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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13

14 **STATE OF CALIFORNIA, STATE OF
15 CONNECTICUT, STATE OF HAWAI‘I,
16 STATE OF MARYLAND,
COMMONWEALTH OF
17 MASSACHUSETTS, STATE OF
MINNESOTA, STATE OF NEW YORK,
18 STATE OF OREGON, STATE OF
VERMONT, STATE OF WISCONSIN,
19 DISTRICT OF COLUMBIA, COUNTY OF
HARRIS, TEXAS, AND CITY OF NEW
20 YORK, NEW YORK,**

Plaintiffs,

21 v.
22

23 **LEE ZELDIN, as Administrator of the
24 United States Environmental Protection
Agency,**

25 Defendant.
26

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

27 Plaintiffs California, by and through Attorney General Rob Bonta and the California Air
28 Resources Board, Connecticut, Hawai‘i, Maryland, Massachusetts, Minnesota, New York,

1 Oregon, Vermont, Wisconsin, the District of Columbia, the County of Harris, Texas, and the City
2 of New York, New York (collectively, State and Local Government Plaintiffs) allege as follows:

3 **NATURE OF THE ACTION**

4 1. The State and Local Government Plaintiffs bring this action to compel Defendant
5 Lee Zeldin, in his official capacity as Administrator of the United States Environmental
6 Protection Agency, (referred to herein as EPA or the Administrator), to fulfill his mandatory duty
7 under the Clean Air Act to designate all areas of the country as attainment or nonattainment under
8 the 2024 National Ambient Air Quality Standards (NAAQS) for fine particulate matter (2024
9 PM_{2.5} NAAQS). These standards are intended to protect the public from the very serious health
10 impacts caused by fine particulate matter. Even at low ambient concentrations or with short-term
11 exposure, fine particulate matter can cause premature death, cardiovascular disease, and
12 respiratory damage, among other impacts. But the standards cannot be fully implemented until
13 EPA promulgates the designations. EPA’s failure to issue designations not only seriously
14 endangers public health and frustrates congressional intent that the standards be fully
15 implemented “as expeditiously as practicable,” 42 U.S.C. § 7502(a)(2)(A), (c)(1), but it also strips
16 states and local governments—who have the “primary responsibility” for “air pollution control at
17 its source,” 42 U.S.C. § 7401(a)(3)—of regulatory tools and incentives that Congress provided to
18 them to control air pollution. Promulgation of the designations will equip State and Local
19 Government Plaintiffs with the full suite of Clean Air Act mechanisms to reduce fine particulate
20 matter pollution within their borders, prevent the grave public health harms caused by fine
21 particulate matter, and reduce the financial burden associated with those public health harms.

22 2. Sections 107(d)(1)(B) and 107(d)(2)(A) of the Clean Air Act, 42 U.S.C.
23 § 7407(d)(1)(B), (d)(2)(A), require EPA to designate all areas of the country as “attainment,”
24 “nonattainment,” or “unclassifiable” for the NAAQS “as expeditiously as practicable, but in no
25 case later than 2 years” from the date EPA promulgates a new or revised NAAQS; and to
26 promulgate those designations via publication of a notice in the Federal Register. EPA
27 promulgated the 2024 PM_{2.5} NAAQS on February 7, 2024, making the statutory deadline to
28 promulgate designations February 7, 2026. Yet, EPA has still not promulgated any designations,

1 thereby thwarting full implementation of the 2024 PM_{2.5} NAAQS and their accompanying public
2 health benefits. State and Local Government Plaintiffs therefore seek both declaratory and
3 injunctive relief requiring EPA to promptly promulgate all overdue designations via a notice in
4 the Federal Register.

5 JURISDICTION

6 3. This Court has jurisdiction over this action pursuant to Section 304(a) of the Clean
7 Air Act, 42 U.S.C. § 7604(a), which authorizes any person, after duly giving notice, to commence
8 a citizen suit in district court against the EPA Administrator for failing to perform a
9 nondiscretionary duty under the Clean Air Act, and which grants district courts jurisdiction to
10 order the Administrator to perform such nondiscretionary duty. The Court also has jurisdiction to
11 hear this civil action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C.
12 § 1361 (action to compel officer or agency to perform a duty owed to plaintiffs).

13 4. On February 17, 2026, by certified mail, State and Local Government Plaintiffs
14 gave notice of this action to Defendant as required by Section 304 of the Clean Air Act, 42 U.S.C.
15 § 7604(b)(2), and 40 C.F.R. Part 54.¹ (Exhibit 1.)

16 VENUE

17 5. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(e), because a
18 substantial part of the events or omissions giving rise to State and Local Government Plaintiffs'
19 claims occurred in this judicial district, and the State of California is a resident of this district.
20 Defendant's failure to perform the nondiscretionary duty to designate all areas as attainment or
21 nonattainment under the 2024 PM_{2.5} NAAQS via publication of a notice in the Federal Register is
22 adversely impacting areas within this judicial district, which experience elevated levels of fine
23 particulate matter pollution.

24
25
26 ¹ On April 16, 2026, by certified mail, Rhode Island notified Defendant of its intent to file
27 suit pursuant to Section 304 of the Clean Air Act, 42 U.S.C. § 7604(b)(2), to compel the EPA
28 Administrator to perform his nondiscretionary duty to designate all areas of the country as
attainment or nonattainment under the 2024 PM_{2.5} NAAQS. Once its 60-day notice period has
run, Rhode Island intends to join this complaint via amendment. Counsel for EPA has indicated
that EPA does not intend to oppose that amendment.

1 11. Plaintiff State of Maryland is a sovereign state in the United States of America.
2 Maryland is represented by Attorney General Anthony G. Brown, who is the chief legal officer of
3 Maryland and responsible for cases arising under Title 2 of the Environment Article, Annotated
4 Code of Maryland. Md. Code Ann. Env't § 2-614 (LexisNexis 2013); Md. Code Ann. State
5 Gov't § 6-106. The Maryland Department of the Environment is the state agency responsible for
6 the preparation of Maryland's state implementation plan and is required to adopt rules and
7 regulations that will achieve the NAAQS. Md. Code Ann. Env't § 2-301(b).

8 12. Plaintiff Commonwealth of Massachusetts is a sovereign state in the United States
9 of America. Massachusetts is represented by Attorney General Andrea Joy Campbell, who is the
10 chief legal officer of the Commonwealth of Massachusetts. M.G.L. c. 12, § 3. The Massachusetts
11 Department of Environmental Protection is an agency of the Commonwealth charged with
12 administering and enforcing the environmental laws of the Commonwealth, including the
13 preparation of Massachusetts's state implementation plan and the adoption of rules and
14 regulations that will achieve the NAAQS. M.G.L. c. 111, §§ 142A-D; 310 CMR § 7.00.

15 13. Plaintiff State of Minnesota is a sovereign state of the United States of America.
16 Minnesota is represented by and through its chief legal officer, Attorney General Keith Ellison.
17 Minn. Stat. § 8.01.

18 14. Plaintiff State of New York is a sovereign state in the United States of America.
19 New York is represented by Attorney General Letitia James, who is the head of the New York
20 State Department of Law. N.Y. Const. Art. V, § 4. Plaintiff the City of New York is a municipal
21 corporation organized and existing under the laws of the State of New York.

22 15. Plaintiff State of Oregon is a sovereign state in the United States of America.
23 Oregon is represented by Attorney General Dan Rayfield, who is the chief legal officer of
24 Oregon. Or. Rev. Stat. § 180.060. The Oregon Environmental Quality Commission and the
25 Oregon Department of Environmental Quality are the state entities responsible for the preparation
26 of Oregon's state implementation plan and are authorized to adopt rules and regulations that will
27 achieve the NAAQS. Or. Rev. Stat. §§ 468A.015, 468A.025 and 468A.035.
28

1 Plaintiffs have “suffered an injury in fact that is concrete, particularized, and actual or imminent.”
2 *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). Proprietary harms resulting from federal
3 action—such as a likely loss of federal funds, diversion of resources, and degradation of data—
4 can demonstrate an injury in fact. *See Dep’t of Com. v. New York*, 588 U.S. 752, 766 (2019); *see*
5 *also Dep’t of Homeland Sec. v. Regents of the Univ. Of California*, 591 U.S. 1 (2020) (proprietary
6 harm on behalf of the Regents of California because of impacts to student immigration status and
7 associated tuition dollars).

8 23. EPA’s failure to promulgate timely attainment or nonattainment designations
9 under the 2024 PM_{2.5} NAAQS injures State and Local Government Plaintiffs in their sovereign,
10 quasi-sovereign, and proprietary interests.

11 24. EPA’s failure will delay and/or deprive State and Local Government Plaintiffs
12 with nonattainment areas of the ability to use regulatory tools they are entitled to under federal
13 law to address pollution, including enforcement mechanisms against polluters in federal court,
14 prohibitions against federal activities which do not conform to approved state implementation
15 plans, New Source Review permit requirements preventing new and modified stationary sources
16 from worsening PM_{2.5} pollution, and eligibility for federal grants that support state efforts to
17 reduce harmful air pollution in nonattainment areas.

18 25. The lack of designations also harms State and Local Government Plaintiffs that are
19 downwind of states that would be designated nonattainment, by delaying required emissions
20 reductions in those upwind states and concomitant reductions in the amount of pollution
21 transported to downwind State and Local Government Plaintiffs’ jurisdictions.

22 26. EPA’s delay in promulgating designations will further cause State and Local
23 Government Plaintiffs to expend additional resources to evaluate and submit further ambient air
24 quality monitoring data to the EPA by shifting the timeline for the submission of such data.

25 27. EPA’s failure also increases costs to State and Local Government Plaintiffs by
26 worsening air quality and harming the health and economic well-being of their populaces, *see*
27 *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Baez*, 458 U.S. 592, 602 (1982)), with the
28 resulting increase in PM_{2.5}-related deaths, cardiac and respiratory diseases, asthma cases, and

1 hospital and emergency room admissions for respiratory conditions, and causing State and Local
2 Government Plaintiffs to bear additional expenses in their roles as administrators of public health
3 systems.

4 28. EPA has caused these injuries to the State and Local Government Plaintiffs by
5 failing to make timely attainment or nonattainment designations for the 2024 PM_{2.5} NAAQS. The
6 relief requested will redress these injuries by requiring EPA to perform the mandatory duty to
7 promulgate designations for all areas of the country.

8 **STATUTORY AND REGULATORY FRAMEWORK**

9 29. The Clean Air Act requires EPA to promulgate primary and secondary NAAQS
10 for criteria pollutants, such as fine particulate matter. 42 U.S.C. § 7409(a); *see* 40 C.F.R.
11 §§ 50.13, 50.18, 50.20. Primary NAAQS must be set at a level “requisite to protect the public
12 health” with “an adequate margin of safety,” while secondary NAAQS must be set at a level
13 “requisite to protect the public welfare.” 42 U.S.C. § 7409(b); *see Whitman v. Am. Trucking*
14 *Ass’n, Inc.*, 531 U.S. 457, 472 (2001) (determining that EPA must set primary NAAQS based
15 solely on public health considerations, without reference to the cost or feasibility of achieving the
16 standards). “[P]ublic health’ includes not only the health of average individuals, but also that of
17 sensitive populations (such as children or older adults) or at-risk populations (such as those living
18 in areas with worse air quality) who may be particularly vulnerable to air pollution.” EPA Brief at
19 6, *Kentucky v. EPA*, No. 24-1050 (D.C. Cir., argued Dec. 16, 2024), ECF No. 2070774 (citing
20 *Am. Lung Ass’n v. EPA*, 134 F.3d 388, 389 (D.C. Cir. 1998).) The “adequate margin of safety”
21 requirement ensures the NAAQS will “protect against effects which have not yet been uncovered
22 by research and effects whose medical significance is a matter of disagreement.” *Lead Indus.*
23 *Ass’n v. EPA*, 647 F.2d 1130, 1154 (D.C. Cir. 1980).

24 30. EPA may revise NAAQS “in the same manner as promulgated.” 42 U.S.C.
25 § 7409(b). And EPA is required to review—and if appropriate revise—the NAAQS, and the
26 underlying criteria on which they are based, at least every five years. *Id.* § 7409(d)(1).

27 31. Within two years of EPA promulgating a NAAQS, it must designate each area of
28 the country as “nonattainment,” “attainment,” or “unclassifiable.” 42 U.S.C. § 7407(d)(1)(A)-(B).

1 32. “Nonattainment” means “any area that does not meet (or that contributes to
2 ambient air quality in a nearby area that does not meet) the national primary or secondary ambient
3 air quality standard for the pollutant.” 42 U.S.C. § 7407(d)(1)(A). “Attainment” means “any area
4 (other than an area identified as [“nonattainment”]) that meets the national primary or secondary
5 ambient air quality standard for the pollutant.” *Id.* And “unclassifiable” means “any area that
6 cannot be classified on the basis of available information as meeting or not meeting the national
7 primary or secondary ambient air quality standard for the pollutant.” *Id.*

8 33. EPA “shall promulgate” these designations via notice in the Federal Register “as
9 expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the
10 new or revised [NAAQS].” 42 U.S.C. § 7407(d)(1)(B), (d)(2)(A). The deadline to issue the
11 designations may be extended by up to one year “in the event the Administrator has insufficient
12 information to promulgate the designations.” *Id.* § 7407(d)(1)(B)(i).

13 34. Before EPA makes its designations, states have the opportunity to recommend
14 designations for areas within their jurisdiction. 42 U.S.C. § 7407(d)(1)(A). Typically, these
15 proposed designations must be submitted to EPA no later than one year after the promulgation of
16 a new or revised NAAQS. *Id.* EPA may modify a state’s proposed area designations as it “deems
17 necessary,” but must notify the state “no later than 120 days before the date the Administrator
18 promulgates the designation” and “shall . . . provide such State with an opportunity to
19 demonstrate why any proposed modification is inappropriate.” *Id.* § 7407(d)(1)(B)(ii). If a state
20 fails to submit a list of proposed area designations in whole or in part, EPA “shall promulgate the
21 designation that the Administrator deems appropriate for any area (or portion thereof) not
22 designated by the State.” *Id.* In other words, a state’s failure to submit proposed area designations
23 does not relieve EPA of its duty to promulgate designations via Federal Register notice within
24 two years of the date of promulgation of a NAAQS.

25 35. States and local governments have the “primary responsibility for assuring air
26 quality” within its borders “by submitting an implementation plan . . . which will specify the
27 manner in which” the NAAQS “will be achieved and maintained” within the state. 42 U.S.C.
28 § 7407(a); *see also id.* § 7401(a)(3). State implementation plans are collections of regulations and

1 documents that “provide[] for implementation, maintenance, and enforcement” of a NAAQS. *Id.*
2 § 7410(a)(1). EPA’s designations determine the type(s) of state implementation plans that states
3 must submit to EPA for approval.

4 36. All states must submit infrastructure state implementation plans, which describe
5 the authorities, resources, and programs that states have in place to implement, maintain, and
6 enforce the NAAQS. 42 U.S.C. § 7410(a). These plans must include, for example, provisions
7 “prohibiting . . . any source or other type of emissions activity within the State from emitting any
8 air pollutant in amounts which will[] . . . contribute significantly to nonattainment in, or interfere
9 with maintenance by, any other State.” *Id.* § 7410(a)(2)(D)(i). Infrastructure plans must also
10 provide for a permit program implementing the Clean Air Act’s program for “prevention of
11 significant deterioration.” *Id.* § 7410(a)(2)(J). These plans must be submitted to EPA within three
12 years of the promulgation of a new or revised NAAQS.

13 37. States with areas designated “nonattainment” for a NAAQS must also submit
14 nonattainment plans, which are more rigorous. 42 U.S.C. §§ 7502, 7513-13b.² For example,
15 states with nonattainment areas deemed “moderate”³ severity must submit nonattainment plans
16 that include provisions for a permit program for the construction and operation of new and
17 modified major stationary sources of particulate matter, provisions to assure that “reasonably
18 available control measures” for particulate matter are implemented, and a demonstration that the
19 plan provides for attainment of the area by the applicable date. *Id.* § 7513a(a)(1). In addition to
20 the above requirements, nonattainment plans for states with nonattainment areas deemed
21 “serious” must include provisions to assure the “best available control measures” are
22 implemented no later than four years after an area is classified as “serious.” *Id.* § 7513a(b)(1).
23 States must submit nonattainment plans to EPA within 18 months after a nonattainment
24 designation. *Id.*
25 § 7513a(a)(2)(B), (b)(2)(B).

26 ² 42 U.S.C. §§ 7513-13b discusses nonattainment plans for PM₁₀. These provisions also
27 govern PM_{2.5}, which is a subset of PM₁₀. *Natural Res. Def. Council v. EPA*, 706 F.3d 428, 435
(D.C. Cir. 2013).

28 ³ All nonattainment areas for particulate matter are initially classified as “moderate.” 42
U.S.C § 7513(a).

1 38. EPA’s promulgation of designations does more than just impose obligations. It
2 also supports state and local efforts to address air pollution in numerous ways. For some states,
3 the designations are necessary to trigger authority under state law to develop pollution-control
4 plans to attain the NAAQS. And for all states, once state implementation plans are approved by
5 EPA, their provisions have “the force and effect of federal law,” and are enforceable via citizen
6 suits against polluters and local agencies in federal court. *Trustees for Alaska v. Fink*, 17 F.3d
7 1209, 1210 n.3 (9th Cir. 1994); *see also* 42 U.S.C. §§ 7604(a)(1), (f)(3). Those provisions become
8 binding on federal agencies, which are statutorily required to ensure their actions “conform” to a
9 state implementation plan’s provisions and its purpose. 42 U.S.C. § 7506. In addition, states with
10 nonattainment designations gain eligibility for federal grant funds that support state pollution
11 reduction programs. 23 U.S.C. § 149(b), 42 U.S.C. § 7505.

12 39. EPA’s promulgation of designations also protects states against air pollution from
13 outside their borders. Nonattainment designations in upwind states require reductions in
14 emissions, in turn reducing the amount of pollution that affects downwind states. And downwind
15 states are entitled to emissions reductions in upwind states to the extent necessary to prevent
16 pollution that contributes significantly to their nonattainment or interferes with their ability to
17 maintain the standard. 42 U.S.C. § 7410(a)(2)(D). Downwind states are also entitled to additional
18 limits on specific major sources of pollution in upwind states. *Id.* § 7426. Emissions reductions in
19 upwind states designated nonattainment benefit downwind states.

20 40. All of these protections are locked in by the Clean Air Act’s anti-backsliding
21 provision, even if a NAAQS is later weakened. 42 U.S.C. § 7502(e) (requiring EPA, upon
22 relaxation of a NAAQS, to promulgate requirements for nonattainment areas that “shall provide
23 for controls which are not less stringent than the controls applicable to areas designated
24 nonattainment before such relaxation”). As EPA has recognized, this anti-backsliding provision is
25 triggered at the latest once nonattainment designations are promulgated. Respondent’s Motion for
26 Vacatur at 6, *Kentucky v. EPA*, No. 24-1050 (D.C. Cir., argued Dec. 16, 2024), ECF No.
27 2147050.
28

1 46. The effects of PM_{2.5} grow worse with higher concentrations and with repeated
2 exposure. There is “strong evidence” that Black and Hispanic populations are exposed to higher
3 PM_{2.5} concentrations than non-Hispanic White populations; and evidence also indicates that
4 populations with lower socioeconomic status are exposed to higher concentrations of PM_{2.5} than
5 those with higher socioeconomic status. 89 Fed. Reg. at 16,204.

6 **B. FAILURE OF DEFENDANTS TO PROMULGATE NONATTAINMENT DESIGNATIONS**

7 47. On February 7, 2024, EPA revised its PM_{2.5} NAAQS, promulgating a strengthened
8 primary annual⁴ standard that was published in the Federal Register on March 6, 2024.

9 *Reconsideration of the National Ambient Air Quality Standards for Particulate Matter*, 89 Fed.
10 Reg. 16,202 (March 6, 2024), codified at 40 C.F.R. § 50.20 (2024 PM_{2.5} NAAQS). EPA’s
11 promulgation of the standard lowered the allowable concentration of PM_{2.5} in the air from 12
12 µg/m³ to 9 µg/m³. *Id.* at 16,202. EPA explained that the available scientific evidence and
13 technical information indicated that the prior primary annual PM_{2.5} NAAQS was not adequate to
14 protect public health with an adequate margin of safety, *id.* at 16,204, 16,273-86, and that the
15 evidence showed statistically significant associations between health effects and PM_{2.5}
16 concentrations well below 12 µg/m³, *id.* at 16,274. *See* EPA Brief, p. 21-22, *Kentucky v. EPA*,
17 No. 24-1050 (D.C. Cir., argued Dec. 16, 2024), ECF No. 2070774.

18 48. Pursuant to Clean Air Act Section 107(d)(1)(B), 42 U.S.C. § 7407(d)(1)(B), EPA
19 was thereafter required to promulgate area designations for the 2024 PM_{2.5} NAAQS for all areas
20 by no later than February 7, 2026.

21 49. On March 6, 2024, several groups of petitioners, including states and industry
22 groups, filed litigation challenging the 2024 PM_{2.5} NAAQS in the United States Court of Appeals
23 for the District of Columbia Circuit. EPA defended the 2024 PM_{2.5} NAAQS through merits
24 briefing and a hearing before the D.C. Circuit. On November 24, 2025, EPA changed its position
25 and requested that the D.C. Circuit “vacate the [2024 PM_{2.5} NAAQS] before the area designation
26 deadline of February 7, 2026.” Respondents’ Motion for Vacatur at 1, *Kentucky v. EPA*, No. 24-

27 ⁴ There are two federal primary standards for PM_{2.5}—an annual average standard and a
28 ¶ 20 (explaining primary versus secondary standards).

1 1050 (D.C. Cir., argued Dec. 16, 2024), ECF No. 2147050. However, the D.C. Circuit has not
2 granted EPA's motion to vacate, meaning that the standards are still in place as is EPA's
3 nondiscretionary statutory duty to promulgate the designations via a notice in the Federal Register
4 by February 7, 2026.

5 50. To date, EPA has not promulgated any area designations for the 2024 PM_{2.5}
6 NAAQS.

7 51. However, since June 2025, EPA has had sufficient information to promulgate the
8 designations. In a guidance memo sent to states the day that EPA promulgated the 2024 PM_{2.5}
9 NAAQS, EPA stated that it expected to rely on air quality data from 2022-2024 in making final
10 designations. Memorandum on Initial Area Designations for the 2024 Revised Primary Annual
11 Fine Particle National Ambient Air Quality Standard, from Joseph Goffman, Ass't Adm'r, to
12 Reg'l Adm'rs, at 3 (Feb. 7, 2024), [https://www.epa.gov/system/files/documents/2024-02/pm-
13 naaqs-designations-memo_2.7.2024-_jg-signed.pdf](https://www.epa.gov/system/files/documents/2024-02/pm-naaqs-designations-memo_2.7.2024-_jg-signed.pdf) (Designation Memo). The data from 2024
14 was published by EPA in June 2025. *Id.*, Att. 1; EPA, Air Quality Design Values,
15 <https://www.epa.gov/air-trends/air-quality-design-values>. Moreover, forty-five states, the District
16 of Columbia, Puerto Rico, the Virgin Islands, and three Tribes submitted recommended
17 designations to EPA. *See Earthjustice, Assessing 2024 PM2.5 Standard Implementation So Far:
18 Who's on Track to Get Clean Air and Who's Left Behind 7-8* (Nov. 2025),
19 https://earthjustice.org/wp-content/uploads/2025/12/ej_pm2.5-whitepaper_final_v5.pdf.

20 52. EPA's failure to timely promulgate area designations delays the public health
21 protections that the 2024 PM_{2.5} NAAQS were promulgated to achieve. The lack of final
22 designations means that state and local regulators do not know the attainment deadlines and the
23 boundaries of any new nonattainment areas, which stalls the development of control strategies
24 and the emissions reductions they are intended to achieve. The delay also deprives State and
25 Local Government Plaintiffs of important regulatory tools that Congress provided to them to
26 combat fine particulate matter pollution, such as the ability to enforce the more protective
27 standards in federal court. *Trustees for Alaska*, 17 F.3d at 1209 n.3, 42 U.S.C. § 7604(a)(1),
28 (f)(3). The delay burdens states with health care expenses imposed as a result of fine particulate

1 matter and precursor emissions in upwind states, and it creates uncertainty for states that need a
2 nonattainment designation in order to determine their next steps for Clean Air Act compliance. It
3 also delays anti-backsliding protections for nonattainment areas, and it prolongs the exposure of
4 millions of people to unhealthy air.

5 53. EPA’s failure to promulgate designations thus impairs State and Local
6 Government Plaintiffs’ role as the “primary” entities with responsibility for air pollution
7 prevention and control at its source, 42 U.S.C. § 7401(a)(3), and thwarts one of the Clean Air
8 Act’s fundamental purposes to “protect and enhance the quality of the Nation’s air resources so as
9 to promote the public health,” *id.* § 7401(b)(1).

10 **C. NOTICE OF VIOLATION**

11 54. On February 17, 2026, State and Local Government Plaintiffs sent a Notice of
12 Intent to Sue (NOI) to EPA by certified mail. Exhibit 1. The NOI explained that EPA’s failure to
13 issue designations constitutes a violation of its nondiscretionary duty to promulgate timely
14 designations for the 2024 PM_{2.5} NAAQS via publication of a notice in the Federal Register. *Id.*;
15 *see* 42 U.S.C. § 7407(d)(1)(B), (d)(2)(A). The NOI notified EPA of State and Local Government
16 Plaintiffs’ intention to commence a lawsuit if EPA did not correct its violation within 60 days. *Id.*

17 55. More than 60 days have passed since the State and Local Government Plaintiffs
18 gave notice to EPA, 42 U.S.C. § 7604(b)(2), and EPA has not issued designations for the 2024
19 PM_{2.5} NAAQS.

20 **FIRST CAUSE OF ACTION**

21 **(Failure to Perform a Nondiscretionary Duty to Promulgate**
22 **Area Designations via Federal Register Notice for the 2024 PM_{2.5} NAAQS)**

23 56. State and Local Government Plaintiffs reallege and incorporate by reference the
24 preceding paragraphs in their entirety.

25 57. As set forth above, EPA has a nondiscretionary duty to promulgate timely area
26 designations for the 2024 PM_{2.5} NAAQS via publication of a notice in the Federal Register by no
27 later than February 7, 2026. 42 U.S.C. § 7407(d)(1)(B) (requiring EPA to “promulgate the
28 designations of all areas . . . as expeditiously as practicable, but in no case later than 2 years from

1 the date of promulgation of the new or revised [NAAQS]”), (d)(2)(A) (requiring EPA to “publish
2 a notice in the Federal Register promulgating any designation”).

3 58. EPA’s failure to promulgate area designations for the 2024 PM_{2.5} NAAQS is a
4 violation of Section 107(d)(1)(B) of the Clean Air Act. *Id.* § 7407(d)(1)(B). To this day, EPA has
5 still not issued the area designations for the 2024 PM_{2.5} NAAQS.

6 59. This ongoing violation constitutes a “failure of the Administrator to perform any
7 act or duty under this chapter which is not discretionary with the Administrator” under Section
8 304(a)(2) of the Clean Air Act. *Id.* § 7604(a)(2).

9 60. EPA’s failure to perform this nondiscretionary duty has harmed and continues to
10 harm the State and Local Government Plaintiffs by depriving our jurisdictions of important
11 regulatory tools for combatting fine particulate matter, and by impairing our ability to prevent
12 health harms—including avoidable premature deaths and increased mortality—to our residents
13 that result in healthcare and administrative costs that we must shoulder. EPA’s failure delays the
14 implementation of a more protective fine particulate matter standard that will lead to cleaner,
15 healthier air within our borders.

16 **RELIEF**

17 **WHEREFORE**, State and Local Government Plaintiffs respectfully request that this Court enter
18 judgment against Defendant as follows:

- 19 A. Declare that Defendant is in violation of Section 107(d)(1)(B) of the Clean Air
20 Act, 42 U.S.C. § 7607(d)(1)(B), for failing to promulgate designations for the 2024
21 PM_{2.5} NAAQS via publication of a notice in the Federal Register by the statutory
22 deadline of February 7, 2026;
- 23 B. Order Defendant to perform his mandatory duty to promulgate designations for all
24 areas of the country within 150 days of this Court’s order;
- 25 C. Award State and Local Government Plaintiffs the costs of the litigation, including
26 reasonable attorneys’ fees, pursuant to 42 U.S.C. § 7604(d);
- 27
28

- 1 D. Retain jurisdiction over this matter until such time as Defendant has fully
2 complied with his nondiscretionary duty to promulgate all area designations for the
3 2024 PM_{2.5} NAAQS via publication of a notice in the Federal Register; and
4 E. Such other relief as the Court deems just and proper.

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6 Dated: April 24, 2026

Respectfully submitted,

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9 **FOR THE STATE OF CALIFORNIA**
10 **ROB BONTA**
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19 *Attorneys for Plaintiff State of California by*
20 *and through Attorney General Rob Bonta and*
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In compliance with Civil Local Rule 5-1(i)(3), I, as the filer of this document, attest that all other signatories have concurred in the filing of this document.

/s/ Micaela Harms
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Counsel for Plaintiff State of California