
**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MOJAVE DESERT AIR QUALITY
MANAGEMENT DISTRICT

Petitioner

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY; LEE ZELDIN,
Administrator of the United States
Environmental Protection Agency

Respondents.

No. 25-_____

PETITION FOR REVIEW

R Raymond Rothman
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Mojave Desert Air Quality Management
District*

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and section 307(b) of the Clean Air Act, 42 U.S.C. § 7607(b), the Mojave Desert Air Quality Management District (the “District”) hereby petitions this Court for review of final actions of Respondents, the U.S. Environmental Protection Agency (“EPA”) and Lee Zeldin, Administrator, U.S. Environmental Protection Agency, that are memorialized in a Final Rule entitled “Federal Implementation Plan for Nonattainment New Source Review Program; Mojave Desert Air Quality Management District, California,” which was published in the Federal Register on December 30, 2024 at 89 Fed. Reg. 106332-01 and placed in two EPA dockets: EPA-R09-OAR-2024-0228 and EPA-R09-OAR-2022-0338 (the “2024 Final Rule”).¹ In this 2024 Final Rule, EPA took “new agency action” in response to a remand from this Court to disapprove of District Rule 1304(C)(2)(d) and to promulgate a federal implementation plan that will usurp the District’s sovereign authority to regulate air quality on behalf of the State of California within its designated region. A copy of the 2024 Final Rule is attached hereto as Exhibit 1. This Court has jurisdiction and is a proper venue for this action pursuant to 42 U.S.C. § 7607(b). The District asks the Court to vacate the 2024 Final Rule because it is not in accordance with that law and is arbitrary and capricious.

¹ Michael S. Regan was the Administrator of EPA when the 2024 Final Rule was published in the Federal Register. Mr. Regan resigned his position as the Administrator of the EPA effective December 31, 2024.

Dated: January 31, 2025

Respectfully submitted,

s/ R Raymond Rothman

R Raymond Rothman

Joseph Bias

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District

CORPORATE DISCLOSURE STATEMENT

In accordance with Federal Rule of Appellate Procedure 26.1, Petitioner Mojave Desert Air Quality Management District (the “District”) certifies the following: the District is a governmental entity that is not subject to Rule 26.1.

Dated: January 31, 2025

s/ R Raymond Rothman
R Raymond Rothman
Counsel for Petitioner
Mojave Desert Air Quality Management
District

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the appellate CM/ECF system, and that on the same day, a true and correct copy of the foregoing Petition for Review, with attachment, was served by FedEx priority overnight delivery on the parties below.

Petitioner will ensure that the parties below will receive a court-stamped copy of the Petition for Review with the date of filing. In accordance with Rule 25(d) of the Federal Rules of Appellate Procedure, I hereby certify that pursuant to 40 CFR § 23.12, a copy of the Petition for Review, with attachment, time-stamped by the Clerk of the Court, will be served by United States certified mail, return receipt requested, upon each of the following:

Lee Zeldin
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Mail Code: 1101A
Washington, DC 20460

Correspondence Control Unit
Office of General Counsel (2311)
U.S. Environmental Protection
Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable James R. McHenry III
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dated: January 31, 2025

s/ R Raymond Rothman
R Raymond Rothman
Counsel for Petitioner
Mojave Desert Air Quality Management
District