



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0625; FRL-12877-01-R9]

Interim Final Determination to Stay or Defer Sanctions; California; Mojave Desert Air Quality Management 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 Mojave Desert Air Quality Management District (MDAQMD or “District”) that corrects deficiencies concerning the District’s New Source Review (NSR) stationary source permitting program. This determination is based on a proposed conditional approval, published elsewhere in this issue of the *Federal Register*, of MDAQMD Rules. The effect of this interim final determination is to stay the application of the offset sanction and to defer or stay the action of the highway sanction that were triggered by the EPA’s limited disapproval of MDAQMD Rules on June 30, 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-2025-0625 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: Shaheerah Kelly, U.S. Environmental Protection Agency, Region IX (AIR-3-2), telephone number: (415) 947-4156, email address: kelly.shaheerah@epa.gov.

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

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I. Background

On June 30, 2023, we published a limited approval and limited disapproval of Rules 1301, 1302 (except 1302(C)(5) and 1302(C)(7)(c), which were not submitted for inclusion in the SIP),¹ 1303, 1304, and 1305, as amended on March 22, 2021.² We based our limited disapproval action on deficiencies identified in the submitted rule. This limited approval and limited

¹ Subsections 1302(C)(5)(d) and 1302(C)(7)(c)(iii) of Rule 1302 specifically state that subsections 1302(C)(5) and 1302(C)(7)(c) are not submitted to the EPA and are not intended to be included as part of the California SIP.

² 88 FR 42258.

disapproval action started a sanctions clock for imposition of offset sanctions eighteen (18) months after July 31, 2023, and highway sanctions six (6) months later, pursuant to section 179 of the Act 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 6 months after the offset sanctions, unless we determine that the deficiencies forming the basis of the disapproval have been corrected.

On March 25, 2024, the MDAQMD amended Rules 1301, 1302, 1303, 1304, and 1305. These amended and adopted rules were intended to address the deficiencies that were the basis for our limited disapproval in our June 30, 2023 action.

On August 7, 2024, the California Air Resources Board (CARB) submitted Rules 1301, 1302, 1303, 1304, and 1305 to the EPA,³ and in a June 17, 2024 letter, CARB committed to submit to the EPA a revised MDAQMD Rule 1304 within one year of the EPA's final conditional approval. CARB is the governor's designee for California SIP submittals. In the Proposed Rules section of today's *Federal Register*, we are proposing conditional approval of MDAQMD Rules 1301, 1302 (except 1302(C)(5) and 1302(C)(7)(c)), 1303, 1304, and 1305 because we believe they correct the deficiencies identified in our June 30, 2023 limited disapproval action in accordance with CAA section 110(k)(4), and meet other applicable CAA requirements. Based on today's proposed action, we are taking this final rulemaking action, effective on publication, to stay the imposition of the offset sanction and defer or stay the imposition of the highway sanction that was triggered by our June 30, 2023 limited disapproval.

The EPA is providing the public with an opportunity to comment on this stay of the offset sanction and deferral or stay of the highway sanction. If comments are submitted that change our assessment described in this final determination and our proposed conditional approval of MDAQMD Rules 1301, 1302 (except 1302(C)(5) and 1302(C)(7)(c)), 1303, 1304, and 1305, we

³ The submittal for Rules 1301, 1302, 1303, 1304, and 1305 was transmitted to the EPA via a letter from CARB dated August 6, 2024, and received by the EPA on August 7, 2024.

will take final action to lift this stay of the offset sanction and deferral or stay of the highway sanction pursuant to 40 CFR 52.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks triggered by our June 30, 2023 final action will continue to be stayed or deferred unless and until the conditional approval converts to a disapproval or the EPA proposes to or takes final action to disapprove in whole or in part the revised SIP the State submits to fulfill the commitment in the conditionally-approved submittal, at which time the sanctions would reapply.⁴ Any sanction clock triggered by our June 30, 2023 final action would be permanently stopped and sanctions applied, stayed, or deferred would be permanently lifted upon a final EPA finding that the deficiency forming the basis of the finding has been corrected.⁵

II. EPA Evaluation and Action

We are making an interim final determination to stay the application of the offset sanction and to defer or stay the application of the highway sanction associated with our limited disapproval of MDAQMD Rules 1301, 1302, 1303, 1304, and 1305 (as amended on March 25, 2024). This determination is based on a concurrent proposal to conditionally approve, pursuant to CAA section 110(k)(4), MDAQMD Rules 1301, 1302 (except 1302(C)(5) and 1302(C)(7)(c) which were not submitted for inclusion in the SIP), 1303, 1304, and 1305.

Because the EPA has preliminarily determined that the State's August 7, 2024 submittal more likely than not adequately addresses the deficiencies identified in the EPA's June 30, 2023 limited disapproval action when considered together with the MDAQMD's and CARB's commitment to adopt and submit revisions of MDAQMD Rule 1304 to the EPA, and because the EPA is concurrently proposing to conditionally approve the submittal, the EPA has determined that 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.⁶ However, by this action,

⁴ See 40 CFR 52.31(d)(3)(ii) and (iii).

⁵ See 40 CFR 52.31(d)(5).

⁶ 5 U.S.C. 553(b)(B).

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 stay the application of the offset sanction and defer or stay the application of the highway sanction while the EPA completes its rulemaking process on the conditional 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.⁷

III. Statutory and Executive Order Reviews

This action stays or 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 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.*);

⁷ 5 U.S.C. 553(d)(1).

- 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 approves 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 CAA.

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).

This action is subject to the Congressional Review Act (CRA), 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 action 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 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 CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 15, 2025.

Joshua F. W. Cook,
Regional Administrator, Region IX.

[FR Doc. 2025-13905 Filed: 7/23/2025 8:45 am; Publication Date: 7/24/2025]