

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<sub>2.5</sub>”) that was promulgated on February 7, 2024, and published in the Federal Register on March 6, 2024 (“2024 PM<sub>2.5</sub> NAAQS”). Mem. from Joseph Goffman, Ass’t Adm’r, EPA, at 1 (Feb. 7, 2024);<sup>1</sup> 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<sub>2.5</sub> 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<sub>2.5</sub> 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

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<sup>1</sup> Available at [https://www.epa.gov/system/files/documents/2024-02/pm-naaqs-designations-memo\\_2.7.2024-\\_jg-signed.pdf](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)<sup>2</sup> 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 PM<sub>2.5</sub> 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 PM<sub>2.5</sub> 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 PM<sub>2.5</sub> 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:

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<sup>2</sup> 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") <sup>3</sup> 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

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<sup>3</sup> 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*