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6	Center for Environmental Health, and Clean Air C				
7	UNITED STATES DI	STRICT COURT			
8	NORTHERN DISTRIC				
9					
10	CENTER FOR BIOLOGICAL DIVERSITY,)			
11	CENTER FOR ENVIRONMENTAL HEALTH, and CLEAN AIR COUNCIL,)) Case No.			
12	unu esseri (inic ee ei veis),)) COMPLAINT FOR DECLARATORY			
13	Plaintiffs,) AND INJUNCTIVE RELIEF			
14	v.) (Clean Air Act, 42 U.S.C. §§ 7401 et. seq.)			
15	GINA McCARTHY.))			
16	in her official capacity as Administrator of the United States Environmental Protection Agency,))			
17	Defendant.))			
18					
19					
20	I. INTROD	UCTION			
21	1. Plaintiffs the Center for Biological Diversit	y, the Center for Environmental Health, and			
22	the Clean Air Council bring this Clean Air Act citi	zen suit to compel the United States			
23	Environmental Protection Agency to undertake over	erdue mandatory duties. Specifically,			
28	Complaint				

1 Defendant, Gina McCarthy, in her official capacity as Administrator of the United States

2 | Environmental Protection Agency ("EPA"), has failed to make findings of failure to submit

under 42 U.S.C. § 7410(k)(1)(B), and publish notice of those findings in the Federal Register, for

4 | nonattainment state implementation plans ("SIPs") for the 2008 ozone National Ambient Air

Quality Standards for the following areas and elements listed in Table 1:

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7 TABLE 1

8	AREA & ELEMENT(S)	SUBMITTAL DEADLINE (No later than)
9	Los Angeles-South Coast Air Basin, CA: Clean	7/20/2015
	Fuels for Boilers, Contingency measures for	
10	Volatile Organic Compounds (VOC) and	
	Nitrogen Oxides (NOx), Contingency Provisions	
11	for Reasonable Further Progress (RFP)	
	Milestones 182(c)(9), Enhanced Monitoring	
12	Photochemical Assessment Monitoring Stations	
	(PAMS), Extreme Nonattainment New Source	
13	Review (NNSR), Vehicle Miles Traveled-	
	Transportation Control Measures (VMT-TCMs)	
14	to Offset Growth	
	San Joaquin Valley, CA: Clean Fuels for Boilers,	7/20/2015
15	Contingency measures for VOC and NOx,	
	Contingency Provisions for RFP Milestones	
16	182(c)(9), Enhanced Monitoring (PAMS),	
	Extreme NNSR, NOx Reasonably Available	
17	Control Technology (RACT) for Major Sources,	
	VMT-TCMs to Offset Growth	
18	Los Angeles-San Bernardino Counties (Antelope	7/20/2015
1.0	Valley), CA: Contingency measures for VOC	
19	and NOx, Contingency Provisions for RFP	
20	Milestones 182(c)(9), Enhanced Monitoring	
20	(PAMS), Severe 15 NNSR, VMT-TCMs to	
21	Offset Growth	
21	Los Angeles-San Bernardino Counties (Mojave	7/20/2015
22	Desert), CA: Contingency measures for VOC	
22	and NOx, Contingency Provisions for RFP	
22	Milestones 182(c)(9), Enhanced Monitoring	
23	(PAMS), Severe 15 NNSR, VMT-TCMs to	

1	Offset Growth	
2	Riverside County (Coachella Valley), CA: Contingency measures for VOC and NOx,	7/20/2015
3	Contingency Provisions for RFP Milestones	
4	182(c)(9), Enhanced Monitoring (PAMS), Severe 15 NNSR, VMT-TCMs to Offset Growth	
5	Sacramento Metro, CA: Contingency measures for VOC and NOx, Contingency Provisions for	7/20/2015
6	RFP Milestones 182(c)(9), VMT-TCMs to Offset Growth, Enhanced Monitoring (PAMS),	
7	Severe 15 NNSR for Yolo-Solano, Non-Control Techniques Guidelines VOC RACT for Major	
8	Sources for El Dorado, Sacramento, and Yolo-Solano, NOx RACT for Major Sources for El	
9	Dorado, Sacramento, and Yolo-Solano, Auto and Light-Duty Truck Assembly Coatings CTG	
10	RACT for El Dorado and Yolo-Solano, Fiberglass Boat Manufacturing Materials CTG RACT for El Dorado and Yolo-Solano, 2006	
11	Flat Wood Paneling Coatings CTG RACT for El Dorado and Yolo-Solano, Flexible Packaging	
12	Printing Material CTG RACT for El Dorado and Yolo-Solano, Industrial Cleaning Solvents	
13	(2006) CTG RACT for El Dorado and Yolo-	
14	Solano, Large Appliance Coatings (2007) CTG RACT for El Dorado and Yolo-Solano,	
15	Lithographic Printing Materials and Letterpress Printing Materials (2006) CTG RACT for El	
16	Dorado and Yolo-Solano, Metal Furniture Coatings (2007) CTG RACT for El Dorado and	
17	Yolo-Solano, Miscellaneous Industrial Adhesives (2006) CTG RACT for El Dorado,	
18	Sacramento and Yolo-Solano, Miscellaneous Metal Products Coatings (2008) CTG RACT for	
19	El Dorado and Yolo-Solano, Paper, Film, and Foil Coatings (2007) CTG RACT for El Dorado	
20	and Yolo-Solano, Plastic Parts Coatings (2008) CTG RACT for El Dorado, Placer and Yolo-	
21	Solano	7/20/2015
	Ventura County, CA: Contingency measures for VOC and NOx, Serious NNSR	7/20/2015
22	Baltimore, MD: Inspection and Maintenance (I/M) Basic	7/20/2015
23	Connecticut: Ozone Transport Region (OTR)	7/20/2015

1	New Source Review (NSR)	
	Delaware: OTR NSR,	7/20/2015
2	District of Columbia: OTR NSR, Non-CTG	7/20/2015
	VOC RACT for Major Sources, NOx RACT for	
3	Major Sources, Refinery Vacuum Producing	
	Systems, Wastewater Separators and Process	
4	Unit Turnarounds CTG RACT	
	Maine: OTR NSR, Non-CTG VOC RACT for	7/20/2015
5	Major Sources, NOx RACT for Major Sources,	
	Industrial Cleaning Solvents (2006) CTG RACT	
6	Maryland: OTR NSR, Non-CTG VOC RACT	7/20/2015
	for Major Sources, NOx RACT for Major	
7	Sources, Fiberglass Boat Manufacturing	
	Materials CTG RACT	
8	Massachusetts: OTR NSR, Non-CTG VOC	7/20/2015
	RACT for Major Sources, NOx RACT for Major	
9	Sources, Auto and Light-Duty Truck Assembly	
	Coatings CTG RACT, Fiberglass Boat	
10	Manufacturing Materials CTG RACT, Flexible	
	Packaging Printing Material CTG RACT,	
11	Industrial Cleaning Solvents (2006) CTG RACT,	
	Large Appliance Coatings (2007) CTG RACT,	
12	Lithographic Printing Materials and Letterpress	
	Printing Materials (2006) CTG RACT, Metal	
13	Furniture Coatings (2007) CTG RACT,	
	Miscellaneous Industrial Adhesives (2006) CTG	
14	RACT, Miscellaneous Metal Products Coatings	
1.5	(2008) CTG RACT, Paper, Film, and Foil	
15	Coatings (2007) CTG RACT, Plastic Parts	
1.6	Coatings (2008) CTG RACT	
16	New Hampshire: OTR NSR, Non-CTG VOC	7/20/2015
17	RACT for Major Sources, NOx RACT for Major	
17	Sources	
10	New Jersey: Fiberglass Boat Manufacturing	7/20/2015
18	Materials CTG RACT, Industrial Cleaning	
19	Solvents (2006) CTG RACT, Miscellaneous	
19	Metal Products Coatings (2008) CTG RACT,	
20	Paper, Film, and Foil Coatings (2007) CTG	
20	RACT, Plastic Parts Coatings (2008) CTG	
21	RACT	7/20/2015
∠ 1.	Pennsylvania: OTR NSR, Non-CTG VOC	7/20/2015
22	RACT for Major Sources, NOx RACT for Major	
	Sources, Auto and Light-Duty Truck Assembly	
23	Coatings CTG RACT, Flexible Packaging	
ري	Printing Material CTG RACT, Industrial	

1	Cleaning Solvents (2006) CTG RACT,	
_	Lithographic Printing Materials and Letterpress	
2	Printing Materials (2006) CTG RACT,	
	Miscellaneous Metal Products Coatings (2008)	
3	CTG RACT, Plastic Parts Coatings (2008) CTG	
	RACT	
4	Rhode Island: OTR NSR, Non-CTG VOC	7/20/2015
	RACT for Major Sources, NOx RACT for Major	
5	Sources, Auto and Light-Duty Truck Assembly	
	Coatings CTG RACT, Fiberglass Boat	
6	Manufacturing Materials CTG RACT, 2006 Flat	
	Wood Paneling Coatings CTG RACT, Flexible	
7	Packaging Printing Material CTG RACT, Large	
	Appliance Coatings (2007) CTG RACT,	
8	Lithographic Printing Materials and Letterpress	
	Printing Materials (2006) CTG RACT, Metal	
9	Furniture Coatings (2007) CTG RACT,	
	Miscellaneous Metal Products Coatings (2008)	
10	CTG RACT, Paper, Film, and Foil Coatings	
	(2007) CTG RACT, Plastic Parts Coatings	
11	(2008) CTG RACT	
	Vermont: I/M Enhanced, OTR NSR, Non-CTG	7/20/2015
12	VOC RACT for Major Sources, NOx RACT for	
	Major Sources, Auto and Light-Duty Truck	
13	Assembly Coatings CTG RACT, Fiberglass Boat	
	Manufacturing Materials CTG RACT, 2006 Flat	
14	Wood Paneling Coatings CTG RACT, Industrial	
	Cleaning Solvents (2006) CTG RACT,	
15	Lithographic Printing Materials and Letterpress	
	Printing Materials (2006) CTG RACT,	
16	Miscellaneous Industrial Adhesives (2006) CTG	
	RACT, Miscellaneous Metal Products Coatings	
17	(2008) CTG RACT, Plastic Parts Coatings	
	(2008) CTG RACT	
18	Virginia: OTR NSR, Non-CTG VOC RACT for	7/20/2015
	Major Sources, NOx RACT for Major Sources,	
19	Auto and Light-Duty Truck Assembly Coatings	
	CTG RACT, Fiberglass Boat Manufacturing	
20	Materials CTG RACT, 2006 Flat Wood Paneling	
	Coatings CTG RACT, Flexible Packaging	
21	Printing Material CTG RACT, Industrial	
	Cleaning Solvents (2006) CTG RACT, Large	
22	Appliance Coatings (2007) CTG RACT,	
	Lithographic Printing Materials and Letterpress	
23	Printing Materials (2006) CTG RACT, Metal	
	1	

1	Furniture Coatings (2007) CTG RACT,	
	Miscellaneous Industrial Adhesives (2006) CTG	
2	RACT, Miscellaneous Metal Products Coatings	
	(2008) CTG RACT, Paper, Film, and Foil	
3	Coatings (2007) CTG RACT, Plastic Parts	
	Coatings (2008) CTG RACT	
4	Calaveras County, CA: Marginal NNSR	7/20/2015
	Kern County (Eastern Kern), CA: Marginal	7/20/2015
5	NNSR	
	Mariposa County, CA: Marginal NNSR	7/20/2015
6	Nevada County (Western part), CA: Marginal	7/20/2015
	NNSR	
7	Washington, VA: Marginal NNSR	7/20/2015
	Chicago-Naperville, IL, : Marginal NNSR	7/20/2015
8	Cincinnati, IN: Marginal NNSR	7/20/2015
	Cincinnati, KY: Marginal NNSR	7/20/2015
9	Washington, MD: Marginal NNSR	7/20/2015

Furthermore, EPA has failed to take final action, pursuant to 42 U.S.C. § 7410(k)(2) – (4), to approve or disapprove, in whole or part, the 2009 ozone National Ambient Air Quality Standards ("NAAQS") nonattainment SIP submissions listed in Table 2 below:

14 TABLE 2¹

AREA & STATE	ELEMENT(S)	COMPLETION	FINAL ACTION
		DATE	DUE DATE
Philadelphia,	Marginal NNSR	4/17/2014	4/17/2015
Wilmington, Atlantic			
City, DE			
Seaford, DE	Marginal NNSR	4/17/2014	4/17/2015
Los Angeles-South	Non-CTG VOC RACT for	1/18/2015	1/18/2016
Coast Air Basin, CA	Major Sources, NOx RACT for		
	Major Sources, Aerospace		
	CTG RACT, Auto and Light-		
	Duty Truck Assembly Coatings		
	Control Technique Guidelines		
	(CTG) Reasonably Available		
	Control Technology,		
	Equipment leaks from Natural		

¹ Note: Submittals prior to May 21, 2012 must have been submitted for purposes of compliance with the 1997 ozone NAAQS.

1		Gas/Gasoline Processing Plants		
		CTG RACT, Factory Surface		
2		Coating of Flat Wood Paneling		
		CTG RACT, Fiberglass Boat		
3		Manufacturing Materials CTG		
		RACT, 2006 Flat Wood		
4		Paneling Coatings CTG RACT,		
		Flexible Packaging Printing		
5		Material CTG RACT,		
		Industrial Cleaning Solvents		
6		(2006) CTG RACT, Large		
		Appliance Coatings (2007)		
7		CTG RACT, Lithographic		
		Printing Materials and		
8		Letterpress Printing Materials		
		(2006) CTG RACT, Metal		
9		Furniture Coatings (2007) CTG		
		RACT, Miscellaneous		
10		Industrial Adhesives (2006)		
		CTG RACT, Miscellaneous		
11		Metal Products Coatings (2008)		
		CTG RACT, Paper, Film, and		
12		Foil Coatings (2007) CTG		
		RACT, Plastic Parts Coatings		
13		(2008) CTG RACT,		
	Sacramento Metro	Non-CTG VOC RACT for	10/30/2014	10/30/2015
14	[Placer County], CA	Major Sources, Aerospace		
		CTG RACT, Auto and Light-		
15		Duty Truck Assembly Coatings		
1.0		CTG RACT, Bulk Gasoline		
16		Plants CTG RACT, Equipment		
17		leaks from Natural		
17		Gas/Gasoline Processing Plants		
10		CTG RACT, Fiberglass Boat		
18		Manufacturing Materials CTG		
19		RACT, Flexible Packaging Printing Material CTG RACT,		
19		Fugitive Emissions from		
20		Synthetic Organic Chemical		
20		Polymer and Resin		
21		Manufacturing Equipment		
		CTG RACT, Graphic Arts –		
22		Rotogravure and Flexography		
		CTG RACT, Large Appliance		
23		Coatings (2007) CTG RACT,		
-	 	<i>U</i> ()		

1	Large Petroleum Dry Cleaners	
	CTG RACT, Leaks from	
2	Gasoline Tank Trucks and	
	Vapor Collection Systems CTG	
3	RACT, Leaks from Petroleum	
	Refinery Equipment CTG	
4	RACT, Manufacture of High-	
	Density Polyethylene,	
5	Polypropylene and Polystyrene	
	Resins CTG RACT,	
6	Manufacture of Pneumatic	
	Rubber Tires CTG RACT,	
7	Manufacture of Synthesized	
	Pharmaceutical Products CTG	
8	RACT, Metal Furniture	
	Coatings (2007) CTG RACT,	
9	Miscellaneous Industrial	
	Adhesives (2006) CTG RACT,	
10	Miscellaneous Metal Products	
	Coatings (2008) CTG RACT,	
11	Paper, Film, and Foil Coatings	
	(2007) CTG RACT, Petroleum	
12	Liquid Storage in External	
	Floating Roof Tanks CTG	
13	RACT, Refinery Vacuum	
	Producing Systems,	
14	Wastewater Separators and	
	Process Unit Turnarounds CTG	
15	RACT, Synthetic Organic	
	Chemical Manufacturing	
16	Industry (SOCMI) Air	
	Oxidation Processes CTG	
17	RACT, SOCMI Distillation and	
	Reactor Processes CTG RACT,	
18	Shipbuilding/repair CTG	
	RACT, Solvent Metal Cleaning	
19	CTG RACT, Storage of	
	Petroleum Liquids in Fixed	
20	Roof Tanks CTG RACT,	
	Surface Coating for Insulation	
21	of Magnet Wire CTG RACT,	
	Surface Coating of	
22	Automobiles and Light-Duty	
•	Trucks CTG RACT, Surface	
23	Coating of Cans CTG RACT,	

1		Surface Coating of Coils CTG		
		RACT, Surface Coating of		
2		Fabrics CTG RACT, Surface		
		Coating of Large Appliances		
3		CTG RACT, Surface Coating		
		of Metal Furniture CTG RACT,		
4		Surface Coating of		
•		Miscellaneous Metal Parts and		
5		Products CTG RACT, Surface		
J		coating of Paper CTG RACT,		
6		Tank Truck Gasoline Loading		
O		Terminals CTG RACT, Use of		
7		Cutback Asphalt CTG RACT,		
,		Wood Furniture CTG RACT,		
8	San Joaquin Valley,	Non-CTG VOC RACT for	1/18/2015	1/18/2016
O	CA	Major Sources, Aerospace	1710/2015	1/10/2010
9	CII	CTG RACT, Auto and Light-		
		Duty Truck Assembly Coatings		
10		CTG RACT, Bulk Gasoline		
10		CTG RACT, Equipment leaks		
11		from Natural Gas/Gasoline		
		Processing Plants CTG RACT,		
12	Connecticut	Non-CTG VOC RACT for	1/18/2015	1/18/2016
		Major Sources, NOx RACT for	1, 10, 2010	1/10/2010
13		Major Sources, Aerospace		
		CTG RACT, Auto and Light-		
14		Duty Truck Assembly Coatings		
		CTG RACT, Bulk Gasoline		
15		CTG RACT, Equipment leaks		
		from Natural Gas/Gasoline		
16		Processing Plants CTG RACT,		
	Sacramento-Yolo-	Aerospace CTG RACT,	7/31/2007	7/31/2008
17	Solano, CA	Equipment leaks from Natural		
		Gas/Gasoline Processing Plants		
18		CTG RACT, Factory Surface		
		Coating of Flat Wood Paneling		
19		CTG RACT, Fugitive		
		Emissions from Synthetic		
20		Organic Chemical Polymer and		
		Resin Manufacturing		
21		Equipment CTG RACT,		
22		Graphic Arts – Rotogravure		
22		and Flexography CTG RACT,		
22		Large Petroleum Dry Cleaners		
23		CTG RACT, Leaks from		

1	Gasoline Tank Trucks and
	Vapor Collection Systems CTG
2	RACT, Leaks from Petroleum
	Refinery Equipment CTG
3	RACT, Manufacture of High-
	Density Polyethylene,
4	Polypropylene and Polystyrene
	Resins CTG RACT,
5	Manufacture of Pneumatic
	Rubber Tires CTG RACT,
6	Manufacture of Synthesized
	Pharmaceutical Products CTG
7	RACT, Petroleum Liquid
	Storage in External Floating
8	Roof Tanks CTG RACT,
	Refinery Vacuum Producing
9	Systems, Wastewater
	Separators and Process Unit
10	Turnarounds CTG RACT,
	SOCMI Air Oxidation
11	Processes CTG RACT, SOCMI
	Distillation and Reactor
12	Processes CTG RACT,
	Shipbuilding/repair CTG
13	RACT, Solvent Metal Cleaning
1.4	CTG RACT, Storage of
14	Petroleum Liquids in Fixed
1.5	Roof Tanks CTG RACT,
15	Surface Coating for Insulation
16	of Magnet Wire CTG RACT,
10	Surface Coating of Automobiles and Light-Duty
17	Trucks CTG RACT, Surface
1 /	Coating of Cans CTG RACT,
18	Surface Coating of Coils CTG
10	RACT, Surface Coating of
19	Fabrics CTG RACT, Surface
	Coating of Large Appliances
20	CTG RACT, Surface Coating
	of Metal Furniture CTG RACT,
21	Surface Coating of
	Miscellaneous Metal Parts and
22	Products CTG RACT, Surface
	coating of Paper CTG RACT,
23	Tank Truck Gasoline Loading

1		Terminals CTG RACT, Use of		
		Cutback Asphalt CTG RACT,		
2		Wood Furniture CTG RACT,		
	Pennsylvania	Aerospace CTG RACT, Bulk	3/28/2007	3/28/2008
3	,	Gasoline CTG RACT,		
		Equipment leaks from Natural		
4		Gas/Gasoline Processing Plants		
		CTG RACT, Fugitive		
5		Emissions from Synthetic		
		Organic Chemical Polymer and		
6		Resin Manufacturing		
		Equipment CTG RACT,		
7		Graphic Arts – Rotogravure		
		and Flexography CTG RACT,		
8		Large Petroleum Dry Cleaners		
		CTG RACT, Leaks from		
9		Gasoline Tank Trucks and		
		Vapor Collection Systems CTG		
10		RACT, Leaks from Petroleum		
		Refinery Equipment CTG		
11		RACT, Manufacture of High-		
		Density Polyethylene,		
12		Polypropylene and Polystyrene		
4.0		Resins CTG RACT,		
13		Manufacture of Pneumatic		
1.4		Rubber Tires CTG RACT,		
14		Manufacture of Synthesized		
1.5		Pharmaceutical Products CTG		
15		RACT, Petroleum Liquid		
1.6		Storage in External Floating		
16		Roof Tanks CTG RACT,		
17		Refinery Vacuum Producing Systems, Wastewater		
1 /		Separators and Process Unit		
18		Turnarounds CTG RACT,		
10		SOCMI Air Oxidation		
19		Processes CTG RACT, SOCMI		
17		Distillation and Reactor		
20		Processes CTG RACT,		
20		Shipbuilding/repair CTG		
21		RACT, Solvent Metal Cleaning		
		CTG RACT, Storage of		
22		Petroleum Liquids in Fixed		
		Roof Tanks CTG RACT,		
23		Surface Coating for Insulation		

1		of Magnet Wire CTG RACT,		
-		Surface Coating of		
2		Automobiles and Light-Duty		
_		Trucks CTG RACT, Surface		
3		Coating of Cans CTG RACT,		
5		Surface Coating of Coils CTG		
4		RACT, Surface Coating of		
·		Fabrics CTG RACT, Surface		
5		Coating of Large Appliances		
		CTG RACT, Surface Coating		
6		of Metal Furniture CTG RACT,		
Ü		Surface Coating of		
7		Miscellaneous Metal Parts and		
,		Products CTG RACT, Surface		
8		coating of Paper CTG RACT,		
O		Tank Truck Gasoline Loading		
9		Terminals CTG RACT, Use of		
		Cutback Asphalt CTG RACT,		
10		Wood Furniture CTG RACT,		
	Sacramento, CA	Bulk Gasoline CTG RACT,	1/11/2008	1/11/2009
11	,	Equipment leaks from Natural		
		Gas/Gasoline Processing Plants		
12		CTG RACT, Fugitive		
		Emissions from Synthetic		
13		Organic Chemical Polymer and		
		Resin Manufacturing		
14		Equipment CTG RACT, Leaks		
		from Gasoline Tank Trucks and		
15		Vapor Collection Systems CTG		
4.6		RACT, Leaks from Petroleum		
16		Refinery Equipment CTG		
1.7		RACT, Manufacture of		
17		Synthesized Pharmaceutical		
18		Products CTG RACT,		
10		Petroleum Liquid Storage in External Floating Roof Tanks		
19		CTG RACT, SOCMI Air		
1)		Oxidation Processes CTG		
20		RACT, SOCMI Distillation and		
		Reactor Processes CTG RACT,		
21		Storage of Petroleum Liquids		
		in Fixed Roof Tanks CTG		
22		RACT, Surface Coating of		
		Automobiles and Light-Duty		
23		Trucks CTG RACT, Surface		

1		Coating of Coils CTG RACT,		
		Tank Truck Gasoline Loading		
2		Terminals CTG RACT, Use of		
		Cutback Asphalt CTG RACT,		
3	Sacramento, CA	Factory Surface Coating of Flat	7/21/2009	7/21/2010
		Wood Paneling CTG RACT,		
4		2006 Flat Wood Paneling		
		Coatings CTG RACT, Flexible		
5		Packaging Printing Material		
		CTG RACT, Graphic Arts –		
6		Rotogravure and Flexography		
		CTG RACT, Large Appliance		
7		Coatings (2007) CTG RACT,		
		Large Petroleum Dry Cleaners		
8		CTG RACT, Manufacture of		
0		High-Density Polyethylene,		
9		Polypropylene and Polystyrene		
1.0		Resins CTG RACT,		
10		Manufacture of Pneumatic		
1 1		Rubber Tires CTG RACT,		
11		Paper, Film, and Foil Coatings		
12		(2007) CTG RACT, Refinery		
12		Vacuum Producing Systems,		
13		Wastewater Separators and Process Unit Turnarounds CTG		
13				
14		RACT, Shipbuilding/repair CTG RACT, Surface Coating		
14		for Insulation of Magnet Wire		
15		CTG RACT, Surface Coating		
13		of Cans CTG RACT, Surface		
16		Coating of Fabrics CTG		
10		RACT, Surface Coating of		
17		Large Appliances CTG RACT,		
	E. and W.	2006 Flat Wood Paneling	7/31/2008	7/31/2009
18	Massachusetts	Coatings CTG RACT		
	Los Angeles and San	Graphic Arts – Rotogravure	7/31/2007	7/31/2008
19	Bernardino Counties	and Flexography CTG RACT,		
	(Western Mojave	Large Petroleum Dry Cleaners		
20	Desert) [Antelope	CTG RACT, Leaks from		
	Valley], CA	Gasoline Tank Trucks and		
21		Vapor Collection Systems CTG		
		RACT, Solvent Metal Cleaning		
22		CTG RACT, Surface Coating		
		of Automobiles and Light-Duty		
23		Trucks CTG RACT, Surface		

1		Coating of Cans CTG RACT,		
		Surface Coating of Coils CTG		
2		RACT, Surface Coating of		
		Fabrics CTG RACT, Surface		
3		Coating of Metal Furniture		
		CTG RACT, Surface Coating		
4		of Miscellaneous Metal Parts		
		and Products CTG RACT,		
5		Surface coating of Paper CTG		
		RACT, Use of Cutback Asphalt		
6		CTG RACT,		
	Los Angeles and San	Graphic Arts – Rotogravure	1/11/2008	1/11/2009
7	Bernardino Counties	and Flexography CTG RACT,		
	(Western Mojave	Leaks from Gasoline Tank		
8	Desert) [Mojave	Trucks and Vapor Collection		
	Desert], CA	Systems CTG RACT,		
9		Petroleum Liquid Storage in		
		External Floating Roof Tanks		
10		CTG RACT,		
		Shipbuilding/repair CTG		
11		RACT, Solvent Metal Cleaning		
		CTG RACT, Storage of		
12		Petroleum Liquids in Fixed		
		Roof Tanks CTG RACT,		
13		Surface Coating of Metal		
		Furniture CTG RACT, Surface		
14		Coating of Miscellaneous		
1.5		Metal Parts and Products CTG		
15		RACT, Surface coating of		
1.6		Paper CTG RACT, Tank Truck		
16		Gasoline Loading Terminals		
1.7		CTG RACT, Use of Cutback		
17		Asphalt CTG RACT, Wood		
1.0	NT	Furniture CTG RACT,	0/01/0012	0/01/0014
18	New York	Industrial Cleaning Solvents	8/21/2013	8/21/2014
10		(2006) CTG RACT,		
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Accordingly, Plaintiffs THE CENTER FOR BIOLOGICAL DIVERSITY, THE CENTER FOR

ENVIRONMENTAL HEALTH, and THE CLEAN AIR COUNCIL bring this action against

Defendant GINA McCARTHY, in her official capacity as EPA Administrator, to compel her to 1 perform these mandatory duties. 2 II. JURISDICTION 3 2. This case is a Clean Air Act citizen suit. Therefore, the Court has jurisdiction over this 4 5 action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 42 U.S.C. § 7604(a)(2) (citizen suits for failure to perform a non-discretionary duty required by the Clean Air Act). 6 3. An actual controversy exists between the parties. This case does not concern federal 7 taxes, is not a proceeding under 11 U.S.C. §§ 505 or 1146, and does not involve the Tariff Act of 8 9 1930. Thus, this Court has authority to order the declaratory relief requested under 28 U.S.C. § 10 2201. If the Court orders declaratory relief, 28 U.S.C. § 2202 authorizes this Court to issue injunctive relief. 11 III. NOTICE 12 4. On May 12, 2016, Plaintiffs mailed to EPA by certified mail, return receipt requested, 13 written notice of intent to sue regarding the violations alleged in this Complaint. EPA received 14 this notice of intent to sue letter no later than May 16, 2016. More than sixty days have passed 15 since EPA received this "notice of intent to sue" letter. EPA has not remedied the violations 16 17 alleged in this Complaint. Therefore, a present and actual controversy exists. IV. VENUE 18 5. Defendant EPA resides in this judicial district. EPA Region 9, which has authority over 19 20 California, is headquartered in San Francisco. This civil action is brought against an officer of the United States acting in her official capacity and a substantial part of the events or omissions 21 giving rise to the claims in this case occurred in the Northern District of California. Therefore, 22 23 venue is proper in this Court pursuant to 28 U.S.C. § 1391(e).

V. INTRADISTRICT ASSIGNMENT

6. A substantial part of the events and omissions giving rise to the claims in this case occurred in the County of San Francisco. EPA Region 9, which has authority over California, is headquartered in San Francisco. Accordingly, assignment to the San Francisco Division or the Oakland Division is proper pursuant to Civil L.R. 3-2(c) and (d).

VI. PARTIES

- 7. Plaintiff the CENTER FOR BIOLOGICAL DIVERSITY is a non-profit 501(c)(3) corporation incorporated in California. The Center for Biological Diversity has approximately 50,000 members throughout the United States and the world. The Center for Biological Diversity's mission is to ensure the preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands and waters, and public health through science, policy, and environmental law. Based on the understanding that the health and vigor of human societies and the integrity and wildness of the natural environment are closely linked, the Center for Biological Diversity is working to secure a future for animals and plants hovering on the brink of extinction, for the ecosystems they need to survive, and for a healthy, livable future for all of us.
- 8. The Center for Biological Diversity and its members include individuals with varying interests in wildlife species and their habitat ranging from scientific, professional, and educational to recreational, aesthetic, moral, and spiritual. Further, the Center for Biological Diversity's members enjoy, on an ongoing basis, the biological, scientific, research, educational, conservation, recreational, and aesthetic values of the regions inhabited by these species, including the regions at issue in this action. The Center for Biological Diversity's members observe and study native species and their habitat, and derive professional, scientific, educational, recreational, aesthetic, inspirational, and other benefits from these activities and

have an interest in preserving the possibility of such activities in the future. The Center for Biological Diversity and its members have participated in efforts to protect and preserve natural areas, including the habitat essential to the continued survival of native species, and to address threats to the continued existence of these species, including the threats posed by air pollution and other contaminants.

- 9. Plaintiff the CENTER FOR ENVIRONMENTAL HEALTH is an Oakland, California based nonprofit organization that helps protect the public from toxic chemicals and promotes business products and practices that are safe for public health and the environment. The Center for Environmental Health works in pursuit of a world in which all people live, work, learn, and play in healthy environments.
- 10. Plaintiff CLEAN AIR COUNCIL ("Council") is a Philadelphia based nonprofit organization. It is a member-supported environmental organization serving the Mid-Atlantic Region. The Council is dedicated to protecting and defending everyone's right to breathe clean air. The Council works through a broad array of related sustainability and public health initiatives, using public education, community action, government oversight, and enforcement of environmental laws.
- 11. Plaintiffs' members live, work, recreate, travel and engage in other activities throughout the areas at issue in this complaint and will continue to do so on a regular basis. Pollution in the affected areas threatens and damages, and will continue to threaten and damage, the health and welfare of Plaintiffs' members as well as their ability to engage in and enjoy their other activities. Pollution diminishes Plaintiff's members' ability to enjoy the aesthetic qualities and recreational opportunities of the affected area.

- 12. EPA's failure to timely perform the mandatory duties described herein also adversely affects Plaintiffs, as well as their members, by depriving them of procedural protection and opportunities, as well as information that they are entitled to under the Clean Air Act. The failure of EPA to perform the mandatory duties also creates uncertainty for Plaintiffs' members as to whether they are exposed to excess air pollution.
- 13. The above injuries will continue until the Court grants the relief requested herein.
- 14. Defendant GINA McCARTHY is the Administrator of the EPA. In that role Administrator McCarthy has been charged by Congress with the duty to administer the Clean Air Act, including the mandatory duties at issue in this case. Administrator McCarthy is also charged with overseeing all EPA regional offices including EPA Region 9, which has authority over California and is headquartered in San Francisco.

VII. LEGAL BACKGROUND

- 15. Congress enacted the Clean Air Act to "speed up, expand, and intensify the war against air pollution in the United States with a view to assuring that the air we breathe throughout the Nation is wholesome once again." H.R. Rep. No. 1146, 91st Cong., 2d Sess. 1,1, 1970 U.S. Code Cong. & Admin. News 5356, 5356. To promote this, the Act requires EPA to set National Ambient Air Quality Standards for certain pollutants. 42 U.S.C. § 7409(a). National Ambient Air Quality Standards establish maximum allowable concentrations in the air of such pollutants. 16. After EPA promulgates a National Ambient Air Quality Standard, the Clean Air Act
- requires that EPA designate each area of the country as either a clean air area for that standard, which is known as "attainment" in Clean Air Act jargon, or a dirty air area, which is known as "nonattainment" in Clean Air Act jargon. See 42 U.S.C. § 7407(d).

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1	17. Under the Clean Air Act, each state is required to submit state implementation plans to		
2	ensure that each National Ambient Air Quality Standard will be achieved, maintained, and		
3	enforced. Without such plans, the public is not afforded full protection against the harmful		
4	impacts of air pollution.		
5	18. For dirty air areas which EPA has designated as "nonattainment," states must submit		
6	nonattainment area state implementation plans. See 42 U.S.C. §§ 7410(a)(2)(I), 7501 – 7509a,		
7	7513 – 7513b.		
8	19. The Clean Air Act requires EPA to determine whether any state implementation plan		
9	submittal is administratively complete. 42 U.S.C. § 7410(k)(1)(B). EPA must make this		
10	determination by "no later than 6 months after the date, if any, by which a State is required to		
11	submit the plan or revision." <i>Id.</i>		
12	20. If a state fails to submit any required state implementation plan, there is no submittal that		
13	may be deemed administratively complete, and EPA must make a determination, and publish		
14	notice of that determination in the Federal Register, stating that the state failed to submit an		
15	administratively complete state implementation plan submittal within six months of when the		
16	submittal was due. 42 U.S.C. § 7410(k)(1)(B). This is referred to as a "finding of failure to		
17	submit."		
18	21. Once a state does submit a state implementation plan submittal, EPA has a mandatory		
19	duty to take final action on any administratively complete state implementation plan submission		
20	by approving in full, disapproving in full, or approving in part and disapproving in part within 12		
21	months of the date the submission is deemed administratively complete. 42 U.S.C. § 7410(k)(2)		
22	- (4).		

VIII. FACTS 1 22. This case involves EPA's failure to timely implement the National Ambient Air Quality 2 Standards for ozone. While ozone is critical for the protection of the Earth when it is in the 3 stratosphere, at ground level, ozone, the chief component of smog, is a dangerous air pollutant 4 5 which causes a variety of adverse impacts. 23. According to EPA, based on exhaustive scientific review, ozone pollution causes 6 decreased lung function, increased respiratory symptoms, emergency department visits, 7 hospital admissions for respiratory causes, and even death. 73 Fed. Reg. 16,436 (Mar. 27, 2008). 8 9 24. Those most at risk from ozone pollution are children; active people, e.g., runners and 10 people who do manual labor outside; people with pre-existing lung and heart diseases such as asthma; and older people. Id. at 16,440. Ozone also damages vegetation, both native and 11 12 commercial crops. *Id.* at 16,485-16,486. Damage to native vegetation results in ecosystem damage, including diminished ecosystem services, that is, the life sustaining services that 13 ecosystems provide to people for free, such as clean air, clean water and carbon sequestration. 14 15 Id. 25. In 2008, EPA strengthened the primary and secondary ozone NAAQS from 0.08 to 0.075 16 17 parts per million (ppm). 73 Fed.Reg. 16,436 (Mar. 27, 2008). 26. EPA made attainment and nonattainment designations for the 2008 ozone NAAQS 18 effective July 20, 2012. See 77 Fed. Reg. 30,088 (May 21, 2012), 77 Fed. Reg. 34,221 (June 11, 19 2012). 20 27. 21 EPA designated all of the areas listed in Tables 1 and 2 nonattainment or as part of the 22 ozone transport region (OTR) for the 2008 ozone NAAQS. *Id.*

1	28. All elements of the nonattainment SIPs for the 2008 ozone NAAQS listed in Table 1		
2	were due by no later than July 20, 2015. See 80 Fed. Reg. 12,264, 12,266 (Mar. 6, 2015).		
3	29. Thus, EPA has a mandatory duty to make a completeness finding under 42 U.S.C. §		
4	7410(k)(1)(B) for the SIP elements listed in Table 1 by no later than January 20, 2016.		
5	IX. CLAIM FOR RELIEF		
6	<u>CLAIM ONE</u>		
7	(Failure to Make Findings of Failure to Submit.)		
8	30. Plaintiffs incorporate by reference paragraphs 1 through 29.		
9	31. The deadline for the 2008 ozone National Ambient Air Quality Standard nonattainmen		
10	state implementation plan submissions listed in Table 1 is no later than July 20, 2015. See 80		
11	Fed. Reg. 12,264, 12,266 (Mar. 6, 2015).		
12	32. More than six months have passed since July 20, 2015.		
13	33. For each of the areas and nonattainment SIP elements listed in Table 1 of paragraph 1		
14	above, the relevant state has failed to submit the listed nonattainment SIP element.		
15	34. Pursuant to 42 U.S.C. 7410(k)(1)(B), EPA has a mandatory duty to make a finding of		
16	failure to submit by no later than January 20, 2016 for each area's nonattainment SIP elements		
17	listed in Table 1 of paragraph 1 above.		
18	35. EPA has failed to make such findings.		
19	<u>CLAIM TWO</u>		
20	(Failure to Take Final Action on State Implementation Plan Submissions.)		
21	36. Plaintiffs incorporate by reference paragraphs 1 through 35.		
22	37. The Clean Air Act requires EPA to determine whether any state implementation plan		
23	submission is administratively complete. 42 U.S.C. 7410(k)(1)(B).		

1	38. If, six months after a state submits a state implementation plan, EPA has not made the		
2	completeness finding and has not found the submission to be incomplete, the submission is		
3	deemed administratively complete by operation of law. <i>Id</i> .		
4	39. EPA must take final action on an administratively complete submission by approving in		
5	full, disapproving in full, or approving in part and disapproving in part within 12 months of the		
6	date of the submission's administrative completeness finding. 42 U.S.C. § 7410(k)(2) - (4).		
7	40. Each area's nonattainment SIP elements listed in Table 2 of paragraph 1 above was		
8	deemed administratively complete, either by EPA or by operation of law, by the date listed in		
9	Table 2 of paragraph 1.		
10	41. EPA has a mandatory duty to take final action, and publish notice of that action in the		
11	Federal Register, by approving in full, disapproving in full, or approving in part and		
12	disapproving in part each area's nonattainment SIP elements listed in Table 2 of paragraph 1		
13	above by no later than one year after the nonattainment SIP element was deemed		
14	administratively complete. 42 U.S.C. § 7410(k)(2) and (4).		
15	42. However, EPA has failed to approve in full, disapprove in full, or approve in part and		
16	disapprove in part each area's nonattainment SIP elements listed in Table 2 of paragraph 1 above		
17	by no later than one year after the nonattainment SIP element was deemed administratively		
18	complete.		
19	REQUEST FOR RELIEF		
20	WHEREFORE, Plaintiffs respectfully request that the Court:		
21	A. Declare that the Administrator is in violation of the Clean Air Act with regard to her		
22	failure to perform the mandatory duties listed above;		

1	B.	Issue a mandatory injunction requiring the Administrator to perform her mandatory
2		duties listed above by certain dates;
3	C.	Retain jurisdiction of this matter for purposes of enforcing the Court's order;
4	D.	Grant Plaintiffs their reasonable costs of litigation, including attorneys' and experts' fees
5		and;
6	E.	Grant such further relief as the Court deems just and proper.
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Dated:	Respectfully submitted, /s/Jonathan Evans Jonathan Evans (Cal. Bar #247376) CENTER FOR BIOLOGICAL DIVERSITY 1212 Broadway Suite 800 Oakland, CA 94612 Phone: 510-844-7100 x318 Fax: 510-844-7150 email: jevans@biologicaldiversity.org Counsel for Plaintiffs July 21, 2016