

**BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

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Connecticut Attorney General George Jepsen
Massachusetts Attorney General Maura Healey
New Hampshire Attorney General Joseph A. Foster
Rhode Island Attorney General Peter Kilmartin
Vermont Attorney General William H. Sorrell**

April 18, 2016

Gina McCarthy
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

**RE: Clean Air Act notice of intent to sue for failure to perform non-discretionary
duty to approve or disapprove a section 176A petition**

Dear Administrator McCarthy:

The States of New York, Connecticut, New Hampshire, Rhode Island, and Vermont and the Commonwealth of Massachusetts, respectfully give notice of their intent to file suit against you in your official capacity as the Administrator of the Environmental Protection Agency (EPA) for failure to perform a non-discretionary duty under the Clean Air Act.

On December 10, 2013, Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont submitted the attached petition to EPA pursuant to section 176A of the Clean Air Act (Act), 42 U.S.C. § 7506a, requesting EPA add the states of Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, Tennessee, Virginia, and West Virginia to the Ozone Transport Region (OTR) established pursuant to section 184 of the Act. The petitioning states also requested that EPA provide an opportunity for public participation, including public notice and comment, with regard to the petition.

Pursuant to 42 U.S.C. § 7506a(a), “[t]he Administrator shall approve or disapprove any such petition . . . within 18 months of its receipt. Further, “[t]he Administrator shall establish appropriate proceedings for public participation regarding such petitions . . . , including notice and comment.” To date, EPA has failed to approve or disapprove the December 2013 petition or establish any proceedings for public participation regarding such petition, despite a legal

obligation to do so by June 10, 2015. Consequently, we are writing to provide notice that we intend to file suit against you and EPA for: (1) failing to timely approve or disapprove the section 176A petition; and (2) failing to timely provide an opportunity for public participation, including public notice and comment, with regard to the petition.

This letter provides notice as required under section 304 of the Act, 42 U.S.C. § 7604, and 40 C.F.R. part 54. In keeping with the requirements of federal regulations, you are hereby notified that the names and addresses of the parties giving the notice are as shown below. Unless EPA takes the required actions before the end of the applicable notice period, we intend to bring a suit in United States District Court under section 304 for EPA's failure to perform the non-discretionary duties outlined in 42 U.S.C. § 7506a. The suit will seek injunctive and declaratory relief, the costs of litigation, and may seek other relief.

Sincerely,

ERIC T. SCHNEIDERMAN
Attorney General of New York

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Teresa Manzi

Environmental Protection Bureau
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 State Capitol
 Albany, New York 12224

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