



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0625; FRL-12877-03-R9]

Air Plan Revisions; California; Mojave Desert Air Quality Management District; New Source Review; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing conditional approval of five permitting rules as a revision to the Mojave Desert Air Quality Management District (MDAQMD or the “District”) portion of the California State Implementation Plan (SIP). These are revisions to the District’s New Source Review (NSR) air permitting program rules for new and modified sources of air pollution under part D of title I of the Clean Air Act (CAA or “Act”).

DATES: This rule is effective on [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-2025-0625 at <https://www.regulations.gov>. 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 the disclosure of which 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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT**

section.

FOR FURTHER INFORMATION CONTACT: Cecelia Working, EPA Region IX, 75

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SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our”

refer to the EPA.

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I. Proposed Action and Interim Final Determination to Stay or Defer Sanctions

On July 24, 2025 (90 FR 34785), the EPA proposed to conditionally approve the rules listed below. Table 1 lists the rules addressed by this proposal with the dates they were amended or revised by the MDAQMD and submitted by the California Air Resources Board (CARB), the agency that serves as the governor’s designee for California SIP submittals.

TABLE 1 – SUBMITTED RULES

RULE NUMBER	RULE TITLE	ADOPTION / AMENDMENT DATE	SUBMITTED DATE
1301	New Source Review Definitions	3/25/2024	8/7/2024
1302 ^a	New Source Review Procedure	3/25/2024	8/7/2024
1303	New Source Review Requirements	3/25/2024	8/7/2024
1304	New Source Review Emissions Calculations	3/25/2024	8/7/2024
1305	New Source Review Emission Offsets	3/25/2024	8/7/2024

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

A. *What was the purpose of the submitted rule revisions?*

The August 7, 2024 submittal is intended to address certain deficiencies that the EPA had identified in earlier versions of the MDAQMD Rules 1301, 1302, 1303, 1304, and 1305. The deficiencies pertain to certain applicable nonattainment NSR (NNSR) requirements under the CAA, in part D of title I of the Act, and the implementing regulations under 40 CFR part 51.165. Portions of the MDAQMD are currently designated as Moderate nonattainment for the 1987 PM₁₀ NAAQS and as Severe nonattainment for the 2008 and 2015 8-hour ozone NAAQS.¹ The rules listed in Table 1 are intended to replace the rules currently in the SIP.

In our proposed rule, we determined that the MDAQMD's submitted rules could not be fully approved without supplementation from the MDAQMD and CARB. However, we determined that the submitted rules could be conditionally approved based upon commitments from the MDAQMD and CARB to supplement MDAQMD Rule 1304 through submission, as a SIP revision (within one year of our final conditional approval action), of a revised MDAQMD rule that would rescind the deficient provision from MDAQMD Rule 1304.² Please see our proposed rule for more information concerning the background for this action and for a more detailed discussion of the rationale for our conditional approval of MDAQMD Rules 1301, 1302, 1303, 1304, and 1305.

B. Interim Final Determination to Defer Sanctions

In addition, on July 24, 2025,³ the EPA published an Interim Final Determination to stay the imposition of the offset sanction and defer the imposition of the highway sanction that was triggered by our June 30, 2023 limited disapproval of an earlier version of the MDAQMD's NSR rules.⁴

II. Public Comments and EPA Action

¹ 40 CFR 81.305.

² See 90 FR 34785, 34787-88.

³ 90 FR 34766.

⁴ 88 FR 42258.

The EPA's proposed action provided a 30-day public comment period. The public comment period on the proposed rule opened on July 24, 2025, the date of its publication in the Federal Register, and closed on August 25, 2025. During this period, the EPA received one comment letter submitted by an anonymous commenter. The EPA also received one comment letter from an anonymous commenter on the interim final determination to defer sanctions that accompanied the proposed rule. Copies of the comment letters are included in the docket for this action and accessible at <https://www.regulations.gov>.

Comment #1: The commenter requests that the EPA require the MDAQMD and permit applicants to include carbon dioxide emission estimates and the associated social cost calculations for new or modified sources, provide technical guidance on using the federal social cost of carbon in permit evaluations, and consider the long-term climate and economic consequences of exempting or under-evaluating carbon dioxide emissions in future permit decisions.

Response to Comment #1: The EPA does not agree with the commenter. This action relates to the MDAQMD's minor and NNSR programs and the EPA's minor and NNSR regulations do not require states to regulate carbon dioxide.⁵

Comment #2: The commenter encourages the EPA to assess the potential greenhouse gas emissions impact of deferred sanctions, provide guidance to state and local agencies on incorporating carbon dioxide co-benefit analyses into SIP-related compliance and enforcement decisions, and ensure that regulatory flexibility does not compromise long-term environmental resilience or undermine the public trust in CAA enforcement.

Response to Comment #2: As we explain above in our response to the comment we received on the proposed action on MDAQMD's rules, the EPA does not regulate carbon dioxide

⁵ See 75 FR 31514, 31520 (June 3, 2010) ("There is no NAAQS for CO₂ or any of the other well-mixed GHGs, nor has EPA proposed any such NAAQS; therefore, unless and until we take further such action, we do not anticipate that the nonattainment NSR program will apply to GHGs."). EPA rulemakings have clarified that stationary source preconstruction permitting requirements for GHGs do not apply to nonmajor sources. *Id.*; see also 80 FR 26183 (May 7, 2015), 80 FR 50199 (August 19, 2015). Our position on these topics remains unchanged.

or other well-mixed greenhouse gases through the minor or NNSR programs. In addition, the EPA does not consider the comment on regulatory flexibility to be germane to this action, which is limited to our evaluation of the MDAQMD's minor and NNSR rules for compliance with specific statutory and regulatory provisions that we describe in detail in our proposed rulemaking documents. Our proposed action contains our analysis of how the MDAQMD's submittal addresses, for the most part, the substantive minor and NNSR statutory and regulatory requirements. Our proposed action also contains the EPA's analysis that Rule 1304 contains a remaining deficiency and the fact that CARB and the MDAQMD have provided a written commitment to address this deficiency within one year of the effective date of this final action. This analysis provides the basis for our stay of the imposition of sanctions.

The comments we received on our proposed action and on our interim final determination do not change our assessment of the submitted rules, as described in our proposed action. Therefore, the EPA is taking final action to conditionally approve the submitted rules into the SIP. Pursuant to CAA section 110(k)(4), we are finalizing our conditional approval of the August 7, 2024 submittal of MDAQMD Rules 1301, 1302, 1303, 1304, and 1305, on the basis that they mostly address the substantive statutory and regulatory requirements for minor and NNSR permit programs. Our approval is conditional on the basis of a commitment by CARB and the MDAQMD to revise Rule 1304 to correct the remaining deficiency within one year of the effective date of this final conditional approval action. Our action will be codified through revisions to 40 CFR 52.220 (Identification of plan—in part) and 40 CFR 52.248 (Identification of plan—conditional approval). Pursuant to 40 CFR 52.31(d)(3)(iii), our conditional approval of the August 7, 2024 submission stays the application of the offset and highway sanctions unless this conditional approval converts to a disapproval or the EPA proposes to or takes final action to disapprove in whole or in part the revised SIP the State submits to fulfill its commitment in the conditionally-approved plan.

III. 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 incorporating by reference the MDAQMD Rules 1301, 1302, 1303, 1304, and 1305, which the MDAQMD adopted on March 25, 2024. These rules are intended to address the CAA's statutory and regulatory requirements for NNSR permit programs for major sources emitting nonattainment air pollutants under part D of title I of the CAA. The EPA has made, and will continue to make, these materials 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).

IV. 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 minimum criteria of the Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law.

Additional information about these statutes and Executive Orders can be found at <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 action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not expected to be an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

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.

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 approves 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 subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

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 Congressional Review Act, and the EPA will submit a rule report to each House of 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 section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this 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 section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: March 11, 2026.

Michael Martucci,
Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations 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. Section 52.220 is amended by adding paragraphs (c)(600)(i)(A)(9) and (c)(631) to read as follows:

§52.220 Identification of plan—in part.

* * * * *

(c) * * *

(600) * * *

(i) * * *

(A) * * *

(9) Previously approved on June 30, 2023, in paragraphs (c)(600)(i)(A)(3)-(7) of this section and now deleted with replacement in paragraphs (c)(631)(i)(A)(1)-(5) of this section: Rule 1301, “New Source Review Definitions”; Rule 1302, “New Source Review Procedure” (except subsections (C)(5) and (C)(7)(c)); Rule 1303, “New Source Review Requirements”; Rule 1304 “New Source Review Emissions Calculations”; and Rule 1305, “New Source Review Emission Offsets”; all of which were amended on March 22, 2021.

* * * * *

(631) The following regulations were submitted electronically on August 7, 2024, by the Governor’s designee as an attachment to a letter dated August 7, 2024.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(1) Rule 1301, “New Source Review Definitions,” amended on March 25, 2024.

(2) Rule 1302, “New Source Review Procedure,” (except subsections 1302(C)(5) and

1302(C)(7)(c)), amended on March 25, 2024.

(3) Rule 1303, “New Source Review Requirements,” amended on March 25, 2024.

(4) Rule 1304, “New Source Review Emissions Calculations,” amended on March 25, 2024.

(5) Rule 1305, “New Source Review Emissions Offsets,” amended on March 25, 2024.

(B) [Reserved]

(ii) [Reserved]

* * * * *

3. Section 52.248 is amended by adding paragraph (n) to read as follows:

§52.248 Identification of plan—conditional approval.

* * * * *

(n) The EPA is conditionally approving the California State Implementation Plan (SIP) for Mojave Desert for the 2008 ozone NAAQS, 2015 ozone NAAQS, and 1987 PM₁₀ NAAQS with respect to the nonattainment New Source Review requirements of CAA section 173. The conditional approval is based on a commitment from the Mojave Desert Air Quality Management District (District) in a letter dated June 12, 2025, to adopt a specific rule revision, and a commitment from the California Air Resources Board (CARB) dated June 17, 2025, to submit the amended District rule to the EPA within 12 months of the effective date of the final conditional approval. If the District or CARB fail to meet their commitments within one year of the effective date of the final conditional approval, the conditional approval is treated as a disapproval.

[FR Doc. 2026-05591 Filed: 3/20/2026 8:45 am; Publication Date: 3/23/2026]