

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0369; FRL-12352-01-R9]

Finding of Failure To Submit State Implementation Plan Submissions for the 2008 and 2015 Ozone National Ambient Air Quality Standards; California; San Diego County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to find that California has failed to submit State Implementation Plan (SIP) elements required under the Clean Air Act (CAA) or the “Act”) for the 2008 and 2015 8-hour ozone national ambient air quality standards (NAAQS) in the San Diego County nonattainment area. California was required to submit a SIP submission demonstrating that reasonably available control technology (RACT) requirements are implemented at the “Serious” nonattainment area classification for the 2008 and 2015 ozone NAAQS. The State submitted the required RACT demonstrations on December 28, 2020, but subsequently withdrew portions of its submission on August 23, 2024. If the EPA has not affirmatively found that the State has submitted a complete SIP for the withdrawn RACT element requirements within 18 months of this finding, the offset sanction will apply in the area. If within six additional months the EPA has still not affirmatively determined that the State has submitted a complete SIP for the withdrawn RACT element requirements, the highway funding sanction will apply in the area. No later than two years after the EPA makes this finding, if the State has not submitted and the EPA has not approved each of

the required RACT elements, the EPA must promulgate a federal implementation plan (FIP) to address the remaining requirements.

DATES: This action is effective January 13, 2025.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2024-0369. 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 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 a disability 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:

Eugene Chen, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4304 or by email at chen.eugene@epa.gov.

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedure Act (APA), U.S.C. 553(b)(B), provides that an agency may issue a rule without providing notice and an opportunity for public comment when that agency finds for good cause that notice and public procedure are impracticable, unnecessary, or contrary to public interest. The EPA has determined that there is a good cause for issuing this finding without prior proposal and opportunity for comment because there is little or no judgment involved for the EPA to make a finding of failure to submit SIPs or elements of SIPs required by the CAA, where states have not submitted a required SIP revision, made incomplete submissions, or, as in this case, withdrawn an existing submission. In such circumstances, the EPA finds that notice and public procedures are unnecessary and that this constitutes good cause under 5 U.S.C 553(b)(B).

Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Background
- II. Consequences of Findings of Failure To Submit

III. Final Action

IV. Statutory and Executive Order Reviews

I. Background

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) contribute to the production of ground-level ozone, smog, and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO_x emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas that are classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_x. Section III.D of the preamble to the EPA’s final rule to implement the 2008 ozone NAAQS further discusses RACT requirements.¹ Section III.D states, in part, that RACT SIPs must contain adopted RACT regulations, certifications that existing provisions meet the RACT requirement (where appropriate), and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG.² It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA’s implementation rule for the 1997 ozone NAAQS.³

The San Diego County ozone nonattainment area is classified as “Severe” nonattainment for the 2008 and 2015 ozone standards.⁴ On March 27, 2008, the EPA finalized an action to revise the 8-hour ozone NAAQS to 0.075 parts per million (ppm).⁵ San Diego County was originally designated as a “Marginal” nonattainment area and has subsequently been reclassified to a Severe nonattainment area for the 2008 8-hour ozone NAAQS.⁶ On October 26, 2015, the EPA finalized an action to revise the 8-hour ozone NAAQS to 0.070 ppm.⁷ San Diego County was originally designated as a “Moderate” nonattainment area, and has subsequently been reclassified to a

¹ 80 FR 12264 (March 6, 2015). Per 83 FR 62998 (December 6, 2018), these provisions were retained without significant revision for purposes of implementing the 2015 ozone NAAQS.

² Id. at 12278.

³ Id.; 70 FR 71612, 71652 (November 29, 2005).

⁴ 40 CFR 81.305.

⁵ 73 FR 16435.

⁶ 77 FR 30088 (May 21, 2012, Marginal), 81 FR 26697 (May 4, 2016, Moderate), 84 FR 44238 (August 23, 2019, Serious), 86 FR 29522 (June 2, 2021, Severe).

⁷ 80 FR 65292.

Severe nonattainment area for the 2015 8-hour ozone NAAQS.⁸

The San Diego County Air Pollution Control District (SDCAPCD or “District”) has jurisdiction over the entirety of San Diego County, and as a result of the area’s Severe classification for the 2008 and 2015 ozone standards, SDCAPCD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_x within the nonattainment area. Any stationary source that emits or has the potential to emit at least 25 tons per year (tpy) of VOCs or NO_x is a major stationary source in a Severe ozone nonattainment area.⁹

On October 14, 2020, the District adopted a SIP revision containing an analysis of its compliance with the CAA section 182 RACT requirements for the 2008 and 2015 8-hour ozone standards (“2020 RACT SIP”). Specifically, the 2020 RACT SIP contained a RACT demonstration for the 2015 8-hour ozone standard, an updated RACT demonstration for the 2008 8-hour ozone standard following the area’s reclassification to a Severe ozone nonattainment area, as well as updated information for certain RACT elements for the 2008 8-hour standard at the Moderate classification. The California Air Resources Board (CARB) submitted the District’s 2020 RACT SIP to the EPA on December 28, 2020.¹⁰ The EPA subsequently took final action to approve all elements of the 2020 RACT SIP related to the 2008 ozone standard

at the Moderate classification. In addition, while the EPA took final action to approve the negative declarations for certain elements of the 2020 RACT SIP related to the 2015 ozone standard and 2008 ozone standard at the Severe classification, we have not acted upon the majority of the other elements related to the two standards.¹¹

On August 23, 2024, CARB submitted a letter to the EPA from SDCAPCD that withdrew a majority of the 2020 RACT SIP because it was no longer deemed appropriate for inclusion into the California SIP.¹² The withdrawal encompasses all elements of the 2020 RACT SIP with the exception of the negative declaration associated with the Control Techniques Guideline (CTG) titled *Control Techniques Guidelines for the Oil and Natural Gas Industry* (EPA-453/B-16-001).

II. Consequences of Findings of Failure To Submit

For plan requirements under part D, title I, of the CAA, such as those for ozone nonattainment areas, if the EPA finds that a state has failed to make the required SIP submission, then CAA section 179 establishes specific consequences, including the eventual imposition of mandatory sanctions for the affected area. Additionally, such a finding triggers an obligation under CAA section 110(c) for the EPA to promulgate a FIP no later than two years from the effective date of the finding, if the affected state has not submitted, and

the EPA has not approved, the required SIP submissions.

If the EPA has not affirmatively determined that a state has submitted a complete SIP addressing the deficiency that is the basis for these findings within 18 months of the effective date of this rulemaking, pursuant to CAA sections 179(a) and (b) and 40 CFR 52.31, the emissions offset sanction identified in CAA section 179(b)(2) will apply to the affected nonattainment area. If the EPA has not affirmatively determined that the state has submitted a complete SIP addressing the deficiency that is the basis for these findings within six months after the offset sanction is imposed, the highway funding sanction will apply in the affected nonattainment area, in accordance with CAA section 179(b)(1) and 40 CFR 52.31. The State must make the required SIP submission, and the EPA must take final action to approve the submission within two years of the effective date of this finding; otherwise, the EPA is required to promulgate a FIP to address the relevant requirements. This is required pursuant to CAA section 110(c) for the affected nonattainment area.

Based upon the withdrawal of the 2020 RACT SIP as described in Section I of this rulemaking, the EPA is finding that California has failed to make the required submittals for the RACT elements for the 2008 and 2015 ozone NAAQS for the San Diego County nonattainment area listed in Table 1 below.

TABLE 1—LIST OF WITHDRAWN RACT ELEMENTS FOR THE 2008 AND 2015 OZONE NAAQS

[Severe classifications]

CTG document No.	RACT element
EPA-450/R-75-102	Design Criteria for Stage I Vapor Control—Gasoline Service Stations.
EPA-450/2-77-008	Surface Coating of Cans.
EPA-450/2-77-008	Surface Coating of Coils.
EPA-450/2-77-008	Surface Coating of Paper.
EPA-450/2-77-008	Surface Coating of Fabric.
EPA-450/2-77-008	Surface Coating of Automobiles and Light-Duty Trucks.
EPA-450/2-77-022	Solvent Metal Cleaning.
EPA-450/2-77-025	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.
EPA-450/2-77-026	Tank Truck Gasoline Loading Terminals.
EPA-450/2-77-032	Surface Coating of Metal Furniture.
EPA-450/2-77-033	Surface Coating of Insulation of Magnet Wire.
EPA-450/2-77-034	Surface Coating of Large Appliances.
EPA-450/2-77-035	Bulk Gasoline Plants.
EPA-450/2-77-036	Storage of Petroleum Liquids in Fixed-Roof Tanks.
EPA-450/2-77-037	Cutback Asphalt.
EPA-450/2-78-015	Surface Coating of Miscellaneous Metal Parts and Products.
EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires.
EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling.

⁸ 83 FR 28776 (June 4, 2018, Moderate), 86 FR 29522 (June 2, 2021, Severe). SDCAPCD voluntarily requested reclassification from Moderate to Severe nonattainment. The applicable attainment date would be as expeditious as practicable but no later than August 3, 2033 for the 2015 ozone NAAQS.

⁹ CAA sections 182(d) and (f) and 302(j).

¹⁰ See Docket Item A-01. Letter dated December 28, 2020, from Richard W. Corey, Executive Director, CARB, to John W. Busterud, Regional Administrator, EPA Region IX.

¹¹ 87 FR 38665 (June 29, 2022).

¹² See Docket Item A-02. Letter dated August 23, 2024, from Michael Benjamin, Chief, Air Quality Planning and Science Division, CARB, to Martha Guzman, Regional Administrator, EPA Region IX.

TABLE 1—LIST OF WITHDRAWN RACT ELEMENTS FOR THE 2008 AND 2015 OZONE NAAQS—Continued
[Severe classifications]

CTG document No.	RACT element
EPA-450/2-78-033	Graphic Arts—Rotogravure and Flexography.
EPA-450/2-78-036	Leaks from Petroleum Refinery Equipment.
EPA-450/2-78-047	Petroleum Liquid Storage in External Floating Roof Tanks.
EPA-450/2-78-051	Leaks from Gasoline Tank Trucks and Vapor Collection Systems.
EPA-450/3-82-009	Large Petroleum Dry Cleaners.
EPA-450/3-83-006	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
EPA-450/3-83-007	Leaks from Natural Gas/Gasoline Processing Plants.
EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
EPA-450/4-91-031	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.
EPA-453/R-96-007	Wood Furniture Manufacturing Operations.
EPA-453/R-94-032 61 FR 44050; 8/27/96.	ACT Surface Coating at Shipbuilding and Ship Repair Facilities Shipbuilding and Ship Repair Operations (Surface Coating).
EPA-453/R-97-004 59 FR 29216; 6/06/94.	Aerospace MACT and Aerospace (CTG & MACT).
EPA-453/R-06-001	Industrial Cleaning Solvents.
EPA-453/R-06-002	Offset Lithographic Printing and Letterpress Printing.
EPA-453/R-06-003	Flexible Package Printing.
EPA-453/R-06-004	Flat Wood Paneling Coatings.
EPA-453/R-07-003	Paper, Film, and Foil Coatings.
EPA-453/R-07-004	Large Appliance Coatings.
EPA-453/R-07-005	Metal Furniture Coatings.
EPA-453/R-08-003	Miscellaneous Metal Parts Coatings, Table 2—Metal Parts and Products.
EPA-453/R-08-005	Miscellaneous Industrial Adhesives.
EPA-453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings.
	Non-CTG Major Sources of VOC.
	Non-CTG Major Sources of NO _x .

In addition, we have previously taken action on several RACT elements for the 2008 and 2015 ozone NAAQS for the

San Diego County nonattainment area.

A summary of the status of the elements

that were not withdrawn are listed

below in Table 2.

TABLE 2—STATUS OF REMAINING RACT ELEMENTS FOR THE 2008 AND 2015 OZONE NAAQS
[Severe classifications]

CTG document No.	RACT element	Status
EPA-450/2-78-029	Manufacture of Synthesized Pharmaceutical Products	Approved. ^a
EPA-453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 3—Plastic Parts and Products	Approved. ^a
EPA-453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 4—Automotive/Transportation and Business Machine Plastic Parts.	Approved. ^a
EPA-453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 5—Pleasure Craft Surface Coating	Approved. ^a
EPA-453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 6—Motor Vehicle Materials	Approved. ^a
EPA-453/R-08-004	Fiberglass Boat Manufacturing Materials	Approved. ^a
EPA-453/B-16-001	Oil and Natural Gas Industry	Approved. ^b

^a The EPA took final action to approve negative declarations for these RACT elements for the 2008 and 2015 ozone standards on June 29, 2022 (87 FR 38665).

^b The EPA took final action to approve the negative declaration for this RACT element for the 2008 and 2015 ozone standards on November 4, 2024 (89 FR 87505).

With this finding, section 179 of the CAA starts sanctions clocks and a FIP clock. California may avoid these sanctions by taking timely action to remedy this finding. The clock governing the CAA's imposition of sanctions for these areas will stop and sanctions will not take effect if the EPA finds that the State has made a complete SIP submission addressing the RACT elements listed in Table 1 for this area within 18 months of the date of this finding. Similarly, the EPA is not required to promulgate a FIP if California makes the required SIP

submissions, and the EPA takes final action to approve the submissions within two years of this finding of failure to submit a required SIP. In sum, the CAA does not require sanctions or a FIP if the State and the EPA take timely action to remedy this finding.

III. Final Action

In this action, the EPA finds that, following the August 23, 2024 withdrawal of the 2020 RACT SIP for the San Diego County ozone nonattainment area, California has failed to submit certain RACT SIP

elements for the 2008 and 2015 ozone NAAQS required under subpart 4 of part D of title I of the CAA. Specifically, California has failed to submit those RACT SIP elements listed in Table 1. The consequences of this finding are discussed in Section II of this action.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www2.epa.gov//laws-regulations/laws-and-executive-orders.gov>.

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. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA because it does not impose additional requirements beyond those imposed by state law.

C. 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.

D. 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.

E. 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.

F. Executive Order 13175: Consultation and 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 it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health 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. This action is not subject to Executive Order 13045 because it does impose additional requirements beyond those imposed by state law.

H. 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.

I. National Technology Transfer 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.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. The EPA defines 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 District did not evaluate EJ 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. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goals of Executive Order 12898 of achieving EJ for communities with EJ concerns.

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 section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 10, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 procedures, Air pollution control, Approval and promulgation of implementation plans, Incorporation by reference, Intergovernmental relations, Particulate matter, and Reporting and recordkeeping requirements.

Dated: November 26, 2024.

Martha Guzman Aceves,
Regional Administrator, Region IX.

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