ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0061; FRL-12606-02-R9]

Air Plan Revisions; California; Heavy-Duty Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking final action to partially approve and partially disapprove a submission by the State of California to revise its State Implementation Plan (SIP) relating to the control of emissions from non-gasoline combustion vehicles over 14,000 pounds. The EPA's partial approval will allow the submitted Heavy-Duty Inspection and Maintenance Regulation ("HD I/M Regulation") to become federally enforceable as part of the California SIP with respect to vehicles registered within the State. The EPA is partially disapproving the submission to the extent that the HD I/M Regulation purports to apply to out-of-state vehicles as inconsistent with the Clean Air Act (CAA), because the State has not provided adequate assurances under CAA section 110(a)(2)(E)(i) that implementation of the SIP is not prohibited by Federal law. The partial disapproval will not trigger CAA section 179 sanctions because the submittal is not a required submission under CAA section 110(a)(2).

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2025-0061. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

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SUPPLEMENTARY INFORMATION: Throughout this document, the use of "Agency," "we," "us," or "our" refers to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACT – Advanced Clean Trucks
ATA – American Trucking Associations
CAA – Clean Air Act
CAELP – Center for Applied Environmental Law and Policy, Environmental Defense Fund, and Natural Resources Defense Council
CARB – California Air Resources Board
CBI – Confidential Business Information
CCA – Coalition for Clean Air
CCAEJ – Center for Community Action and Environmental Justice and Sierra Club
CCR – California Code of Regulations
CFR – Code of Federal Regulations
CRA – Congressional Review Act
CTA – California Trucking Association
EPA – Environmental Protection Agency
FIP – Federal Implementation Plan
FSOR – Final Statement of Reasons
GVWR – Gross Vehicle Weight Rating
HD I/M – Heavy-Duty Inspection and Maintenance
HDVIP – Heavy-Duty Vehicle Inspection Program
ISOR – Initial Statement of Reasons
MECA – Manufacturers of Emission Controls Association
NTTAA – National Technology Transfer and Advancement Act
NTTC – National Tank Truck Carriers
OBD Standards – California Standards for Heavy-Duty Remote On-Board Diagnostic Devices
OMB – Office of Management and Budget
OOIDA – Owner-Operator Independent Drivers Association

PRA – Paperwork Reduction Act
PSIP – Periodic Smoke Inspection Program
RFA – Regulatory Flexibility Act
RFP – Reasonable Further Progress
SCAQMD – South Coast Air Quality Management District
SIP – State Implementation Plan
TRALA – Truck Rental and Leasing Association
UCS – Union of Concerned Scientists
UMRA – Unfunded Mandates Reform Act
U.S.C. – United States Code
USMCA – United States-Mexico-Canada Agreement

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I. Background

A. CAA Requirements

Under the CAA, the EPA establishes national ambient air quality standards (NAAQS) to protect public health and welfare. The EPA has established NAAQS for certain pervasive air pollutants including ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, lead, and particulate matter. Under CAA section 110(a)(1), States must submit plans that provide for the implementation, maintenance, and enforcement of the NAAQS within each State. Such plans are referred to as SIPs, and revisions to those plans are referred to as "SIP revisions." CAA section 110(a)(2) sets forth the content requirements for SIPs. Among the various requirements, SIPs must include enforceable emissions limitations and other control measures, means, or techniques

as may be necessary or appropriate to meet the applicable requirements of the CAA.[1] SIP revisions may be submitted to address specific CAA requirements (such as the elements and demonstrations required within an attainment plan), or, as with the State submittal addressed in this action, may be provided to demonstrate emissions reductions to support attainment.

Upon receiving a SIP that meets the completeness criteria in CAA section 110(k)(1)(A), the EPA must determine whether the submission meets all applicable CAA requirements.[2] The EPA must either approve, conditionally approve, approve in part and disapprove in part, or disapprove a complete State submission within twelve months.[3] In addition to the limitations described above, CAA section 110(a)(2)(E) provides that a SIP must include "necessary assurances" that the State "is not prohibited by any Federal or State law from carrying out such implementation plan or portion thereof" and that the State or applicable State entity has adequate authority, personnel, and funding to carry out adequate implementation of the SIP.

Under California law, the California Air Resources Board (CARB) is the State agency responsible for adopting and submitting SIP revisions to the EPA for review. These include both local rules adopted by county and regional air districts (typically regulating stationary source emissions) and statewide regulations adopted by CARB and other State agencies. If approved into the SIP, submitted regulations become federally enforceable pursuant to CAA section 110(a)(2)(A).

B. What regulations did the State submit?

CARB submitted the "Heavy-Duty Inspection and Maintenance Regulation"[4] ("HD I/M Regulation") as a revision to the California SIP on December 14, 2022.[5] Table 1 identifies the

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[1] *See* CAA section 110(a)(2)(A).
[2] *See* CAA section 110(k)(3).
[3] *Id.*; CAA section 110(k)(4).
[4] The State of California more commonly refers to the HD I/M Regulation as the "Clean Truck Check." *See, e.g.*, CARB, Clean Truck Check (HD I/M), *https://ww2.arb.ca.gov/our-work/programs/CTC* (last visited January 26, 2026).
[5] Letter (with enclosures) dated December 7, 2022, from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX (submitted electronically December 14, 2022). The letter and enclosures, which include the HD I/M Regulation, among other materials, are included in the docket for this rulemaking.

regulatory sections included in the HD I/M Regulation and addressed by this action with the dates that they were adopted by CARB and submitted to the EPA.

TABLE 1 – SUBMITTED REGULATIONS

Agency	Regulation Title	Relevant Sections of California Code of Regulations (CCR)	Adopted	Submitted
CARB	Heavy-Duty Vehicle Inspection and Maintenance Program	Amended section: 13 CCR 2193; New sections: 13 CCR 2195, 2195.1, 2196, 2196.1, 2196.2, 2196.3, 2196.4, 2196.5, 2196.6, 2196.7, 2196.8, 2197, 2197.1, 2197.2, 2197.3, 2198, 2198.1, 2198.2, 2199, and 2199.1	12/09/2021	12/14/2022

The HD I/M Regulation incorporates by reference the "California Standards for Heavy-Duty Remote On-Board Diagnostic Devices" ("OBD Standards"). CARB approved the HD I/M Regulation on December 9, 2021, through Resolution 21-29. Following minor, non-substantive edits by CARB staff,[6] CARB formally adopted the final HD I/M Regulation and OBD Standards on August 22, 2022, through CARB Executive Order R-22-002. For more information on the HD I/M Regulation, including the EPA's prior actions on precursor SIP submittals, see section II of the preamble to the proposed action.[7]

C. What is the purpose of the submitted regulations?

Based on ambient data collected at numerous sites throughout the State, the EPA designated certain areas within California as nonattainment for the ozone NAAQS and the particulate matter (PM) NAAQS, which includes both coarse and fine particulate matter (i.e., PM_{10} and $PM_{2.5}$).[8] The EPA redesignated to attainment several areas in California previously designated as nonattainment for the carbon monoxide NAAQS because these areas attained the standard and are subject to an approved maintenance plan demonstrating how the State will maintain the carbon monoxide standard into the future.

Mobile source emissions constitute a large portion of overall emissions of ozone

[6] CARB, Addendum to the Final Statement of Reasons for Rulemaking, "Public Hearing to Consider Proposed Heavy-Duty Inspection and Maintenance Regulation" (October 4, 2022).
[7] 90 FR 41525, 41528 (August 26, 2025).
[8] *See generally* 40 CFR 81.305.

precursors, including volatile organic compounds (VOC) and oxides of nitrogen (NO_X), as well as direct PM and PM precursors, including NO_X, sulfur dioxide (SO_2), and carbon monoxide in the various air quality planning areas within California.[9] According to CARB, heavy-duty vehicles constitute 52 percent of the on-road NO_X emissions and 54 percent of on-road $PM_{2.5}$ emissions.[10] In addition, according to CARB, out-of-state or out-of-country heavy-duty vehicles constitute approximately half of the total number of heavy-duty vehicles travelling in the State and approximately 30 percent of heavy-duty vehicle NO_X emissions.[11] According to CARB, the HD I/M Regulation is intended to reduce $PM_{2.5}$ and NO_X emissions from heavy-duty non-gasoline combustion vehicles operating in California to further ozone and PM attainment by areas within the State.[12]

The HD I/M Regulation establishes a comprehensive I/M program for heavy-duty vehicles that is intended to ensure that vehicle emissions control systems on these vehicles are operating as designed and repaired quickly. CARB asserted that this regulatory revision builds on CARB's current heavy-duty inspection programs, including building on and replacing the Heavy-Duty Vehicle Inspection Program and Periodic Smoke Inspection regulations for heavy-duty vehicles.[13]

The HD I/M Regulation applies to all non-gasoline combustion vehicles above 14,000 gross vehicle weight rating (GVWR) that operate in California. Unlike virtually all prior CARB regulations and similar regulations adopted by other States, the HD I/M Regulation would also apply to vehicles registered out-of-state and out-of-country that operate within the State of

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[9] VOC and NO_X are precursors responsible for the formation of ozone, and NO_X and SO_2 are precursors for $PM_{2.5}$. SO_2 belongs to a family of compounds referred to as sulfur oxides. $PM_{2.5}$ precursors also include VOC and ammonia. *See* 40 CFR 51.1000.

[10] *See* "Public Hearing to Consider the Proposed Heavy-Duty Inspection and Maintenance Regulation – Staff Report: Initial Statement of Reasons," October 8, 2021, at I–2 ("Staff Report").

[11] *Id*. at II–2.

[12] *Id.* at II–1.

[13] 13 CCR 2180 through 2189. These programs are sunset under 13 CCR 2199.1, which is included in the HD I/M Regulation SIP submittal.

California for almost any length of time.[14] Some vehicle categories are exempted, including zero-emission vehicles (i.e., electric vehicles), emergency and military tactical vehicles, and other classes defined by use or purpose. There is a limited 5-day pass-through exception permitting program which contemplates that a "vehicle owner may obtain written approval from the Executive Officer to operate a vehicle for up to five consecutive calendar days without being subject to" 13 CCR 2196.1(a)(1) and (2), which govern the owner operator requirements.[15] The 5-day exemption is available once per calendar year to vehicles with no outstanding enforcement actions. The five days must run consecutively after approval and the application must be sent at least seven business days "prior to the vehicle's planned travel or entry in California."[16] Vehicle owners must request the exemption in advance through CARB's compliance platform by providing a variety of information, including the vehicle's registration information, vehicle identification number (VIN), relevant dates, and origin and destination information. If granted, the owner must keep the pass document in the vehicle and provide it to CARB inspectors upon request.

The HD I/M Regulation requires owners of heavy-duty vehicles operating in California (including out-of-state and out-of-country vehicles) to report owner and vehicle information to CARB. It also requires owners of heavy-duty vehicles to demonstrate that their vehicle emissions control systems are properly functioning through vehicle compliance tests completed by CARB-approved testers and to periodically submit vehicle compliance test results to CARB. Vehicles equipped with on-board diagnostic (OBD) systems can be tested using OBD data, while older non-OBD vehicles are subject to smoke opacity and visual inspections. Vehicle owners are also required to have a valid HD I/M compliance certificate with the vehicle while operating in California, which they must present to a CARB inspector and/or California Highway Patrol

[14] The HD I/M Regulation permits entities subject to the rule to apply once per calendar year for a 5-day "pass through" exception which must be granted in each instance and on an individualized basis. The EPA notes that California has not provided assurances that this additional compliance step meaningfully changes the coverage of the HD I/M Regulation.
[15] 13 CCR 2196(d).
[16] 13 CCR 2196(d)(1).

officer upon request.

The HD I/M Regulation also establishes a referee testing network to provide independent evaluations of heavy-duty vehicles and services for vehicles with inspection incompatibilities or compliance issues. Finally, the HD I/M Regulation describes procedures for HD I/M roadside inspections, including roadside monitoring and field inspections.

D. What did the EPA propose?

On August 26, 2025, the EPA proposed to partially approve and partially disapprove, or, in the alternative, to fully approve, the HD I/M Regulation into the California SIP.[17] While the Agency proposed to find that the submission generally meets applicable requirements of the CAA and implementing regulations, the EPA proposed to partially disapprove because of substantial concerns with allowing provisions in the HD I/M Regulation that purport to regulate vehicles registered out-of-state and out-of-country to become federally enforceable.

Specifically, the EPA proposed that California had not provided necessary assurances that the State is not prohibited by any provision of Federal or State law from implementing the SIP, as required by CAA section 110(a)(2)(E)(i). The Agency proposed that the Commerce Clause of the U.S. Constitution appears to prohibit implementing the HD I/M Regulation because its extraterritorial reach burdens core instrumentalities of interstate commerce, that is, heavy-duty vehicles used in interstate shipping. The Agency noted that the HD I/M Regulation effectively outsources the costs of emissions reductions within California to other States and regulated entities in those States by requiring compliance with California's inspection and maintenance ("I/M") regime even when the vehicles are not within California. The Agency also noted that under the structure of CAA section 110, a full approval of the HD I/M Regulation would effectively force regulated entities in other States to comply with California's HD I/M requirements, rather than the applicable requirements in their respective States, including requirements approved by the EPA pursuant to the CAA. Finally, we proposed that the

[17] 90 FR 41525, 41527-29.

extraterritorial reach of the HD I/M Regulation appears to abrogate the foreign relation powers vested exclusively in the Federal Government by the U.S. Constitution.

The EPA further proposed that the extraterritorial reach of the HD I/M Regulation is inconsistent with CAA section 110. The Agency observed that CAA section 110 requires the submission of SIPs by each State and that full approval of the submission would, by making the HD I/M Regulation federally enforceable, potentially result in multiple conflicting sources of obligations. The Agency also noted that the HD I/M Regulation was unusual in this respect and requested comment on all aspects of the proposal, including whether a full approval of the State's submission would raise additional concerns under any other Federal or State law.

II. The EPA's Evaluation and Final Action

After reviewing California's submission and all comments received during the public comment period, the EPA is finalizing a partial approval and partial disapproval that will allow the HD I/M Regulation to go into effect for CAA purposes except to the extent it applies to vehicles registered outside the State. As previously noted, the CAA expressly requires that a SIP submittal "shall" provide "necessary assurances" that the State "is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof."[18] The EPA cannot approve a SIP submission, thereby making it effective for CAA purposes and federally enforceable, unless "it meets all of the applicable requirements of this chapter."[19]

The EPA determines that California has not provided necessary assurances that the State is not prohibited by Federal law—specifically, the Clean Air Act and the Commerce Clause of the U.S. Constitution—from implementing the HD I/M Regulation to the extent it purports to regulate vehicles registered out-of-state or out-of-country based solely on whether such vehicles traverse California for virtually any length of time. As discussed at proposal and reinforced by

[18] CAA section 110(a)(2)(E)(i).
[19] CAA section 110(k)(3); *see, e.g.*, *Safe Air for Everyone v. EPA*, 488 F.3d 1088, 1093 (9th Cir. 2007) ("Before a SIP becomes effective, EPA must determine that it meets the CAA's requirements.").

several commenters, the State's submission externalizes the cost of additional emissions reductions (out-of-state vehicles that must comply with California's I/M regime on an ongoing basis) to achieve localized benefits (additional emissions reductions that assist California in demonstrating attainment of the NAAQS for the benefit of California residents).

The Supreme Court has explained that the "dormant" Commerce Clause prohibits "even nondiscriminatory burdens on commerce" when "those burdens clearly outweigh the benefits of a state or local practice." *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 392 (2023) (Roberts, C.J., concurring in part and dissenting in part).[20] Such burdens are of particular concern when they impose costs on interstate trade, *see, e.g.*, *Kassel v. Consol. Freightways Corp.*, 450 U.S. 662, 674 (1981) (plurality op.); *Raymond Motor Transp., Inc. v. Rice*, 434 U.S. 429, 445 & n.21 (1978), where "the nature of" the market means that a State regulation generates costs whether or not participants sell into the regulating State, *Nat'l Pork Producers*, 598 U.S. at 400 (Roberts, C.J., concurring in part and dissenting in part), and where a State regulation targets "instrumentalities of interstate transportation—trucks, trains, and the like," *id.* at 379-80 & n.2 (majority op.); *accord id.* at 392 (Sotomayor, J., concurring in part).

In this context, Congress has exercised its exclusive regulatory authority over interstate commerce by enacting CAA section 110 and related provisions specifying States' obligations to attain the NAAQS. Under CAA section 110, "*each* State" must develop and submit a plan for implementing, maintaining, and enforcing the NAAQS "*within* such State."[21] As a general matter, the Clean Air Act assigns national regulation, including the regulation of interstate air pollution and standards-setting for mobile sources, to the EPA. For example, title II of the Act authorizes the EPA to set mobile source standards when certain conditions are met and expressly preempts the adoption or attempted enforcement of State standards (including certification,

[20] As explained at proposal, a majority of the Court in *National Pork Producers* affirmatively retained the balancing test in *Pike v. Bruce Church, Inc.*, 397 U.S. 137 (1970), for assessing the validity of State regulations against the "dormant" aspect of the Commerce Clause. 90 FR 41525, 41528 & n.22.
[21] CAA section 110(a)(1), (2) (emphases added).

inspection, and approval requirements for sale, titling, or registration) except through the preemption waiver and waiver adoption processes in CAA sections 177 and 209.[22] Similarly, the Act generally does not permit States to outsource the costs of emissions reductions within their borders onto other States except where expressly authorized.[23] Under CAA section 110(a)(2)(D)(i)(I), for example, States must submit plans to restrict certain emissions within their borders if such emissions contribute significantly to nonattainment in other States.

Here, California's SIP submission seeks to remedy local nonattainment by extending the State's regulatory reach to vehicles registered in other States, and even other countries, that happen to traverse the State. As explained at proposal and confirmed in this final action, out-of-state vehicle owners and operators effectively must comply with the HD I/M Regulation given the volume of interstate trucking that passes through California, the uncertainties regarding whether and when a route will cross through California over the course of a year, and the significant penalties associated with failure to comply. This result is not contemplated or authorized by CAA section 110, which requires "each State" to implement the NAAQS "within such State," and does not fall within any of the exceptional provisions of the Act that contemplate one State reaching into another State in pursuit of air quality improvements within its own borders. This is not a lawful use of the CAA's SIP provisions, which instruct each State to adopt appropriate controls for that State and prohibit the approval of SIPs not supported by "necessary assurances" of legality under Federal and State law. California may adopt and seek approval of a broad range of strategies to promote NAAQS attainment within the State, including by adopting additional controls for vehicles registered within the State. But it cannot (at

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[22] *See* CAA sections 209(a) (preempting the implementation or enforcement of vehicle and engine emission standards, including certification, inspection, and other approval requirements), 209(b) (setting out the process for requesting and issuing a preemption waiver), and 177 (authorizing States to elect to implement standards for which a preemption waiver has been granted under certain conditions). Notably, the title II preemption provision includes a savings clause authorizing State regulation of "the use, operation, or movement of *registered or licensed* motor vehicles," suggesting a recognition that State regulatory authority is linked to vehicles registered or licensed by the regulating State. CAA section 209(d) (emphasis added).

[23] *See generally* 13 CCR 2196; *see also* Comment ID EPA-R09-OAR-2025-0061-0047 (demonstrating how referee locations are "only found in California" and therefore inequitably discriminate against out-of-state residents in both costs imposed and the burdens in seeking to comply).

minimum, without providing necessary assurances) outsource the costs of local attainment to out-of-state and out-of-country vehicle owners and operators through a regulation that would, if approved, become federally enforceable throughout the country in lieu of adopting additional controls for vehicles registered within the State. Nothing in California's submission provides necessary assurances that implementing the HD I/M Regulation in full would not contravene Federal law, and California continues to maintain that its submission not only can, but must, be approved and made federally enforceable under the CAA.

While not necessary to the EPA's determination that the SIP submission fails to provide necessary assurances, the HD I/M Regulation also arguably discriminates against out-of-state vehicle owners and operators by externalizing the costs of achieving the local benefits of NAAQS attainment. Nothing about the regulatory goals of the HD I/M Regulation *required* California to extend compliance requirements to out-of-state vehicles or to make that extension federally enforceable by seeking approval in the State's SIP. Rather than taking this novel approach, California could have limited its application to vehicles registered within the State and adopted additional controls for vehicles registered within the State (or for other sources that emit the relevant pollutants), thereby achieving significant progress toward NAAQS attainment without raising interstate commerce concerns. Indeed, the HD I/M Regulation includes provisions specific to out-of-state vehicles, and CARB separately estimated emissions reductions attributable to in-state and out-of-state vehicles.[24] The choice to extend the regulation to out-of-state and out-of-country vehicles was deliberate and unnecessary to the operation of the regulatory scheme with respect to vehicles registered within the State. In this way, the SIP submittal arguably discriminates against out-of-state vehicles by subjecting them to additional regulatory requirements that apply year-round and regardless of location in exchange for localized benefits. California's legitimate objective, reducing emissions to comply with its

[24] *See* Cal. Health & Safety Code §§ 44011.6, 44011.7; *see also* Staff Report, which breaks out said costs and emissions estimates by in-state and out-of-state operators.

NAAQS obligations under Federal law, does not require regulation of all trucks nationwide that may traverse the State, particularly in a manner in which the burdens of compliance fall disproportionately on out-of-state owners and operators as compared to vehicles registered within the State.[25] Put another way, extending the regulation to out-of-state vehicles serves the illegitimate objective of outsourcing the costs of attaining the NAAQS within California to other States and vehicle owners and operators in those States, rather than identifying additional emissions reduction strategies within the traditional ambit of purely in-state sources encompassed within and creditable to the State of California.

The discrimination at issue here is different in kind from the indirect impacts to interstate commerce permitted by the Supreme Court's Commerce Clause jurisprudence. In *National Pork Producers*, the Court rejected an "almost per se" Commerce Clause challenge to a California law that sought to promote the humane treatment of animals by barring California merchants from selling non-compliant pork within California. 598 U.S. at 367 (majority op.); *see also id.* at 384 (plurality op.) (emphasizing that the law regulated sales within California and that non-compliant producers remained free to "withdraw from that State's market"). In contrast here, the HD I/M Regulation would, if approved into the SIP, apply directly to and be federally enforceable against out-of-state and out-of-country vehicle owners and operators even if they conduct no business in California. Trucks shipping apples from Washington to Arizona, or export goods from Texas to ports on the Pacific Ocean, would be obligated to comply merely because they passed through California. As already discussed, proactive compliance by many out-of-state interstate shippers would be the only practicable option to avoid noncompliance and significant fines. This extraterritorial scope exceeds the localized scope of California's interest. Nor is California's goal

[25] *See* Comment ID EPA-R09-OAR-2025-0061-0044; Comment ID EPA-R09-OAR-2025-0061-0001 (pointing out the national character of the proposed regulation). Additionally, commenters asserted that the regulation imposes itself upon the testing apparatus of other States and unfairly burdens their residents with compliance. *See* Comment ID EPA-R09-OAR-2025-0061-0025 (pointing out infeasibility of out-of-state testers satisfying CARB). Finally, one commenter points out that in order to challenge supposed violations, out-of-state operators "must request a hearing with the CARB Hearing Coordinator and make arrangements to return to California" thus logistically crippling small business operators with unfair compliance burdens. Comment ID EPA-R09-OAR-2025-0061-0048.

of demonstrating compliance with its statutory obligations, thereby avoiding potential bump-ups in nonattainment level by operation of the statute, directly related to the health, safety, or other interests the Court has recognized as grounds for permissible in-state regulation imposing indirect out-of-state burdens. *Id.* at 374-75 (majority op.). Rather, the out-of-state reach of the SIP submission is explicitly tied to more effectively meeting California's obligations under the CAA's NAAQS implementation provisions, including deadlines for attainment and reclassification. And the SIP submission's out-of-state reach pursues that goal by imposing costs on interstate trucking, a function the Court specifically noted warrants a more exacting analysis. *Id.* at 379 n.2 (majority op.) ("[T]his Court [has] refused to enforce certain state regulations on instrumentalities of interstate transportation—trucks, trains, and the like. …Nothing like that exists here. We do not face a law that impedes the flow of commerce. Pigs are not trucks or trains.").[26]

Regardless of whether the regulation at issue here is discriminatory, a showing of discrimination is not required under *Pike v. Bruce Church, Inc.*, 397 U.S. 137 (1970), or related cases. In *National Pork Producers*, a majority of the Supreme Court "le[ft] the courtroom door open to plaintiffs invoking the rule in *Pike*, that even nondiscriminatory burdens on commerce may be struck down on a showing that those burdens clearly outweigh the benefits of a state or local practice."[27] And the Court has long recognized special considerations for instrumentalities of commerce (including interstate trucking).[28] This line of cases is directly on-point and demonstrates that the HD I/M Regulation at issue here warrants careful consideration. The SIP submittal's intended applicability to interstate trucking beyond the borders of California (and that

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[26] As noted at proposal and confirmed in this final action, the EPA's full approval of the SIP submittal would also threaten to impose conflicting obligations with respect to I/M requirements. *See, e.g.*, *Exxon Corp. v. Gov. of Md.*, 437 U.S. 117, 128 (1978) (distinguishing between the retail market and regulation that impedes the flow of goods and risks "that the several States will enact differing regulations").

[27] 598 U.S. at 395-96 (Roberts, C.J., concurring in part and dissenting in part).

[28] *See id.* at 379 n.2 (majority op.) ("[T]here exists a strong line of cases that originated before *Pike* in which th[e] Court refused to enforce certain state regulations on instrumentalities of interstate transportation—trucks, trains, and the like."); s*ee, e.g.*, *Bibb v. Navajo Freight Lines, Inc.*, 359 U.S. 520, 523-30 (1959) (concerning a State law specifying certain mud flaps for trucks and trailers); *S. Pac. Co. v. Arizona ex rel. Sullivan*, 325 U.S. 761, 763-82 (1945) (addressing a State law regarding the length of trains).

which passes through California, at least on occasion, owing to the nature of the market) appears to contravene case law evaluating State laws which impose undue burdens upon the instrumentalities of interstate commerce. California provided no assurances to the contrary in its SIP submission and continues to maintain its entitlement to impose such burdens under the CAA. As articulated in greater detail in our responses to comments in section III of this preamble, the EPA views the burdens of a fully approved SIP submission on interstate commerce as significant. Such significant burdens outweigh the proposed local compliance benefits of the regulation and therefore run afoul of the Commerce Clause. As one commenter explained: "The program's overreach will result in the potential for de facto regulation of out-of-state rented or leased trucks across the country even though renting and leasing companies have no control [over] whether their trucks' routes include traveling into California. . . . CARB's HD I/M program disproportionately affects out-of-state rental and leasing company operations and finances . . . in clear violation of the Dormant Commerce Clause."[29]

Unlike virtually all prior CARB regulations and similar regulations adopted by other States, the HD I/M Regulation would apply to vehicles registered out-of-state and out-of-country that operate within the State of California for almost any length of time. Because approval of a SIP makes its requirements federally enforceable,[30] the regulation would, in effect, become a Federal regulation enforceable by the EPA (and citizen-suit plaintiffs)[31] against any owner or operator in all fifty States of any heavy-duty vehicle that may pass through California.[32]

As addressed in section III of this preamble, Response to Comments, this would in effect lead to additional compliance costs for heavy-duty vehicle operators in all jurisdictions. Some States have HD I/M provisions that differ from California's in material respects, but none of

[29] Comment ID EPA-R09-OAR-2025-0061-0036.
[30] CAA section 110(k).
[31] CAA sections 113, 304.
[32] Comment ID EPA-R09-OAR-2025-0061-0035 (highlighting how the SIP creates duplicative regimes across States increasing compliance costs); Comment ID EPA-R09-OAR-2025-0061-0047 (demonstrating how referee locations are "only found in California" and therefore inequitably discriminate against out-of-state residents in both costs and seeking to comply).

these have been approved into SIPs.[33] If approved into the SIP in all respects, California's HD I/M Regulation would be federally enforceable to the same extent as other State I/M regulations, including any that may be approved by the EPA in the future pursuant to CAA section 110. The result would be multiple conflicting sources of obligations that are enforceable both within the respective States and federally under the CAA.

Additionally, the SIP would require owners of heavy-duty vehicles to demonstrate that their vehicle emissions control systems are properly functioning through vehicle compliance tests completed by CARB-approved testers and require such owners to periodically submit vehicle compliance test results to CARB to show compliance with the HD I/M Regulation. Vehicles equipped with OBD systems would have to be tested using OBD data, while older non-OBD vehicles would be subject to smoke opacity and visual inspections. Lastly, vehicle owners would be required to have a valid HD I/M compliance certificate with the vehicle while operating in California presentable to a California Highway Patrol officer upon request. As CAA section 202(m) authorizes the EPA to regulate and require such OBD systems for heavy-duty vehicles, the imposition of a State program which would be national in character also risks intrusion into an area reserved to Federal authority.[34] The CAA's requirements and procedures for California to seek and obtain a preemption waiver, and for other States to adopt California standards for which preemption has been waived, do not apply to this submission, and nothing in CAA section 110 suggests that the statute's provisions for SIP development and submission can function as a workaround for the requirements of CAA sections 177 and 209.

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[33] *See* 6 NYCRR Subpart 217-5 (New York Heavy Duty Inspection and Maintenance Program), N.J.A.C. 7:27-14 (New Jersey Control and Prohibition of Air Pollution); ORS 815.200-215 (Oregon motor vehicle pollution control); *see also* Comment ID EPA-OAR-2025-0061-0047 ("Existing HD I/M programs, or new programs adopted in the future, may not all have identical requirements, but any discrepancies are likely to have an immeasurable impact on air quality outcomes provided they are target high-emitting vehicles. Greater assurances are needed that the emissions benefits from these separate programs are properly accounted for and do not overlap.").

[34] Comment ID EPA-R09-OAR-2025-0061-0019 (highlighting the creation of conflicting implementation schemes across States imposed by the SIP); Comment ID EPA-OAR-2025-0061-0018 (out-of-state residents being fined for non-compliance with limited options in home State for remediation); Comment ID EPA-R09-OAR-2025-0061-0036 (illustrating how over compliance out of caution is the only prevention from incurring unknown fines from CARB for out-of-state operators); Comment ID EPA-R09-OAR-2025-0061-0048 (pointing out the trespass into Federal authority by CARB's regulation).

The impact of California's HD I/M Regulation on vehicles registered out-of-state (and out-of-country) and on interstate shipping is significant. The HD I/M Regulation adds significant costs to operation of heavy-duty vehicles even within California. According to the CARB Staff Report, the HD I/M Regulation will cost $4.12 billion between 2023–2050, with a maximum annual cost of $350 million in 2024. Many of these costs relate to heavy-duty vehicle testing, repair, and compliance fees.[35] But this analysis, which seeks to balance these costs against the benefits of promoting local NAAQS compliance, improperly weighs the benefits to California against costs imposed nationwide. As commenters point out, overcompliance costs and unknowing violations risk fines and burdens imposed outside the borders of California. The EPA notes that many heavy-duty vehicles covered by the regulations at issue are used for purposes of interstate shipping, and that maintenance of those vehicles could occur in any number of States, meaning the burdens of compliance could be felt across the country and even in other countries. The outsourcing of costs and burdens to other States in pursuit of local benefits via the SIP misunderstands the ambit of State regulation and the Commerce Clause limits on the State's powers. The regulatory regime imposed by the SIP, which reports in-state benefits against conservative estimates of out-of-state burdens, calls into question the entirety of the State's cost-benefit analysis as addressed more fully in section III of this preamble.[36]

Contrary to claims made by some adverse commenters, the EPA need not specify a less discriminatory approach for California to follow that would comply with the Commerce Clause and therefore render the SIP approvable under the CAA.[37] Under the *Pike* analysis, the availability of a less discriminatory approach to achieve a regulatory goal is but one of many

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[35] Staff Report at IX–14.

[36] To cite one example, the Center for Community Action and Environmental Justice refused in its comment to acknowledge the modifications needed to CARB's initial cost-benefit estimates in light of recent resolutions enacted by Congress and signed by the President to void EPA preemption waivers for three California mobile-source regulations. The commenter stated without evidence that this recent legislation is illegal. For that reason, among others, the record includes inconsistent data and estimates with respect to the predicted impacts of the HD I/M Regulation. *See* Comment ID EPA-R09-OAR-2025-0061-0040.

[37] *See* Comment ID EPA-R09-OAR-2025-0061-0039; Comment ID EPA-R09-OAR-2025-0061-0034; Comment ID EPA-R09-OAR-2025-0061-0019.

factors a reviewing court may consider in evaluating whether a State regulation infringes on Federal authority reserved to Congress by the Commerce Clause.[38] When relevant, courts generally place the burden on the regulating State to explain why alternatives that are less burdensome on interstate commerce and out-of-state economic activity were not considered and adopted.[39] The EPA is not required to identify alternatives in this context, including because the CAA's requirement for necessary assurances is a mandatory element of a fully approvable SIP submission. In any event, a less discriminatory alternative is both apparent and reflected in the Agency's proposal: California may achieve significant emissions reductions creditable to NAAQS attainment by implementing the HD I/M Regulation to vehicles registered within the State and, as necessary and appropriate, developing additional controls for in-state registered vehicles and potentially other categories of in-state sources. This final action approves the SIP submittal to that extent while, at the same time, disapproving the submittal to the extent that it purports to infringe on interstate commerce by regulating and burdening interstate trucking.

California's submission does not contain necessary assurances to demonstrate that the HD I/M Regulation can be implemented if approved as to out-of-state and out-of-country vehicles without running afoul of Commerce Clause principles, as required by CAA section 110(a)(2)(E). The SIP rests on a misunderstanding of the reach of the State's regulatory authority and the division of authority between the EPA and the States under the CAA, including CAA section 110. California may regulate I/M activities for vehicles registered within the State consistent with Federal law and may submit such regulation for approval to satisfy the State's NAAQS attainment obligations under Federal law. But the EPA cannot authorize California to become a de facto Federal regulator by making the State's HD I/M Regulation federally

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[38] *See*, *e.g.*, *Hughes v. Oklahoma*, 441 U.S. 322, 338 (1979) (invalidating local regulation under the Commerce Clause despite acknowledging "nondiscriminatory alternatives [that] would seem likely to fulfill the State's purported legitimate local purpose"); *Granholm v. Heald*, 544 U.S. 460, 493 (2004) (discriminatory state regulations may be upheld only after findings that nondiscriminatory alternatives will prove unworkable).

[39] *See, e.g.*, *Am. Bev. Ass'n v. Snyder*, 735 F.3d 362, 376 (6th Cir. 2013) (holding that a Michigan product-labeling requirement violated the Commerce Clause by requiring a unique to Michigan labelling system by out-of-state firms "without the consideration of other less burdensome alternatives").

enforceable through approval into the SIP. Under the circumstances presented here, approval of the SIP would not be consistent with CAA section 110(a)(2)(E).[40]

In response to the proposal, CARB asserted that the HD I/M Regulation, including implementation of its provisions with respect to out-of-state and out-of-country vehicles passing through California, is necessary to demonstrate attainment with the NAAQS in several of the State's air quality regions. According to CARB, the regulation is projected to reduce NO_X emissions statewide by approximately 81 tons per day in 2037 and 110 tons per day in 2050, and directly emitted $PM_{2.5}$ emissions statewide by approximately 0.7 tons per day in 2037 and 0.9 tons per day in 2050. CARB does not clearly delineate between benefits attributable to in-state vehicles and out-of-state and out-of-country vehicles in this calculation presented in comment. The HD I/M Regulation is additionally expected to reduce NO_X emissions in the South Coast Air Basin by approximately 22 tons per day in 2037 and 29 tons per day in 2050, and directly emitted $PM_{2.5}$ emissions by approximately 0.2 tons per day in 2037 and 2050. Finally the HD I/M Regulation is expected to reduce NO_X emissions in the San Joaquin Valley by over 21 tons per day in 2037 and approximately 30 tons per day in 2050, and directly-emitted $PM_{2.5}$ emissions by approximately 0.2 tons per day in 2037 and 2050. But CARB goes on to admit that these regulations extend to out-of-state vehicles by stating that "[o]ver 750,000 vehicles and 260,000 fleets, respectively, are currently registered in the program. The majority of these vehicles and fleets are registered in California."[41] Thus, CARB acknowledges that the projected emissions reductions attributed to the HD I/M Regulation—which it identifies as needed to discharge

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[40] Under the *Pike* balancing test, that aspect of the regulation appears to place substantial burdens on interstate commerce that are not justified by local benefits. Nor is it clear that the State has a legitimate interest in extending the regulation to out-of-state and out-of-country vehicles for the purpose of satisfying California's obligations to demonstrate compliance with the NAAQS. Under established precedent, benign State objectives in regulation that burdens interstate commerce must balance against the burdens imposed. *See Raymond Motor Transp.*, 434 U.S. at 445 (finding a State law banning vehicle length, despite its potential safety benefits and the presumption of validity afforded to laws passed within a traditional state domain, to be an unconstitutional burden to interstate commerce); *Burlington N. R. Co. v. Nebraska*, 802 F.2d 994, 1001 (8th Cir. 1986) ("'Regulations designed for [a] salutary purpose nevertheless may further the purpose so marginally, and interfere with commerce so substantially, as to be invalid under the Commerce Clause.'" (quoting *Kassel*, 450 U.S. at 670 (plurality op.)) (holding a State law banning double-trailers unconstitutional based on interstate burden).

[41] Comment ID EPA-R09-OAR-2025-0061-0045.

statutory obligations to attain the NAAQS—are in no small part reliant on regulating vehicles registered and primarily operating outside of the State. In a comment submission, the Union of Concerned Scientists (UCS) estimates that "[i]n 2025, out-of-state vehicles made up at least 13 percent of [heavy duty vehicles] operating on California's roads and highways [with] . . . out-of-state [vehicles] . . . responsible for more than 34 percent of NO_X emissions and over 39 percent of $PM_{2.5}$."[42] Thus, based on this comment in support of the HD I/M Regulation, over a third of the emission reductions benefits for NAAQS compliance are achieved by impermissibly burdening the citizens and businesses of other States.

Relatedly, the EPA determines that California's submission cannot be approved in full because it conflicts with CAA section 110 and related provisions of the statute. The EPA's concern in this respect is heightened by the structure of CAA section 110 and the way in which a full approval of the HD I/M Regulation would operate on the ground. In effect, an approval would delegate to California the ability to enforce the State's I/M requirements throughout the nation to the extent a vehicle passes through or operates within the State for virtually any length of time. As commenters make clear, the nature of the trucking industry ensures that almost all out-of-state operators would be forced into compliance to avoid unknowing and incidental violations of these requirements. As a result, an approval would effectively force regulated entities in other States to comply with California's HD I/M requirements, rather than the applicable requirements in their respective States, including requirements approved by the EPA pursuant to the CAA.[43] That interstate regulatory function is vested exclusively in Congress by the Commerce Clause, and the result of the EPA's approval under the circumstances risks precisely the abrogation of Federal authority that the Supreme Court has held the Commerce

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[42] Comment ID EPA-R09-OAR-2025-0061-0041; *see also* Comment ID EPA-R09-OAR-2025-0061-0042 which estimates that "[a]pproximately half of the trucks operating in California are out-of-state or out-of-country" before advocating the "necessit[y] [of] the applicability of the HDIM program [beyond California] to adequately address harmful emissions." This comment seems to suggest that California has the authority to seek to regulate all jurisdictions globally under this program and should seek to exercise such authority.

[43] As noted elsewhere in this preamble and by commenters, burdens on out-of-state and out-of-country owners and operators would be more significant than for in-state vehicles to the extent CARB-approved testers and other necessary compliance steps are not readily available outside California.

Clause prohibits.

The Commerce Clause analysis discussed in this section follows from the Supreme Court's recognition that the Clause contains "a negative command" that forbids "certain state [economic regulations] even when Congress has failed to legislate on the subject." *Okla. Tax Comm'n v. Jefferson Lines, Inc.*, 514 U.S. 175, 179 (1995). Here, Congress has affirmatively legislated on the subject by providing the framework for States to implement CAA requirements for attaining the NAAQS, subject to EPA approval. CAA section 110 requires "[e]ach State" to "adopt and submit to the Administrator … a plan which provides for implementation, maintenance, and enforcement" of the NAAQS "within such State."[44] In addition to the role carved out for "[e]ach State," Congress vested the EPA with exclusive authority to promulgate standards and regulations relevant to attainment, including the NAAQS themselves under CAA sections 108 and 109 and generally applicable regulations that lower emissions under CAA sections 111 and 202, among other provisions. As discussed at proposal, approving California's HD I/M Regulation in full—and thereby making it federally enforceable—interferes with this statutory scheme by placing California in the driver's seat across all fifty States.

If approved, California's regulation would be federally enforceable against any heavy-duty vehicle that may pass through California, although those vehicles may already be subject to I/M regulations applicable in the State of registration. Thus, a vehicle registered in any other State would be subject to both its own local state laws and the California SIP overlaid and enforceable under Federal law. California law would effectively take precedence over any other State's, and over applicable EPA regulations.

In addition, approval of California's regulation would create an inherent tension with any other State seeking to adopt an HD I/M regulation into a SIP as part of an emissions reduction strategy. Courts have held that all measures used to attain the NAAQS must be included in the

[44] CAA section 110(a)(1).

relevant State's SIP.[45] If another State seeks SIP approval for an HD I/M regulation that is less stringent than or different from California's, and if the EPA approves such a SIP submission, vehicles may be subject to multiple federally enforceable I/M requirements that differ from or contradict each other. And if the EPA denies such a SIP submission by another State in order to avoid this result, the approval of California's SIP submission will have effectively barred other States from utilizing the same strategy as California to comply with Federal NAAQS obligations under CAA section 110. California alone would be able to benefit its own residents in complying with NAAQS requirements at the expense of other States' residents. Nor do the CAA's SIP provisions contemplate California using its SIP submission to pressure other States seeking to obtain emissions reductions from an I/M program to adopt regulations identical to California's. Even if another State submitted an identical regulation, it would be unclear whether and how much emissions reductions could be attributed to that State's SIP rather than California's program. The CAA provides specific requirements and procedures where California seeks to obtain a preemption waiver and other States seek to follow California's regulations—CAA sections 177 and 209—that are not applicable to this SIP submission under CAA section 110.

Therefore, pursuant to CAA section 110(k)(3), the EPA is partially approving the HD I/M Regulation into the California SIP to the extent the regulation applies to vehicles registered in the State. This partial approval action incorporates into the California SIP the submitted regulations in table 1 of this preamble and will replace the Heavy-Duty Vehicle Inspection Program[46] (HDVIP) and Periodic Smoke Inspection Program[47] (PSIP) that were previously approved by the EPA into the California SIP.[48] Our partial approval will also incorporate into the SIP the OBD Standards document that is incorporated by reference through the HD I/M Regulation.

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[45] *See Comm. for a Better Arvin v. EPA*, 786 F.3d 1169, 1176-77 (9th Cir. 2015).
[46] CCR Title 13, Division 3, Chapter 3.5.
[47] CCR Title 13, Division 3, Chapter 3.6.
[48] 87 FR 27949 (May 10, 2022).

Our partial disapproval of the HD I/M Regulation will not result in imposition of either sanctions or a Federal Implementation Plan (FIP). Sanctions are not imposed under CAA section 179(b) because the submittal of the HD I/M Regulation is discretionary (i.e., not required to be included in the SIP), and the EPA need not promulgate a FIP under CAA section 110(c)(1) because the partial disapproval does not reveal a deficiency in the SIP that such a FIP must correct. The submitted regulation has been adopted by the State of California, and our partial disapproval will not by its own force prevent the State from enforcing it within California as a matter of State law.[49]

III. Response to Public Comments and Discussion

The EPA's proposed rulemaking provided a 30-day public comment period, in which we sought comments on all aspects of the proposal, including both proposed alternatives and related issues. During this period, we received a total of 42 comments. This section summarizes and responds to all comments that are germane to this action.[50]

A. Comments in Support of Partial Disapproval

Comment 1: General support for partial disapproval

Several commenters expressed general support for the EPA's proposed partial disapproval of the HD I/M Regulation as applied to vehicles registered outside the State of California for the reasons addressed in the proposed rulemaking. These reasons relate to the EPA's substantial concerns that California had not provided necessary assurances of adequate authority under CAA section 110(a)(2)(E)(i) to implement the HD I/M Regulation as it applies to vehicles registered in other States and other countries consistent with Federal law, including the

[49] The EPA's role in this action is limited to determining whether and to what extent the SIP submission is approvable. That analysis turns on determining whether the SIP submission satisfies all applicable requirements of the CAA, including the requirement that California provide "necessary assurances" that the SIP could be implemented consistent with Federal and State law. Thus, this final action is not a determination of the constitutionality of the HD I/M Regulation and should not be read as purporting to decide whether California may, consistent with the Commerce Clause, continue to enforce the regulation as a matter of State law.

[50] The comments included one non-germane comment, which we have not addressed, and one comment that included profanity, which we have not addressed and which is not included in the docket for this action. *See* "Commenting on EPA Dockets," *https://www.epa.gov/dockets/commenting-epa-dockets*.

Commerce Clause and foreign relations powers provisions of the U.S. Constitution, as well as substantial concerns that EPA approval of the HD I/M Regulation could result in conflicts with provisions of other States' SIPs.

Response: The EPA appreciates these comments. For reasons addressed in this preamble and consistent with the primary proposal, we are finalizing a partial approval and partial disapproval of the HD I/M Regulation.

Comment 2: Burdens to interstate commerce

Several commenters described specific burdens to interstate commerce that they believed supported partial disapproval of the HD I/M Regulation, including costs to out-of-state vehicles and the industry generally, and difficulties associated with compliance.

The National Tank Truck Carriers (NTTC) expressed concerns related to operational feasibility, noting logistical and legal uncertainty associated with applying the HD I/M Regulation to vehicles registered outside of California. The commenter described negative impacts of California's Advanced Clean Trucks (ACT) and Low NO_X Omnibus regulations, and stated that applying similar rules to out-of-state vehicles would undermine emission reduction goals and increase costs and operational inefficiencies.

The Bennett Family of Companies described costs associated with testing equipment, testing certification, downtime, administrative burdens, and equipment requirements, which they argue harms efficiency and competitiveness in interstate trade. The commenter also cited delays resulting from roadside enforcement compliance checks and restrictions on non-compliant vehicles, and associated supply chain disruptions particularly for time sensitive freight and deliveries, and noted inefficiencies associated with conflicting State requirements.

The American Trucking Associations (ATA) also described impacts of delays and difficulties associated with testing requirements especially for out-of-state fleets that are located far away from testing facilities and referee services and noted that fleets are sometimes classified as non-compliant despite their best efforts to comply. The commenter stated that the cost and

time needed to test vehicles that operate in California for only a few hours or days likely outweigh the emissions benefits to California.

The Owner-Operator Independent Drivers Association (OOIDA) described costs associated with compliance as well as fines for noncompliance, and noted practical difficulties for operators based outside of California to challenge citations issued under the regulations. The commenter included examples of citations issued to businesses located outside of California.

Several commenters noted that costs and penalties associated with the HD I/M Regulation may disproportionately impact small carriers and owner-operators who lack resources to absorb the added expenses.[51] Small proprietors also commented on the disproportionate burdens to interstate commerce they would suffer in being forced of necessity to treat the HD I/M Regulation as a national standard mandating fleet replacement, out-of-state permitting hurdles, fines levied against non-California-based businesses, and downstream burdens to other industries in need of transportation services.[52] One example provided in a comment from the Truck Renting and Leasing Association (TRALA), explains how a business with an out-of-state rented or leased truck may not even be aware of its fleets operation in California until "the owner's receipt of a CARB citation . . . [s]uch citations can lead to enforcement actions with potential fines reaching up to $10,000 per day."[53] Finally, a comment from the California Trucking Association explains the unaccounted for administrative burdens caused by enforcement of the HD I/M Regulation and the practical impossibility of certain carriers to usefully comply with the regulation as promulgated.[54]

Response: The EPA recognizes the substantial compliance costs associated with the HD I/M Regulation, including those to vehicles registered outside the State, and the accompanying burdens to interstate commerce, including those that are unique to or more significant for out-of-

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[51] *See generally* Comment ID EPA-R09-OAR-2025-0061-0048.
[52] *See generally* Comment ID EPA-R09-OAR-2025-0061-0015; Comment ID EPA-R09-OAR-2025-0061-0016; Comment ID EPA-R09-OAR-2025-0061-0018.
[53] Comment ID EPA-R09-OAR-2025-0061-0001.
[54] *See generally* Comment ID EPA-R09-OAR-2025-0061-0037.

state and out-of-country registered vehicles. The impact of California's HD I/M Regulation on vehicles registered out-of-state and on interstate shipping is undoubtably significant. The HD I/M Regulation adds significant costs to operation of heavy-duty vehicles registered in California. According to a CARB[55] Staff Report, the HD I/M Regulation will cost $4.12 billion between 2023–2050, with a maximum annual cost of $350 million in 2024. Much of these costs relate to heavy-duty vehicle testing, repair, and compliance fee costs.[56] CARB estimated the total direct costs on single-vehicle fleets and "typical" (i.e., seven-vehicle) fleets. But as articulated by the above comments, CARB's analysis does not properly account for the myriad costs imposed on out-of-state operators forced to comply with the regulatory program. The cumbersome reporting obligations, fleet updating, and narrow windows for reporting impose additional costs to out-of-state vehicle operators.[57] To the extent the HD I/M Regulation applies to out-of-state and out-of-country vehicles that pass through California for almost any length of time, this cost structure would also be imposed on other States and regulated entities in those States. The EPA notes that many heavy-duty vehicles covered by the regulations at issue are used for purposes of interstate shipping, and that maintenance of those vehicles could occur in any number of States, meaning the burdens of compliance could be felt across the country and even in other countries. The overcompliance which the commenters assert such a regime will create represents unwarranted and substantial burdens on out-of-state fleets.[58]

As described in this preamble, our partial disapproval of the HD I/M Regulation considers these costs among other considerations and finds that the substantial burdens placed upon out-of-state instrumentalities of interstate commerce appear to run afoul of the Commerce Clause as explained below in further response to comments. CAA section 110(a)(2)(E) provides that a SIP must include "necessary assurances" that the State "is not prohibited" by any Federal

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[55] Staff Report at IX–14.
[56] Staff Report at IX–18 through 20. CARB states that, according to vehicle registration data, of fleets consisting of at least three vehicles, 75 percent have four to ten vehicles.
[57] *See generally* Comment ID EPA-R09-OAR-2025-0061-0037; Comment ID EPA-R09-OAR-2025-0061-0048.
[58] Comment ID EPA-R09-OAR-2025-0061-0037.

law, and California has not provided such assurances. In accessing compliance with the Federal Constitution, the cost burdens of the SIP support the need for partial disapproval.

While not directly relevant to this rulemaking, we would like to clarify in response to NTTC's comment regarding California's ACT and Low-NO_X Omnibus regulations that the HD I/M Regulation does not and legally cannot expand the scope of these regulations to any additional vehicles or areas. These measures were permitted to go into effect by EPA waivers of preemption that were disapproved by Congress and the President under the Congressional Review Act in 2025 and are therefore preempted and without legal force.[59]

Comment 3: Discrimination under commerce clause; less burdensome approaches

Several commenters specifically argued that the HD I/M Regulation violates the Commerce Clause under applicable judicial interpretations, including the presence of less burdensome regulatory approaches.

TRALA argued that the HD I/M Regulation is discriminatory under the Dormant Commerce Clause because it compels out-of-state rental and leasing businesses to "over-comply" for vehicles that do not enter California in order to ensure that their fleet is in full compliance, because the regulations do not differentiate between the amount of emissions generated by specific trucks (including out-of-state trucks traveling minimally in California), and because requirements to induce vehicle maintenance included in Federal heavy-duty emissions standards enacted in 2022 represent a less discriminatory alternative.

The California Trucking Association (CTA) and ATA suggested alternative regulatory approaches raised during CARB's development of the HD I/M Regulation that they argue would be less burdensome. These include exemptions for new vehicles, and measures to focus testing and enforcement resources on fleets and vehicles identified as high emitters, and changes to the

[59] *See* H.J. Res 87 (April 30, 2025) (disapproving April 6, 2023 waiver for ACT); H.J. Res 89 (April 30, 2025) (disapproving January 6, 2025 waiver for Low-NO_X Omnibus). On June 12, 2025, President Trump signed these Congressional Review Act resolutions disapproving the waivers. *See also* Statement by the President June 12, 2025, https://www.whitehouse.gov/briefings-statements/2025/06/statement-by-the-president/.

reporting schedule to better accommodate the time between purchase and physical delivery of new vehicles.

Response: As a general matter, alternative regulatory approaches are outside the scope of this action for reasons described throughout this preamble, including in response to Comment 17. However, the EPA recognizes that courts have considered the availability of less discriminatory approaches as part of Dormant Commerce Clause analysis in some situations. Under the *Pike* balancing test, whether a less discriminatory approach to a regulatory goal was available is but one of many factors a reviewing court may consider in evaluating whether a regulation violates the Commerce Clause. Regardless of that analysis and whether the HD I/M Regulation at issue here could be found to be discriminatory, the assurances provided for the HD I/M Regulation do not satisfy CAA section 110(a)(2)(E)'s requirement that the proposed SIP include necessary assurances that its implementation would not violate Federal law. Regardless of alternative approaches, the portion disapproved by the EPA in this final action appears to fail the current test for a nondiscriminatory law by placing an improper burden on interstate commerce as prohibited by the Commerce Clause and applicable provisions of the CAA representing Congress' affirmative legislation on the subject. California has not provided necessary assurances to the contrary. As explained previously, there are obvious alternatives for California to achieve its goal of discharging NAAQS-related obligations under Federal law that do not raise similar constitutional and statutory concerns.

In response to comments from TRALA, we note that the HD I/M Regulation includes a 5-day "pass-through" exception once per calendar year for individual vehicles that travel only minimally within the State. For a fuller articulation of why this yearly "pass-through" provision does not alter the HD I/M Regulation's national reach or burdens to interstate commerce, please see the discussion in response to Comment 8 and discussion elsewhere in this preamble.

Comment 4: Specific conflicts with other State rules

ATA stated that other counties and States maintain annual or semi-annual inspection and

maintenance programs as part of their truck registration process requirements, citing programs in Colorado, New York, and New Jersey. The commenter noted that the HD I/M Regulation presumes noncompliance even for trucks that were recently inspected in another area. The commenter described these programs as redundant and costly, and argued that they raise concerns regarding claimed program benefits.

Response: We appreciate this comment. As described in the preamble to the proposed rule and in this preamble, we considered the possibility of conflicts with other States' laws as a basis for our final action. The EPA is partially disapproving the SIP submission because California has not provided necessary assurances that the extraterritorial reach of the HD I/M Regulation into other States and burdens imposed on interstate commerce do not violate CAA section 110 and related provisions by infringing upon, or frustrating the implementation of, SIPs submitted by other States and reviewed by the EPA. If approved in all respects, California's HD I/M Regulation would be federally enforceable to the same extent as other State I/M regulations potentially approved by the EPA in the future pursuant to CAA section 110. The result is potentially multiple conflicting sources of obligations that are enforceable both within the respective States and federally under the CAA.

B. Comments in Support of Full Approval

Comment 5: General support for full approval

Several commenters expressed support for the EPA's alternative proposal to fully approve the HD I/M Regulation, including its application to out-of-state and out-of-country vehicles, for the reasons addressed in the preamble to the proposed rulemaking. These comments generally argued that the submittal complies with the CAA and applicable regulations, including in particular that California has provided necessary assurances that it has adequate authority to implement the HD I/M Regulation and that implementation of the HD I/M Regulation would not be prohibited by Federal or State law, as required by CAA section 110(a)(2)(E)(i).

Response: The EPA acknowledges these comments. However, for reasons addressed in

the preamble to the proposed rulemaking and this preamble pertaining to the requirement that SIPs must meet all applicable CAA requirements—specially including "necessary assurances" that the State is not prohibited by any Federal law from carrying out the implementation of the SIP—we are finalizing a partial approval and partial disapproval of the HD I/M Regulation. The State did not provide necessary assurances that implementation of the HD I/M Regulation as applied to all non-gasoline combustion vehicles above 14,000 lbs that pass through California, including vehicles registered out-of-state and out-of-country, would not be prohibited by Federal law.

Comment 6: Other practical considerations supporting full approval

Several commenters described health and environmental benefits associated with the HD I/M Regulation, as well as other practical considerations in favor of the HD I/M Regulation and/or its approval into the SIP, including those related to the role of the emissions reductions associated with the HD I/M Regulation in regional attainment planning in California. Commenters described health impacts associated with ozone and $PM_{2.5}$ emissions, including disease and premature death, and cited a need for reductions of ozone, $PM_{2.5}$, and their precursors particularly within the South Coast and San Joaquin Valley nonattainment areas. Commenters described the role of emissions from heavy-duty vehicles generally and from out-of-state heavy-duty vehicles in particular, citing figures from CARB's SIP submittal and other sources. Commenters pointed to predicted reductions in $PM_{2.5}$ and NO_X associated with the HD I/M Regulation, which commenters asserted are relied upon in several $PM_{2.5}$ and ozone plans, and argued that it would be difficult and costly to obtain equivalent reductions from other mobile or stationary sources. Commenters also cited confusion, regulatory uncertainty, and other practical concerns that could result from partial disapproval of the HD I/M Regulation.

The Center for Community Action and Environmental Justice and Sierra Club (collectively, "CCAEJ") argued that a partial disapproval of the HD I/M Regulation would reduce the amount of SIP creditable emissions reductions from the HD I/M Regulation, and that

the EPA would be obligated to promulgate a FIP if California fails to submit an attainment demonstration or if the EPA disapproves an attainment demonstration that the State fails to correct.

One anonymous commenter argued that heavy-duty trucks emit the same pollutants regardless of where they are registered, and that not regulating out-of-state vehicles would create a "regulatory loophole" that would unfairly burden in-state vehicles and undermine the State's ability to address air pollution.

The UCS argued that partial disapproval would be inconsistent with the EPA's commitment to ensuring that Americans have access to clean air, as described in the first "pillar" of the "Powering the Great American Comeback" Initiative announced in a recent EPA press release.

CARB argued that the HD I/M Regulation has been successfully implemented and has achieved emissions reductions as designed, citing statistics regarding vehicle registration, testing and monitoring results, and costs, and that the HD I/M Regulation is consistent with other CARB in-use regulations that the EPA has previously approved into the SIP. The commenter argued that partial disapproval of the HD I/M Regulation would transfer the obligation to obtain emissions reductions in part to sources regulated primarily by the Federal Government.

Response: We appreciate the considerations raised by the commenters. However, the question before the EPA in this final action is whether the SIP submission may be fully approved, and therefore made federally enforceable, because it does or does not satisfy all applicable requirements of the CAA. The CAA does not authorize the EPA to approve or adopt any provision simply because it may result in projected emissions reductions. For the reasons addressed in the preamble to the proposed rulemaking and in this preamble, we are finalizing a partial approval and partial disapproval of the HD I/M Regulation based on our findings that application of the HD I/M Regulation to vehicles registered outside California does not meet the applicable criteria for SIP approval.

The EPA does not agree with commenters' assertions that the SIP submission being partially disapproved is consistent with other CARB regulations that have been approved into California's SIP. As noted elsewhere in this preamble, the EPA sought comment at proposal whether California or any other State had received approval for the portion of the SIP submission at issue here, i.e., the application of an I/M program in one State to vehicles registered and primarily operating out-of-state and out-of-country. Commenters did not provide, and the EPA is not aware of, any examples of a State attempting to assert such regulatory authority nationwide or of the Agency making such a submission federally enforceable by approval into a SIP. The submission before us is novel in this respect, and commenters arguing that the regulation operates similarly to prior I/M programs fail to grapple with this unprecedented distinction or the way this novel submission has forced the EPA to grapple with the issues addressed at proposal and in this preamble for the first time.

Furthermore, as explained in this preamble, partial disapproval of the HD I/M Regulation will not result in the imposition of sanctions or require the promulgation of a FIP. Sanctions are not imposed under CAA section 179(b) because the submittal of the HD I/M Regulation is discretionary (i.e., not required to be included in the SIP), and the EPA need not promulgate a FIP under CAA section 110(c)(1) because the partial disapproval does not reveal a deficiency in the SIP that such a FIP must correct. CAA section 110 places the responsibility to implement the NAAQS on "each State" in the first instance, and partial disapproval of the HD I/M Regulation does not trigger a FIP obligation under the statute because this particular submittal is not mandated by the statute. The submitted regulation has been adopted by the State of California, and our partial disapproval will not by its own force prevent the State from enforcing it within California as a matter of State law, as discussed previously. Commenters incorrectly assumed that California's only path to attainment is through the disproved portion of the SIP submission. Rather, as discussed elsewhere in this preamble, California retains discretion to design programs that promote NAAQS attainment, so long as those programs are consistent with applicable law.

This partial disapproval does not prevent California from pursuing additional reductions through controls on in-state mobile or stationary sources that do not raise the same constitutional and statutory concerns.[60] If and when California develops such strategies, it must submit them to the EPA for approval to be credited for emissions reductions in connection with NAAQS attainment.

Because we are partially approving the SIP submission to the extent the HD I/M Regulation applies to vehicles registered within the State, this final action allows California to receive credit for those emissions reductions and does not disrupt ongoing implementation efforts within the State as to such vehicles. Additional considerations relating to the benefits of the HD I/M Regulation as relevant to Commerce Clause considerations are provided in our response to Comment 7.

Comment 7: Dormant Commerce Clause—*Pike* balancing

Several commenters questioned the EPA's proposed basis for partial disapproval related to concerns that the extraterritorial reach of the HD I/M Regulation is prohibited by the Commerce Clause of the U.S. Constitution. Commenters cited caselaw establishing the Supreme Court's approach to evaluating Commerce Clause issues, including the balancing test outlined in *Pike*. Commenters also pointed to cases considering what kinds of State regulatory burdens to out-of-state interests could run afoul of a Commerce Clause analysis.[61] Commenters argued generally that the HD I/M Regulation does not discriminate against interstate commerce either facially or in purpose or effect, asserting that the HD I/M Regulation generally applies the same requirements to in-state and out-of-state vehicles and does not otherwise economically advantage

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[60] CCAEJ cites the Ninth Circuit's decision in *Committee for a Better Arvin* for the proposition that "all measures on which a SIP relies to comply with the Act must be approved by EPA as part of the SIP." Comment ID EPA-R09-OAR-2025-0061-0040. But in that case, the EPA approved a SIP with control strategies based "in significant part on reductions that [would have] been achieved through waiver measures" that were not included in the SIP itself and therefore were not enforceable under the CAA's citizen suit provisions. 786 F.3d at 1176. Nothing in *Committee for a Better Arvin* stands for the proposition that the EPA must approve an unapprovable SIP submission. Rather, that case supports the EPA's position here by establishing that California and other States cannot be credited for emissions reductions in support of NAAQS attainment unless the relevant control strategies have been included in an approved SIP, which means that the control strategies are consistent with applicable CAA requirements.

[61] *See, e.g.*, *Bibb*, 359 U.S. at 523-30 (concerning a State law specifying certain mud flaps for trucks and trailers); *S. Pac. Co.*, 325 U.S. at 763-82 (addressing a State law regarding the length of trains).

in-state vehicles or interests. Several commenters described the HD I/M Regulation as providing a "level playing field" for in-state and out-of-state vehicles, while others argued that the HD I/M Regulation is more stringent for in-state fleets and vehicles because of the "5-day pass" option available to out-of-state vehicles and because of supposedly lower compliance costs for out-of-state fleets.

Several commenters criticized the EPA's analysis for failing to consider in-state benefits of the HD I/M Regulation as documented in the materials included with the State's SIP submittal, arguing that this information is relevant to the *Pike* balancing test or otherwise needed for a Commerce Clause analysis. Commenters argued that the compliance burdens associated with the HD I/M Regulation are not "clearly excessive" relative to local benefits, and that the HD I/M Regulation therefore does not violate the Commerce Clause as applied to out-of-state trucks.

The South Coast Air Quality Management District (SCAQMD) stated that conservative estimates show the health benefits of the HD I/M Regulation to be approximately 11 times the compliance costs. Other commenters described benefits of HD I/M Regulation exceeding costs by approximately 18 times based on CARB estimates included in the SIP submittal, while noting that CARB expects HD I/M Regulation to result in additional benefits not included in that calculation. CCAEJ estimated the benefits of the HD I/M Regulation as applied to vehicles registered outside of California to exceed costs for those vehicles by more than 10 times, citing CARB estimates of the impact of vehicles registered outside of California.

The Center for Applied Environmental Law and Policy, Environmental Defense Fund, and Natural Resources Defense Council (collectively, "CAELP") cited previous unsuccessful Commerce Clause challenges to California pollution-control measures and argued that similar claims brought against the HD I/M Regulation would fail for the same reasons. The commenter also noted that CARB received comments during its development of the HD I/M Regulation that alleged Commerce Clause violations associated with the $30 compliance fee, and that CARB's

response to these comments was consistent with Supreme Court case law that the commenter described as allowing State regulators to charge a flat regulatory fee on interstate commercial trucks.

CARB offered arguments that the HD I/M Regulation complies with the Commerce Clause and is well within the State's authority. The commenter highlighted the Supreme Court's recent decision in *National Pork Producers* and other cases.[62] The commenter argued that the HD I/M Regulation does not regulate extraterritorially, that the identified burdens are not "substantial" or "significant" enough to trigger application of the *Pike* balancing test, and that the HD I/M Regulation does not involve discrimination or serious disruptions in the flow of interstate goods. Even if *Pike* balancing were appropriate, the commenter said, the benefits associated with the HD I/M Regulation overwhelm the burdens, and the EPA's supposed failure to consider those benefits would be arbitrary and capricious. Finally, the commenter argued that benefits associated with the HD I/M Regulation would carry added weight in a balancing test because they relate to Federal legislative and executive branch CAA policy.

Response: At proposal, the EPA noted that the Supreme Court's Commerce Clause jurisprudence forbids State laws that place burdens on interstate commerce that are "clearly excessive in relation to the putative local benefits."[63] Additionally, in *National Pork Producers*, "six Justices of [the] Court affirmatively retain[ed] the longstanding *Pike* balancing test for analyzing Dormant Commerce Clause challenges to state economic regulations."[64] A plurality of

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[62] *See* Comment ID EPA-R09-OAR-2025-0061-0045 ("To the extent that other burdens—having nothing to do with discrimination—are cognizable under *Pike*, it is "only when a lack of national uniformity would impede the flow of interstate goods." (citing 397 U.S. at 380 n.2)). As explained below, however, this lack of national uniformity and proliferation of burdens on interstate trucking is precisely the concern raised by the application of the HD I/M Regulation to out-of-state and out-of-country registered vehicles, particularly if made federally enforceable by approval into California's SIP. Unlike, for example, the Supreme Court's decision in *Exxon Corp. v. Governor of Maryland*, 437 U.S. 117, 127-28 (1978), the HD I/M Regulation would not apply only to activities within the State and would impact interstate shipping beyond California's borders. Commenters' citation to *California Trucking Ass'n v. Bonta*, No. 24-2341, 2025 WL 1419921 (9th Cir. May 16, 2025) (unpub.), is equally unpersuasive, since that case involved a State law governing truck driver classifications as independent contractors. This case had nothing to do with trucks as instrumentalities of interstate commerce and does not implicate *Pike* or its antecedents.

[63] *Pike*, 397 U.S. at 142.

[64] 598 U.S. at 403 (Kavanaugh, J., concurring in part and dissenting in part); *see id*. at 391 (Sotomayor, J., joined by Kagan, J., concurring in part); *id*. at 394 (Roberts, C.J., joined by Alito, Kavanaugh, and Jackson, JJ., concurring in part and dissenting in part).

the Court affirms that "[they] generally leave the courtroom door open to plaintiffs invoking the rule in *Pike*, that even nondiscriminatory burdens on commerce may be struck down on a showing that those burdens clearly outweigh the benefits of a state or local practice."[65] This is especially relevant here as the Supreme Court recognized special considerations for instrumentalities of commerce (including interstate trucking).[66] This line of cases is directly on-point and suggests that the HD I/M Regulation at issue here must receive particularly close review. The submittal's intended applicability to interstate trucking—i.e., operators, businesses, and trucks registered out-of-state and out-of-country that merely pass through California—facially and directly burdens interstate commerce with significant costs and uncertainties. As noted previously, this concern is not limited to the *Pike* analysis or even to Commerce Clause constraints on State authority. Here, Congress has legislated on the subject to providing that "each State" must develop its own plans for implementing the NAAQS "within" its borders and that the EPA, rather than California or any State, is authorized to establish national standards that "level the playing field" and further nationwide environmental goals.

None of the cases relied upon by adverse commenters support the overbroad contention that the HD I/M Regulation is immune to the "necessary assurances" analysis involving the Commerce Clause and the reach of State regulation because, in commenters' view, it is non-discriminatory, does not regulate outside California's borders, and does not unduly burden interstate commerce. For example, CAELP cites several cases that did not decide whether the regulations at issue were infirm under the *Pike* balancing test[67] and did not involve a regulatory

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[65] *Id.* at 396 (Roberts, C.J., concurring in part).
[66] *See id.* at 379 n.2 ("[T]here exists a strong line of cases that originated before *Pike* in which th[e] Court refused to enforce certain state regulations on instrumentalities of interstate trans-portation—trucks, trains, and the like."); s*ee, e.g.*, *Bibb*, 359 U.S. at 523-30 (concerning a State law specifying certain mud flaps for trucks and trailers); *S. Pac. Co.*, 325 U.S. at 763-82 (addressing a State law regarding the length of trains).
[67] Comment ID EPA-R09-OAR-2025-0061-0043; *see Rocky Mt. Farmers Union v. Corey*, 730 F.3d 1070 (9th Cir. 2013) (reversing district court finding of discrimination but remanding for analysis under *Pike*); *Pac. Merch. Shipping Ass'n v. Goldstene*, 639 F.3d 1154 (9th Cir. 2011) (affirming denial of summary judgment of certain constitutional claims regarding marine vessel regulations without addressing *Pike*); *Cent. Valley Chrysler-Keep v. Witherspoon*, 456 F. Supp. 2d 1160, 1183-86 (C.D. Cal. 2006) (granting judgment on the pleadings against challenge to certain CARB emission standards on the ground that Congress authorized California to adopt and enforce such regulations if granted a waiver by the EPA under CAA section 209(b)).

context where, as here, out-of-state and out-of-country registered vehicles must comply with the State's regulatory requirements in other States.[68] Moreover, these commenters mistake the relevant analysis here—whether California provided "necessary assurances" that its SIP could, if fully approved, be implemented consistent with Federal law—for the distinct question whether courts would invalidate the HD I/M Regulation if presented with constitutional claims. We do not purport to be adjudicating the ultimate constitutionality of the HD I/M Regulation and, by the same token, need not determine that a reviewing court would be certain to invalidate the regulation if presented with such claims in order to conclude that California failed to provide "necessary assurances" that implementation could proceed lawfully if the regulation were approved in full and made federally enforceable. At least one of the cases cited by commenters recognized that the State's regulation "pushes a state's legal authority to its very limits,"[69] and the CAA does not require the EPA to identify those limits with precision before concluding that a SIP submission is not supported by "necessary assurances" of legality.[70] Moreover, commenters' arguments do not address the propriety of California's HD I/M Regulation under the CAA, which as a matter of text and structure does not support the conclusion that one State may obtain additional creditable emissions reductions by obtaining approval of a SIP that renders its program mandatory and enforceable in other States against owners and operators registered in those States who may traverse California at some point in time.

Commenters cited to the EPA's approval of California's Warehouse Indirect Source Rule as indicating that we understand the significant role played by heavy-duty vehicles in emissions

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[68] *See Rocky Mt. Farmers*, 730 F.3d at 1080 (addressing fuel standards that applied to fuels used "within the California market"); *Pac. Merch. Shipping Ass'n*, 639 F.3d at 1158-60 (addressing marine vessel regulation that required use of cleaner fuels within California territorial waters).

[69] *Pac. Merch. Shipping Ass'n*, 639 F.3d at 1162.

[70] While not necessary to the basis for this partial disapproval, the EPA notes that courts often construe statutes, including those administered by the Agency, to avoid constitutional concerns without determining whether the contrary interpretation would certainly result in a constitutional violation. *See, e.g.*, *Inhance Techs., L.L.C. v. EPA*, 96 F.4th 888, 893-95 (5th Cir. 2024) (citing, among other cases, *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018)). Courts have applied this rationale to Commerce Clause challenges by interpreting State enactments to apply only within the relevant State. *See, e.g.*, *Yamaha Motor Corp. v. Team Bozeman Motorsports & Mont. Power Sports Dealers Ass'n*, 2009 U.S. Dist. LEXIS 147970, at *6 (D. Mont. Aug. 24, 2009) (interpreting Montana regulation governing motorsports vehicle dealers to apply only to dealers operating within the State).

and NAAQS attainment.[71] But that observation does not support commenters' conclusion that this SIP submission must be approved because it contained "necessary assurances" that its implementation would not violate Federal law. Unlike the regulation at issue in the cited prior approval action, the HD I/M Regulation purports to regulate heavy-duty vehicle owners and operators directly by requiring I/M activities that must necessarily occur outside the State of California notwithstanding the laws of the State in which they are registered or primarily operate.

As articulated in the response to Comment 8 below, the EPA views the burdens of the proposed approval and SIP on interstate commerce as significant; such significant burdens outweigh the proposed benefits of the proposed regulation and run afoul of the Dormant Commerce Clause analysis. The compounding costs of testing, certification, and shipping disruption based on the HD I/M Regulation's mandated downtime, and the litany of administrative burdens across State lines, break down the efficiency of interstate trade and would create a de facto national program.[72] As articulated by one commenter, it is hard to properly estimate the ballooning costs of compliance due to the difficulties the program unfairly imposes on out-of-state operators. One commenter estimates that citations for non-compliance may not immediately be received and by the time owners are aware of a citation "potential fines [may reach] up to $10,000 per day depending on the severity and duration of the non-compliance." Such a risk will lead to fleet closure, alteration, and trade breakdown, none of which was accounted for in CARB's analysis.[73] And contrary to some commenters' assertions, there is no reason to believe that burdens would be lower for out-of-state or out-of-country registered vehicles than for in-state registered vehicles. Notwithstanding the limited exception for 5-day pass throughs discussed elsewhere in this preamble, such owners and operators will generally be forced to over comply, and access to CARB-approved testing and compliance mechanisms and operators is necessarily limited for owners and operators that primarily operate at significant

[71] Comment ID EPA-R09-OAR-2025-0061-0040 (citing 89 FR 73568 (September 11, 2024)).
[72] *See generally* Comment ID EPA-R09-OAR-2025-0061-0035.
[73] *See generally* Comment ID EPA-R09-OAR-2025-0061-0036.

distance from California. As one commenter articulated: "The program's overreach will result in the potential for de facto regulation of out-of-state rented or leased trucks across the country even though renting and leasing companies have no control [over] whether their trucks' routes include traveling into California. . . . CARB's HD I/M program disproportionately affects out-of-state rental and leasing company operations and finances . . . in clear violation of the Dormant Commerce Clause."[74]

Comment 8: Dormant Commerce Clause—no significant burden

Several commenters argued that by their nature, the compliance burdens associated with the HD I/M Regulation would not qualify as substantial or undue burdens regardless of the degree of associated benefits.

SCAQMD noted that several Supreme Court justices have signaled that *Pike* balancing of benefits and burdens may be inappropriate in the case of truly nondiscriminatory measures and that, regardless, requirements to keep emission control equipment within the operating parameters required by the HD I/M Regulation should not be considered a significant burden, analogizing it to a requirement for tanker trucks to maintain tanks in leak-free condition to prevent the escape of hazardous materials.

An individual commenter questioned how testing for missing and malfunctioning emissions control components that the commenter asserted are already federally required can be considered an undue burden, arguing that drivers who do not want to take the California test can elect not to enter the State.

CAELP challenged the EPA's characterization of the HD I/M Regulation's compliance costs as "undoubtedly significant," arguing that the costs cited are overstated and insufficiently analyzed and do not consider the actual costs to individual operators, calculating that the maximum daily cost to an individual vehicle under the most conservative assumptions would be less than the toll fees assessed by other States.

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[74] *Id.*

Response: As explained above, in *National Pork Producers*, "six Justices of [the] Court affirmatively retain[ed] the longstanding *Pike* balancing test for analyzing Dormant Commerce Clause challenges to state economic regulations."[75] Under this balancing test, the burdens felt across the nation outweigh the localized benefits to California of more easily discharging its NAAQS attainment obligations under Federal law. The preamble to our proposed rulemaking addresses some of the costs associated with the HD I/M Regulation. Comments from owners and operators in the trucking industry explained that the burdens of applying the HD I/M Regulation to out-of-state and out-of-country registered vehicles will be felt across the entire country. One commenter pointed out that "[b]y nature, trucks are mobile work units that routinely traverse local, state, and international borders. Under the HD I/M program, rented or leased trucks from outside California could potentially enter the state without the knowledge of the rental or leasing company since they are not in control of the vehicles' routes."[76] Thus, due to compliance costs and the heavy penalties associated with unknowing and incidental violations, out-of-state truckers will be forced to treat California's HD I/M Regulation as a national standard regardless where they concentrate their business. These risks and the attendant burdens are not ameliorated by the HD I/M Regulation's limited pass through exception; rather, the potential for out-of-state and out-of-country registered trucks to apply in advance for a limited "pass through" exemption itself presents burdens, does not comport with the nature of interstate trucking operations, and admits that this aspect of the SIP submission is national in character and unduly burdens truckers in other States and countries who would have to track and amend their routes, dealings, and compliance strategies in the event the program becomes federally enforceable.

As illustrated by comments, the pass through exemption does not ameliorate these concerns in practice as it requires a prior application replete with information which may not be

[75] 598 U.S. at 403 (Kavanaugh, J., concurring in part and dissenting in part); *see id*. at 391 (Sotomayor, J., joined by Kagan, J., concurring in part); *id.* at 394 (Roberts, C.J., joined by Alito, Kavanaugh, and Jackson, JJ., concurring in part and dissenting in part).
[76] Comment ID EPA-R09-OAR-2025-0061-0036.

known to the out-of-state and out-of-country operator in advance, imposes planning and waiting obligations in the form of five business days before the grant of prior permission by the CARB Executive, requires the physical display of the granted pass in the vehicle at all times while operating, and only contemplates a window of five consecutive days per vehicle per year as the maximum allowance, thus making small fleets incapable of using the exemption regularly. Even large fleets could only use each truck in their possession once per year under this program.[77]

To the extent the HD I/M Regulation applies to out-of-state vehicles that pass through or operate within California for almost any length of time, its cost structure would also be imposed on other States and regulated entities in those States. The EPA notes that many heavy-duty vehicles covered by the regulations at issue are used for purposes of interstate shipping, and that maintenance of those vehicles could occur in any number of States, meaning the burdens of compliance for certain trucking companies to operate in California or merely pass through California will create an economic burden felt throughout the United States. For vehicles merely passing through, the burdens will be felt exclusively by other States. Even for vehicles that intentionally operate within California (i.e., by shipping goods into the State), these costs may make it prohibitively expensive for certain trucking companies to operate in California, thereby creating an economic rippling effect within and outside the State. "This is particularly burdensome for trucks registered out-of-state, which are considered non-compliant unless they test prior to entering the state. These vehicles might operate in California for only a few hours or days, rather than for weeks or months, but must undergo testing to legally enter the state."[78] Finally, as explained elsewhere in this preamble, the abstract comparison of benefits and costs in this context should be informed by the nature of the benefits, i.e., allowing California to obtain

[77] Commenters pointed out that typical truck leases are "dependent on flexible transportation contracts to manage variable operations" and that operators would struggle to plan around this exception, as they typically lack certainty as to if and when a truck would cross into California. Comment ID EPA-R09-OAR–2025–0061-0036. Overcompliance would result to avoid "potential fines reaching up to $10,000 per day." *Id.*; *see also* Comment ID EPA-R09-OAR-2025-0061-0023 (citing the impossibility of compliance); Comment ID EPA-R09-OAR-2025-0061-0016 (a single owner operator would need to buy another truck once the 5-day window was closed).
[78] Comment ID EPA-R09-OAR-2025-0061-0047.

additional creditable emissions reductions to more easily satisfy its NAAQS-attainment obligations under Federal law. In essence, California is outsourcing the burdens of obtaining this benefit to other States by extending the HD I/M Regulation to out-of-state and out-of-country registered vehicles. That benefit is not a legitimate use of the SIP program, and it does not comport with the balance struck in the CAA between the roles of individual States and the EPA's national role.

Comment 9: Dormant Commerce Clause—extraterritorial reach

Several commenters challenged the EPA's specific characterizations of extraterritorial effects of the HD I/M Regulation. Some commenters asserted that HD I/M Regulation has no extraterritorial reach or effect that would be relevant to the Commerce Clause analysis.

SCAQMD characterized the EPA's position as assuming that any extraterritorial effect is forbidden, which the commenter argues is inconsistent with applicable case law. The commenter cited a Ninth Circuit decision allowing California to ban foie gras produced through force-feeding practices, even though this conduct occurred wholly outside of the State and thus impacted out-of-state conduct. In contrast, the commenter argued, the HD I/M Regulation applies only to conduct within California, does not require actions to be taken outside of California, and has no effect of controlling purely out-of-state actions.

Similarly, CCAEJ argued that under applicable case law, the HD I/M Regulation does not violate the Commerce Clause merely based on its extraterritorial reach, arguing that California has authority to apply its laws to non-residents and out-of-state corporate entities. The Coalition for Clean Air (CCA) described the HD I/M Regulation as an exercise by California of the police power held by States to protect their residents and noted that it does not dictate the activities of any other State.

CAELP argued that the HD I/M Regulation does not regulate extraterritorially because it does not require compliance from vehicles that do not operate inside of California and does not impose any cost on vehicles when they are outside of California. The commenter analogized the

EPA's concerns about the HD I/M Regulation's extraterritorial reach to saying that California could not enforce its criminal laws against residents of other States traveling through California, or that California could not require out-of-state corporations to register before doing business in the State.

CARB argued that the HD I/M Regulation does not regulate extraterritorially because it does not directly regulate out-of-state transactions by those with no connection to the State.

Response: The Commerce Clause vests the interstate regulatory authority exclusively in Congress.[79] The HD I/M Regulation's extraterritorial application, which would effectively allow California to set a nationwide regulatory standard, as explained in other responses, would represent an abrogation of that unique Federal authority. In addition, the Constitution vests the power over foreign relations exclusively in the Federal Government. The HD I/M Regulation, which applies to all vehicles operating in California, will impermissibly burden vehicles registered in Canada and Mexico and the other States. This is especially pressing in the case of Mexico, which maintains a consulate in California frequented by diplomatic traffic. As explained elsewhere in this preamble, these concerns are heightened by the fact that Congress has legislated on the subject in the CAA by providing that "each State" is responsible for developing a SIP to implement the NAAQS "within" their State, authorizing the EPA to establish national I/M requirements, and allowing for the waiver of Federal preemption only when specific procedural and substantive requirements are met. None of the comments described above presented a valid analogy to the context here, and none can or did substitute for the lack of necessary assurances in California's SIP submission.

The EPA disagrees with commenters' assertions that the HD I/M Regulation does not apply extraterritorially. By its terms, the regulatory requirements apply to out-of-state and out-of-country vehicles rather than only in-state registered vehicles, as is generally the case in I/M regimes. This reach was intentional, as California sought to obtain creditable emissions

[79] *See Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1 (1824).

reductions not only from in-state registered vehicles, but also from vehicles registered outside the State. Compliance with the regulatory requirements necessarily contemplates mandating out-of-state and out-of-country conduct, as vehicles must be compliant with the regulation upon entering California or risk substantial penalties. Thus, even before considering that full approval of the SIP submission would make the HD I/M Regulation enforceable outside California against any owner or operator based on allegations that one or more vehicles traversed California, even enforcement within the State of California mandates behavior outside the State.

In an illustrative example of the flaws in these commenters' logic, CAELP likens the EPA's concern to "saying California cannot enforce its criminal laws against another state's residents traveling through California or that California … cannot require a Delaware corporation to register with the California Secretary of State before transacting business in Los Angeles."[80] This argument fails to recognize the impact of the EPA's approval of a SIP submission on implementation of the SIP. Because approval makes SIPs federally enforceable, including by citizen plaintiffs, the relevant analogy is not to California enforcing its criminal laws against individuals traversing the State, but to "any person" enforcing California's criminal laws anywhere in the country so long as they allege that an owner or operator's vehicle passed through California at one point in time.[81] The corporate registration analogy is also inapt because the HD I/M Regulation does not contemplate requiring vehicle registration in California as a predicate for being subject to the regulatory requirements. Nor does this comment address the special considerations due to instrumentalities of interstate commerce in the Commerce Clause analysis.[82] Thus, while "the plurality in *Pork Producers* rejected the argument that any 'practical

[80] Comment ID EPA-R09-OAR-2025-0061-0043.
[81] *See* CAA sections 304(a) (authorizing "any person" to commence a civil action for alleged violations), 302(e) (defining "person" as any "individual, corporation, partnership, association, State, municipality, political subdivision of a State" as well as any arm of the Federal Government).
[82] The case law cited by SCAQMD is equally inapplicable here. *Association des Eleveurs de Canard et d'Oies du Quebec v. Bonta*, 33 F.4th 1107, 1118 (9th Cir. 2022), dealt with a State law banning the practice of selling foie gras products in the State of California. The Ninth Circuit dismissed claims asserting a variety of Commerce Clause and preemption arguments because, in that instance, the State law pertained only to what could be sold within California. Thus, that case pertained to the regulation of in-state sales and did not involve instrumentalities of interstate

effect' of controlling the conduct of commerce outside the state is barred"[83] it is also true that the HD I/M Regulation, aimed directly at out-of-state instrumentalities—"trucks, trains, and the like"[84]—is likely barred by both *Pike* and other relevant precedents.

These commenters acknowledge that restrictions upon the instrumentalities of commerce—like trucks—fall under the purview of the Commerce Clause. And as emphasized above, regardless of the existence of discriminatory intent, such restrictions upon instrumentalities of commerce implicate special considerations in the Commerce Clause analysis. As explained in the response to Comment 11, the HD I/M Regulation also "expresses a distinct point of view" on the politically charged issue of vehicle emissions reductions in vehicles registered in and operating outside California and outside the United States. This implicates the foreign affairs powers vested exclusively in the Federal Government.[85]

Comment 10: Dormant Commerce Clause—special rules for instrumentalities of interstate transportation

SCAQMD acknowledged recent case law indicating that the Commerce Clause applies with special force to regulations affecting "instrumentalities of interstate transportation," but suggested that relevant cases involved regulations that either had no benefit or conflicted with requirements in other States.[86] Similarly, CARB cited case law suggesting that courts have invalidated facially neutral State regulations on instrumentalities of interstate transportation only

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commerce. Additionally, *Rocky Mountain Farmers Union v. Corey*, 730 F.3d 1070, 1103 (9th Cir. 2013), pertained to the impact of the State's ethanol standards based on the full lifecycle of the production of ethanol fuels. The Ninth Circuit found the law nondiscriminatory despite its practical impact on out-of-state fuel production and remanded for analysis under the *Pike* balancing test. Thus, this analysis does not pertain to instrumentalities of commerce or the burdens a federally empowered SIP would produce on out-of-state parties.

[83] Comment ID EPA-R09-OAR-2025-0061-0043.

[84] *Nat'l Pork Producers*, 598 U.S. at 379-80 & n.2 (majority op.)

[85] *United States v. Pink*, 315 U.S. 203, 233, (1942) ("Power over external affairs is not shared by the States; it is vested in the national government exclusively.").

[86] *See generally* Comment ID EPA-R09-OAR-2025-0061-0039, which cites to *Bibb v. Navajo Freight Lines*, 369 U.S. 520 (1959), *Kassel v. Consolidated Freightways Corp. of Delaware*, 450 U.S. 662 (1981), and *Raymond Motor Transportation, Inc.*, *v. Rice*, 434 U.S. 429 (1978), as examples of such cases. Commenter seeks to limit the *Pike* test to circumstances like those in these cases in which the invalidated State law had no major benefits to the local State. But that is not what these cases say. Rather, they highlight the special scrutiny applied to instrumentalities of interstate commerce like heavy duty trucking. And in each instance, the State law was invalidated despite involving arguably lower burdens than the HD I/M Regulation at issue here.

when they were enacted at the instance of, and primarily benefit, in-state interests. The commenters argued that these cases would not support invalidating the HD I/M Regulation.

Conversely, another commenter articulated: "The program's overreach will result in the potential for de facto regulation of out-of-state rented or leased trucks across the country even though renting and leasing companies have no control [over] whether their trucks' routes include traveling into California. Since CARB's HD I/M program disproportionately affects out-of-state rental and leasing company operations and finances, the program . . . [is] in clear violation of the Dormant Commerce Clause."[87]

Response: The Supreme Court noted in *National Pork Producers* that "there exists a strong line of cases that originated before *Pike* in which th[e] Court refused to enforce certain state regulations on instrumentalities of interstate transportation—trucks, trains, and the like."[88] These cases and others demonstrate that State laws that burden "instrumentalities of interstate transportation" warrant special consideration under the Commerce Clause and may be invalid even in the absence of discriminatory intent. Commenters did not offer a plausible explanation that the HD I/M Regulation does not squarely implicate this line of cases, or that California must be excused from providing "necessary assurances" that implementing its SIP submittal to out-of-state and out-of-country registered vehicles would not run afoul of applicable law.

Contrary to these commenters' suggestions, full approval of the HD I/M Regulation would necessarily generate conflict with I/M regimes adopted in other States, including both existing programs and programs that other States may seek to incorporate into their SIPs to obtain creditable emissions reductions in the future. If made federally enforceable by approval, "any person" could seek to enforce the HD I/M Regulation by alleging a vehicle passed through California without first complying with the regulation's requirements. As noted above, this would create multiple and conflicting obligations with any State that adopts a different I/M

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[87] Comment ID EPA-R09-OAR-2025-0061-0036.

[88] 598 U.S. at 379 n.2; *see, e.g.*, *Bibb*, 359 U.S. at 523-30 (concerning a State law specifying certain mud flaps for trucks and trailers); *S. Pac. Co.*, 325 U.S. at 763-82 (addressing a State law regarding the length of trains).

program and improperly pressure other States to adopt an identical program into their SIP, with attendant difficulties in disaggregating which emissions reductions could properly be attributed to which State. Furthermore, the EPA disagrees with commenters' assertions that the HD I/M Regulation involves local benefits that distinguish a potential approval from the State laws at issue in the cited cases. Here, the benefits adhere purely to California by allowing the State to obtain credit for additional emissions reductions beyond those that could be credited by applying the HD I/M Regulation to in-state registered vehicles. Those benefits are purely local, and they are not the type of direct local benefits that courts have previously recognized as legitimate ends. Nor are commenters correct that courts have taken issue with State regulations burdening interstate commerce only when there were no local benefits. Rather, the line of cases discussed above recognizes the centrality of instrumentalities of interstate commerce to the national market envisioned by the Commerce Clause and that local benefits are more difficult to justify in the face of burdening such instrumentalities.

Comment 11: Foreign relations powers

Several commenters challenged the EPA's proposed basis for partial disapproval related to concerns that extraterritorial reach of the HD I/M Regulation violates the foreign relation powers vested exclusively in the Federal Government by the U.S. Constitution.

SCAQMD argued that the HD I/M Regulation does not have a prohibited effect on foreign commerce, stating that there is no evidence of discrimination or protectionism, and that California does not seek to provide an advantage for in-state trucks. In response to the EPA's concerns that HD I/M Regulation does not have an exception for diplomatic activities by foreign nationals, the commenter argued that such an exemption is unnecessary because diplomatic immunity is afforded by Federal law external to the CAA or State regulations. The commenter stated that cases interpreting "dormant" aspects of the Foreign Commerce Clause focus on taxes and fees imposed on instrumentalities of international commerce with legal tests that do not apply in this case. The commenter argued that the HD I/M Regulation does not violate the

Foreign Commerce Clause as described in these cases because it does not adversely impact the Federal Government's ability to speak with one voice.

CCAEJ argued that the EPA has not identified or considered any international treaties or conventions that would bear on California's authority to adopt operational limitations on mobile sources under the CAA. The commenter stated that the EPA failed to consider in particular the United States-Mexico-Canada Agreement (USMCA), arguing that California would retain its CAA authority to adopt the HD I/M Regulation under provisions of the Agreement specifying that the environmental law of the United States continues to apply. The commenter included portions of the USMCA language as an attachment.

CAELP argued that the HD I/M Regulation comports with the foreign affairs doctrine, arguing that HD I/M Regulation does not impinge upon the Federal Government's conduct of foreign affairs. The commenter disputed the EPA's characterization of potential conflicts with foreign affairs authorities, arguing that the EPA's position would mean that the Federal Government could block any State policy that it disfavored simply because it might have some marginal effect on foreign entities. According to the commenter, the Supreme Court has rejected this view, finding a violation only where there is a direct impact on foreign relations that could adversely affect the Federal Government's power to deal with relevant problems. The commenter suggested that the EPA's position could also raise separation of powers concerns to the extent it intrudes into Congress' role in establishing the boundaries for States' exercise of personal jurisdiction. The commenter stated that the HD I/M Regulation is not expressly preempted because it does not conflict with any treaties, conventions, executive agreements, or express foreign policies. The commenter further stated that it is not field preempted because it does not intrude on the Federal Government's foreign affairs power under Ninth Circuit case law, because the EPA has not offered any evidence that HD I/M Regulation diminishes the President's power to speak and bargain effectively with other countries, and because it addresses a traditional State responsibility and is not intended to influence policy in other countries.

CARB argued that the EPA has not provided a reasoned basis for partial disapproval related to foreign affairs preemption because it does not cite any treaties or conventions or any potential impacts on relevant Federal policy and because courts recognize conflict preemption only in the face of a clear and definite foreign policy. The commenter noted that the CAA relaxes State planning obligations in areas affected by pollution from foreign countries but does not distinguish State obligations to address emissions based on the nationality of emissions sources. The commenter also argued that the HD I/M Regulation does not unlawfully regulate in the field of foreign affairs because it addresses a traditional State responsibility. The commenter further argued that the HD I/M Regulation does not intrude on the Federal Government's foreign affairs power because it does not express a distinct political point of view on specific foreign policy matters and does not require a highly politicized inquiry into the conduct of a foreign nation, citing the Ninth Circuit's decision in *Movsesian v. Victoria Versicherung AG*.[89]

Response: The EPA disagrees with the commenters about the compatibility of the HD I/M Regulation's application to out-of-country vehicles with the Constitution's exclusive vestment of the foreign relations power in the Federal Government. In the field of foreign affairs, State regulations may be preempted by means of conflict preemption or field preemption.[90] Conflict preemption applies when there is "evidence of clear conflict" with a Federal statute, regulation, or policy.[91] Field preemption requires a showing (1) that the real purpose of a regulation falls outside the area of traditional State responsibility and (2) that the HD I/M Regulation intrudes on the foreign affairs power of the government.[92]

As an initial matter, many of these commenters misstate the scope of California's authority on the subject of mobile-source emissions. CAA section 209 provides that States may not adopt or attempt to enforce emissions standards for vehicles and engines, including

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[89] 670 F.3d 1067 (9th Cir. 2012).
[90] *Gingery v. City of Glendale*, 831 F.3d 1222, 1228 (9th Cir. 2016).
[91] *Am. Ins. Ass'n v. Garamendi*, 539 U.S. 396, 421 (2003).
[92] *Movsesian*, 670 F.3d at 1074-75.

requirements related to, among other things, certification and inspection, and the limited exceptions to express preemption are not implicated here. CAA section 110 requires "each State" to adopt SIPs that implement the NAAQS "within" their State, subject to review and approval by the EPA for, among other things, whether the SIPs contain necessary assurances that their implementation would not violate Federal or State law. With respect to national standards, Congress vested the authority to prescribe national emission standards for vehicles and, among other things, I/M requirements for heavy duty vehicles, exclusively with the EPA. For these reasons, the EPA disagrees with commenters' characterizations that California has broad authority to impose operational limits on mobile-source emissions, or that regulating vehicles registered out-of-state and out-of-country is a traditional State responsibility. Commenters again fail to acknowledge the unprecedented quality of California's SIP submission in this respect, or to recognize the impact of a full approval that would render the HD I/M Regulation federally enforceable by "any person" across the nation.[93]

Given the structure of the statute, approving the HD I/M Regulation in this respect would necessarily compromise the Federal Government's ability to speak with one voice on the question of mobile-source emissions. In all practical respects, California's HD I/M Regulation would have the force and effect of Federal law, including as applied to vehicles that enter the United States from foreign countries and pass through California for any length of time, regardless of operations or destination. Full approval of the HD I/M Regulation would, therefore, both conflict with the CAA's division of responsibility between States and the Federal Government and intrude into a field reserved for the Federal Government by the Constitution.

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[93] Commenter's argument that the CAA does not distinguish between the national origin of emissions in requiring States to address emissions is similarly flawed. CAA section 110 requires "each State" to implement plans for attaining the NAAQS "within" their State and that plans, among other things, must include necessary assurances that plan implementation would not violate Federal or State law. Because obtaining creditable emissions reductions by imposing I/M requirements on out-of-country registered vehicles would violate Federal law for the reasons explained above, the CAA does not permit States to use this strategy in their SIPs without necessary assurances. CAA section 179B, which authorizes the EPA to determine that a State plan would be sufficient to attain the NAAQS "but for emissions emanating from outside of the United States," further supports the conclusion that the Federal Government retains the authority to decide when and how to address international emission impacts within the United States.

While the control of pollution within a State's borders is a traditional State responsibility, the HD I/M Regulation goes well beyond this traditional ambit by its terms and would necessarily exceed the ambit of traditional State responsibility if made federally enforceable by approval into the SIP. In assessing whether a State law falls within the ambit of traditional State authority, courts must "[inquire] into the 'real purpose' of the statute" to determine whether the regulatory imposition is merely "garden variety" or exceptional.[94] Here, the HD I/M Regulation departs from a garden variety approach by imposing I/M requirements on out-of-state and out-of-country registered vehicles that necessarily mandate behavior outside the State of California.

CARB cites to the Ninth Circuit's decision in *Movsesian* to support its claim that the HD I/M Regulation is not covered by foreign affairs preemption. There, the Ninth Circuit invalidated a California statute granting State courts the authority to adjudicate Ottoman-era insurance claims made by victims of the Armenian Genocide, finding that the law did not address an area of traditional State responsibility and intruded on the Federal foreign affairs power. Although insurance regulation was a subject of traditional State regulation generally, the statute was intentionally crafted to make California courts "an expeditious, inexpensive, and fair forum" in which to resolve monetary claims.[95] Here, as in *Movsesian*, the HD I/M Regulation departs from a "garden variety" approach to intrastate pollution regulation by requiring compliance from out-of-state and foreign vehicles to secure to California the benefit of additional creditable emissions reductions in furtherance of demonstrating attainment of the NAAQS.

With respect to CARB's contention that the HD I/M Regulation avoids intrusion on foreign affairs by not intruding into a politicized inquiry into the conduct of another nation, the EPA disagrees. The HD I/M Regulation "expresses a distinct point of view" on the politically charged issue of emissions reductions—an issue that is hotly debated, both in substance and regulatory response, within the United States, Mexico, and Canada, and among the three nations,

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[94] *Movsesian*, 670 F.3d at 1074.
[95] *Id.* at 1067, 1076-77.

as well as internationally.[96] The HD I/M Regulation also implicates the second prong of this test, which asks whether there has been an intrusion on the Federal foreign affairs power. The HD I/M Regulation "expresses a distinct point of view" on the question by targeting heavy duty vehicles as major emitters that should be subject to increasingly stringent controls—a view with which the Federal Government is entitled to disagree in negotiations with foreign powers.[97]

Comment 12: The EPA should not decide constitutional issues

Several commenters suggested that the EPA should not disapprove a SIP measure based on Constitutional issues that fall outside of its area of expertise. Commenters argued that *Pike* balancing is more appropriately handled by courts and questioned the EPA's role in adjudicating these issues in advance of a judicial determination of the Constitutional issues.

SCAQMD cited case law describing constitutional challenges as falling outside of agency competence and expertise. The commenter also cited a Supreme Court decision finding that the EPA could not consider claims relating to the technological or economic infeasibility of a SIP submittal and suggested that it would be contrary to this principle for the EPA to introduce a similar analysis through an assessment of Commerce Clause concerns.[98]

CARB argued that the EPA would not be entitled to deference in its interpretation of the Commerce Clause or Foreign Affairs preemption.

Response: The EPA disagrees that the Agency lacks authority to address whether California has provided "necessary assurances" that implementation of its SIP submission in full would not violate Federal or State law. As noted throughout this preamble, CAA section 110 expressly requires that SIP submissions satisfy all applicable requirements of the statute,

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[96] *Id.* at 1077 (noting that Turkey continued to express "great concern" over monetary claims arising out of the United States and other countries).

[97] *Id.* The premise of California's SIP submission is that imposing more stringent requirements than required by Federal law will generate creditable emissions reductions beyond those achieved under Federal law.

[98] *See generally* Comment ID EPA-R09-OAR-2025-0061-0039 (citing *Union Elec. v. EPA*, 427 U.S. 246, 257-58 (1976)). This case does not support the commenter's argument, however, because it addressed whether the EPA may deny SIP measures limiting emissions from stationary sources within the submitting State on grounds of technological or economic infeasibility and did not involve the concerns presented by California's novel attempt to obtain creditable emissions reductions by extending its regulatory reason to vehicles registered out-of-state and out-of-country.

including the requirement to provide such necessary assurances. We are not "adjudicating" constitutional claims in this action, nor are we invoking deference to constitutional or statutory interpretation. Rather, the EPA is exercising its authority and obligation under CAA section 110 to assess the SIP submission before it for compliance with statutory requirements.[99]

Commenters' assertions about the EPA's role in reviewing a SIP submission would lead to untenable results. Absent the ability to analyze statutory and constitutional provisions (as elements of Federal law) as applied to a SIP submission, the "necessary assurances" requirement in CAA section 110(a)(2)(E) would be superfluous. Courts have repeatedly recognized that the EPA has considerable discretion in determining whether assurances provided, if any, are sufficient to satisfy this statutory provision, and that determination requires assessing the underlying legal concern. Under commenters' theory, the EPA would be powerless to disapprove a SIP submission that discriminated on the basis of race in violation of the Fifth Amendment and applicable statutes so long as a State asserted that its submission was lawful. But as CAELP conceded, in the past a violation of the Civil Rights Act was not too speculative to deny the sufficiency of a State's demonstration.[100] CAELP further admitted that the "EPA has a duty to

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[99] As explained below, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 395 (2024), reinforces that agencies have the power to act when such authority is expressly conferred by statute. That is the case here, since CAA section 110(k) requires the EPA to approve SIP submissions that meet the requirements of the CAA and, conversely, does not authorize the EPA to approve aspects of SIP submissions that do not meet the requirements of the CAA, including the CAA section 110(a)(2)(E) requirement that the State provide "necessary assurances" that implementing the SIP would not violate Federal or State law. Courts have long recognized that the EPA has discretion in construing the undefined phrase "necessary assurances," and we are not relying here on an invocation of deference to statutory interpretation.

[100] Comment ID EPA-R09-OAR-2025-0061-0043. CAELP mischaracterizes the EPA's action in various ways to claim that the Agency lacks legal authority to disapprove a SIP in part for lack of necessary assurances that its implementation would not violate Federal or State law. As noted throughout this preamble, we are acting pursuant to the CAA's command that a SIP must satisfy all statutory requirements, including by providing such "necessary assurances." Indeed, CAELP admits that the "EPA has some discretion to determine the sufficiency of evidence that States must provide to make "necessary assurances." and appears to argue instead that "necessary assurances" are only required when potential illegality is "well-defined in advance of the state's submission." As an initial matter, we disagree that the relevant legal issues discussed here are not "well-defined"—Commerce Clause jurisprudence is well established, and the division of authority embodied in the CAA between States and the EPA (including the limitations of the preemption waiver process in CAA sections 109 and 177, the obligation of "each State" to develop SIPs to attain the NAAQS "within" the State, and the EPA's authority to promulgate national I/M requirements) has been in place for decades. Any novelty in this action arises from California's unprecedented attempt to circumvent these requirements by imposing what amounts to a nationwide I/M program that secures additional local benefits by imposing burdens on other States and out-of-state and out-of-country operators. Nothing in the text, structure, or logic of the statute precludes the EPA from insisting on necessary assurances simply because no State has ever attempted the same maneuver.

provide a reasoned judgment as to whether the state has provided 'necessary assurances,' but what assurances are 'necessary' is left to the EPA's discretion."[101] In this case, California has not provided necessary assurances that the aspects of the HD I/M Regulation which seek to regulate instrumentalities of commerce outside the State would not violate Federal law.

Comment 13: The EPA misapplies CAA 110(a)(2)(E)(i)

Several commenters challenged the EPA's proposed finding that California has not provided necessary assurances under CAA section 110(a)(2)(E)(i) that the State has adequate authority to implement the HD I/M Regulation consistent with Federal law. Commenters described California's process for adopting the HD I/M Regulation, including the State Legislature's enactment of legislation directing CARB to develop and implement an HD I/M program and public hearings and stakeholder meetings held during CARB's development of the HD I/M Regulation. Commenters challenged the specific application of CAA section 110(a)(2)(E)(i) to the concerns identified in the proposed partial disapproval, arguing that the State rulemaking record includes sufficient analysis to support the State's authority to lawfully implement the HD I/M Regulation. Commenters asserted that under CAA section 110 and associated case law, the EPA is generally required to approve SIP submittals that meet CAA requirements, including requirements related to providing necessary assurances, and argued that CAA section 110(a)(2)(E) in particular assigns the EPA a limited role in determining whether a State has provided necessary assurances. Commenters argued that this provision would not authorize the Agency to decide novel legal issues or resolve speculative legal challenges, to disapprove SIP submittals based on policy preferences, or to require States to provide assurances that a submittal is not prohibited by State law in other States or international law.

SCAQMD suggested that the EPA should allow the State an opportunity to provide necessary assurances, arguing that any failure by the State to submit a full legal argument does

[101] Comment ID EPA-R09-OAR-2025-0061-0043 (quoting *El Comité para el Bienestar de Earlimart v. EPA*, 786 F.3d 688, 701 (9th Cir. 2015), and citing *NRDC, Project on Clean Air v. EPA*, 478 F.2d 875, 890-91 (1st Cir. 1973)).

not mean that it lacks sufficient justification for its position that the HD I/M Regulation is lawful. The commenter asserted that the EPA is not required to make its own determination that necessary assurances have been provided when there is no reason that any would be necessary. The commenter cited EPA statements in guidance suggesting that it is unusual for States to have to make additional submittals related to authority once the EPA has approved the State's infrastructure SIP and noted that the EPA previously approved assurances of authority included in the State's infrastructure SIP for the 2015 ozone standards.

CAELP noted that CAA section 182 requires some SIPs to include I/M programs, which it describes as "plainly valid plan components" under the CAA. The commenter distinguished Ninth Circuit case law finding the EPA has discretion to determine the amount of evidence necessary to provide "necessary assurances" under CAA section 110(a)(2)(E)(i), noting that in that case the EPA had previously found a prima facie violation of civil rights requirements well in advance of the State's submission.

CARB pointed to specific portions of the Initial Statement of Reasons (ISOR) and Final Statement of Reasons (FSOR) included in its SIP submittal that it says provide the necessary assurances required under CAA section 110(a)(2)(E)(i), and noted that the State Office of Administrative Law's approval of the HD I/M Regulation included a separate review to ensure consistency with State and Federal law. The commenter argued that the legislative history of the 1990 amendments to CAA section 110(a)(2)(E)(i) shows that Congress ratified early interpretations of the provision by the EPA and reviewing courts that suggest a more modest demonstration that would not require States to analyze potential legal challenges. The commenter asserted that the EPA was changing its position relative to previous actions in which the Agency provided that a State is not required to "demonstrate" that a SIP submittal is not prohibited by State or Federal law, but is instead is required only to provide "necessary assurances" to that effect, and that a general assurance of certification is sufficient.

Commenters also cited cases to the effect that Constitutional claims fall "outside the

[Agency's] competence and expertise."[102] For example, SCAQMD states that "While there are some cases where Federal agencies decline to act on the grounds of unconstitutionality, these generally involve situations where the agency is deciding whether to implement its own statute, not where they declare a state or local law to be unconstitutional."

Response: As explained above, the EPA has a statutory obligation under CAA section 110(a)(3)(E) to determine whether a State has provided "necessary assurances" that implementation of its SIP submission would not violate State or Federal law. Courts have recognizing that this language necessarily provides the Agency with discretion to determine what assurances are "necessary" relative to the legal issues presented. Approval of a SIP gives the submission the imprimatur of Federal law, and renders it federally enforceable. There can be no side-stepping of the task of evaluating whether a State has provided necessary assurances that its SIP will not conflict with Federal law.[103] It is misleading to state that EPA is declaring anything to be unconstitutional. Rather than adjudicating constitutional claims, as commenters assert, the EPA is acting pursuant to CAA requirements to deny a full approval based on substantial and valid concerns that the assurances provided are inadequate. There is a circularity of reasoning in the comments in which commenters focus on the State's authority under State law to promulgate a regulation. Commenters then pivot to saying that this satisfies the Federal assurances requirement of the CAA. As stated above, "Commenters noted that under CAA section 110 and associated caselaw the EPA is generally required to approve SIP submittals that meet CAA requirements, including requirements related to providing necessary assurances." But this statement clearly includes the requirement for necessary assurances. There is nothing novel

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[102] Comment ID EPA-R09-OAR-2025-0061-0039 (quoting *Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 491 (2010)). We note that the quoted excerpt is taken out of context. The Supreme Court was describing why, under the legal standard for determining whether claims must be presented to an agency in the first instance, the relevant statute did not deprive district courts of jurisdiction to consider constitutional challenges to the structure of the PCAOB (specifically, the two layers of removal protection for the Board's members).

[103] A violation of the Federal Constitution falls well within the bounds of that requirement, thereby obligating the EPA to assess whether the State has provided necessary assurances. As noted above, the EPA has previously applied this statutory requirement to assess whether the State provided "necessary assurances" that plan implementation would not violate the Civil Rights Act. *See* Comment ID EPA-R09-OAR-2025-0061-0043 (citing *El Comité para el Bienestar de Earlimart v. EPA*, 786 F.3d 688, 700 (9th Cir. 2015)).

about the EPA evaluating whether the proposed SIP violates the Federal Constitution. Unlike prior CARB regulations adopted by other States, the HD I/M Regulation submitted for review would apply to vehicles registered out-of-state and out-of-country that traverse within the State of California for virtually any minimal length of time or perhaps not at all. The costs may make it prohibitively expensive for certain trucking companies to operate in California, but even if companies do not intentionally operate there, but rather pass through, they would be impacted by the economic burden created nationwide by the regulation. "This is particularly burdensome for trucks registered out-of-state, which are considered non-compliant unless they test prior to entering the state. These vehicles might operate in California for only a few hours or days, rather than for weeks or months, but must undergo testing to legally enter the state."[104] And as some commenters have pointed out, the functional impact goes farther to reaching operators who never enter California at all. Comments from truckers and industry representatives reveal that the force of these regulations will be felt across the entire country. One commenter pointed out that "[b]y nature, trucks are mobile work units that routinely traverse local, state, and international borders. Under the HD I/M program, rented or leased trucks from outside California could potentially enter the state without the knowledge of the rental or leasing company since they are not in control of the vehicles' routes."[105]

Thus, due to the risks of compliance costs and penalties, out-of-state truckers will be forced to treat California's HD I/M Regulation as a national standard regardless of where they concentrate their business or if they even enter the State. We disagree with commenters' assertions that the CAA's "necessary assurances" requirement amounts to a box-checking

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[104] Comment ID EPA-R09-OAR-2025-0061-0039 (citing *In re Aiken Cnty.*, 725 F.3d 255, 259 (D.C. Cir. 2013)). The commenter cites to *Aiken County* with the parenthetical "describing authority," but it is not clear why the commenter believes this citation supports its argument. In that case, the D.C. Circuit reasoned that agencies must abide by statutory requirements unless there are no congressional appropriations available or they have a constitutional objection to implementing the statute and could not simply decline to implement a licensing process. Here, we are acting pursuant to express statutory requirements by partially disapproving a SIP on the ground that the submitting State did not provide the "necessary assurances" required for an approval. It is worth noting the complete inapplicability of this case to this circumstance. In *Aiken* the agency in question refused to comply with a statutory mandate to issue a decision in a licensing process. The lack of any decision was the issue in that case, which has no comparison to this SIP decision.

[105] Comment ID EPA-R09-OAR-2025-0061-0036.

exercise. The analysis presented in this preamble is novel only to the extent that CARB's submission is unprecedented in scope. The State's legislative and rulemaking record does not adequately address this concern, including the general review conducted by the State's administrative law office. California appeared throughout to take an overly broad view of its authority and not to recognize the problem of its I/M requirements mandating behavior outside the State, particularly if the SIP submission were to be approved and therefore made federally enforceable. For similar reasons, we disagree that general assurances provided in California's infrastructure SIP some years ago have any relevance to this submission, particularly given the novel provisions at issue in this partial disapproval.

With respect to comments attempting to distinguish case law interpreting CAA section 110(a)(2)(E), including through legislative history, we disagree that this situation warrants a particularly relaxed approach to the "necessary assurances" requirement. Courts have recognized that CAA section 110(a)(2)(E) requires the EPA to evaluate assurances provided by the submitting State, if any, against the relevant legal standard and any factual submissions before the Agency.[106] Nor do we agree that legislative history that commenters assert "ratified" a more permissive approach prior to the 1990 amendments controls over the plain text of the statute, which courts have since construed as conferring discretion in case-by-case application.

With respect to commenters citation to CAA section 182, this provision undermines, rather than supports, commenters' positions that California has broad authority to mandate I/M requirements, including for out-of-state and out-of-country vehicles, and that California provided necessary assurances that implementing that aspect of the SIP submission would comply with Federal law. As discussed previously, CAA section 110 requires "each State" to develop plans for implementing and maintaining the NAAQS "within" their State. CAA section 182 builds on

[106] *See, e.g.*, *El Comité para el Bienestar*, 786 F.3d at 700-01 (stating that the EPA "has a duty to provide a reasoned judgment as to whether the state has provided 'necessary assurances'" and holding that the Agency reasonably exercised its "discretion" in evaluating comment submissions to determine whether there was "any connection between the proposed rules and a potential disparate impact" in the civil rights context).

this general SIP provision by providing for sequenced nonattainment classifications for particular States that fail to attain by the applicable deadline. These classifications—marginal, moderate, serious, severe, and extreme—are specific to each State and to each area within a State. States that immediately attain the NAAQS may never be designated nonattainment, and even States that fail to attain may never be designated at higher nonattainment levels. The structure of this provision demonstrates that the minimum I/M requirements imposed at particular nonattainment classifications are intended to be State-specific, as the mandatory I/M requirement for serious nonattainment areas, for example, are triggered only when an area is classified as serious nonattainment and are not required for areas classified attainment or a lower form of nonattainment.[107] By effectively imposing the HD I/M Regulation on owners and operators based in and servicing areas around the country regardless of classification, California's SIP submission disrupts the detailed scheme Congress enacted to incentivize attainment through area-specific measures that increase in stringency in the face of prolonged nonattainment.

Finally, one comment asserted that EPA has changed its position regarding the "necessary assurances" requirement for SIP submissions without an adequate explanation.[108] That is inaccurate. As noted at proposal, this situation presents a novel question on which the EPA has never had to develop a formal position. The Agency proposed a view in response to California's SIP submission and sought public comment. With respect to CAA section 110(a)(2)(E) more generally, the EPA previously asserted that it cannot approve a SIP when the State has not provided necessary assurances that the SIP could be implemented consistent with Federal and State law.[109]

The commenter cited *BCCA Appeal Group*, which discussed the EPA's evaluation of a State's legal authority under State law to carry out a SIP. There, the court rejected a petitioner's

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[107] *See* CAA section 182(c)(3).
[108] Comment ID EPA-R09-OAR-2025-0061-0045.
[109] *See* 87 FR 60494, 60529 (October 5, 2022) ("EPA [has] ample discretion in deciding what assurances are 'necessary'") (citing *BCAA Appeal Grp.*, 355 F.3d at 830 n.11); *id.* at 60529 n.276 (citing *El Comité para el Bienestar*, 786 F.3d at 701).

argument that the EPA should have conducted an "extremely burdensome" evaluation of State law when it had no reason to doubt the assurances provided by the State.[110] Here, in contrast, the EPA is determining that California failed to provide necessary assurances that implementing the out-of-state elements of the HD I/M Regulation is consistent with Federal law, namely, the Commerce Clause and the CAA. The commenter also cites to the Fifth Circuit's statement in *BCAA Appeal Group*, referring to a prior EPA SIP action, that "EPA is entitled to rely on a state's certification."[111] But the EPA made clear in prior actions that "Congress has left to the Administrator's sound discretion determination of what assurances are 'necessary' under CAA section 110(a)(2)(E)(i)."[112] On the contrary, as other commenters noted, the "EPA has a duty to provide a reasoned judgment as to whether the state has provided 'necessary assurances,' but what assurances are 'necessary' is left to the EPA's discretion."[113] Just as it may be reasonable under particular circumstances to rely on a State's assurances, particularly in a construction of applicable State law, so also is it reasonable in the circumstances presented here to conclude that a State has not provided necessary assurances, particularly in construing Federal law in the context of a novel and substantial assertion of State authority.

Although the EPA has not changed its position on this question, under *FCC v. Fox Television Stations, Inc*., 556 U.S. 502, 515 (2009), an agency may change its position by providing a reasoned explanation for the change that acknowledges the shift and accounts for legitimate reliance interests. Multiple circuits have held that the phrase "necessary assurances" in CAA section 110 is a broad term which provides the Agency significant discretion in evaluating what is necessary in each instance.[114] These cases were not based on deference to the Agency's

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[110] 355 F.3d at 830 n.11; *see also id.* at 845 (collecting authorities holding that the EPA has discretion to determine what assurances are "necessary").
[111] Comment ID EPA-OAR-R09-2025-0061-0045 (citing *BCAA Appeal Grp.*, 355 F.3d at 830 n.11); *see also* 87 FR 61249, 61257 (October 11, 2022)).
[112] 87 FR 61249, 61259 n.85 (quoting *NRDC*, 478 F.2d at 884, and citing *BCCA Appeal Grp.*, 355 F.3d at 844-47).
[113] Comment ID EPA-R09-OAR-2025-0061-0043 (quoting *El Comité para el Bienestar*, 786 F.3d at 701 (citing *NRDC*, 478 F.2d at 890-91)).
[114] *El Comité para el Bienestar*, 786 F.3d at 701 (citing *NRDC*, 478 F.2d at 890-91); *BCCA Appeal Grp.*, 355 F.3d at 830 n.11.

statutory interpretation. Rather, consistent with the Supreme Court's decision in *Loper Bright*, the statutory language itself confers authority to exercise reasoned judgment.[115] Given the technical and case-specific nature of the SIP development and review process, the best reading of the phrase "necessary assurances" confers flexibility to the EPA in evaluating what assurances are required. Contrary to assertions made by one commenter, a "general assurance or certification" which reduces the Federal role to a mere rubber stamp would not be acceptable for fulfilling the EPA's statutory obligation to ensure that implementation of a SIP would not violate Federal law. Commenters did not present concrete reliance interests that were not considered during this rulemaking and could warrant a different outcome. To the extent commenters construe purported benefits associated with a full approval of the HD I/M Regulation, however, we cannot agree that any such reliance is reasonable or legitimate. As noted previously, the out-of-state aspects of the HD I/M Regulation are novel, and the interests of California and commenters supporting California's position in demonstrating additional creditable emissions reductions for NAAQS attainment purposes are not sufficient to conclude that the State provided "necessary assurances" that implementing the SIP would not violate Federal law.

Finally, the EPA notes that its actions are constrained by Federal law separate and apart from the requirements of CAA section 110. It is axiomatic that Federal agencies may not take actions that violate the Constitution.[116] Under the circumstances here, approving the SIP submission in full would give the imprimatur of Federal law (and make federally enforceable) a regulatory scheme that appears inconsistent with the allocation of authority set out in the Commerce Clause. Furthermore, the SIP submission's out-of-state applicability is inconsistent with CAA section 110, which charges "each State" to develop requirements for "such State" to achieve compliance with the NAAQS and, as discussed above, is consistent more broadly with the Act's division of Federal and State authority. This risks undermining regulatory consistency

[115] 603 U.S. at 395.
[116] *See, e.g.*, *Aiken Cnty.*, 725 F.3d at 259 (summarizing relevant constitutional principles).

nationwide, and risks upsetting the entire NAAQS structure whereby each State plans and regulates as appropriate to comply with the requirements of the CAA.

Comment 14: No conflict with other SIPs

Several commenters challenged the EPA's proposed basis for partial disapproval related to substantial concerns that approving the extraterritorial reach of the HD I/M Regulation could interfere with attainment and reasonable further progress (RFP) in other areas and with implementation of approved SIPs for other States. Commenters noted that the EPA had not identified any specific conflicting requirements in other States and argued that any such conflict is unlikely since vehicles subject to multiple State requirements could comply with the more stringent requirements.

UCS argued that the EPA's concerns about conflicts between the HD I/M Regulation and other State SIPs is based on "flawed logic," because the HD I/M Regulation does not require any action to occur in other States, because the HD I/M Regulation applies only to vehicles that operate in California and enforcement would occur only within California, and because the HD I/M Regulation does not prevent out-of-state trucks subject to the HD I/M Regulation from complying with their home State's regulations. The commenter also highlights that it is a widespread practice for commercial vehicles to be domiciled and to commonly operate outside their State of registration, and suggests that it would be unreasonable for an out-of-state operator of vehicles in California to conduct its business without regard for California public health issues and regulations. The commenter suggested that as an alternative to partial disapproval, the EPA should facilitate a shared agreement among California and other States to allow vehicles to qualify as compliant if they have previously been tested under more stringent emissions inspection standards in another State.

CARB argued that the EPA's concerns about potential conflicts with laws in other States are too vague and speculative to justify partial disapproval, because the Agency has not identified any specific State programs that would conflict with the HD I/M Regulation. The

commenter cited a Ninth Circuit decision upholding a Utah vehicle maintenance program that applied to some vehicles registered in other States as allowing non-uniformity of State in-use vehicle rules.

Some commenters provided details about other State HD I/M programs. CCAEJ pointed to statements in the proposed rulemaking noting that no other States implement HD I/M provisions as part of their SIPs. UCS cited information indicating that as of 2024, 17 States maintained some form of statewide or regional inspection requirements for heavy-duty vehicles.

Response: As explained in the response to Comment 8 and elsewhere in this preamble, commenters' claim that implementation of the HD I/M Regulation would not interfere with or contravene any other States' SIPs is contradicted by the concerns expressed and by the nature of the trucking industry and the burden that the HD I/M Regulation would place upon out-of-state-registered vehicles and fleets. Particularly if made federally enforceable, any person could attempt to bring an action alleging that a vehicle passed through California without first complying with the HD I/M Regulation, no matter where that vehicle is registered, receives maintenance, and generally operates. Owners and operators would be forced to comply with California's HD I/M Regulation even if their State of registration imposes different I/M requirements. And other States would face limited options when seeking to use their own I/M programs to obtain creditable emissions reductions as part of SIPs submitted pursuant to CAA section 110. Thus, due to compliance costs and the risk of substantial penalties, out-of-state truckers will be forced to treat California's HD I/M Regulation as a national standard regardless of where they concentrate their business, and the nationwide reach of California's HD I/M Regulation could restrict the ability of other States to fulfill their statutory obligation to provide for a plan to maintain the NAAQS "within" their State.

Also, as explained elsewhere in this preamble, California's SIP submission seeks to remedy local nonattainment by extending the State's regulatory reach to vehicles registered in other States, and even other countries, that happen to traverse the State. This result is not

contemplated or authorized by CAA section 110, which requires "each State" to implement the NAAQS "within such State," and does not fall within any of the exceptional provisions of the Act that contemplate one State reaching into another State in pursuit of air quality improvements within its own borders. This is not a lawful use of the CAA's SIP provisions, which instruct each State to adopt appropriate controls for that State and prohibit the approval of SIPs not supported by "necessary assurances" of legality under Federal and State law. California may adopt and seek approval of a broad range of strategies to promote NAAQS attainment within the State, including by adopting additional measures for vehicles registered within the State. But it cannot (at minimum, without providing necessary assurances) outsource the costs of local attainment to out-of-state and out-of-country vehicle owners and operators through a regulation that would, if approved, become federally enforceable throughout the country in lieu of adopting additional controls for vehicles registered within the State. Some States have HD I/M provisions that differ from California's in material respects, but none of these have been approved into SIPs.[117] If approved into the SIP in all respects, California's HD I/M Regulation would be federally enforceable to the same extent as other State I/M regulations, including any that may be approved by the EPA in the future pursuant to CAA section 110. The result would be multiple conflicting sources of obligations that are enforceable both within the respective States and federally under the CAA.

Comment 15: Partial disapproval is otherwise arbitrary and capricious

Several commenters argued that the EPA's proposed partial disapproval is arbitrary and capricious or otherwise not in accordance with law, for reasons addressed in other comments and based on additional claimed deficiencies, including that the proposal fails to consider relevant legal and factual issues, fails to include sufficient analysis or support, and is based on incorrect

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[117] *See* 6 NYCRR subpart 217-5 (New York Heavy Duty Inspection and Maintenance Program); N.J.A.C. 7:27-14 (New Jersey Control and Prohibition of Air Pollution); ORS 815.200-215 (Oregon motor vehicle pollution control); *see also* Comment ID EPA-OAR-2025-0061-0047 ("Existing HD I/M programs, or new programs adopted in the future, may not all have identical requirements, but any discrepancies are likely to have an immeasurable impact on air quality outcomes provided they are target high-emitting vehicles. Greater assurances are needed that the emissions benefits from these separate programs are properly accounted for and do not overlap.").

assumptions.

Among other claims, commenters asserted that the proposal includes an insufficient legal and factual basis to establish violations of the Commerce Clause or other constitutional provisions, fails to consider benefits associated with the HD I/M Regulation either separately or in balance with costs, and fails to acknowledge or explain the EPA's purported change in policy regarding the nature of necessary assurances that a State must provide (including in the context of the Dormant Commerce Clause). Some commenters suggested that the EPA had not provided a "reasoned judgment" to support the proposed partial disapproval. Certain commenters also suggested that the proposed disapproval is pretextual because it is based on considerations other than those described in the proposal, including considerations not authorized by the CAA. These commenters pointed to language in an EPA press release announcing the proposal, which described the HD I/M Regulation as related to climate ideology rather than reduction of criteria pollutants, noting that the HD I/M Regulation is not aimed at reducing greenhouse gases and is not included in the State's plans related to climate change. CARB stated that this language suggests the EPA is acting out of unrelated hostility to California over its other regulatory efforts.

Response: The EPA disagrees that partial disapproval of the HD I/M Regulation is inappropriate for the reasons suggested by commenters.[118] To the extent commenters have suggested that additional discussion is needed to support the proposed rulemaking, we note additional analysis included in this document, which describes the basis for our final action, including in response to issues raised by commenters. In compliance with all statutory and administrative requirements, the EPA provided notice in the *Federal Register* and an opportunity

[118] With respect to commenters' assertions of pretext based on an EPA press release, we disagree with the suggestion that this action was motivated by reasoning related to other CARB regulatory efforts addressing global climate change concerns. As explained at proposal and in this final rule, the EPA is disapproving the SIP submission in part because California failed to provide the required necessary assurances that implementation of the HD I/M Regulation would, if approved and made enforceable nationwide, be consistent with Federal law. Notably, we are approving the SIP submission in part to the extent it complies with the statute and does not raise the same problem with respect to necessary assurances and Federal law. Commenters are taking the press release out of context to avoid grappling with the rationale and basis for decision included in the proposed rule.

for public comment on a proposed rulemaking seeking either to partially approve and partially disapprove or to fully approve this SIP revision. That opportunity for public input generated a robust response, and we disagree with commenters to the extent they assert that the opportunity for public input during this rulemaking was insufficient.

The EPA proposed partial approval and partial disapproval based upon California's failure to provide the "necessary assurances" that its SIP submission could be implemented consistent with Federal law. The EPA also asked for comment related to the concern that the HD I/M Regulation could also interfere with other applicable requirements of the Act concerning attainment and RFP, as well as the implementation of SIPs submitted by other States and approved by the EPA.

Many comments favoring partial disapproval were received from farmers, independent truckers, small trucking businesses, and national trucking organizations. These groups posited that the HD I/M Regulation violates the Commerce Clause by imposing serious burdens upon interstate commerce. Through the intake and review of comments submitted, the EPA was informed by myriad concerned parties that while owners of heavy-duty vehicles registered in and operating in California must register with CARB, submit reports on the functionality of their emissions control systems to CARB by way of CARB-certified inspectors, and obtain a compliance certificate to be presented during CARB-led inspections, the HD I/M Regulation also applies to all non-gasoline combustion vehicles above 14,000 lbs that pass through California. Unlike prior CARB regulations and similar regulations adopted by other States, the HD I/M Regulation submitted for review would apply to vehicles registered out-of-state and out-of-country that traverse the State of California for virtually any length of time. It has been the consistent policy of the EPA to evaluate the necessary assurances provided by the State for compliance with CAA section 110. As admitted by multiple commenters and in case law, the "EPA has a duty to provide a reasoned judgment as to whether the state has provided 'necessary

assurances.'"[119] A submission cannot be approved without such assurances, and the EPA cannot simply sidestep such Federal constitutional issues based on assertions that California has or should have broad authority to regulate nationwide in pursuit of purported benefits. The EPA has both the discretion and a statutory obligation to review such a submission, weighing the necessary assurances provided, if any, alongside relevant information and the applicable legal standard—here, including a review of the purposes of the regulation, its projected costs and purported benefits, and case law bearing on the proper interpretation of relevant CAA provisions and the Commerce Clause. Based on diligent review of the comments, legal issues, and information associated with the proposed SIP, the EPA made a reasonable decision and reasonably explained that decision as required by the Clean Air Act and relevant sources of administrative law, including the Administrative Procedure Act.

C. Other Comments

Comment 16: General objections to HD I/M Regulation and other CARB actions

Numerous commenters expressed general disapproval of the HD I/M Regulation and other CARB regulations. Many of these commenters highlighted concerns about the costs and other burdens associated with compliance with CARB's motor vehicle regulations, with some questioning whether HD I/M Regulations were cost-efficient generally, effective for reducing air pollution, or otherwise necessary. Several commenters described experiences as members of the regulated community, including personal hardships they have faced or anticipate facing as a result of CARB regulations. Some criticized CARB initiatives related to climate change.

Response: We understand many of these comments to be generally supportive of the EPA's proposed partial disapproval, including those objecting to the HD I/M Regulation's application to out-of-state and out-of-country vehicles. For further treatment of comments in support of the partial disapproval alternative, please see our responses to Comments 1 through 4.

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[119] Comment ID EPA-R09-OAR-2025-0061-0043 (quoting *El Comité para el Bienestar*, 786 F.3d at 701, and citing *NRDC*, 478 F.2d at 890-91).

Comments related to other CARB regulations, including other regulations applicable to heavy-duty diesel vehicles and measures to address climate change, are outside the scope of this action. As noted in our response to Comment 17, comments regarding specific design and function of the HD I/M Regulation are also outside the scope of this action. However, we note that the partial disapproval finalized in this action does not reflect an analysis of CARB's regulations generally or the costs of the HD I/M Regulation solely with respect vehicles registered within the State. Additional CARB regulations are out of scope for this final action, and we are approving the HD I/M Regulation to the extent applicable to vehicles registered within the State. Unless provided otherwise by the CAA, States generally have substantial discretion to develop and implement plans, subject to EPA review and approval, to attain and maintain the NAAQS.

Comment 17: Suggested revisions to the HD I/M Regulation

Several commenters raised concerns regarding specific programmatic design elements of the HD I/M Regulation and other measures, including their application to vehicles registered outside of California, exemptions or flexibilities for specific classes of vehicles, and issues related to HD I/M Regulation's testing and reporting obligations and other enforcement mechanisms.

Response: These comments fall outside the scope of this final action. Although we are disapproving the HD I/M Regulation with respect to vehicles registered outside of California, the EPA cannot amend State rules that comply with CAA requirements through the SIP review process. As noted previously, States generally have substantial discretion to develop and implement plans, subject to EPA review and approval, to attain and maintain the NAAQS. Thus, we are approving the HD I/M Regulation to the extent it applies to vehicles registered within the State of California as consistent with applicable requirements of the CAA.

Comment 18: General support for HD I/M programs

The Manufacturers of Emission Controls Association (MECA) expressed general support for HD I/M programs as a tool to ensure vehicles operate as designed throughout their useful

lives, and particular support for California's HD I/M Regulation as an example for other States. The commenter cited the effectiveness of diesel oxidation catalysts, diesel particulate filters, and selective catalytic reduction emissions control technologies, and noted the importance of I/M requirements for sustaining the benefits of these technologies over a vehicle's lifetime. The commenter highlighted the role of I/M as a deterrent to known high-emission operations and tampering, as a mechanism for ensuring a level playing field across the trucking industry, and as a proactive monitoring tool to identify fleet maintenance needs.

Response: The EPA acknowledges the general benefits of regular I/M for vehicles and emission control, including the role of State regulatory programs applicable to in-state registered vehicles. For this reason, among others, we are approving the HD I/M Regulation as it applies to California-registered vehicles. See our response to Comment 6 for additional responses related to our consideration of general benefits of the HD I/M Regulation.

Comment 19: Requests for additional analysis

An anonymous commenter suggested that the EPA provide additional discussion and documentation on several topics. The commenter asked the EPA to provide more detailed criteria or examples regarding what constitutes acceptable State "assurances" under CAA section 110(a)(2)(E)(i). The commenter requested additional clarification regarding the effect of finalizing a partial disapproval, including issues relating to the timing for approved provisions to take effect, the impacts to California attainment planning efforts, and implications for future SIP flexibility. The commenter also asked the EPA to evaluate whether Federal programs could complement State efforts to prevent emissions leakage and to require California to provide reports related to compliance and enforcement and to recommend that the State incorporate environmental justice screening into its enforcement activities.

Response: Please see our responses to other comments and other portions of this preamble for additional discussion of CAA section 110(a)(2)(E)(i) and the effects of partial disapproval of the HD I/M Regulation. Our partial approval and partial disapproval will become

effective 30 days from the date of publication of this final action in the *Federal Register*. We disagree with the commenter that other additional evaluation or documentation is necessary to support this action, but note that the Agency has provided guidance regarding SIP submissions in a number of respects and remains committed to working with States to assist in developing approvable submissions that meet the requirements and objectives of the CAA. With respect to the question whether Federal programs complement State efforts to prevent emissions leakage, we note that the EPA has adopted inspection and maintenance requirements in several contexts and issued guidance on I/M programs generally in response to the 1990 CAA Amendments. Finally, with respect to compliance and enforcement, our approval of the HD I/M Regulation to the extent it applies to in-state registered vehicles reflects a determination that California's SIP includes sufficient reporting, compliance, and enforcement mechanisms to satisfy applicable CAA requirements. The statute does not require, or authorize the EPA to require, environmental justice screening as part of that demonstration.

Comment 20: Partial conditional approval

One commenter suggested that the EPA should fully approve the HD I/M Regulation as it applies to out-of-state vehicles but conditionally approve the HD I/M Regulation as applied to in-state vehicles. The commenter suggested that the conditional approval for in-state vehicles should be conditional on the availability of alternative modes of transportation for California laborers, citing the need to protect the State's trucking industry from a decrease in trucking jobs that the commenter anticipates will result from implementation of the HD I/M Regulation. In support of approving the HD I/M Regulation for out-of-state vehicles, the commenter argues that these vehicles produce the most emissions in California and therefore must necessarily be regulated.

The commenter argued that there would be no Commerce Clause violation in approving the HD I/M Regulation for out-of-state vehicles because the benefits associated with the HD I/M Regulation will outweigh the associated burdens. The commenter also suggests that the HD I/M

Regulation should be adopted at the Federal level.

Response: We do not understand the CAA as authorizing the EPA to take the action suggested by the commenter. As an initial matter, we see no basis for us to condition approval of the HD I/M Regulation as to in-state vehicles on the availability of replacement employment for the California truckers the commenter believes may lose their jobs as a result of the HD I/M Regulation. While we appreciate this concern, the CAA does not require States to include measures that address such adverse economic impacts that may result from emissions control measures, and California has in its discretion decided to proceed with the HD I/M Regulation despite the potential for losses to in-state trucking jobs the commenter highlighted.

Conversely, however, we disagree that it would be appropriate to fully approve, on a non-conditional basis, the HD I/M Regulation to the extent it applies to out-of-state vehicles. Such an approval structure would raise additional Commerce Clause concerns (if coupled with the conditional approval discussed above) by providing protections for California truckers that are not extended to out-of-state truckers. As discussed above, the burdens imposed on out-of-state and out-of-country owners and operators, and interstate commerce generally, in exchange for localized benefits are relevant to the Commerce Clause analysis and to the propriety of California's SIP submission under the CAA.

Comment 21: Full disapproval

A member of the California State Assembly suggested that the EPA should fully disapprove the submitted HD I/M Regulation. The commenter pointed to concerns identified in the proposed rulemaking related to CAA section 110(a)(2)(E)(i) and to the HD I/M Regulation's enforceability and constitutionality, and argued that disapproving it only for non-California vehicles would leave a materially different and unvetted program. The commenter also argued that the costs and vehicle downtime associated with the HD I/M Regulation confirms the need for a uniform Federal approach rather than a California-specific rule.

Response: We disagree that the substantial concerns identified for vehicles registered out-

of-state would warrant disapproval of the HD I/M Regulation for the reasons suggested. Additional comments relating to compliance costs are addressed in our response to Comments 1 and 2.

Comment 22: Partial disapproval only for vehicles merely passing through California

SCAQMD, while generally arguing in favor of full approval of the HD I/M Regulation, suggested that any disapproval should be limited to vehicles that merely pass through California, rather than vehicles that conduct business in California and make one or more stops within the State, arguing that this would address the EPA's most substantial concerns.

Response: We do not consider the commenter's suggestion to be a viable alternative to the EPA's proposed alternative actions for the reason that it would not be practically enforceable as described. Determining the applicability of the HD I/M Regulation to a particular vehicle on the basis of whether the vehicle merely passes through California or conducts business within the State would be difficult if not impossible in practice. The comment, rather, highlights the impermissible burdens the proposed SIP would place on out-of-state residents and commercial enterprises. These costs would make it prohibitively expensive for certain trucking companies to operate in California or even to pass through California routed to other destinations, thereby creating an economic burden felt throughout the United States. "This is particularly burdensome for trucks registered out-of-state, which are considered non-compliant unless they test prior to entering the state. These vehicles might operate in California for only a few hours or days, rather than for weeks or months, but must undergo testing to legally enter the state."[120]

Small proprietors also argued they would be forced to treat the HD I/M Regulation as a national standard that mandates fleet replacement, creates out-of-state permitting hurdles, risks fines levied against non-California based businesses, and threatens downstream burdens to other industries in need of transportation services.[121]

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[120] Comment ID EPA-R09-OAR-2025-0061-0047.
[121] *See generally* Comment ID EPA-R09-OAR-2025-0061-0015; Comment ID EPA-R09-OAR-2025-0061-0016; Comment ID EPA-R09-OAR-2025-0061-0018.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of CARB's Heavy-Duty Vehicle Inspection and Maintenance Program, listed in table 1 of section I of this preamble: 13 CCR 2193 (amended); and new sections 13 CCR 2195, 2195.1, 2196, 2196.1, 2196.2, 2196.3, 2196.4, 2196.5, 2196.6, 2196.7, 2196.8, 2197, 2197.1, 2197.2, 2197.3, 2198, 2198.1, 2198.2, 2199, and 2199.1, and the OBD Standards incorporated by reference within the regulations. (As described in this action, our approval is limited to vehicles registered in the State of California.) These regulations control emissions from non-gasoline powered vehicles travelling in California and weighing over 14,000 pounds. The EPA has made, and will continue to make, these documents available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). These materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA's partial approval, and will be incorporated by reference in the next update to the SIP compilation.[122]

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to review State choices and approve those choices if they meet the requirements of the Act. Accordingly, this final action partially approves and partially disapproves a State regulation as meeting Federal requirements and does not impose additional requirements beyond those imposed by the State regulation.

Additional information about these statutes and Executive Orders can be found at

[122] 62 FR 27968 (May 22, 1997).

https://www.epa.gov/laws-regulations/laws-and-executive-orders.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This is a significant regulatory action as per Executive Order 12866 and was submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not an Executive Order 14192 regulatory action. The SIP partial disapproval does not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion in the SIP. The SIP approval does not impose any requirements, but rather determines that the State's submission complies with the CAA and applicable regulations.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by State law.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by State law. This rule grants partial approval for state air quality regulations. It does not in and of itself impose any additional requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by State law. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, will result from this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it merely partially approves and partially disapproves State law as meeting Federal requirements. Furthermore, the EPA's Policy on Children's Health does not apply to this action.

I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action on an inspection and maintenance measure for heavy-duty vehicles in California does not relate to or affect energy supply, distribution, or use.

J. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d)

of the NTTAA because application of those requirements would be inconsistent with the CAA.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 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).

L. Petitions for Judicial Review

Under CAA section 307(b)(1), 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 rule 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 27, 2026.

Michael Martucci,
Acting Regional Administrator, EPA Region IX.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart F—California

2. In § 52.220a, in paragraph (c), table 1 is amended by:

a. Revising the entry for "2193", under the subheading "Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 3.6. (Periodic Smoke Inspections of Heavy-Duty Diesel-Powered Vehicles)"; and

b. Adding a heading for "Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 3.7 (Heavy Duty Motor Vehicle Inspection and Maintenance Program)" immediately after the entry for "2194"; and adding entries for "2195", "2195.1", "2196", "2196.1", "2196.2", "2196.3", "2196.4", "2196.5", "2196.6", "2196.7", "2196.8", "2197", "2197.1", "2197.2", "2197.3", "2198", "2198.1", "2198.2", "2199", "2199.1", and "Final Regulation Order, Attachment B" under the newly added heading.

The revision and additions read as follows:

§ 52.220a Identification of plan–in part.

* * * * *

(c) * * *

Table 1—EPA-Approved Statutes and State Regulations[1]

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*	*	*
TITLE 13 (MOTOR VEHICLES), DIVISION 3 (AIR RESOURCES BOARD), CHAPTER 3.6. (PERIODIC SMOKE INSPECTIONS OF HEAVY-DUTY DIESEL-POWERED VEHICLES)						
*	*	*	*	*	*	*
2193	Smoke Opacity Standards, Inspection	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE**	Replaces version effective July 1, 2019 with amended version effective January 1,

	Intervals, and Test Procedures		***FEDERAL REGISTER*]**, 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	2023, as it applies to vehicles registered in the State of California.
*	*	*	*	*	*	*
TITLE 13 (MOTOR VEHICLES), DIVISION 3 (AIR RESOURCES BOARD), CHAPTER 3.7 (HEAVY-DUTY VEHICLE INSPECTION AND MAINTENANCE PROGRAM)				
2195	Applicability	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2195 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2195.1	Definitions	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2195.1 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2196	Owner and Operator Requirements.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2196 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.

2196.1	HD I/M Compliance and Registration.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2196.1 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2196.2	Periodic Vehicle Emission Testing Requirements.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2196.2 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2196.3	Vehicle Compliance Test Methods for OBD-Equipped Vehicles.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2196.3 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2196.4	Vehicle Compliance Test Method for Non-OBD-Equipped Vehicles.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT**	Approves § 2196.4 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.

			BEGINS]	
2196.5	Roadside Emissions Monitoring Devices.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2196.5 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2196.6	Smoke Opacity Standards.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2196.6 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2196.7	Referee Services.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2196.7 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2196.8	Parts Unavailability Compliance Time Extension.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE**	Approves § 2196.8 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.

			DOCUMENT BEGINS]	
2197	Freight Contractor, Broker, and Applicable Freight Facility Requirements.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2197 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2197.1	HD I/M Tester Requirements.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2197.1 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2197.2	Reporting Requirements.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTE*R PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2197.2 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2197.3	Recordkeeping Requirements.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE**	Approves § 2197.3 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.

			THE DOCUMENT BEGINS]	
2198	Vehicle Emissions Control Equipment Inspections.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2198 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2198.1	In-person Field Inspection Requirements for Drivers and Inspectors	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2198.1 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2198.2	Enforcement.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2198.2 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
2199	Severability of Provisions.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*],** 91 FR **[INSERT FEDERAL REGISTER**	Approves § 2199 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.

			PAGE WHERE THE DOCUMENT BEGINS]	
2199.1	Sunset of the Requirements of the Heavy-Duty Vehicle Inspection Program and the Periodic Smoke Inspection Program.	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE FEDERAL *REGISTER*],** 91 FR **[INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]**	Approves § 2199.1 of California's Heavy-Duty Inspection and Maintenance Program as it applies to vehicles registered in the State of California.
Final Regulation Order, Attachment B	California Standards for Heavy-Duty Remote On-Board Diagnostic Devices	1/1/2023	**[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER],** 91 FR **[INSERT *FEDERAL REGISTER* PAGE WHERE THE DOCUMENT BEGINS]**	Approves California Standards for Heavy-Duty Remote On-Board Diagnostic Devices as it applies to vehicles registered in the State of California.
*	*	*	*	*	*	*

[1] Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in Table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

* * * * *

3. Add § 52.249 to subpart F to read as follows:

§ 52.249 California Heavy-Duty inspection and maintenance program.

Approval of the California Heavy-Duty Vehicle Inspection and Maintenance Program, as approved on [**INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER***] in table 1 of § 52.220a(c), is limited to vehicles registered in the State of California.

[FR Doc. 2026-02350 Filed: 2/5/2026 8:45 am; Publication Date: 2/6/2026]