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July 18, 2023

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Michael S. Regan, Administrator  
 United States Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W. (Mail Code 1101A)  
 Washington, D.C. 20460

Re: Notice of Intent to Sue Pursuant to Section 304(b)(2) of the Clean Air Act for Failure of the Administrator to Act on Clean Air Act State Implementation Plan Submissions from Alabama, Florida, Georgia, Louisiana, South Carolina, and Texas.

Dear Administrator Regan:

I am writing on behalf of Our Children's Earth Foundation ("OCE") to notify you of ongoing violations of the federal Clean Air Act by you, as Administrator of the Environmental Protection Agency ("EPA"), for your failure to timely act, as required by Section 110(k)(2) of the Clean Air Act, 42 U.S.C. § 7410(k)(2), on numerous state implementation plan ("SIP") revisions submitted by the States of Alabama, Florida, Georgia, Louisiana, South Carolina, and Texas. OCE intends to file a lawsuit seeking to address your failure to perform these nondiscretionary duties set forth in 42 U.S.C. § 7410(k)(2) 60 days from the date of this letter under Section 304 of the Clean Air Act, 42 U.S.C. § 7604. The SIP submissions that you have failed to timely address include those listed in the attached spreadsheet.

**A. Failure To Perform Nondiscretionary Duties**

Under the Clean Air Act, states are required to submit SIP submissions to the EPA to implement, maintain, and enforce National Ambient Air Quality Standards ("NAAQS"). *See* 42 U.S.C. § 7410(a). The Clean Air Act further requires the Administrator to fully or partially approve or

disapprove a SIP submission within twelve (12) months after such submission has been deemed complete, either by the Administrator or as a matter of law. *See* 42 U.S.C. § 7410(k)(2). If the EPA does not make a completeness finding, SIP submissions are deemed complete by operation of law six (6) months after submission. *See* 42 U.S.C. § 7410(k)(1)(B). Therefore, at most, EPA had eighteen (18) months within which to take final action to approve, disapprove, or partially approve or disapprove the aforementioned SIP submissions from the States of Alabama, Florida, Georgia, Louisiana, South Carolina, and Texas. As of the date of this letter, EPA has failed to fully or partially approve or disapprove the aforementioned SIP submissions listed in the attachment. Because EPA has failed to take action on the above SIP submissions by the statutory deadline, EPA is now in violation of Clean Air Act Section 110(k)(2), 42 U.S.C. § 7410(k)(2).

**B. Notice of Intent to Sue**

After the expiration of sixty (60) days from the date of this notice of intent to sue, OCE intends to file suit against you in federal court for your failure to act in accordance with, or fulfill, the duties described in Section A of this letter.

**C. Identity of Persons Giving Notice and Their Counsel**

As required by 40 C.F.R. § 54.3, the name and address of OCE, the noticing party, is as follows:

Our Children's Earth Foundation  
1625 Trancas St. #2218  
Napa, CA 94558-9998  
Tel: (510) 910-4535  
E-mail: [annie@ocefoundation.org](mailto:annie@ocefoundation.org)

OCE is a non-profit public benefit corporation with members throughout the United States, including many members in Alabama, Florida, Georgia, Louisiana, South Carolina, Texas, and surrounding states affected by air pollution originating in those states, dedicated to protecting the public, especially children, from the health impacts of pollution and other environmental hazards and to improving environmental quality for the public benefit. Part of OCE's mission is to participate in environmental decisionmaking, enforce federal and state environmental laws (including via citizen suits), to reduce pollution, and to educate the public concerning environmental laws and their enforcement.

OCE has retained the following legal counsel to represent it in this matter:

Stuart Wilcox, Esq.  
Environmental Advocates  
5135 Anza Street  
San Francisco, CA 94121  
Tel: (720) 331-0385  
Fax: (415) 358-5695  
E-mail: [wilcox@enviroadvocates.com](mailto:wilcox@enviroadvocates.com)

**D. Offer to Negotiate**

During the sixty (60) day notice period, OCE is willing to discuss effective measures to correct your failure to comply with your nondiscretionary duties and to discuss any information bearing upon this notice. If you wish to pursue such discussions prior to litigation, we request that you expeditiously initiate them so that these discussions may be completed before the end of the sixty (60) day notice period. OCE does not intend to delay the filing of a complaint in federal court if the discussions fail to resolve these matters within the sixty (60) day notice period, and it intends to seek all appropriate relief, including injunctive relief and all costs of litigation, including, but not limited to, attorneys' fees, expert witness fees, and other costs.

We believe this notice provides information sufficient for you to determine the mandatory duty we allege you have failed to perform. If, however, you have any questions, please feel free to contact us for clarification.

We look forward to hearing from you.

Sincerely,

/s/ Stuart Wilcox

Stuart Wilcox

Environmental Advocates

*Counsel for Our Children's Earth Foundation*



## Attachment 1 to Clean Air Act Citizen Suit Notice Letter

<b>Alabama Overdue SIP Submissions</b>		
<b>SPeCS Review Page</b>	<b>State Submittal Date</b>	<b>SPeCS Review Page ID</b>
Birmingham 2006 24-hour PM2.5 Area Limited Maintenance Plan	2/17/2021	235034

<b>Florida Overdue SIP Submissions</b>		
<b>SPeCS Review Page</b>	<b>State Submittal Date</b>	<b>SPeCS Review Page ID</b>
Startup, Shutdown and Malfunction (SSM) SIP Call and Excess Emissions	11/22/2016	6428
Florida Regional Haze Plan for the Second Implementation Period	10/8/2021	245298
PM2.5 Part H SIP Revisions for Moderate SIPs	1/19/2017	9330

<b>Georgia Overdue SIP Submissions</b>		
<b>SPeCS Review Page</b>	<b>State Submittal Date</b>	<b>SPeCS Review Page ID</b>
Startup Shutdown and Malfunction (SSM) SIP Call Response	11/17/2016	6458
GA Gasoline Dispensing Facilities	11/4/2021	246675

<b>Louisiana Overdue SIP Submission</b>		
<b>SPeCS Review Page</b>	<b>State Submittal Date</b>	<b>SPeCS Review Page ID</b>
LA 2010 SO2 NAAQS transport prongs 1 and 2	6/7/2013	14431

<b>South Carolina Overdue SIP Submissions</b>		
<b>SPeCS Review Page</b>	<b>State Submittal Date</b>	<b>SPeCS Review Page ID</b>

2015 General Assembly - Minor NSR and NOx Controls	7/25/2016	5580
2014 End of Year Revisions	1/20/2016	7106
2011 End of Year Revisions	6/17/2013	7092
Misc. Revisions: Definitions & Gen. Requirements, Ambient Air Quality Stds., etc. Minor Source SIP Revisions only	7/18/2011	5578
Minor Source Permit Requirements/NOx Controls	10/1/2007	5574

<b>Texas Overdue SIP Submissions</b>		
<b>SPeCS Review Page</b>	<b>State Submittal Date</b>	<b>SPeCS Review Page ID</b>
Dallas-Fort Worth 2008 O3 Serious Area RFP and Contingency Measures	5/13/2020	211973
Dallas-Fort Worth 2008 Ozone Serious Area Attainment Demonstration	5/13/2020	211953
Houston 2008 O3 Serious Area Contingency Measures	5/13/2020	238356
Houston 2008 Ozone Serious Area Attainment Demonstration	5/13/2020	211934
TX Confirmation for Dallas-Fort Worth 2008 O3 Serious Area Requirements (I/M, NNSR)	5/13/2020	213311
TX Confirmation for Houston 2008 O3 Serious Area Requirements (I/M, NNSR)	5/13/2020	213303
TX Dallas-Fort Worth 2008 O3 Serious Area RACT Analysis (in Attainment Demonstration)	5/13/2020	214061
TX Houston 2008 O3 Serious Area RACT Analysis (in Attainment Demonstration)	5/13/2020	214058
Dallas-Fort Worth 2008 Ozone Serious Area RACT NOx Rules	5/12/2020	211859
Dallas-Fort Worth 2008 Ozone Serious Area RACT VOC rules	5/12/2020	211883
TX 30 TAC 101.118a2 and 101.118b from the Houston 1-hour ozone section 185 fee alternative program	11/30/2018	212195
TX 30 TAC 101.222 SSM revisions (RPN 2016-040-101-CE) submitted 11/18/2016	11/21/2016	7154
TX 5-Year Regional Haze Progress Report SIP Revision, Texas Project 2013-013-SIP-NR, submitted March 20, 2014	3/24/2014	7402
TX Transport prongs 1 and 2 portion of the 2010 SO2 Infrastructure & Transport SIP (Sub 5/6/13, Project No. 2012-022-SIP-NR)	5/9/2013	14654

TX - Quadrennial Review Update to Public Notice and Procedural Rules, Submitted 01/21/2022	1/21/2022	249293
TX - Revisions to Public Notice Requirements in Chapters 39 and 55, Submitted 1/21/2022	1/21/2022	249273
Regional Haze Requirements 'TX_2021 Regional Haze SIP 07202021'	7/20/2021	241412
TX DFW Oil and Gas CTG SIP	7/20/2021	241672
TX Houston Oil and Gas CTG SIP	7/20/2021	241391
Revisions to Texas Chapter 116 - Project Emissions Accounting	7/9/2021	241156
Revisions to Texas Chapter 116 to remove obsolete provisions, submitted 07/09/2021	7/9/2021	241159
Other - SIP 'TX_Agreed Orders and FCAA Section 110(l) SIP Revision 08202020'	8/20/2020	219067





Stuart Wilcox  
Environmental Advocates  
5135 Anza Street  
San Francisco, CA 94121

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Michael S. Regan, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W. (Mail Code 1101A)  
Washington, DC 20460



**See Important Information Enclosed**

