nurses for Healthy Environments, American Lung Association, American Public Health Association, American Thoracic Society, Center for Biological Diversity, Northeast Ohio Community Resilience Centre, Rio Grande International Study Center, RiSE4EJ, and Sierra Club

/s/ John Walke

John Walke
Emily Davis
Sheena Patel
Natural Resources Defense Council
1152 15th St NW, #300
Washington, DC 20005
(202) 289-6868
jwalke@nrdc.org
edavis@nrdc.org
spatel@nrdc.org

Counsel for Natural Resources Defense Council

/s/ Shaun A. Goho

Shaun A. Goho
Hayden W. Hashimoto
Clean Air Task Force
114 State Street, 6th Floor
Boston, MA 02109
(617) 624-0234
sgoho@catf.us
hhashimoto@catf.us

Counsel for Citizens for Pennsylvania's Future, Clean Air Council, Conservation Law Foundation, and Michigan Environmental Council

/s/ Caroline Cress

Caroline Cress
Southern Environmental Law Center
136 E. Rosemary Street, Suite 500
Chapel Hill, NC 27514
(919) 967-1450
ccress@selc.org

Counsel for CleanAIRE NC, Georgia Interfaith Power & Light, and Savannah Riverkeeper

/s/ Richard Yates

Richard Yates
Environmental Defense Fund
2060 Broadway
Suite 300
Boulder, CO 80302
(415) 293-6083
ryates@edf.org

Counsel for Environmental Defense Fund