

which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1).

(3) Copies of the materials incorporated by reference may be inspected at the Region 10 EPA Office at 1200 Sixth Avenue, Suite 155, Seattle, WA 98101. To obtain the material, please call (206) 553-0256. You may inspect the material with an EPA approval date prior to June 1, 2025, for Washington at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0070; FRL-12637-03-R9]

Determination of Attainment by the Attainment Date; 2008 8-Hour Ozone Standards; California; Sacramento Metro Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final determination.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing our determination that the Sacramento Metro, California area attained the 2008 8-hour ozone national ambient air quality standards (NAAQS) by its December 31, 2024 attainment date. This determination is based on quality-assured and certified ambient air quality

monitoring data from 2022 through 2024. We are also finalizing a determination that the requirement for the State to have contingency measures for reasonable further progress (RFP) and attainment for the 2008 ozone NAAQS no longer applies for this area.

DATES: This determination is effective on September 22, 2025.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2025-0070. All documents in the docket are listed on the <https://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 <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.

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

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I. Summary of Proposed Action

On March 21, 2025, the EPA proposed to determine that the Sacramento Metro area attained the 2008 ozone national ambient air quality standards (NAAQS) by its December 31, 2024 attainment date.¹ On the same date, we issued an interim final determination to stay and defer sanctions associated with a previous disapproval of the State’s submittal addressing contingency measures requirements for the Sacramento Metro area for the 2008 ozone NAAQS.²

As discussed in section II.A of our proposed determination, an area is considered to have attained the 2008 ozone standards if there are no violations of the standards, as determined in accordance with 40 CFR 50.15, based on three consecutive years of complete, quality-assured, and certified monitoring data. A violation of the NAAQS occurs when the ambient ozone air quality monitoring data show that the design value (*i.e.*, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations) at an ozone monitor is greater than 0.075 ppm.³

The EPA proposed this determination to fulfill our statutory obligation under Clean Air Act (CAA or “Act”) section 181(b)(2) to determine whether the area attained the 2008 ozone NAAQS by its attainment date. Our proposed determination was based on complete, quality-assured and certified ozone air quality monitoring data for the 2022–2024 calendar years. A summary of the air quality monitoring data for these years is provided in Table 1.

TABLE 1—SACRAMENTO METRO AREA FOURTH HIGH 8-HOUR OZONE AVERAGE CONCENTRATIONS AND DESIGN VALUES (ppm) FOR 2022–2024

AQS site ID	Site name	4th Highest daily maximum			Design value (2022–2024)
		2022	2023	2024	
EL DORADO COUNTY					
06–017–0012	Echo Summit	0.064	0.065	NA ^a	Invalid ^b
06–017–0020	Cool	0.074	0.072	0.072	0.072
06–017–2004	Placerville—Canal Street	0.066	0.067	0.067	0.066
PLACER COUNTY					
06–061–0003	Auburn—Atwood	0.075	0.064	0.079	0.072
06–061–0004	Colfax—City Hall	0.070	0.067	0.067	0.068
06–061–0006	Roseville—N Sunrise Ave	0.070	0.077	0.077	0.074
06–061–2003	Lincoln—2885 Moore Road	0.066	0.060	0.063	0.063

¹ 90 FR 13316 (March 21, 2025).

² 90 FR 13288 (March 21, 2025).

³ 40 CFR 50.15 and 40 CFR part 50, appendix P.

TABLE 1—SACRAMENTO METRO AREA FOURTH HIGH 8-HOUR OZONE AVERAGE CONCENTRATIONS AND DESIGN VALUES (ppm) FOR 2022–2024—Continued

AQS site ID	Site name	4th Highest daily maximum			Design value (2022–2024)
		2022	2023	2024	
SACRAMENTO COUNTY					
06–067–0002	North Highlands—Blackfoot Way	NA ^a	NA ^a	NA ^a	Invalid ^c
06–067–0006	Sacramento Del Paso Manor	0.070	0.077	0.080	0.075
06–067–0010	Sacramento—T Street	0.065	0.066	0.069	0.066
06–067–0011	Elk Grove—Bruceville	0.058	0.050	0.048	0.052
06–067–0012	Folsom	0.070	0.071	0.065	0.068
06–067–5003	Sloughhouse	0.074	NA ^a	NA ^a	Invalid ^d
SOLANO COUNTY					
06–095–3003	Vacaville	0.063	0.061	0.058	0.060
YOLO COUNTY					
06–113–0004	Davis—UCD Campus	0.059	0.065	0.063	0.062
06–113–1003	Woodland—Gibson Road	0.066	0.062	0.064	0.064

^a The required annual 75 percent completeness criterion was not met, therefore the annual 4th highest daily maximum values were not provided.

^b The invalid Echo Summit design value was a result of incomplete data capture primarily due to site access challenges for the entire month of April and part of May in the years 2022 through 2024. To resolve the access issues, CARB submitted a site closure request for the Echo Summit ozone monitor to EPA on February 10, 2025, and requested a new ozone monitor at the South Lake Tahoe—Sandy Way monitoring site, with a proposed start date of February 10, 2025. The EPA approved CARB's site closure request on April 15, 2025. See letter dated April 15, 2025, from Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region IX, to Michael Miguel, Assistant Division Chief, Monitoring and Laboratory Division, CARB, dated April 15, 2025.

^c The design value for the North Highlands—Blackfoot Way site is invalid due to missing data from August 2022 through December 2024. SMAQMD lost the lease to the North Highlands—Blackfoot Way monitoring site and were forced to shut down the monitor on August 1, 2022. SMAQMD is looking to secure a new location for the site.

^d The Sloughhouse design value is invalid due to null coded data in AQS with poor quality assurance results from July 2023 through April 2024.

Invalid design values and annual 4th highest daily maximum values can be found in the file titled “SFNA O3 Design Value Report 2008–2024.pdf” that is included in the docket for this action.

Source: EPA, AQS Design Value (AMP480), Report Request ID: 2260106, February 6, 2025.

Our proposed determination includes additional information about ozone air pollution, the NAAQS, and the statutory and regulatory bases for making a determination of attainment. The proposed determination also includes information about the Sacramento Metro nonattainment area, the Tribes whose lands are located within the nonattainment area, and the ozone air quality data considered for the determination (information about the monitoring network, the data certification process, data completeness considerations and other relevant information).

In our proposed rulemaking, we also proposed to determine that, if we finalized our determination of attainment by the attainment date, then the requirement for the area to have contingency measures for failure to meet RFP and failure to attain for the 2008 ozone NAAQS would no longer apply, because contingency measures would never be needed.⁴

Concurrent with our publication of the proposed determination of attainment by the attainment date, the

EPA issued an interim final determination, effective upon publication, to stay the offset sanction and to defer the highway funding sanction associated with the EPA's 2023 disapproval of the Sacramento Metro area's contingency measures submittal.⁵ The interim final determination to stay and defer sanctions was based upon the proposed determination of attainment by the attainment date. Upon the effective date, this final determination of attainment by the attainment date will permanently stop the sanctions and FIP clocks triggered by the EPA's previous disapproval of the contingency measures requirements for the Sacramento Metro area, and will permanently lift the offset sanction that was previously in effect.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received three comment letters, which are included in the docket for this action. Two comment letters are from anonymous commenters, with identical content that is not germane to

this action. The third comment letter was submitted by Air Law for All on behalf of the Center for Biological Diversity (CBD). Issues raised in this comment letter are summarized with response below.

Comment 1: CBD argues that the EPA lacks authority to declare past milestones and associated RFP contingency measures moot. The commenters state that although CAA section 182(g) would have required the State to submit, and the EPA to act on, demonstrations that the area achieved necessary emissions reductions for emissions milestones in 2018 and 2021, there is no information in the record to show whether the EPA determined the area achieved the necessary emissions reductions for these milestones. According to the commenters, if the EPA previously determined that these milestones were met, then the associated RFP contingency measures would not be triggered, and mootness is irrelevant; on the other hand, they say, if the area failed to make RFP, then the contingency measures requirement should have been timely triggered.

The commenters argue that the EPA's approach is contrary to Congressional

⁴ See 90 FR 13288, 13320–13321 (March 21, 2025).

⁵ 90 FR 13288 (March 21, 2025).

intent. First, the commenters argue that interpreting the CAA to moot contingency measures for prior RFP milestones upon an attainment determination assumes that the EPA will illegally fail to make the required milestone determinations in a timely fashion, which they say cannot be what Congress intended. Elsewhere, the commenters argue that the fact that CAA section 182(g)'s "explicitly excludes the milestone year on a determination of attainment," creates a strong inference that Congress intended prior milestones and associated contingency measure requirements to apply, and that there is therefore no "gap" for EPA to interpret under the now-obsolete *Chevron* doctrine, and the memorandum opinion in *Matusow v. Wheeler*, No. 20–72279 (9th Cir. Apr. 21, 2022) carries no weight. The commenters also assert that mootness is a judge-made doctrine, and that under long-standing legal principles, the EPA cannot be a judge in its own cause.

The commenters speculate that the EPA may have failed to make milestone determinations for Sacramento Metro and other areas because of a prior "invalid" agency interpretation under which milestone requirements could be satisfied by a showing that control measures were timely implemented, citing *Sierra Club v. EPA*, 21 F.4th 815, 823–26 (D.C. Cir. 2021).

Response: For reasons generally addressed in the proposal, we disagree with the commenter's claim that the EPA lacks authority to determine that the Sacramento Metro area will no longer need RFP contingency measures for the 2008 ozone NAAQS following our determination that the area has attained the NAAQS by the attainment date. However, we wish to clarify some features of our determination in response to these comments.

First, as a preliminary matter, we note that while the commenter refers to our conclusions regarding RFP contingency measures as a declaration that RFP contingency measures are "moot," our proposed determination does not use this word. The commenter is mischaracterizing the EPA's action. We do not say, nor did we intend to imply, that the RFP contingency measures are "moot" in a legal sense. The EPA is not purporting to apply a judge-made doctrine as commenters suggest. Instead, the proposal explains the EPA's longstanding position, held for over 30 years,⁶ that RFP contingency measures

are no longer necessary following a determination of attainment by the attainment date because contingency measure requirements no longer apply:

Therefore, if we finalize our proposed determination that the Sacramento Metro area has attained the 2008 ozone NAAQS by the attainment date, then attainment contingency measures for the 2008 ozone NAAQS would never be required to be implemented, regardless of whether the area continued to attain the NAAQS, and RFP contingency measures could not be triggered and would therefore no longer be necessary.⁷

The EPA's interpretation of the statute, as laid out in the 1995 Seitz Memo cited in the proposal, is based on the CAA's definition of "reasonable further progress" for the nonattainment requirements of part D.⁸ CAA section 171(1) defines RFP as "such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring *attainment of the applicable [NAAQS] by the applicable date.*" (emphasis added). And as the EPA noted in the 1995 Seitz Memo, the subpart 2 requirements for RFP are varieties of the more general nonattainment RFP requirements.⁹

The Tenth Circuit has recently recognized that "[t]he 'purpose' clause [in the CAA definition of RFP] simply explains that the emissions reductions (set either by part D or the EPA) are designed to ensure the area will eventually reach attainment."¹⁰ Since the purpose of RFP is to ensure attainment by the attainment date, it stands to reason that a SIP submission seeking to codify contingency measures for failure to meet RFP serves no purpose after the area has timely attained the NAAQS. This practical concept that a certain SIP submission is no longer required is not the same as the judicial doctrine of mootness, as the commenters suggest.¹¹ In any case, as noted above, our proposed determination does not use this word, and we do not intend our statements regarding the need for contingency

measures to convey anything specifically related to mootness.

Relatedly, commenters are incorrect when they claim, or imply, that the EPA's position is based only on a reading of CAA section 182(g); a purported "preferred reading" that commenters do not explain further. The EPA mentioned CAA section 182(g) one time in the proposal in conjunction with other authorities explained above, including the 1995 Seitz Memo which discusses the EPA's position in reference to the definition of RFP in CAA section 171(1). Upon reexamination in light of the comment, this short statement about CAA 182(g) in the proposal appears to be a straightforward explanation of the basic mechanics of that provision. Commenters do not specify which portion of CAA section 182(g), or which language within 182(g), they believe the EPA is misreading or misapplying. Since the comment on this point is vague, the EPA cannot provide a specific response.

As a Severe-15 nonattainment area with a December 31, 2024 attainment date, the Sacramento Metro area's RFP milestones for the 2008 ozone NAAQS occurred in the years 2017, 2020, and 2023.¹² CARB has submitted demonstrations showing that the Sacramento Metro area met both the 2020 and 2023 milestones by substantial margins, through a surplus of NO_x emissions reductions in excess of the required target levels.¹³ The EPA found CARB's MCD for the 2020 milestone adequate on February 28, 2022.¹⁴ In

¹² The commenters reference milestones in 2018 and 2021. In the context of the comment, it appears that the commenters may have calculated the milestones from an RFP baseline year of 2012, which is the year the area was designated as nonattainment for the 2008 ozone NAAQS. For the 2008 ozone NAAQS, the RFP baseline year is the calendar year for the most recently available triennial emission inventory at the time RFP plans are developed, which for areas designated as nonattainment in 2012 translates to 2011. 80 FR 12264, 12272 (March 6, 2015). See *South Coast Air Quality Mgmt. Dist. v. EPA*, 882 F.3d 1138 (D.C. Cir. 2018) (disallowing use of alternative RFP baseline years).

¹³ CARB, "California 2020 Milestone Compliance Demonstration for the 75 Parts per Billion National Ambient Air Quality Standard for Ozone," March 30, 2021, p. 15 (showing 45.6 percent reduction in NO_x emissions between 2011 and 2020, compared to the 27 percent reductions of VOC or NO_x required for that period); CARB, "California 2023 Milestone Compliance Demonstration for the 75 Parts Per Billion and 70 Parts Per Billion 8-hour Ozone National Ambient Air Quality Standards," March 30, 2024, pp. 20–21 (showing 56 percent reduction in NO_x emissions between 2011 and 2023, compared to the 36 percent reductions of VOC or NO_x required for that period).

¹⁴ Letter dated February 28, 2022, from Martha Guzman, Regional Administrator, EPA Region IX, to Richard W. Corey, Executive Officer, CARB.

⁶ See, e.g., Memorandum dated May 10, 1995, from John D. Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Directors, Regions I through X, Subject:

"Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard" ("1995 Seitz Memo").

⁷ 90 FR 13316, 13321 (March 21, 2025) (citing 1995 Seitz Memo at p. 4).

⁸ 1995 Seitz Memo at p. 2.

⁹ Seitz Memo at p. 2, n.1.

¹⁰ *Ctr. for Biological Diversity v. EPA*, 129 F.4th 1266, 1271 (10th Cir. 2025) (quoting CAA section 171(1)).

¹¹ Cf. *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000) (discussing mootness doctrine).

response to this comment, the EPA has reviewed the State's 2023 MCD and preliminarily agrees with the State's demonstration that the area met the 2023 milestone, and we plan to issue an adequacy determination for the 2023 milestone in the near future.

Additionally, in response to this comment, the EPA has reviewed emissions inventories for the 2017 milestone, which show the area achieving substantial early reductions to meet the milestone, consistent with the continuing progress demonstrated in the submitted MCDs. Under the 2008 ozone SIP Requirements Rule and 40 CFR 51.1110, the area was required to show an 18 percent reduction in VOC or NO_x from the 2011 baseline emissions inventory by 2017.¹⁵ 2017 emissions data show that the area achieved a VOC reduction of 15.4 percent and a NO_x reduction of 35.8 percent, thus meeting the milestone through a surplus of NO_x emissions reductions (Table 2).

TABLE 2—SACRAMENTO METRO AREA 2017 MILESTONE EMISSIONS REDUCTIONS

	VOC	NO _x
2011 baseline emissions (tpd) ^a	111.6	107.7
2017 emissions (tpd) ^b	94.5	69.2
Reduction	15.4%	35.8%

^a CARB, "California 2020 Milestone Compliance Demonstration for the 75 Parts per Billion National Ambient Air Quality Standard for Ozone," March 30, 2021.

^b CARB, Staff Report, "70 ppb Ozone SIP Submittal," May 22, 2020.

Our review of emissions inventory data therefore shows the area has achieved the required reductions in each RFP milestone for the 2008 ozone NAAQS, including in 2023 (the area's last applicable milestone prior to the attainment date), and RFP contingency measures for this NAAQS would not be required to be implemented, regardless of whether the area continues to attain the NAAQS.

Next, we find the commenter's legal arguments relating to Congressional intent to be unavailing. Nothing in our proposed action or interpretation of the CAA rests on an assumption that the EPA will fail to make milestone determinations or otherwise act illegally. To reiterate, when the EPA

¹⁵ See 80 FR 12264, 12271 (March 6, 2015) and 40 CFR 51.1110(a)(2)(i)(A) (describing 2008 ozone NAAQS requirements for Moderate and above nonattainment areas with a previously approved 15 percent VOC-only rate-of-progress (ROP) demonstration for a previous ozone NAAQS). The EPA approved the Sacramento Metro area's ROP demonstration for the 1997 ozone standard. 80 FR 4795, 4798 (January 29, 2015).

determines that an area has timely attained a NAAQS, the area no longer needs to demonstrate RFP.¹⁶ Similarly, the area is no longer subject to the requirements to include SIP contingency measures for RFP or attainment.¹⁷

Further, while we agree with the commenter that CAA section 182(g) does not require states to submit MCDs for milestones aligning with an area's attainment date when the area has timely attained, we disagree that this creates any inference that would contradict our determination. Indeed, we find this language in the Act to be supportive of the general point that the purpose of the RFP requirements is to ensure progress toward attainment by the applicable attainment date.¹⁸ The parenthetical exclusion in CAA section 182(g)(2) stands for the idea that there is no reason to require that a state submit an MCD to show it met RFP for a milestone year if that year is also an attainment year and the area is attaining the NAAQS, because the purpose of RFP is to ensure the area attains by the applicable attainment date. If the area has met the goal of attaining, then there is no utility in checking if the milestone has been met because the purpose of the milestone is to assist with achieving attainment. By extension, since the purpose of RFP is to assist with ensuring attainment, the utility of RFP ceases upon a finding of attainment; at that point, RFP is no longer necessary because its purpose has been fulfilled. Contrary to the commenter's allegations, the EPA is not claiming that there is a statutory gap in CAA 182(g), and the EPA is in no way relying on the *Chevron* doctrine.

For the reasons above, we disagree that our proposed action exceeds the EPA's authority under the CAA.

Comment 2: CBD asserts that the EPA's position that the RFP contingency measures requirements are mooted by attainment is internally inconsistent, citing previous EPA statements suggesting that RFP requirements are independent of attainment. The commenters assert that the EPA must

¹⁶ See 57 FR 13498, 13564 (April 16, 1992) (noting that RFP requirements do not apply in evaluating a request for redesignation to attainment "since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point.").

¹⁷ See *id.* ("The section 172(c)(9) requirements for contingency measures are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation.").

¹⁸ See 87 FR 42126, 42131 (July 14, 2022).

not finalize its purported mooted of RFP and associated contingency measures requirements, and that the EPA must lift the interim determination to stay and defer sanctions.

Response: We disagree that our action is inconsistent either internally or with past practice. The EPA has consistently held that "progress" in the context of RFP means progress towards attainment.¹⁹ This position is grounded in the language of the CAA, which connects the purpose of RFP reductions to the attainment requirements. In particular, CAA section 171(1) defines "reasonable further progress" as:

such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.²⁰

Similarly, CAA section 182(b)(1)(A) specifies that attainment plans for Moderate and above areas:

shall provide for such specific annual reductions in emissions of volatile organic compounds and oxides of nitrogen as necessary to attain the national primary ambient air quality standard for ozone by the attainment date applicable under this chapter.²¹

Further, as the commenter notes and as we explained above, CAA section 182(g) includes a specific statutory exemption from the requirement to submit an MCD. That section does not require an ozone nonattainment area classified "Serious" or higher to demonstrate compliance with an RFP milestone that coincides with the attainment date once the area has attained.²² This evidences that Congress saw no point in simultaneously making an area demonstrate that it had met its

¹⁹ See, e.g., 80 FR 12264, 12776 (March 6, 2015) (noting that "the purpose of the RFP provisions in CAA sections 172 and 182 is to foster the achievement of reasonable further progress toward attainment"). As we have previously explained in response to other comments from the same commenter, the RFP reductions for the 2008 ozone NAAQS represent the minimum progress that is required under the CAA and our regulations, not necessarily all of the reductions necessary to achieve attainment of the ozone NAAQS, which could vary largely from one nonattainment area to another. See 86 FR 33528, 33531 (June 25, 2021). See also *Ctr. for Biological Diversity v. EPA*, 129 F.4th 1266 at 1270–1272 (10th Cir. 2025), which recently upheld the EPA's position that while the purpose of RFP for ozone nonattainment areas is to "ensure the area will eventually reach attainment" RFP reductions "need not alone achieve attainment." RFP for ozone is a fixed percentage defined in the CAA.

²⁰ CAA section 171(1).

²¹ CAA section 182(b)(1)(A)(i). See also CAA section 182(c)(2)(B) (specifying that RFP reductions are required "until the attainment date").

²² CAA 182(g)(2).

RFP milestone if it could instead show that it had attained the NAAQS. Once an area has satisfied its RFP requirements, RFP contingency measures cannot be triggered and are therefore no longer necessary.

Our action follows several similar actions for Phoenix, Ventura County, and Western Nevada County nonattainment areas.²³ In each, we found that our determination of attainment by the attainment date eliminated the area's need for the RFP contingency measures for the 2008 ozone NAAQS. We therefore disagree that our action is inconsistent with past practice. The commenter appears to be mixing concepts in a confusing manner, as evidenced by reference to a June 2021 EPA action.²⁴ Within that action, the EPA explained its current position that the amount of reductions necessary for an approvable ozone RFP SIP revision (an RFP plan showing how the area plans to meet RFP) is set by the CAA in a way that is not related to the amount of reductions necessarily needed for the area to attain the NAAQS by the attainment date. In that action, the EPA explained "[i]n the 2008 Ozone [SIP Requirements Rule], which is the set of regulations that governs the EPA's action here, RFP is defined in terms of percent reduction requirements, not in terms of the reductions necessary for attainment."²⁵ This position, which was recently upheld in *Ctr. for Biological Diversity v. EPA*, 129 F.4th 1266 (10th Cir. 2025), speaks to what states must show in their RFP SIP submission on the front end of the planning process.

Commenters are wrong to suggest this position related to the amount of reductions needed in an RFP plan is somehow inconsistent with the EPA's present determination in this action. The EPA's position is consistent. "[R]easonable further progress and attainment are two interconnected—but distinct—requirements."²⁶ The purpose of RFP is to help with getting the area into attainment, and for ozone reduction planning purposes, the CAA defines RFP as fixed emissions reductions percentages. Once the area has attained, RFP no longer applies because the purpose of RFP has been fulfilled. The commenter is confusing the purpose of

RFP with the amount of reductions necessary to show in an RFP plan.

For the reasons discussed above, we disagree that it is inappropriate to finalize our proposed determination that contingency measures for RFP are no longer required upon a determination of attainment by the attainment date. We also disagree that it is inappropriate to relieve the sanctions associated with our previous disapproval of contingency measures for RFP and attainment for the Sacramento Metro area.²⁷ As noted in our interim final determination to stay and defer sanctions, a final determination of attainment that the Sacramento Metro area has attained the 2008 ozone NAAQS means that the associated attainment and RFP contingency measures are no longer required. Further, it makes no sense and does not serve the public to apply sanctions associated with a requirement that no longer applies. Accordingly, the EPA is determining that the area is no longer subject to the contingency measures requirements that were the basis for our previous disapproval action, and we are permanently removing the sanctions triggered by that previous action.

III. Final Determination

Pursuant to section 181(b)(2)(A) of the CAA and 40 CFR 51.1303, the EPA is making a final determination that the Sacramento Metro area attained the 2008 ozone NAAQS by the applicable attainment date of December 31, 2025. Once effective, this final action satisfies the EPA's obligation pursuant to CAA section 181(b)(2)(A) to determine, based on an area's air quality as of the attainment date, whether the area attained the standard by its applicable attainment date.

We are also making a final determination that the requirement for the Sacramento Metro area to have contingency measures for failure to meet RFP and failure to attain the 2008 ozone NAAQS by the attainment date no longer applies, because contingency measures cannot be triggered given the attainment of the NAAQS by the attainment date. This finding will not prevent the EPA, in the event that the Sacramento Metro area subsequently violates the NAAQS, from exercising its authority under the CAA to address violations of the NAAQS.²⁸ Our proposed rulemaking has more

information about our rationale for this action.

This attainment determination permanently stops the sanctions and FIP clocks triggered by the EPA's previous disapproval of the contingency measures requirement for the Sacramento Metro area, and permanently lifts the offset sanction that had previously been imposed. The offset sanction had previously been stayed and the highway funding sanction had previously been deferred by our interim final determination to stay and defer sanctions.

This determination of attainment does not constitute a redesignation to attainment under CAA section 107(d)(3). The EPA may redesignate an area if the state meets additional statutory criteria, including the EPA approval of a state plan demonstrating maintenance of the air quality standard for 10 years after redesignation, as required under CAA section 175A. As for all NAAQS, the EPA is committed to working with states that choose to submit redesignation requests for areas that are attaining the 2008 ozone NAAQS.

IV. Statutory and Executive Order Reviews

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 subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

²³ The rationale is articulated for the Phoenix area at 85 FR 33571, 33574 (June 2, 2020); for the Ventura and Western Nevada County areas at 87 FR 42126, 42131 (July 14, 2022); and for the Sacramento Metro area at 90 FR 13316, 13321 (March 21, 2025).

²⁴ 86 FR 33528 (June 25, 2021).

²⁵ *Id.* at 33531.

²⁶ *Ctr. for Biological Diversity v. EPA*, 129 F.4th 1266, 1272 (10th Cir. 2025).

²⁷ Sanction clocks were started pursuant to 40 CFR 52.31(c)(2) by the EPA's June 15, 2023 final disapproval action at 88 FR 39179, and codified at 40 CFR 52.237(a)(14).

²⁸ See *Bahr v. Regan*, 6 F.4th 1059, 1085 (9th Cir. 2021); see also 42 U.S.C. 7407(d)(3).

• 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.

Additionally, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because it 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. We note that this determination applies throughout the nonattainment area, including on Tribal lands within the nonattainment areas. However, as noted in our proposal and in section III of this document, the Sacramento Metro nonattainment area, including the Tribal lands within the nonattainment area, will remain designated nonattainment and will retain its existing classification.

The EPA notified the Tribes located within the boundaries of the Sacramento Metro nonattainment areas of our proposed determination and will notify these Tribes of this final determination. Because a final determination of attainment does not change the Tribe's existing nonattainment designation or classification, the EPA does not plan offer government-to-government consultation on this determination, however, it is our practice to initiate government-to-government consultation at the request of any Tribe.

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 October 20, 2025. 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: August 11, 2025.

Joshua F.W. Cook,

Regional Administrator, Region IX.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended 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 F—California

■ 2. Section 52.282 is amended by adding paragraph (o) to read as follows:

§ 52.282 Control strategy and regulations: Ozone.

* * * * *

(o) *Determination of attainment by the attainment date.* Effective September 22, 2025. The EPA has determined that the Sacramento Metro Severe-15 nonattainment area in California attained the 2008 ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date of December 31, 2024, based upon complete, quality-assured and certified data for the calendar years 2022–2024.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0056–IFR]

RIN 0938–AU19

Administrative Simplification: Modifications of Health Insurance Portability and Accountability Act of 1996 (HIPAA), National Council for Prescription Drug Programs (NCPDP) Retail Pharmacy Standards; and Modification of the Medicaid Pharmacy Subrogation Standard; Updates to Compliance and Other Related Dates

AGENCY: Office of the Secretary, Department of Health and Human Services (HHS).

ACTION: Interim final rule.

SUMMARY: This document updates compliance and other dates presented in the final rule that appeared in the

December 13, 2024 **Federal Register** titled “Administrative Simplification: Modifications of Health Insurance Portability and Accountability Act of 1996 (HIPAA) National Council for Prescription Drug Programs (NCPDP) Retail Pharmacy Standards; and Modification of the Medicaid Pharmacy Subrogation Standard” to conform with the subsequent final rule that appeared in the February 11, 2025 **Federal Register**.

DATES: These regulations are effective August 20, 2025.

FOR FURTHER INFORMATION CONTACT: Michael Cimmino (410) 786–6408.

SUPPLEMENTARY INFORMATION:

I. Background

We published a final rule that appeared in the December 13, 2024, **Federal Register** (89 FR 100763) titled “Administrative Simplification: Modifications of Health Insurance Portability and Accountability Act of 1996 (HIPAA) National Council for Prescription Drug Programs (NCPDP) Retail Pharmacy Standards; and Modification of the Medicaid Pharmacy Subrogation Standard,” (hereinafter referred to as the December 2024 final rule). That final rule adopted updated versions of the retail pharmacy standards for electronic transactions adopted under the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These updated versions are modifications to previously adopted standards for the following retail pharmacy transactions: health care claims or equivalent encounter information; eligibility for a health plan; referral certification and authorization; and coordination of benefits. This final rule also adopted a modification to the standard for the Medicaid pharmacy subrogation transaction. Subsequently, we determined this final rule contained a technical error regarding the 8-month transition period before full compliance with retail pharmacy and Medicaid pharmacy subrogation standards, so references to August 11, 2027, should have, instead, read June 11, 2027. We published a subsequent final rule that appeared in the February 11, 2025, **Federal Register** (90 FR 9289) titled Administrative Simplification: Modifications of Health Insurance Portability and Accountability Act of 1996 (HIPAA) National Council for Prescription Drug Programs (NCPDP) Retail Pharmacy Standards; and Modification of the Medicaid Pharmacy Subrogation Standard; Delay of Effective Date, (hereinafter referred to as the