



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2025-0137; FRL-12752-02-R9]

### **Air Plan Approval; Guam; Clean Data Determination for the Piti-Cabras Nonattainment Area for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action on a clean data determination (CDD) for the Piti-Cabras, Guam sulfur dioxide (SO<sub>2</sub>) nonattainment area (“Piti-Cabras area”) based on our determination that the area has attained the 2010 1-hour SO<sub>2</sub> National Ambient Air Quality Standard (NAAQS, “standard,” or “2010 SO<sub>2</sub> NAAQS”). In designated nonattainment areas where air quality data demonstrate that a NAAQS has been attained, the EPA interprets certain requirements of the Clean Air Act (CAA) as no longer applicable for so long as air quality continues to meet the standard. Under this Clean Data Policy, the EPA may issue a determination of attainment, known as a CDD, that a nonattainment area is attaining the relevant NAAQS. This CDD suspends the obligation to submit certain attainment planning requirements for the Piti-Cabras area for as long as the area continues to attain the 2010 SO<sub>2</sub> NAAQS or until the area is formally redesignated. This CDD does not constitute redesignation of the area to attainment. This action is being taken under the CAA.

**DATES:** This rule is effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2025-0137. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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:** Khoi Nguyen, Geographic Strategies and Modeling Section, Planning & Analysis Branch, Air & Radiation Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: 415-947-4120; email address: [nguyen.khoi@epa.gov](mailto:nguyen.khoi@epa.gov).

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

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### **I. Proposed Action**

On June 20, 2025, the EPA proposed to determine that the Piti-Cabras area has attained the 2010 SO<sub>2</sub> NAAQS.<sup>1</sup> This determination, also known as a CDD, would suspend certain planning requirements for the nonattainment area for as long as the area continues to attain the 2010 SO<sub>2</sub> NAAQS.

As described in the notice of proposed rulemaking, the EPA's Clean Data Policy allows for the suspension of CAA requirements that are specifically designed to help an area achieve attainment for as long as the nonattainment area continues to attain the NAAQS. A final CDD

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<sup>1</sup> 90 FR 26235 (June 20, 2025).

suspends the obligation to submit: an attainment demonstration, reasonably available control measures, including reasonably available control technology (RACM/RACT), a reasonable further progress (RFP) demonstration, emissions limitations and control measures as necessary to provide for attainment, and contingency measures. The remaining CAA 172(c) requirements, namely, the base year emissions inventory and nonattainment new source review (NNSR) requirements, are not suspended.

While issuance by the EPA of a final CDD suspends certain attainment planning requirements so long as the area continues to attain the 2010 SO<sub>2</sub> NAAQS, a final CDD does not constitute a redesignation of an area to attainment of the 2010 SO<sub>2</sub> NAAQS under section 107(d)(3) of the CAA. After issuance of a final CDD, the area remains designated nonattainment for the 2010 SO<sub>2</sub> NAAQS until the state formally requests redesignation of the area to attainment, the EPA takes formal action to determine that the area meets CAA requirements for redesignation, and the EPA approves an accompanying state-submitted maintenance plan that ensures the area will continue to meet the NAAQS for the successive 10-year period.

## **II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment unrelated to this action.

## **III. Final Action**

No comments were submitted that change our assessment as described in our proposed action. Therefore, the EPA is finalizing the CDD for the Piti-Cabras area, the complete description of which can be found at 40 CFR 81.353.<sup>2</sup>

The EPA's final determination suspends the requirements for an attainment demonstration and certain other associated nonattainment planning requirements for the Piti-Cabras area so long as the area continues to attain the 2010 SO<sub>2</sub> NAAQS. As indicated in the

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<sup>2</sup> The nonattainment area consists of "the portion of Guam within a 6.074-km radius centered on UTM Easting 249,601.60 m, and UTM Northing 1,489,602.00 m (UTM Zone 55N)."

proposal on this action, a final CDD action suspends certain planning requirements for a CAA part D nonattainment area SIP, including: an attainment demonstration, RACM/RACT, emissions limitations and control measures as necessary to provide for attainment, an RFP plan, and contingency measures.

This final action also suspends the EPA's obligation to promulgate a FIP and the sanctions clocks associated with the finding of failure to submit issued on November 3, 2020,<sup>3</sup> with regard to the attainment demonstration, RACM/RACT, RFP, emissions limitations and control measures as necessary to provide for attainment, and contingency measures. Those elements of the EPA's obligation as to this nonattainment area under the consent decree in *Center for Biological Diversity et al. v. Regan*, No. 4:24-cv-01900 (N.D. Cal.), doc. 28, paragraphs 1.c-d, 2, are also satisfied by this action.

Following issuance of a CDD for the Piti-Cabras area, the State remains obligated to submit the nonattainment planning requirements, including a base year emissions inventory and a showing that the area is covered by an EPA-approved NNSR program. The EPA issued a direct final rule finding complete and approving the base year emissions inventory element of the attainment plan SIP revision for the Piti-Cabras area on July 16, 2025.<sup>4</sup> The EPA provided a 30-day public notice period and did not receive adverse comments. The EPA also found complete and proposed to approve Guam's NNSR program element on June 18, 2025.<sup>5</sup> We are finalizing approval of the Guam's NNSR program in an action that is located in the Final Rules section of this *Federal Register*. Accordingly, with this final CDD, the EPA has now satisfied all of our obligations under the consent decree in *Center for Biological Diversity et al. v. Regan*, No. 4:24-cv-01900 (N.D. Cal.), doc. 28, paragraphs 1.c-d, 2. Further, the FIP obligation and sanctions clocks triggered by the November 3, 2020 finding of failure to submit will remain suspended as long as the area continues to attain the 2010 SO<sub>2</sub> NAAQS.

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<sup>3</sup> 85 FR 69504 (November 3, 2020).

<sup>4</sup> 90 FR 31877 (July 16, 2025).

<sup>5</sup> 90 FR 25984 (June 18, 2025).

This final action does not constitute a redesignation of the Piti-Cabras area to attainment of the 2010 SO<sub>2</sub> NAAQS under section 107(d)(3) of the CAA. The area will remain designated nonattainment for the 2010 SO<sub>2</sub> NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment and takes further action to redesignate the area.

#### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

##### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

##### *B. Executive Order 14192: Unleashing Prosperity Through Deregulation*

This action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

##### *C. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by territorial law.

##### *D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by territorial law. The CDD does not create any new requirements and does not directly regulate any entities.

##### *E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does

not impose additional requirements beyond those imposed by territorial law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*G. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have Tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction, and will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

*H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it merely finalizes a CDD. Furthermore, the EPA’s Policy on Children’s Health does not apply to this action.

*I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its

regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, 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).

*L. Petitions for Judicial Review*

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 rule 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 11, 2025.

Michael Martucci,  
*Acting Regional Administrator, Region IX.*

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

Subpart AAA – Guam

2. Amend § 52.2679 by adding paragraph (c) to read as follows:

**§ 52.2679 Control strategy and regulations: Sulfur dioxide.**

\* \* \* \* \*

(c) Effective [**Insert date 30 days after date of publication in the FEDERAL REGISTER**], the EPA has determined, that based on air dispersion modeling, the Piti-Cabras nonattainment area has attained the 2010 1-hour sulfur dioxide NAAQS. This clean data determination suspends the requirement for this area to submit an attainment demonstration, associated reasonably available control measures, including reasonably available control technology, a reasonable further progress plan, emissions limitations and control measures as necessary to provide for attainment, and contingency measures, for as long as this area continues to meet the 2010 1-hour sulfur dioxide NAAQS.

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