

1 PAUL R. CORT, State Bar No. 184336
IRENE V. GUTIERREZ, State Bar No. 252927
2 Earthjustice
50 California Street
3 San Francisco, CA 94111
pcort@earthjustice.org
4 igutierrez@earthjustice.org
Tel: 415-217-2000/Fax: 415-217-2040

5 Attorneys for Plaintiffs Sierra Club,
6 American Lung Association,
Environmental Defense Fund,
7 and Natural Resources Defense Council

9 UNITED STATES
FOR THE NORTHERN DISTRICT OF
10 SAN FRANCISCO/

11
12 Case No: 13 2809

13 SIERRA CLUB, AMERICAN LUNG
ASSOCIATION, ENVIROMENTAL DEFENSE
14 FUND, and NATURAL RESOURCES DEFENSE
COUNCIL

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

15 Plaintiffs,

(Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*)

16 v

17 UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY; BOB PERCIASEPE, in
his official capacity of the
18 United States Environmental Protection Agency,

19 Defendants

21 INTRODUCTION

22
[Redacted text]

1 3. The Clean Air Act further mandates that EPA review and, as necessary, revise the
2 national ambient air quality standards every five years.

3 4. EPA and its scientific advisory committee have acknowledged that the current
4 national ambient air quality standards for ozone, adopted in 2008, are inadequate to protect the
5 public from the adverse effects of ozone pollution.

6 5. Yet EPA has failed to even review, let alone revise, the 2008 standards according to
7 the deadline required by the Clean Air Act.

8 6. This is an action to compel the Administrator of the EPA to fulfill his non-
9 discretionary duty to review and adopt overdue national ambient air quality standards for ozone
10 pollution.

[REDACTED]

12 7. The instant action arises under the Clean Air Act (“Act”), 42 U.S.C. §§ 7401 *et seq.*
13 This Court has jurisdiction over this action pursuant to 42 U.S.C. § 7604 and 28 U.S.C. §§ 1331 and
14 1361. The relief requested by Plaintiffs is authorized pursuant to 42 U.S.C. § 7604 and 28 U.S.C.
15 §§ 2201, 2202, and 1361.

16 8. In accordance with 42 U.S.C. § 7604(b)(2) and 40 C.F.R. Part 54, Plaintiffs notified
17 the Administrator of the violations alleged herein, and of Plaintiffs’ intent to initiate the present
18 ~~notice. This notice was provided via certified and electronic mail posted on March 28, 2013 and~~

[REDACTED]

PARTIES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

11. Plaintiff Sierra Club, a corporation organized and existing under the laws of the State of California, is a national nonprofit organization whose mission is to protect the wild places of the earth, promote the responsible use of the earth's ecosystems and resources, and protect and restore the quality of the natural and human environment. Sierra Club is headquartered in San Francisco, California.

12. Plaintiff American Lung Association ("ALA"), a corporation organized and existing under the laws of the State of Maine, is a national nonprofit organization dedicated to the conquest of lung disease and the promotion of lung health. ALA is headquartered in Washington, D.C.

13. Plaintiff Environmental Defense Fund ("EDF"), a corporation organized and existing

[REDACTED]

[REDACTED]

2 revising the national ambient air quality standards for ozone.

[REDACTED]

1 groups constitute a significant portion of the population, and consequently, the proper regulation of
2 ozone has significant implications for public health throughout the United States.

3 25. Ozone pollution has also been tied to negative impacts on vegetation and ecosystems,
4 as well as rising temperatures.

5 **The Clean Air Act's Requirements for National Ambient Air Quality Standards**

[REDACTED]

[REDACTED]

[REDACTED]

7 the Nation's air resources so as to promote the public health and welfare and the productive capacity
8 of its population." 42 U.S.C. § 7401(b)(1).

9 27. As one of its central features, the Act requires the Administrator to set national
10 ambient air quality standards for certain air pollutants. 42 U.S.C. § 7409(a). Under the Act, the

1 9444. This litigation was held in abeyance, so that EPA could initiate a rulemaking to reconsider the

3 32. In 2010, EPA proposed to revise national ozone standards to address the deficiencies
identified by EPA's Scientific Advisory Committee, as well as to incorporate information from

5 recent scientific studies. 75 Fed. Reg. at 2993. The EPA Administrator determined that the 2008
6 primary ozone standard of 0.075 parts per million ("ppm") was "not sufficient to provide protection
7 with an adequate margin of safety." 75 Fed. Reg. at 2996. EPA proposed revising the 8-hour
8 primary ozone standard to within a range of 0.060 to 0.070 ppm. *Id.* at 2998. EPA also proposed
9 that the secondary ozone standard should be set separately from the primary standard, according to a
10 "cumulative seasonal standard." *Id.* at 2999

1 39. Defendants' failure to perform this nondiscretionary duty is ongoing. Plaintiffs are
2 informed and believe that the omissions complained of herein will continue unless enjoined by order
3 of this Court.

4 40. Accordingly, Plaintiffs are entitled to an order from this Court compelling Defendants

5 ~~to complete the required review of the national ambient air quality standards for ozone~~

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

29 [REDACTED]

30 [REDACTED]

31 [REDACTED]

32 [REDACTED]

33 [REDACTED]

34 [REDACTED]

35 [REDACTED]

36 [REDACTED]

37 [REDACTED]

38 [REDACTED]

39 [REDACTED]

40 [REDACTED]

BY DEED REQUESTED

Paul C. [Signature]