

**Final Notice: Findings of Failure to Submit State Implementation Plan Submittals for the  
2008 Ozone National Ambient Air Quality Standards**

**FACT SHEET (2/3/2017)**

**ACTION**

- On January 13, 2017, the U.S. Environmental Protection Agency found that 15 states and the District of Columbia failed to submit certain State Implementation Plan (SIP) revisions to address Clean Air Act requirements for the 2008 Ozone National Ambient Air Quality Standards (NAAQS). The states affected by these findings are overdue to submit SIP revisions for either their designated nonattainment areas, or their entire state as a member of the Ozone Transport Region (OTR), or both. The affected states and their respective nonattainment areas (as applicable) are as follows:

<b>State</b>	<b>2008 Ozone NAAQS Nonattainment Area and/or Ozone Transport Region</b>
California	Calaveras County
	Kern County (Eastern Kern)
	Los Angeles-San Bernardino Counties
	Los Angeles-South Coast Air Basin
	Mariposa County
	Riverside County (Coachella Valley)
	Sacramento Metro
	San Joaquin Valley
	Ventura County
Connecticut	Greater Connecticut
	New York-N. New Jersey-Long Island
Delaware	Philadelphia-Wilmington-Atlantic City
	Seaford
District of Columbia (Washington)	Ozone Transport Region
Illinois	Chicago-Naperville
	St. Louis-St. Charles-Farmington
Indiana	Chicago-Naperville
	Cincinnati
Maine	Ozone Transport Region
Maryland	Baltimore
	Philadelphia-Wilmington-Atlantic City
	Washington
	Ozone Transport Region
Massachusetts	Dukes County
	Ozone Transport Region

New Hampshire	Ozone Transport Region
New Jersey	New York-N. New Jersey-Long Island
	Philadelphia-Wilmington-Atlantic City
	Ozone Transport Region
Pennsylvania	Allentown-Bethlehem-Easton
	Lancaster
	Philadelphia-Wilmington-Atlantic City
	Pittsburgh-Beaver Valley
	Reading
	Ozone Transport Region
Rhode Island	Ozone Transport Region
Virginia	Washington
	Ozone Transport Region
Vermont	Ozone Transport Region
Wisconsin	Chicago-Naperville
	Sheboygan County

- Today’s findings of failure to submit formally notifies these states and the District of Columbia that they failed to make timely required submissions to EPA. Moreover, these findings establish deadlines by which states either must submit complete SIP revisions or become subject to mandatory sanctions.
- The EPA is committed to working with the District of Columbia and states listed in today’s findings to expedite the development and submission of their SIP revisions and to review and act on their submittals in accordance with the requirements of the Clean Air Act and EPA’s regulations.

## **BACKGROUND**

- On March 27, 2008, EPA promulgated a revised 8-hour primary and secondary ozone NAAQS of 0.075 parts per million (ppm).<sup>1</sup> Effective July 20, 2012, the EPA designated 46 areas as “nonattainment” for the 2008 NAAQS.
- Under the Clean Air Act, areas designated nonattainment for a revised ozone NAAQS and states located in the OTR are required to submit, for EPA approval, revisions to their respective SIPs to ensure that they comply with all applicable statutory and regulatory requirements. These SIP submissions were required even if all areas in an OTR state were attaining the new ozone standards at the time of designations. The EPA’s 2008 Ozone SIP Requirements Rule<sup>2</sup> addressed implementation-related requirements for the 2008 ozone NAAQS, including dates for states to make SIP submissions for specific required elements.

<sup>1</sup> This revised standard is met in an area when the three-year average of the annual fourth-highest daily maximum 8-hour average at every ozone monitor is less than or equal to the level of the standard (i.e., 0.075 ppm). *See* National Ambient Air Quality Standards for Ozone, 73 FR 16436 (March 27, 2008).

<sup>2</sup> Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements, 80 FR 12264 (March 6, 2015).

- The Clean Air Act requires that EPA promulgate a Federal Implementation Plan (FIP) no later than 2 years after a finding of failure to submit if the affected state has not submitted, and the EPA has not approved, the required SIP submittal.
- Additionally, if a state has not submitted the required SIP components for an area within 18 months of the effective date of this rulemaking, then the Clean Air Act and EPA's implementing regulations require an offset sanction to apply in the area. Owners of new or modified stationary source of a pollutant for which an area is in nonattainment must obtain greater emission "offsets" than would otherwise be required in order to receive a permit for their source. If the state has not made a complete submission within 6 months after the offset sanction is imposed, then the Clean Air Act and EPA's implementing regulations impose the highway funding sanction in the affected nonattainment area. The highway funding sanction is a prohibition on the use of federal funds for transportation projects within an area, with certain exceptions.
- A state in the OTR would be subject to the offset sanction if it has not made a SIP submittal that EPA determines is complete within 18 months after the effective date of this rulemaking. This sanction would apply in states within the OTR – even if the state is meeting the 2008 ozone standards. The highway sanction only applies in nonattainment areas. If an OTR state does not contain any nonattainment areas for the 2008 ozone NAAQS then the highway funding sanction would not apply under this finding of failure to submit.

### **FOR MORE INFORMATION**

- To download this action from the EPA's website, go to: <https://www.epa.gov/ozone-pollution/2008-ozone-national-ambient-air-quality-standards-naaqs-nonattainment-actions>. The official version of this rule will be published in the *Federal Register*.
- Today's final rule and other associated information are available either electronically at <http://www.regulations.gov>, the EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room. (Docket ID No. EPA-HQ-OAR-2016-0646).
- The Public Reading Room is located in the EPA Headquarters, Room Number 3334 in the William Jefferson Clinton West Building, located at 1301 Constitution Avenue, NW, Washington, D.C. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding federal holidays.
- Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.

- For further information about this final action, contact Mr. Stephen Senter of EPA's Office of Air Quality Planning and Standards, at (919) 541-3042 or by email at [senter.stephen@epa.gov](mailto:senter.stephen@epa.gov).