



Office of the Attorney General

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August 24, 2023

By Email and Certified Mail Return Receipt Requested

Michael Regan, Administrator
Environmental Protection Agency
Office of the Administrator
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, D.C. 20460

RE: Notice of Intent to File Suit Under the Clean Air Act, 42 U.S.C. § 7604(a)(2) for Failure to Take Final Action on Wyoming's Regional Haze State Implementation Plan for the Second Planning Period.

Dear Administrator Regan:

On behalf of the State of Wyoming, I write to inform you that Wyoming intends to file suit against you for the "failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator[.]" 42 U.S.C. § 7604(a)(2). Specifically, and as explained in more detail below, the Administrator has violated his nondiscretionary duties under 42 U.S.C. § 7410(k)(2)-(4) by failing to take final action on the State Implementation Plan (SIP) submitted by Wyoming under the Regional Haze Rule, 40 C.F.R. § 51.308. The EPA must remedy this violation of its mandatory duties. The delay in acting on Wyoming's SIP causes regulatory uncertainty and violates Wyoming's procedural rights.

The Clean Air Act imposes a nondiscretionary duty on the Administrator to approve or disapprove a complete SIP revision within twelve months. 42 U.S.C. § 7410(k)(2). The EPA Regional Administrator sent a letter on August 23, 2022 to Wyoming determining

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that Wyoming's SIP was complete.¹ Therefore, the EPA was required to approve or disapprove, in whole or in part, Wyoming's SIP by August 23, 2023. The EPA did not do so.

The State of Wyoming intends to file suit against you in your official capacity as the Administrator of the EPA and against the agency for failures to perform nondiscretionary duties under the Act. *See* 42 U.S.C. § 7604(a)(2), (b). Under 42 U.S.C. § 7604(d), "[t]he court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate." If the State of Wyoming must file a suit to obtain the EPA's compliance with the Clean Air Act, Wyoming intends to seek all available costs, including without limitation, reasonable attorney's fees.

As required by 40 C.F.R. § 54.3(a), the entity providing this notice is:

Wyoming Attorney General's Office
Water and Natural Resources Division
109 State Capitol
Cheyenne, WY 82002
(307) 777-5780

I look forward to receiving a response and working with the EPA so that it will not be necessary to take further formal action.

FOR THE STATE OF WYOMING



Bridget Hill
Wyoming Attorney General

cc: KC Becker, Administrator, Region 8, EPA
Todd Parfitt, Director, Wyoming Department of Environmental Quality
Nancy Vehr, Administrator, Air Quality Division, Wyoming Department of Environmental Quality

¹ <https://www.regulations.gov/document/EPA-HQ-OAR-2022-0320-0011>