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# Citizen Suit Action/Ozone National Ambient Air Quality Standards: Center for Biological Diversity Notice of Intent to Sue U.S. Environmental Protection Agency for Failure to Take Final Action on State Implementation Plan Submittals

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The Center for Biological Diversity ("CBD") sent a September 25th Clean Air Act Notice of Intent to Sue ("Notice") the United States Environmental Protection Agency ("EPA") for the alleged failure to take a nondiscretionary action.

CBD alleges that EPA has not performed mandatory duties with regard to State Implementation Plans ("SIPs") addressing the ozone National Ambient Air Quality Standards ("NAAQS") in the following states:

- California
- Connecticut
- Indiana
- Maryland
- Michigan
- Missouri
- New Jersey
- Ohio
- Pennsylvania
- Utah

Section 108 and 109 of the Clean Air Act require EPA to identify air pollutants utilized in certain criteria and set NAAQS for each. Ozone is one of the six air pollutants currently designated as a criteria air pollutant and subject to NAAQS. Section 109 requires that EPA promulgate primary NAAQS for the pollutants identified under Section 108.

States are required to develop SIPs designed to achieve each NAAQS. SIPs contain the measures and actions the state proposed to undertake to attain each NAAQS. These measures or actions must be enforceable through state regulations and typically include emission limits applicable to certain types of stationary sources.

The states are somewhat free to make their own choices as to how they will attain the NAAQS through their SIPs. However, the SIP and subsequent revisions must be reviewed by EPA for determination that certain criteria set forth in Section 110 of the Clean Air Act have been met.

The CBD Notice states that it has identified a large number of overdue SIP elements upon which EPA has failed to act. The Notice states that after a state submits an SIP or SIP revision to EPA the federal agency must determine whether the submittal is complete no later than six months after the agency receives the submittal. If EPA does not make a complete determination within six months, the submittal is deemed complete by operation of law. Within twelve months of the SIP submittal being deemed complete by EPA or by operation of law, the federal agency must act on the submission.

The Notice states that EPA has not acted within the relevant time periods on the following states' SIPs:

- Connecticut's Moderate SIP Elements for the Greater Connecticut area for the 2015 Ozone NAAQS
- New Jersey's Moderate SIP Elements for the New York-Northern New Jersey-Long Island area for the 2015 Ozone NAAQS
- Maryland's Moderate SIP Elements for the Baltimore area for the 2015 Ozone NAAQS
- Maryland's Moderate SIP Elements for the Philadelphia-Wilmington- Atlantic City area for the 2015 Ozone NAAQS
- Pennsylvania's Moderate SIP Elements for the Philadelphia-Wilmington-Atlantic City area for the 2015 Ozone NAAQS
- Michigan's Moderate SIP Elements for the Allegan County area for the 2015 Ozone NAAQS
- Michigan's Moderate SIP Elements for the Berrien County area for the 2015 Ozone NAAQS
- Michigan's Moderate SIP Elements for the Muskegon County area for the 2015 Ozone NAAQS
- Indiana's Moderate SIP Elements for the Chicago area for the 2015 Ozone NAAQS
- Ohio's Moderate SIP Elements for the Cleveland area for the 2015 Ozone NAAQS
- Missouri's Moderate SIP Elements for the St. Louis area for the 2015 Ozone NAAQS
- Utah's Moderate SIP Elements for the Northern Wasatch Front area for the 2015 Ozone NAAQS
- California's Moderate SIP Elements for the Kern County (Eastern Kern) area for the 2015 Ozone NAAQS
- California's Moderate SIP Elements for the Sacramento Metro area for the 2015 Ozone NAAQS
- California's Moderate SIP Elements for the San Diego County area for the 2015 Ozone NAAQS

A copy of the Notice can be downloaded [here](#).