

## Advocates Say EPA Missing Ozone Deadlines In Major Cities

By [Michael Phillis](#)

Law360 (February 10, 2021, 8:03 PM EST) -- Environmental groups are accusing the [U.S. Environmental Protection Agency](#) of failing to ensure that some of the biggest metropolitan areas in the country, including New York and Chicago, act to reduce smog, threatening to sue the agency if nothing is done.

The [Center for Biological Diversity](#) and Center for Environmental Health said the EPA has failed to meet the Clean Air Act's deadlines for acting on plans to ensure that areas that haven't met 2008 National Ambient Air Quality Standards for ozone reduce their pollution.

"Allowing smog pollution is a political choice, and when the EPA fails to control it, it's children and the elderly who tend to pay the highest price," Robert Ukeiley, an attorney with the Center for Biological Diversity, said in a statement.

There are two deadlines at issue. First, the groups say the CAA requires the EPA to look at state implementation plans, or SIPs, for controlling their pollution and deciding on their adequacy. The agency has 12 months to do so, but for California's Los Angeles and San Bernardino counties, Chicago, and the broader New York metropolitan area, among others, the EPA missed that deadline, according to the groups.

This is the latest in a long line of legal actions brought by environmental groups and certain states against the agency accusing it of violating the CAA's requirements by failing to meet certain ozone-related deadlines. In January, for example, New York and other east coast states [sued](#) the EPA accusing it of missing CAA deadlines to consider plans to control emissions from states in the Midwest. Emissions from states to the west can drift towards the east coast and make it harder for coastal states to meet ozone standards.

The environmental groups also accused the EPA of failing to put in place federal implementation plans, or FIPs, for areas that haven't met ozone standards by a two-year deadline. The EPA issued a rule in 2017 that said more than a dozen states didn't submit their own plan to reduce emissions, requiring the EPA to act and write a plan for those states. The deadline for the EPA to do so was March 2019, according to the groups.

In an email, Ukeiley said so far, he has "no reason to believe" that the Biden administration is handling SIPs differently than the Trump administration. He said recent published actions in the federal register aren't showing that there's been a change.

"More than two years have passed, and EPA has not promulgated FIPs for the nonattainment areas," the groups wrote in their notice of intent to sue.

An EPA spokesperson said the Biden administration is committed to the environment including "tackling the climate crisis and air pollution." The agency, however, said it had nothing else to add on the potential litigation.

The areas that the federal government needs to write plans for, but allegedly hasn't, include Los Angeles and San Bernardino counties, the Sacramento, California, area, and New Hampshire.

The groups said ozone can worsen asthma, make it harder to breathe and aggravate certain other lung problems.

The groups are represented by Robert Ukeiley of the Center for Biological Diversity.