Secondary National Ambient Air Quality Standards/Clean Air Act: Center for Biological Diversity Notice of Intent to Sue U.S. EPA for Mandated Revisions to Lead/Ozone



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

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The Center for Biological Diversity ("CBD") sent an October 1st letter to the United States Environmental Protection Agency ("EPA") styled:

Clean Air Act Notice of Intent to Sue for Failure to Complete Mandatory Reviews of the Secondary National Ambient Air Quality Standards for Lead and Ozone Pollution, to Make Such Revisions to the National Ambient Air Quality Standards as may be Appropriate, to Promulgate Such New National Air Quality Standards as may be Appropriate, and to Publish Notice of Such Actions in the Federal Register ("Notice").

The Notice alleges that EPA has failed to complete mandatory reviews of the Clean Air Act secondary National Ambient Air Quality Standards ("NAAQS") for lead and ozone and to revise the secondary NAAQS for such pollutants as may be appropriate.

Section 109 (b)(2) of the Clean Air Act specifies that:

… any national secondary ambient air quality standard prescribed under subsection (a) shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

CBD states that Section 109 requires that at five-year intervals the EPA complete a thorough review of the NAAQS promulgated under this section and shall make such revisions in such standards and promulgate such new standards as may be appropriate. It further states that it has been more than five years since EPA last completed reviews of secondary NAAQS for lead and ozone. Therefore, CBD argues that EPA has an ongoing failure to complete the required reviews and make the necessary revisions to the secondary NAAQS for lead and ozone, and the agency is not fulfilling its mandatory duties under Section 109 and 108 of the Clean Air Act.

CBD states that if EPA does not resolve the matter within sixty days that the organization will file a complaint in the United States District Court.

A copy of the Notice can be found here.