

that Rule 415 regulates activities covered by the CTG document “Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals” (EPA–450/2–77–026, October 1977).<sup>4</sup> That proposal stated that Rule 415 was revised in response to the EPA’s previous conditional approval and that the updated version of Rule 415 corrected the identified deficiencies. Therefore, our approval of Rule 415 as establishing RACT for this CTG cured the identified deficiency associated with our conditional approval of the portion of the District’s RACT SIP associated with Rule 415 in 40 CFR 52.248(i). Due to an administrative oversight, our notice approving Rule 415 neglected to remove the conditional approval language from 40 CFR 52.248(i). This action addresses this administrative oversight.

For the reasons described above, this action corrects the regulatory text to reflect the current status of AVAQM’s RACT SIP demonstration for the 1997 and 2008 8-hour ozone NAAQS. The EPA is removing Rule 1110.2, “Emission from Stationary, Non-road & Portable Internal Combustion Engines,” and Rule 1151, “Motor Vehicle and Mobile Equipment Coating Operations,” from the regulatory text at 40 CFR 52.248(b)(2) and 40 CFR 52.248(b)(3), respectively. Consequently, AVAQM has met its RACT SIP obligations for these 1997 and 2008 8-hour NAAQS and, therefore, the EPA is removing the prior conditional approvals for these RACT SIP demonstrations from the Code of Federal Regulations (40 CFR 52.248(b)), leaving only the subsequently approved rules in the California SIP. This action also corrects the regulatory text to reflect the current status of ICAPCD’s RACT SIP demonstration for the 2008 8-hour ozone NAAQS. ICAPCD has met its RACT SIP obligations for this NAAQS and, therefore, the EPA will remove the prior conditional approval for this RACT SIP demonstration from the Code of Federal Regulations (40 CFR 52.248(i)), leaving only the subsequently approved rule in the California SIP.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to public interest. Public notice and comment for this action is unnecessary because the underlying rules and RACT

evaluations were already subject to a 30-day comment period, and this action is merely making administrative changes and updating the regulatory text accordingly. Further, this action is consistent with the purpose and rationale of the final rules. Because this action does not change the EPA’s analyses or overall actions, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for these amendments to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects incomplete amendatory instructions in previous rulemakings. For these reasons, the EPA finds good cause under APA section 553(d)(3) for these changes to become effective on the date of publication of this action.

#### List of Subjects in 40 CFR Part 52

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

Dated: October 19, 2023.

**Martha Guzman Aceves,**  
*Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended 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

##### § 52.248 [Amended]

■ 2. Section 52.248 is amended by removing and reserving paragraphs (b) and (i).

[FR Doc. 2023–23740 Filed 11–1–23; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA–R09–OAR–2023–0479; FRL–11425–02–R9]

#### Determination To Defer Sanctions; California; California Air Resources Board

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final determination.

**SUMMARY:** The Environmental Protection Agency (EPA) is making an interim final determination that the California Air Resources Board (CARB) has submitted a rule and other materials that correct deficiencies in its Clean Air Act (CAA or “Act”) state implementation plan (SIP) provisions concerning emissions of volatile organic compounds (VOCs) from vapor recovery systems of gasoline cargo tanks. This determination is based on a proposed approval, published elsewhere in this **Federal Register**, of CARB’s California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014 (“Section 94014”) which regulates this source category. The effect of this interim final determination is that the imposition of sanctions that were triggered by a previous limited disapproval by the EPA in 2022 is now deferred. If the EPA finalizes its approval of CARB’s submission, relief from these sanctions will become permanent.

**DATES:** This interim final determination is effective November 2, 2023. However, comments will be accepted on or before December 4, 2023.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2023–0479 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

<sup>4</sup> 86 FR 24835 (May 10, 2021).

or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with 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:** La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 942-3245 or by email at [evanshopper.lakenya@epa.gov](mailto:evanshopper.lakenya@epa.gov).

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

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**I. Background**

On April 5, 2022 (87 FR 19631), the EPA issued a final limited approval and limited disapproval action for the CARB rule listed in Table 1 that was submitted to the EPA for inclusion into the California SIP. The action addressed the procedures CARB uses to certify vapor recovery systems on cargo tank trucks used to transport gasoline from bulk terminals to gasoline dispensing facilities.

TABLE 1—CARB RULE WITH PREVIOUS EPA ACTION

Regulation or provision	Regulation title or subject	Amended	Submitted	EPA action in 2022
California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014.	Certification of Vapor Recovery Systems for Cargo Tanks.	07/25/2013 ....	08/22/2018	Limited Approval and Limited Disapproval.

In the April 5, 2022 final rule, we determined that although the CARB regulation strengthened the SIP and was largely consistent with the requirements of the CAA, the submitted rule included a deficiency that precluded our full approval of the rule into the SIP. CARB’s previously submitted Section 94014 incorporated by reference Certification Procedure CP-204 (“CP-

204”) that allowed for CARB’s Executive Officer to approve alternate test procedures without EPA approval. The EPA found that this provision was an instance of unbounded director’s discretion. Pursuant to section 179 of the CAA and our regulations at 40 CFR 52, the disapproval action on CP-204 under title I, part D started a sanctions clock for imposition of offset sanctions

18 months after the action’s effective date of November 5, 2023, and highway sanctions 6 months later.

On July 12, 2023, the CARB revised Section 94014 and CP-204, and on September 13, 2023, submitted it to the EPA for approval into the California SIP as shown in Table 2 below.

Regulation or provision	Regulation title or subject	Amended	Submitted
California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014, excluding subsections (a)–(d).	Certification of Vapor Recovery Systems for Cargo Tanks.	1 07/12/23	09/13/23
Certification Procedure CP-204 .....	Certification Procedure for Vapor Recovery Systems of Cargo Tanks.	07/12/23	09/13/23

<sup>1</sup> The California Air Resources Board amended the introductory paragraph of 17 California Code of Regulations Section 94014 on July 12, 2023, and the changed was filed with Thomson Reuters Westlaw on August 29, 2023. Therefore, the amendment for Section 94014 will be recorded as July 12, 2023.

On September 25, 2023, the Submittal was determined to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

The revised CARB section 94014 and CP-204 in Table 2 is intended to address the disapproval issues in our April 5, 2022 final rule. Based on this proposed action approving Section 94014 and CP-204 into the California SIP, we are also making this interim final determination, effective on publication, to defer imposition of the offset sanctions and highway sanctions that were triggered by our final action on April 5, 2022, because we believe that the submittal corrects the

deficiencies that triggered such sanctions.

The EPA is providing the public with an opportunity to comment on this deferral of sanctions. If comments are submitted that change our assessment described in this interim final determination and the proposed approval of CARB Section 94014 and CP-204, we would take final action to lift this deferral of sanctions under 40 CFR 52.31. If no comments are submitted that change our assessment, then all sanctions and any sanction clocks triggered by our final action on April 5, 2022, would be permanently terminated on the effective date of our final approval of Section 94014 and CP-204.

**II. The EPA’s Evaluation and Action**

We are making an interim final determination to defer CAA section 179 sanctions associated with our limited disapproval action on April 5, 2022, of CARB’s section 94014 with respect to the requirements of part D of title I of the CAA. This determination is based on our concurrent proposal to fully approve CARB Section 94014 which resolves the deficiencies that triggered sanctions under section 179 of the CAA.

Because the EPA has preliminarily determined that CARB Section 94014 and CP-204, amended on July 12, 2023, address the limited disapproval issues under part D of title I of the CAA identified in our 2022 final action and

the amended rule is now fully approvable, relief from sanctions should be provided as quickly as possible. Therefore, the EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action, the EPA is providing the public with a chance to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has submitted a revision to the SIP that corrects deficiencies under part D of the Act that were the basis for the action that started the sanctions clocks. Therefore, it is not in the public interest to impose sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while the EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

### III. Statutory and Executive Order Reviews

This action defers sanctions and imposes no additional requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on Tribal Governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, 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).

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 January 2, 2024. Filing a petition for reconsideration by the EPA Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which 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, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 19, 2023.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 230523-0136; RTID 0648-XD467]

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2023 Tribal Fishery Allocations for Pacific Whiting; Reapportionment Between Tribal and Non-Tribal Sectors

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Inseason reapportionment of tribal Pacific whiting allocation.

**SUMMARY:** This document announces the reapportionment of 45,000 metric tons of Pacific whiting from the tribal allocation to the non-tribal commercial fishery sectors via automatic action on September 27, 2023. This