PM2.5/Clean Air Act: Environmental Organizations Notice of Intent to Sue Alleging U.S. EPA Failure to Designate Areas Under 2024 Particulate Matter NAAQS

Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

02/13/2026

The Environmental Defense Fund and 18 other organizations (collectively, "EDF") sent a February 10th Clean Air Act Notice of Intent to Sue ("NOI") to the United States Environmental Protection Agency ("EPA") alleging failure to designate areas under the 2024 Particulate Matter National Ambient Air Quality Standards ("NAAQS") as required by 42 U.S.C. § 7407(d)(1)(B) & (d)(2).

EDF alleges that EPA has failed to carry out a non-discretionary duty under Section 107(d) of the Clean Air Act to designate all areas throughout the nation as nonattainment, attainment, or unclassifiable under the NAAQS for fine particulate matter ("PM2.5") that was promulgated on February 7, 2024, and published in the Federal Register on March 6, 2024.

Particulate matter is a generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) over a wide range of sizes. It is composed of two major components.

Larger particulates (PM10) are generally the result of mechanical, evaporative, and suspension processes. Particulates designated PM2.5 typically consist of sulfates, nitrates, elemental carbon, organic carbon, compounds or metals. Because of their small size, these particulates can remain in the air for a significant period of time.

EDF states that on February 7, 2024, EPA promulgated a primary NAAQS for PM2.5. As a result, the organizations allege that this final action triggered EPA's non-discretionary duty to promulgate designations under the 2024 PM2.5 NAAQS for all areas expeditiously as practicable, but in no case later than February 7th. They further state that nearly all states submitted their lists of designations, and EPA did not attempt to invoke an extension under Section 107(d)(1)(B)(i).

EPA is noted to have reversed its position defending the 2024 PM2.5 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. See Motion for Vacatur 1, Kentucky v. EPA, No. 24-1050 (D.C. Cir. Nov. 24, 2025). The D.C. Circuit is stated to have not yet ruled on the motion and the February 7, 2026, statutory deadline remains in effect.

The February 7th deadline is stated to have passed and therefore, EPA is alleged to have not promulgated the designations as required by the Clean Air Act and not extended its deadline for promulgating such designations for all areas. Therefore, it alleges that EPA is in violation of non-discretionary duties under the Clean Air Act.

A copy of the NOI can be found here.