



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2026-3764; FRL-13384-01-R3]

Air Plan Approval; Pennsylvania; Interim Final Determination to Stay and Defer

Sanctions Related to Reasonably Available Control Technology Requirements (RACT) for Volatile Organic Compounds (VOC) Control Technique Guidelines (CTG) Under the 2008 Ozone National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: The Environmental Protection Agency (EPA) is making an interim final determination (IFD) that Pennsylvania has submitted revisions to the state implementation plan (SIP) that satisfy the requirements under the Clean Air Act (CAA) to implement Reasonably Available Control Technology (RACT) for volatile organic compounds (VOC) Control Technique Guidelines (CTG) for the 2008 ozone national ambient air quality standards (NAAQS). The effect of this IFD is to stay emission offset sanctions and defer the imposition of highway funding sanctions triggered by an August 16, 2024 EPA disapproval of a prior Pennsylvania SIP addressing VOC CTG RACT requirements for the 2008 ozone NAAQS. This IFD is consistent with a proposed action, published elsewhere in this issue of the *Federal Register*, in which the EPA is proposing approval of revisions to Pennsylvania's SIP, as submitted on May 10, 2023, January 20, 2026, February 17, 2026 and April 10, 2026 to address VOC CTG RACT requirements for the 2008 and 2015 NAAQS.

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: The EPA has established a docket for this action under Docket ID Number EPA-

R03-OAR-2026-3764. All documents in the docket are listed on the www.regulations.gov website. 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 www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Sean Silverman, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5511. Mr. Silverman can also be reached via electronic mail at silverman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 2024, the EPA took final action to disapprove portions of the Pennsylvania SIP revisions submitted on August 13, 2018 that, among other things, certified the Commonwealth had satisfied its VOC CTG RACT obligations for the 2008 ozone NAAQS.¹ The EPA's August 16, 2024 final disapproval (August 2024 disapproval) started a sanctions clock under CAA section 179 and 40 CFR 52.31. The two-to-one new source emissions offset sanctions took effect on March 16, 2026 (18 months following the September 16, 2024 effective date of the August 2024 disapproval), while highway funding sanctions will take effect on September 16, 2026, unless the State submits, and the EPA approves, SIP revisions that correct the deficiencies identified in the August 2024 disapproval .

On May 10, 2023, January 20, 2026, February 17, 2026 and April 10, 2026, PADEP submitted SIP revisions to address the deficiencies identified in the August 2024 disapproval. In

¹ See 89 FR 66599.

the Proposed Rules section in this issue of the *Federal Register*, the EPA is concurrently proposing to approve these SIP revisions. There, the EPA proposes to find that Pennsylvania's current SIP-approved regulations, newly submitted regulations for certain CTG categories, and incorporated limits from permits for four facilities meet the Commonwealth's VOC CTG RACT Requirements for the 2008 and 2015 ozone NAAQS. The proposed determination is based on the EPA's analysis of Pennsylvania's SIP revisions, including supplemental technical support provided by the EPA. Accordingly, the EPA is proposing that these SIP revisions address the deficiencies identified in the EPA's August 2024 disapproval with respect to 2008 ozone VOC CTG RACT requirements, which started the sanctions clock for offset and highway sanctions in Pennsylvania.

II. What Action is the EPA Taking?

The EPA is making an IFD to stay the application of the offset sanctions and defer the application of the highway sanctions associated with the EPA's August 2024 disapproval of certain VOC CTG RACT requirements for the 2008 ozone NAAQS for Pennsylvania. This determination is based on the EPA's concurrent proposal (referenced above) to approve the Pennsylvania SIP revisions regarding VOC CTG RACT for the 2008 (and 2015) ozone NAAQS, which resolve the deficiencies that triggered sanctions under section 179 of the CAA.

Based on the EPA's proposed approval that determines that the aforementioned Pennsylvania VOC CTG RACT SIP revisions address the deficiencies identified in the August 2024 disapproval and are likely approvable, relief from sanctions should be provided as quickly as possible. This interim final determination is consistent with the requirements of the Administrative Procedure Act (APA)² for Federal agency rulemaking. Generally, under the APA, agency rulemaking affecting the rights of individuals must comply with certain minimum procedural requirements, including publishing a notice of proposed rulemaking in the *Federal Register* and providing an opportunity for the public to submit written comments on the

² 5 U.S.C. 551 *et seq.*

proposal, before the rulemaking can have final effect. The EPA will not be providing an opportunity for public comment before those deferrals or stays are effective. However, the EPA will provide an opportunity to comment on the proposed approval that is the basis for this IFD and will provide an opportunity, after the fact, for the public to comment on the IFD. Thus, an opportunity for comment will be provided before any sanctions clock is permanently stopped or any already applied sanctions are permanently lifted. In the context of the proposed approval, and with respect to the interim final rule, the public would have an opportunity to comment on the appropriateness of the EPA's interim final determination that the State had corrected the deficiencies and on whether the State should remain subject to sanctions, even though the deferral or stay is already effective.

Section 553(b)(4)(B) of the APA provides that the notice and opportunity for comment requirements do not apply when the Agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." In this instance, the EPA believes it would be both impracticable and contrary to the public interest to have to propose and provide an opportunity to comment before any relief is provided from the effect of sanctions. The EPA has reviewed Pennsylvania's SIP submissions addressing the August 2024 disapproval and, through its proposed action, is indicating that it is more likely than not that the SIP submissions correct the deficiencies that were the basis for the disapproval action that started the sanctions clock. 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 the application of the offset sanctions and defer the application of the highway funding sanctions while we complete our rulemaking process on the approvability of Pennsylvania's SIP revisions intended to address the VOC CTG RACT requirements for the 2008 (and 2015) ozone NAAQS.

Consistent with 5 U.S.C. 553(d)(1) of the APA, the EPA finds there is good cause for this action to become effective immediately upon publication. Section 553(d)(1) of the APA provides that final rules shall not become effective until 30 days after publication in the *Federal Register*

“except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction.” The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. Fed. Comm’n Comm’n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. Because this rule relieves a restriction, the EPA finds good cause under 5 U.S.C. 553(d)(1) for this action to become effective on the date of publication of this action.

As noted in this document, in the Proposed Rules section in this issue of the *Federal Register*, the EPA has proposed to find that Pennsylvania’s SIP Revisions submitted on May 10, 2023, January 20, 2026, February 17, 2026 and April 10, 2026 address the deficiencies identified by the EPA in its August 2024 disapproval. In accordance with 40 CFR 52.31(d)(2)(ii), when a State has submitted a revised plan to correct the deficiency, and the EPA proposes to approve the plan and issues an IFD that the revised plan corrects the deficiency after 18 months but before 24 months from the beginning of the sanctions clock, application of the new source emission offset sanction shall be stayed and application of the highway sanction shall be deferred. However, if issues are raised during the public comment period of the proposed plan approval which cannot be addressed and the revised plan is ultimately disapproved, the new source offset sanction shall reapply immediately and the highway sanction shall apply immediately on the date of the final disapproval if that date is more than six months after the date the offset sanctions became effective. In Pennsylvania, the offset sanction was imposed on March 16, 2026, and the highway sanction, if not deferred, would be imposed on September 16, 2026.

III. Statutory and Executive Order Reviews

A. General Requirements

This action defers sanctions and imposes no additional requirements. For that reason, 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);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- 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 approves 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 Clean Air Act

This action does not have Tribal implications, as specified in Executive Order 13175.

This action stays and defers application of sanctions and imposes no new requirements. In addition, this action does not 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.

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).

Under section 307(b)(1) of the Clean Air Act, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Amy Van Blarcom-Lackey,
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