



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0070; FRL- 12637-01-R9]

Interim Final Determination to Stay and Defer Sanctions; California; Sacramento Metro Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: The Environmental Protection Agency (EPA) is making an interim final determination to stay and defer the imposition of sanctions under the Clean Air Act (CAA), based on a proposed determination that the Sacramento Metro area has attained the 2008 8-hour ozone national ambient air quality standards (NAAQS) by its December 31, 2024, attainment date. The proposed determination of attainment is published elsewhere in this issue of the *Federal Register*.

DATES: This interim final determination is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. However, comments will be accepted until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2025-0070 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the

primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972-3407; email: lawrence.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Background

On June 15, 2023, we published a disapproval of two submittals intended to satisfy the contingency measures requirement of CAA sections 172(c)(9) and 182(c)(9).¹ This disapproval was based on our finding that the State’s submittal did not include specific measures to be triggered upon a failure to attain (“attainment contingency measures”) or to meet a reasonable further progress (RFP) milestone (“RFP contingency measures”). The 2023 disapproval action started sanctions clocks for imposition of the offset sanction 18 months after July 17, 2023, and the highway funding sanction six months later, pursuant to CAA section 179 and our regulations

¹ 88 FR 39179.

at 40 CFR 52.31. Under 40 CFR 52.31(d)(1), the offset sanction applies 18 months after the effective date of a disapproval and the highway funding sanction applies six months after the offset sanction, unless we determine that the deficiencies forming the basis of the disapproval have been corrected. Accordingly, the offset sanction went into effect for the area on January 17, 2025, and the highway funding sanction is set to come into effect on July 17, 2025.

In the Proposed Rules section of this issue of the *Federal Register*, we are proposing to determine that the Sacramento Metro area attained the 2008 ozone NAAQS by its December 31, 2024 attainment date, based on quality-assured and certified ambient air quality monitoring data from 2022 through 2024. If we finalize that attainment determination as proposed, the requirement for the area to have RFP and attainment contingency measures for the 2008 ozone NAAQS will no longer apply. Based on our proposed determination, we are taking this interim final action, effective on publication, to stay the imposition of the offset sanction and to defer the highway funding sanction that were triggered by our June 15, 2023, disapproval.

The EPA is providing the public with an opportunity to comment on this stay and deferral of sanctions. If comments are submitted that change our assessment described in this final determination and our proposed determination of attainment, we intend to take subsequent final action to reimpose sanctions pursuant to 40 CFR 52.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks associated with our June 15, 2023, final action will be permanently terminated on the effective date of a final determination of attainment.

II. EPA Action

We are making an interim final determination to stay the imposition of the offset sanction and to defer the imposition of the highway funding sanction associated with our June 15, 2023, disapproval of attainment and RFP contingency measures for the Sacramento Metro area, based on our concurrent proposed determination that the area has attained the 2008 ozone NAAQS by the applicable attainment date. As described in the proposed determination of attainment, a final

determination of attainment by the attainment date will mean that contingency measures are no longer required for the area.

Because the EPA has preliminarily determined that the area is no longer subject to the requirement that was the basis for our previous disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.² However, by this action, the EPA is providing the public with an opportunity to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

The EPA believes that notice-and-comment rulemaking before the effective date of this action to stay and defer sanctions is impracticable and contrary to the public interest. Through our proposed action, the EPA has preliminarily determined that the Sacramento Metro area has attained the 2008 ozone NAAQS by the attainment date, and, consequently, that contingency measures are no longer required for the area. Therefore, it is not in the public interest to apply sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to stay and defer sanctions while the EPA completes our notice and comment process for the determination regarding the area's attainment. Moreover, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction.³

III. Statutory and Executive Order Reviews

This action stays and defers Federal sanctions and imposes no additional requirements. Accordingly, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

² 5 U.S.C. 553(b)(B).

³ 5 U.S.C. 553(d)(1).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, this action does not have Tribal implications, as specified in Executive Order 13175, because this determination will not impose substantial direct costs on Tribal governments or preempt Tribal law. The EPA has identified Tribal areas within the Sacramento Metro nonattainment area; these are discussed in our proposed determination of attainment, published elsewhere in this issue of the *Federal Register*. We note that both the proposed determination of attainment, if finalized, and this determination to stay and defer sanctions, will apply throughout the nonattainment area, including on Tribal lands within the nonattainment areas.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2). The CRA allows the issuing agency to

make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this action as discussed in Section II of this preamble, including the basis for that finding.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: **March 11, 2025.**

Cheree D. Peterson,
Acting Regional Administrator,
Region IX.

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