



## EXECUTIVE ORDER S-20-028

### ***Adoption and Submittal of the San Diego County Air Pollution Control District 2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County***

WHEREAS, the California Legislature in Health and Safety Code (H&SC) section (§) 39602 has designated the California Air Resources Board (CARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, CARB is responsible for preparing a State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS or standards) as required by the federal Clean Air Act (the Act; 42 U.S.C. section 7401 et seq.), and to this end is directed by H&SC § 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, CARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in H&SC §§ 39002, 39500, and part 5 (commencing with § 43000), and for ensuring that the districts meet their responsibilities under the Act pursuant to H&SC §§ 39002, 39500, 39602, 40469, and 41650;

WHEREAS, the local air districts have primary responsibility for the control of air pollution from non-vehicular sources and for adopting control measures, rules and regulations to attain the NAAQS within their boundaries pursuant to H&SC §§ 39002, 40000, 40001, 40701, 40702, and 41650;

WHEREAS, H&SC § 39602 also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, H&SC § 41650 requires CARB to approve the nonattainment area plan approved by a district as part of the SIP unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

WHEREAS, H&SC §§ 39515 and 39516 provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

WHEREAS, on March 27, 2008, the U.S. Environmental Protection Agency (U.S. EPA) promulgated an 8-hour standard for ozone of 75 parts per billion (ppb);

WHEREAS, on June 3, 2016, U.S. EPA designated the San Diego County as Moderate for the 75 ppb 8-hour ozone standard;

WHEREAS, the San Diego County Air Pollution Control District (District) is the district responsible for air quality planning for the San Diego County;

WHEREAS, the District is the local air district responsible for control of air pollution from all sources, other than emissions from motor vehicles, in San Diego County under H&SC §§ 40000 and 40100, et seq., and § 60110 of title 17 of the California Code of Regulations (CCR);

WHEREAS, on March 6, 2015, U.S. EPA promulgated the Rule, "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements," (80 FR 12264 et seq.), which requires the submission of Reasonably Available Control Technology (RACT) SIPs for nonattainment areas classified as Moderate or above for the 75 ppb 8-hour ozone standard;

WHEREAS, U.S. EPA has published Control Techniques Guidelines (CTG) that establish RACT control limits for volatile organic compounds emissions from specific stationary source categories and establish various major source threshold limits;

WHEREAS, U.S. EPA requires the review of rules for CTG and major non-CTG sources located in the nonattainment area to determine if those rules meet RACT requirements and to update or adopt new rules if necessary;

WHEREAS, U.S. EPA requires negative declarations for not having a listed CTG or major non-CTG source in the nonattainment area;

WHEREAS, in 2016, the District reviewed its rules to determine if they continue to meet RACT requirements as applicable under the 75 ppb 8-hour ozone NAAQS for a Moderate nonattainment area, and adopted and the *2008 Eight-Hour Ozone Reasonably Available Control Technology Demonstration for San Diego County*;

WHEREAS, on October 1, 2015, U.S. EPA promulgated an 8-hour ozone standard of 70 ppb;

WHEREAS, on June 4, 2018, U.S. EPA designated the San Diego County as a Moderate nonattainment area for the 70 ppb 8-hour ozone standard;

WHEREAS, on December 6, 2018, U.S. EPA published the Rule, "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements," (83 FR 62998 et seq.), which requires the submission of RACT SIPs for nonattainment areas classified as Moderate or above for the 70 ppb 8-hour ozone standard;

WHEREAS, on October 20, 2020, the District submitted a request to CARB to change the classify San Diego County as Severe for the 75 ppb and 70 ppb 8-hour ozone standards;

WHEREAS, following U.S. EPA requirements, the District reviewed its existing rules to determine if the rules meet RACT as a Severe nonattainment area for the 75 ppb and 70 ppb 8-hour ozone standards;

WHEREAS, the District concluded in the *2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County* (2020 RACT SIP) that three District rules needed to be amended and adopted in the coming months, and one rule amended in 2006 need to be submitted into the SIP;

WHEREAS, the 2020 RACT SIP includes a supplement to the 2017 submittal of District Rule 61.3.1, *Transfer of Gasoline into Stationary Underground Storage Tanks*, intended to correct the public notice deficiency in the 2017 submittal, which will allow U.S. EPA to act on the rule as submitted in 2017;

WHEREAS, the 2020 RACT SIP includes negative declarations certifying that no major sources are present in the San Diego County ozone nonattainment area for 29 CTGs and there are no major non-CTG sources of VOCs;

WHEREAS, federal law set forth in section 110(l) of the Act and Title 40, Code of Federal Regulations (CFR), section 51.102 requires that one or more public hearings, preceded by at least 30 days-notice and opportunity for review, must be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

WHEREAS, on October 14, 2020, following a duly noticed public hearing, the District Board adopted the 2020 RACT SIP;

WHEREAS, on October 20, 2020, the District submitted the 2020 RACT SIP to CARB for inclusion in the California SIP to meet requirements of the Act;

WHEREAS, CARB has determined that CARB's subsequent adoption of the 2020 RACT SIP is a "ministerial" approval for purposes of the California Environmental Quality Act (CEQA, California Code of Regulations, title 14, §15268) because CARB's review is limited to determining if the 2020 RACT SIP meets the requirements of the Act, and CARB lacks authority to modify or not approve the plan in response to environmental concerns;

WHEREAS, on October 14, 2020, pursuant to CEQA, Public Resources Code Section 21092 and CCR Title 15 Section 15072, the District prepared an Initial Study for the 2020 RACT SIP, and determined there was no substantial evidence that such actions

would have a significant effect on the environment, and as such prepared a proposed Negative Declaration; and

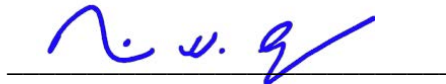
WHEREAS, CARB has determined that the 2020 RACT SIP meets the requirements of the Act.

NOW, THEREFORE, IT IS ORDERED that the Executive Officer hereby adopts as a SIP revision the 2020 RACT SIP adopted by the San Diego County Air Pollution Control District.

BE IT FURTHER ORDERED that CARB hereby submits to U.S. EPA the 2020 RACT SIP and requests that U.S. EPA approve it as a revision to the California SIP.

I certify, pursuant to title 40 of the Code Federal Regulations (CFR) section 51.102(f), that the 2020 RACT SIP prepared by the San Diego County Air Pollution Control District being submitted as a SIP revision was adopted after notice and public hearing as required by 40 CFR sections 51.102 (a) and (d).

Executed in Sacramento, California, this 28<sup>th</sup> day of December, 2020.



Richard W. Corey  
Executive Officer