



San Diego County
**Air Pollution
Control District**

August 14, 2024

Honorable Steven S. Cliff, Ph.D.
Executive Officer
California Air Resources Board
1001 "I" Street
Sacramento, CA, 95814

RE: Withdrawal Request of the 2020 Reasonably Available Control Technology (RACT)
Demonstration for the Ozone National Ambient Air Quality Standards (NAAQS) in San Diego County

Dear Dr. Cliff:

I am writing to formally request the withdrawal of the 2020 Reasonably Available Control Technology (RACT) Demonstration for the Ozone National Ambient Air Quality Standards (NAAQS) State Implementation Plan (SIP) in San Diego County, which was submitted to the Environmental Protection Agency (EPA) through the California Air Resources Board on December 28, 2020.

After careful consideration, we have decided to request the withdrawal of our 2020 RACT Demonstration for the following reasons:

- San Diego County's SIP for the 2008 and 2015 Ozone NAAQS included the 2020 Attainment Plan and RACT Demonstration, which were submitted to EPA on January 8, 2021,¹ and December 28, 2020,² respectively. EPA formally approved the 2020 Attainment Plan effective April 1, 2024.³ However, EPA has not acted on the RACT Demonstration for approximately three and a half years since submittal. Now, to comply with a consent decree,⁴ the EPA has recently informed the San Diego County Air Pollution Control District (SDAPCD) that it must take action upon the 2020 RACT Demonstration no later than October 31, 2024.
- Since the 2020 submittal, a legal case in the State of Colorado changed how the EPA is evaluating approving RACT demonstrations and associated rules subject to RACT. EPA contacted SDAPCD in June 2024 to inform us of the changing landscape of RACT evaluation due to the ongoing litigation in Colorado. EPA indicated that a partial approval/partial

¹<https://www.sdapcd.org/content/dam/sdapcd/documents/grants/planning/Letter%20to%20US%20EPA%20-%20RWC%20signed%201.8.20.pdf>

² <https://www.sdapcd.org/content/dam/sdapcd/documents/grants/planning/Letter%20to%20EPA%20-%20SDAPCD%20RACT%20SIP%20-%20RWC%20signed%2012.28.20.pdf>

³ 89 FR 15035

⁴ *Center for Biological Diversity et al., v. Regan*, No. 3:22-cv-03309-RS (N.D. Cal.)
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disapproval in the Federal Register would be forthcoming. This disapproval action by EPA would initiate sanction clocks, that if not addressed to EPA's satisfaction and approval within 18 months, would require emission offsets and jeopardize federal transportation funding throughout the region pursuant to Clean Air Act requirements. Furthermore, EPA has not yet provided any guidance on how to modify local rules for RACT approvals. Staff has indicated that, even after considerable time and effort by SDAPCD to modify the rules in question, the RACT Demonstration could still be disapproved and further jeopardize regional transportation funding.

- Although uncertain at the moment, it is SDAPCD's understanding that the required rule revisions are mostly administrative in nature, and that they would not further reduce emissions or improve public health. Outside of attainment of the standard itself, SDAPCD has met all regulatory and rulemaking obligations and commitments set forth in both the approved 2020 Attainment Plan and the submitted 2020 RACT Demonstration. These satisfied commitments will help the region attain both the 2008 and 2015 Ozone NAAQS in San Diego County. Therefore, withdrawing the 2020 RACT Demonstration from EPA's consideration at this time will not result in worsening air quality or relaxation of associated local rules. Such rules will continue to reduce emissions in San Diego County and maintain SDAPCD's commitment to clean air for all.

Given the lack of guidance from EPA on what actions would need to be taken for the 2020 RACT Demonstration to be approved, SDAPCD is unable to complete the necessary rule development actions to satisfy EPA's evolving criteria for RACT evaluation within the required 18-month time frame in advance of the sanction clock deadline that would be initiated through a disapproval action by EPA.

Had EPA evaluated and acted upon the 2020 RACT demonstration in a timely manner after submittal, the plan would have met most, if not all, the requirements necessary for approval. SDAPCD could not have anticipated the current EPA regulatory and policy changes when it prepared the RACT Demonstration in 2020. In the ever-changing landscape of rules, regulations, and requirements, it is difficult to anticipate future regulatory and policy changes when submitting plans to the EPA for approval, especially when that approval could be delayed for several years.

As a result, SDAPCD has no choice but to request withdrawal of the 2020 RACT Demonstration for the Ozone NAAQS in San Diego County, as submitted on December 28, 2020, from EPA's consideration. Provided the 2020 RACT Demonstration is withdrawn as anticipated, SDAPCD understands that EPA will issue a "Finding of Failure to Submit" a required RACT Demonstration for the 2008 and 2015 Ozone NAAQS by October 31, 2024, as necessary to comply with the aforementioned Consent Decree. This action will compel SDAPCD to submit a new/revised RACT Demonstration within 18 months from the Finding of Failure to Submit for EPA's consideration. SDAPCD will continue to pursue clear guidance from EPA for the required RACT Demonstration, and prepare the revised RACT Demonstration for submittal to EPA (through CARB) to comply with the associated deadline.

Please confirm receipt of this withdrawal request and acknowledge that the submitted plan has been formally withdrawn from consideration. If you require any further information or documentation regarding this withdrawal, please do not hesitate to contact Eric Luther at Eric.Luther@sdapcd.org.

Thank you for your attention to this matter.

Sincerely,

Paula Forbis
Air Pollution Control Officer
San Diego County Air Pollution Control District