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VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

July 27, 2017

Scott Pruitt
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Clean Air Act Notice of Intent to Sue pursuant to 42 U.S.C. § 7604(b)(2) for failure to make findings of failure to submit under 42 U.S.C. § 7410(k)(1)(B) for 2008 ozone NAAQS nonattainment areas state implementation plans

Dear Administrator Pruitt,

On behalf of the Center for Biological Diversity and the Center for Environmental Health, I am writing to inform you that they intend to file suit against you for “a failure of the Administrator [of the United States Environmental Protection Agency (“EPA”)] to perform any act or duty under this chapter which is not discretionary with the Administrator.” 42 U.S.C. § 7604(a)(2). Specifically, under 42 U.S.C. § 7410(k)(1)(B), EPA must issue a finding of failure to submit nonattainment area state implementation plan (SIP) submittal elements, and publish notice of that action in the Federal Register, for the 2008 ozone national ambient air quality standards (NAAQS). This duty is required for the nonattainment areas and elements listed in Table 1. As explained in more detail below, EPA has failed to perform these mandatory duties.

EPA should remedy its violation of these mandatory duties to better protect the public and native ecosystems from ozone’s harmful effects. People commonly refer to ground level ozone as smog. According to EPA, based on exhaustive scientific review, ozone pollution causes decreased lung function, increased respiratory symptoms, emergency department visits, hospital admissions for respiratory causes, and even death. 73 Fed. Reg. 16,436 (Mar. 27, 2008). Those most at risk from ozone pollution are children; active people, *e.g.*, runners and people who do manual labor outside; people with pre-existing lung and heart diseases such as asthma; and older people. *Id.* at 16,440. Ozone also damages vegetation, both native and commercial crops.

Id. at 16,485-16,486. Damage to native vegetation results in ecosystem damage, including diminished ecosystem services, that is, the life sustaining services that ecosystems provide to people for free, such as clean air, clean water and carbon sequestration. *Id.*

I. FAILURE TO MAKE FINDING OF FAILURE TO SUBMIT

EPA is required to determine whether a state implementation plan (SIP) submittal is administratively complete. 42 U.S.C. § 7410(k)(1)(B). If, six months after a submittal is due, a state has failed to submit any required SIP submittal, there is no submittal that may be deemed administratively complete, and EPA must make a determination stating that the state failed to submit the required SIP submittal. *Id.* This determination is referred to as a “finding of failure to submit.”

EPA’s nonattainment designations for the 2008 ozone NAAQS were effective for most areas of the United States no later than July 20, 2012. *see* 77 Fed. Reg. 30,088 (May 21, 2012). EPA designated all of the areas listed in Table 1 nonattainment for the 2008 ozone NAAQS. All elements of the nonattainment SIP were due by no later than the dates listed in Table 1. *See* http://www3.epa.gov/airquality/urbanair/sipstatus/reports/ozone-8hr__2008_en.html. EPA has a mandatory duty to make a completeness finding under 42 U.S.C. § 7410(k)(1)(B) by no later than six months after the due dates for the submittals. The States in Table 1 have failed to submit nonattainment SIPs for the areas and elements listed in Table 1 as of the date of this letter. Yet, EPA has failed to issue a finding of failure to submit, as required by 42 U.S.C. § 7410(k)(1)(B), regarding the nonattainment SIPs for the areas and elements listed in Table 1.

TABLE 1

AREA & ELEMENT(S)	SUBMITTAL DEADLINE (No later than)
Chicago-Naperville, IL: Contingency measures for volatile organic compounds (VOC) and nitrogen oxides (NOx); Inspection and Maintenance (I/M) basic; nonattainment new source review (NSR) moderate; ozone attainment demonstration; Reasonable Available Control Technology (RACT) Non-Control Techniques Guidelines (CTG) VOC for major sources; RACT NOx for major sources; Reasonable Further Progress VOC and NOx - Moderate	1/1/2017
Chicago-Naperville, WI: Nonattainment NSR Moderate; RACT Non-CTG VOC for major sources; RACT NOx for major sources; Reasonable Further Progress VOC and NOx – Moderate; Aerospace CTG RACT; Auto and Light-Duty Truck Assembly Coatings CTG RACT; Bulk Gasoline Plants CTG RACT; Equipment Leaks from Natural Gas/Gasoline Processing Plants CTG RACT; Factory Surface Coating of Flat Wood Paneling	1/1/2017

<p>CTG RACT; Fiberglass Boat Manufacturing Materials (2008) CTG RACT; 2006 Flat Wood Paneling Coatings CTG RACT; 2006 Flexible Packaging Printing Material CTG RACT; Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment CTG RACT; Graphic Arts – Rotogravure and Flexography CTG RACT; Industrial Cleaning Solvents (2006) CTG RACT; Large Appliance Coatings (2007) CTG RACT; Large Petroleum Dry Cleaners CTG RACT; Leaks from Gasoline Tank Trucks and Vapor Collection Systems CTG RACT; Leaks from Petroleum Refinery Equipment CTG RACT; Lithographic Printing Materials and Letterpress Printing Materials (2006) CTG RACT; Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins CTG RACT; Manufacture of Pneumatic Rubber Tires CTG RACT; Manufacture of Synthesized Pharmaceutical Products CTG RACT; Metal Furniture Coatings (2007) CTG RACT; Miscellaneous Industrial Adhesives (2006) CTG RACT Miscellaneous Metal Products Coatings (2008) CTG RACT; Paper, Film, and Foil Coatings (2007) CTG RACT; Petroleum Liquid Storage in External Floating Roof Tanks CTG RACT; Plastic Parts Coatings (2008) CTG RACT; RACT VOC CTG Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds CTG RACT; SOCFI Air Oxidation Processes CTG RACT; SOCFI Distillation and Reactor Processes CTG RACT; Shipbuilding/repair CTG RACT; Solvent Metal Cleaning CTG RACT; Storage of Petroleum Liquids in Fixed Roof Tanks CTG RACT; Surface Coating for Insulation of Magnet Wire CTG RACT; Surface Coating of Automobiles and Light-Duty Trucks CTG RACT; Surface Coating of Cans CTG RACT; Surface Coating of Coils CTG RACT; Surface Coating of Fabrics CTG RACT; Surface Coating of Large Appliances CTG RACT; Surface Coating of Metal Furniture CTG RACT; Surface Coating of Miscellaneous Metal Parts and Products CTG RACT; Surface Coating of Paper CTG RACT; Tank Truck Gasoline Loading Terminals CTG RACT; Use of Cutback Asphalt CTG RACT; Wood Furniture CTG RACT.</p>	
<p>Denver-Boulder-Greeley-Ft. Collins-Loveland, CO: Contingency measures for VOC and NOx; I/M basic; NSR moderate; ozone attainment demonstration; RACT Non-CTG VOC for major sources; RACT NOx for major sources; Reasonable Further Progress VOC and NOx – Moderate; Aerospace CTG RACT; Auto and Light-Duty Truck Assembly Coatings CTG RACT; Bulk Gasoline Plants CTG RACT; Equipment Leaks from Natural Gas/Gasoline Processing Plants CTG RACT; Factory Surface Coating of Flat Wood Paneling CTG RACT; Fiberglass</p>	<p>1/1/2017</p>

<p>Boat Manufacturing Materials (2008) CTG RACT; 2006 Flat Wood Paneling Coatings CTG RACT; 2006 Flexible Packaging Printing Material CTG RACT; Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment CTG RACT; Graphic Arts – Rotogravure and Flexography CTG RACT; Industrial Cleaning Solvents (2006) CTG RACT; Large Appliance Coatings (2007) CTG RACT; Large Petroleum Dry Cleaners CTG RACT; Leaks from Gasoline Tank Trucks and Vapor Collection Systems CTG RACT; Leaks from Petroleum Refinery Equipment CTG RACT; Lithographic Printing Materials and Letterpress Printing Materials (2006) CTG RACT; Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins CTG RACT; Manufacture of Pneumatic Rubber Tires CTG RACT; Manufacture of Synthesized Pharmaceutical Products CTG RACT; Metal Furniture Coatings (2007) CTG RACT; Miscellaneous Industrial Adhesives (2006) CTG RACT Miscellaneous Metal Products Coatings (2008) CTG RACT; Paper, Film, and Foil Coatings (2007) CTG RACT; Petroleum Liquid Storage in External Floating Roof Tanks CTG RACT; Plastic Parts Coatings (2008) CTG RACT; RACT VOC CTG Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds CTG RACT; SOCM I Air Oxidation Processes CTG RACT; SOCM I Distillation and Reactor Processes CTG RACT; Shipbuilding/repair CTG RACT; Solvent Metal Cleaning CTG RACT; Storage of Petroleum Liquids in Fixed Roof Tanks CTG RACT; Surface Coating for Insulation of Magnet Wire CTG RACT; Surface Coating of Automobiles and Light-Duty Trucks CTG RACT; Surface Coating of Cans CTG RACT; Surface Coating of Coils CTG RACT; Surface Coating of Fabrics CTG RACT; Surface Coating of Large Appliances CTG RACT; Surface Coating of Metal Furniture CTG RACT; Surface Coating of Miscellaneous Metal Parts and Products CTG RACT; Surface Coating of Paper CTG RACT; Tank Truck Gasoline Loading Terminals CTG RACT; Use of Cutback Asphalt CTG RACT; Wood Furniture CTG RACT.</p>	
<p>Greater Connecticut, CT: Contingency measures for VOC and NO_x; RFP VOC and NO_x – Moderate.</p>	<p>1/1/2017</p>
<p>Imperial County, CA: Contingency measures for VOC and NO_x; Emission Statement; I/M Basic; RACT Non-CTG VOC for major sources; RACT NO_x for major sources; Ozone Attainment Demonstration; RFP VOC and NO_x – Moderate.</p>	<p>1/1/2017</p>
<p>Kern County (Eastern Kern), CA: Contingency measures for VOC and NO_x; Emission Statement; I/M Basic; Nonattainment NSR moderate; RACT Non- CTG VOC for major sources; RACT</p>	<p>1/1/2017</p>

NOx for major sources; Ozone Attainment Demonstration; RFP VOC and NOx – Moderate.	
Mariposa County, CA: Emission Statements; Nonattainment NSR - Moderate	1/1/2017
Nevada County, CA: Contingency measurers for VOC and NOx; Emission Statement; I/M Basic; RACT Non-CTG VOC for major sources; RACT NOx for major sources; Ozone Attainment Demonstration; RFP VOC and NOx – Moderate.	1/1/2017
New York-N. New Jersey-Long Island, NY: Contingency measurers for VOC and NOx; RACT Non-CTG VOC for major sources; RACT NOx for major sources; Ozone Attainment Demonstration; RFP VOC and NOx – Moderate.	1/1/2017
New York-N. New Jersey-Long Island, NJ: Contingency measurers for VOC and NOx; RACT Non-CTG VOC for major sources; RACT NOx for major sources; Ozone Attainment Demonstration; RFP VOC and NOx – Moderate.	1/1/2017
New York-N. New Jersey-Long Island, CT: Contingency measurers for VOC and NOx; Ozone Attainment Demonstration; RFP VOC and NOx – Moderate.	1/1/2017
Phoenix-Mesa, AZ: Contingency measurers for VOC and NOx; RACT Non-CTG VOC for major sources; RACT NOx for major sources; Ozone Attainment Demonstration; RFP VOC and NOx – Moderate.	1/1/2017
Sheboygan County, WI: Contingency measurers for VOC and NOx; Emission Statement; I/M Basic; RACT Non-CTG VOC for major sources; RACT NOx for major sources; Ozone Attainment Demonstration; RFP VOC and NOx – Moderate.	1/1/2017

As required by 40 C.F.R. § 54.3, the persons providing this notice are:

The Center for Biological Diversity
 1212 Broadway, Suite 800
 Oakland, CA. 94612
 Attn: Jonathan Evans
 Tel: (510) 844-7100 x318

Center for Environmental Health
 2201 Broadway, Suite 302
 Oakland, CA 94612
 Attn: Caroline Cox
 Tel: (510) 655-3900

While EPA regulations require this information, please direct all correspondences and communications regarding this matter to the undersigned counsel.

Administrator Scott Pruitt

July 27, 2017

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The Center for Biological Diversity and the Center for Environmental Health and their counsel would prefer to resolve this matter without the need for litigation. Therefore, we look forward to EPA coming into compliance within 60 days. If you do not do so, however, we will have to file or amend a complaint.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Ukeiley", is centered below the word "Sincerely,".

Robert Ukeiley
Counsel for Center for Biological Diversity and
Center for Environmental Health