



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2024-0627; FRL-12536-02-R9]

#### Interim Final Determination to Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District

**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 Clean Air Act (CAA or “Act”) state implementation plan (SIP) revision on behalf of the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “District”) that corrects deficiencies concerning the District’s new source review (NSR) stationary source permitting program. This determination is based on a proposed approval, published elsewhere in this issue of the ***Federal Register***, of SJVUAPCD Rules 1020, 2020, and 2201. The effect of this interim final determination is to defer sanctions that were triggered by the EPA’s limited disapproval of SJVUAPCD Rule 2201 in 2023.

**DATES:** This interim final determination is effective [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-2024-0620 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 a disability 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:** Doris Lo, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972-3959; email: [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

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

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## **I. Background**

On July 10, 2023, we published a limited approval and limited disapproval of SJVUAPCD Rule 2201 as adopted locally on August 15, 2019.<sup>1</sup> We based our limited disapproval action on deficiencies identified in the submitted rule. This limited approval and limited disapproval action started a sanctions clock for imposition of offset sanctions 18 months after August 9, 2023, and highway sanctions six months later, pursuant to section 179 of the

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<sup>1</sup> 87 FR 45730 (July 29, 2022).

Clean Air Act (CAA) and our regulations at 40 CFR 52.31. Under 40 CFR 52.31(d)(1), offset sanctions apply 18 months after the effective date of a disapproval and highway sanctions apply six months after the offset sanctions, unless we determine that the deficiencies forming the basis of the disapproval have been corrected.

On April 20, 2023, SJVUAPCD amended Rules 1020 and 2201 to address the deficiencies that were the basis for our limited disapproval of Rule 2201, as identified in our July 29, 2022, proposal. The State submitted these amended rules to the EPA on October 13, 2023, along with other revisions to Rule 2020 adopted on December 18, 2014. In the Proposed Rules section of this ***Federal Register***, we are proposing a limited approval of these rules because we believe they correct the deficiencies identified in our July 10, 2023 disapproval action and meet other applicable CAA requirements. This approval is limited because the EPA is simultaneously proposing a limited disapproval of the rules based on other revisions that do not meet applicable CAA requirements. Based on this proposed action, we are taking this final rulemaking action, effective on publication, to defer the imposition of the offset and highway sanctions that were triggered by our July 10, 2023 limited disapproval.

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 final determination and our proposed limited approval of SJVUAPCD Rules 1020, 2020, and 2201, we intend to take subsequent final action to reimpose sanctions pursuant to 40 CFR 52.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks associated with our July 10, 2023 final action will be permanently terminated on the effective date of a final rule approval.

## **II. EPA Action**

We are making an interim final determination to defer the imposition of the offset and highway sanctions associated with our limited disapproval of SJVUAPCD Rule 2201 (as adopted in 2023) based on our concurrent proposal finding that the State's SIP revision corrects the

deficiencies that initiated the sanctions.

Because the EPA has preliminarily determined that the State has corrected the deficiencies identified in the EPA's July 10, 2023 limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, the EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.<sup>2</sup> However, by this action, the EPA is providing the public with an opportunity 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.

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 corrected the deficiencies that were the basis for the limited disapproval that started the sanctions clocks. 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 defer sanctions while the EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, 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 APA because the purpose of this notice is to relieve a restriction.<sup>3</sup>

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

This action defers Federal 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 14094 (88 FR 21879, April 11, 2023);

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<sup>2</sup> 5 U.S.C. 553(b)(B).

<sup>3</sup> 5 U.S.C. 553(d)(1).

- 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 proposes to approve 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.

In addition, the SIP 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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our

Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements Executive Order 12898 and defines EJ as, among other things, "the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment."

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Orders 12898 and 14096 of achieving EJ for communities with EJ concerns.

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). 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 action as discussed in Section II of this preamble, including the basis for that finding.

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 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, Ammonia, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: **January 13, 2025.**

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

[FR Doc. 2025-01215 Filed: 1/17/2025 8:45 am; Publication Date: 1/21/2025]