

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

FACT SHEET

ACTION

- On November 29, 2017 the U.S. Environmental Protection Agency (EPA) found that three states failed to submit timely state implementation plan (SIP) revisions necessary to satisfy certain Clean Air Act (CAA) and EPA requirements for implementing the 2008 ozone NAAQS. Specifically, this action applies to nonattainment areas reclassified in 2016 to Moderate nonattainment after failing to attain the NAAQS by the Marginal area attainment date of July 20, 2015. The affected states and their respective nonattainment areas (as applicable) are as follows:

State	2008 Ozone NAAQS Moderate Nonattainment Area
California	Kern County (Eastern Kern)
	Mariposa County
	Nevada County
New Jersey	New York-N. New Jersey-Long Island
Illinois	Chicago-Naperville

- Today’s findings of failure to submit (FFS) formally notifies these states that they failed to make timely required SIP submissions to the EPA. Moreover, these findings establish an 18-24 month period during which states either must submit complete SIP revisions or become subject to mandatory sanctions.
- The EPA is committed to working with the states listed in today’s findings to expedite the development and submission of their SIP revisions. The EPA will review and act on their submittals in accordance with the requirements of the CAA and EPA’s regulations.

BACKGROUND

- On March 27, 2008, the EPA promulgated a revised 8-hour primary and secondary ozone NAAQS of 0.075 parts per million (ppm). Effective July 20, 2012, the EPA designated 46 areas as “nonattainment” for the 2008 ozone NAAQS. Of these, 36 areas were initially classified as “Marginal,” the lowest classification for ozone nonattainment areas (“Extreme” being the highest).
- On May 4, 2016, the EPA published final determinations that 11 of the 36 Marginal nonattainment areas failed to attain the 2008 ozone NAAQS by the Marginal area attainment date (July 20, 2015), and the areas were reclassified to Moderate by operation of law. In the

same action, the EPA established a due date of January 1, 2017, for states to submit Moderate area attainment plans for the reclassified areas. In December 2016, two additional areas were reclassified to Moderate and became subject to the January 1, 2017, deadline.

- Under the CAA, states with areas designated nonattainment for a revised ozone NAAQS are required to submit for EPA approval revisions to their SIPs to ensure that they comply with all applicable statutory and regulatory requirements. The EPA's 2008 Ozone SIP Requirements Rule (80 FR 12264, March 6, 2015) addressed implementation-related requirements for the 2008 ozone NAAQS, including requirements that states must meet for all Moderate nonattainment areas.
- If a state has not submitted, within 18 months of the effective date of today's findings, the required SIP elements for a nonattainment area, a 2:1 emission "offset sanction" will apply in the area. An offset sanction requires owners of new or modified major stationary sources of a pollutant for which an area is classified Moderate nonattainment to 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 SIP submission within 6 months after the offset sanction is imposed, a highway funding sanction will apply in the affected nonattainment area. The highway funding sanction is a prohibition on the use of federal funds for transportation projects within a nonattainment area, with certain exceptions.
- Additionally, the CAA further requires that the EPA promulgate a federal implementation plan (FIP) no later than 2 years after the effective date of today's finding if the affected state has not submitted, and the EPA has not approved, the required SIP submittal.

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 action 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-2017-0667).
- 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 Ms. Virginia Raps of EPA's Office of Air Quality Planning and Standards, at (919) 541-4383 or by email at raps.virginia@epa.gov.