



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2025-1708; FRL-12977-01-OGC]

Proposed Settlement Agreement, Clean Air Act Petition for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (“CAA” or “the Act”), notice is given of a proposed settlement agreement to address two petitions for review filed by the Mojave Desert Air Quality Management District (“MDAQMD” or “the District”) in the U.S. Court of Appeals for the Ninth Circuit: *Mojave Desert Air Quality Management District v. EPA*, No. 25-659 (9th Cir.), and *Mojave Desert Air Quality Management District v. EPA*, No. 25-1684 (9th Cir.). MDAQMD filed case number 25-659 on January 31, 2025, and case number 25-1684 on March 13, 2025. Both petitions pertain to Nonattainment New Source Review permitting requirements that apply in the Mojave Desert area under the CAA. The EPA is providing notice of this proposed settlement agreement, which would resolve both of MDAQMD’s petitions for review as specified in the proposed agreement.

DATES: Written comments on the proposed settlement agreement must be received by

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2025-1708, online at <https://www.regulations.gov> (EPA’s preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action.

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Additional Information about Commenting on

the Proposed Settlement Agreement” heading under the **SUPPLEMENTARY**

INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Jeanhee Hong, Air and Radiation Law Office (MC 2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone (202) 564-7606; email address hong.jeanhee@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Settlement Agreement

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2025-1708) contains a copy of the proposed settlement agreement.

The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed settlement agreement and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

II. Additional Information about the Proposed Settlement Agreement

On January 31, 2025, MDAQMD filed a petition for review in the Ninth Circuit Court of Appeals of the EPA’s final action titled, “Federal Implementation Plan for Nonattainment New Source Review Program; Mojave Desert Air Quality Management District, California,”

published at 89 FR 106332 (December 30, 2024) .¹ On March 13, 2025, MDAQMD filed a second petition for review in the Ninth Circuit Court of Appeals asking the Court to “vacate the Offset Sanctions” that applied in the Mojave Desert nonattainment area starting January 31, 2025 as a result of a separate final action taken by the EPA on June 30, 2023, also pertaining to Nonattainment New Source Review requirements.²

Under the terms of the proposed settlement agreement, the MDAQMD agrees to file a pleading for dismissal with prejudice of both petitions if: (1) the EPA takes final action to conditionally approve the MDAQMD rules submitted to the EPA on August 7, 2024;³ (2) the EPA takes final action to fully approve a revision to MDAQMD Rule 1304(C)(2)(d), as described in the settlement agreement; and (3) no petition for review of either of these final actions is filed within sixty days of their respective publications in the *Federal Register*.⁴

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties to the litigation in question. The EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that the agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless the EPA or the Department of Justice determines that the settlement agreement should be withdrawn or withheld, the terms of the agreement will be affirmed.

III. Additional Information about Commenting on the Proposed Settlement

¹ Petition for Review, *Mojave Desert Air Quality Mgmt. Dist. v. EPA*, No. 25-659 (9th Cir.) (filed January 31, 2025) at 1.

² Petition for Review, *Mojave Desert Air Quality Mgmt. Dist. v. EPA*, No. 25-1684 (9th Cir.) (filed March 13, 2025) at 2.

³ See 90 FR 34785 (July 24, 2025) and docket at <https://www.regulations.gov/document/EPA-R09-OAR-2025-0625-0005>.

⁴ The proposed settlement agreement states that if a petition for review is filed within sixty days of publication in the *Federal Register*, other than by the MDAQMD, the MDAQMD “may choose to delay requesting the dismissal with prejudice of case numbers 25-659 and 25-1684 until after the petition(s) for review of the final rule(s) is/are resolved.”

Agreement

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2025-1708, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> 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, 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>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, the EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows the EPA to contact you in case the EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in the EPA's electronic public docket. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to the EPA electronically is the EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means the EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." The EPA is not required to consider these late comments.

Gautam Srinivasan,
Associate General Counsel.

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