



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2024-0175; FRL-11888-02-R9]

### Determination to Defer Sanctions; California; California Air Resources Board and Local California Air Districts

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

**ACTION:** Interim final determination.

**SUMMARY:** The Environmental Protection Agency (EPA) is making an interim final determination that the California Air Resources Board (CARB) has submitted a revised rule and has also submitted revised rules on behalf of the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), Ventura County Air Pollution Control District (VCAPCD), and South Coast Air Quality Management District (SCAQMD) that correct deficiencies in its Clean Air Act (CAA or Act) state implementation plan (SIP) provisions concerning ozone nonattainment requirements for controlling volatile organic compounds (VOCs) at crude oil and natural gas facilities. This determination is based on a proposed approval and conditional approval, published elsewhere in this *Federal Register*, of a California statewide rule, six California air districts rules, and associated reasonably available control technology (RACT) determinations for that source category. The effect of this interim final determination is to defer the imposition of sanctions that was triggered by EPA's previous disapproval. If the EPA finalizes its proposed approval of CARB's submission, relief from these sanctions will become permanent.

**DATES:** This rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. However, comments will be accepted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0175

at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities 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:** Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA, 94105. By phone: (415) 947-4126 or by email at [law.nicole@epa.gov](mailto:law.nicole@epa.gov).

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

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### **I. Background**

On September 30, 2022 (87 FR 59314), the EPA issued a limited approval and limited disapproval for the California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter

10 Climate Change, Article 4 Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (“CARB Oil and Gas Methane Rule”) that had been submitted by CARB to the EPA on December 11, 2018. That action also finalized a disapproval of the reasonably available control technology (RACT) demonstrations for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the EPA’s 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry (“2016 Oil and Gas CTG”) and regulated by SCAQMD, SJVUAPCD, Sacramento Metro Air Quality Management District (SMAQMD), VCAPCD, and Yolo-Solano Air Quality Management District (YSAQMD). In this 2022 action, we determined that while the CARB SIP revision submittal strengthened the SIP, the submittal contained various deficiencies related to enforceability and stringency that prevented full approval. Pursuant to section 179 of the CAA and our regulations at 40 CFR 52.31, the limited disapproval of the CARB Oil and Gas Methane Rule and the disapproval of the RACT demonstrations for the 2008 and 2015 ozone NAAQS action under title I, part D, started a sanctions clock for imposition of mandatory sanctions unless the EPA affirmatively determines that the deficiency forming the basis of the action has been corrected, the offset sanctions under section 179(b)(2) will apply 18 months after the action’s effective date of October 31, 2022, and highway sanctions under section 179(b)(1) will apply 6 months after the offset sanction is imposed.

CARB submitted an amended CARB Oil and Gas Methane Rule on April 2, 2024, as well as six amended California district rules on various dates<sup>1</sup> that addressed the deficiencies identified in our September 30, 2022 action. In the Proposed Rules section of this ***Federal Register***, we have proposed approval of the amended CARB Oil and Gas Methane Rule and the six California district rules into the State’s SIP, as well as approval of the 2016 Oil and Gas CTG

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<sup>1</sup> San Joaquin Unified Air Pollution Control District Rule 4401, 4409, and 4623 were submitted on October 13, 2023. Ventura County Air Pollution Control District Rule 71.1 was submitted on January 10, 2024. South Coast Air Quality Management District Rules 463 and 1178 were submitted on October 13, 2024, and February 14, 2024, respectively.

RACT requirement for four California districts, and conditional approval of the RACT demonstration for one California district.<sup>2</sup> Based on this proposed approval action, we are also making this interim final determination, effective upon publication, to defer imposition of the offset sanctions and highway sanctions that were triggered by our September 30, 2022 disapproval, because we believe CARB's 2024 submittal and the amended rules correct the deficiencies that triggered such sanctions.

The EPA is providing the public with an opportunity to comment on this deferral of sanctions. If comments are submitted that change our assessment described in this interim final determination and the proposed full and conditional approval of the CARB Oil and Gas Methane Rule, local California air district rules, and associated RACT demonstrations, we would take final action to lift this deferral of sanctions under 40 CFR 52.31. If no comments are submitted that change our assessment, then all sanctions and any sanction clocks triggered by our 2022 action would be permanently terminated on the effective date of our final approval of the CARB Oil and Gas Methane Rule and associated RACT demonstrations.

## **II. The EPA's Evaluation and Action**

We are making an interim final determination to defer CAA section 179 sanctions associated with our limited disapproval on the 2018 submittal of the CARB Oil and Gas Methane Rule and disapprovals of associated RACT determinations. This determination is based on our

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<sup>2</sup> The CARB Oil and Gas Methane Rule exempts sources from compliance with portions of the CARB Oil and Gas Methane Rule if those sources comply with certain existing California air district rules. The CARB Oil and Gas Methane Rule references SCAQMD Rule 1148.1 – Oil and Gas Production Wells (Amended March 5, 2004), which contains an enforceability deficiency that is described more fully in our proposed rule. This deficiency precludes a full approval of the RACT requirement for sources covered by the 2016 Oil and Gas CTG in SCAQMD. In a letter included in their submittal on April 2, 2024, CARB has committed to submitting, within 12 months of the effective date of the EPA's final rulemaking, an amended version of South Coast Rule 1148.1 that will address the identified deficiency. Consistent with CAA section 110(k)(4), the EPA is proposing to conditionally approve the SCAQMD CTG RACT requirement for sources covered by the 2016 Oil and Gas CTG, based on this commitment to remedy the identified deficiency. The proposed conditional approval for the newly-identified deficiency in SCAQMD Rule 1148.1, as discussed in the CARB Oil and Gas Methane Rule TSD, is distinct from the deficiencies that were the basis of our 2022 disapproval, which started CAA sanction clocks. Pursuant to our order of sanction regulations, 40 CFR 52.31(d)(2), a proposal to "fully or conditionally approve" a revised plan that cures the deficiency that prompted the finding starting the sanctions, along with an interim final determination, shall defer the application of sanctions.

concurrent proposal to approve SIP revisions from CARB that resolve the deficiencies that were the basis of our prior disapproval that triggered sanctions under section 179 of the CAA. This includes proposing approval and conditional approval of CARB's 2024 submittal of the CARB Oil and Gas Methane Rule, six amended California air district rules, and associated RACT demonstrations.

Because the EPA has preliminarily determined that the SIP revisions addressing the deficiencies are approvable, relief from sanctions should be provided as quickly as possible. Therefore, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the Administrative Procedure Act (APA) because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)). The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has submitted a revision to the SIP that corrects deficiencies under part D of the Act that were the basis for the action that started the sanctions clocks. Therefore, it is not in the public interest to impose sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while the EPA completes its rulemaking process on the approvability of the State's submittal. For the reasons outlined above, the EPA is invoking the good cause exception under the APA in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action, the EPA is still providing the public with a chance to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

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

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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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);
- 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; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).
- 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. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

- Is subject to the Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section II of this preamble, including the basis for that finding.

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 EPA Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review, nor does it extend the time within which petition for judicial review may be filed, and it shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see CAA section 307(b)(2)).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds, Reporting and recordkeeping requirements.

Dated: April 24, 2024.

**Martha Guzman Aceves,**  
*Regional Administrator,*  
*Region IX.*

[FR Doc. 2024-09309 Filed: 5/2/2024 8:45 am; Publication Date: 5/3/2024]