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Center for Community Action
and Environmental Justice

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CENTER FOR COMMUNITY ACTION AND)
ENVIRONMENTAL JUSTICE, a nonprofit)
corporation,)
Plaintiff,)
v.)
UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY, MICHAEL)
REGAN, in his official capacity as)
Administrator of the United States)
Environmental Protection Agency, and)
MARTHA GUZMAN, in her official capacity)
as Regional Administrator for Region 9 of the)
United States Environmental Protection)
Agency,)
Defendants.)

Case No.

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

INTRODUCTION

1
2 1. Plaintiff Center for Community Action and Environmental Justice (“CCA EJ”) files this
3 Clean Air Act citizen suit to compel Defendants United States Environmental Protection Agency
4 (“EPA”), Michael Regan, and Martha Guzman to approve, disapprove, or partially approve/disapprove
5 the Heavy-Duty Inspection and Maintenance Regulation (“Regulation”).

6 2. Fine particulate matter (“PM2.5”) and ozone air pollution in the South Coast Air Basin
7 (“South Coast”) of California has caused, and continues to cause, a public health crisis. According to the
8 American Lung Association’s State of the Air 2024 report, counties in the South Coast rank among the
9 worst in the United States for ozone and PM2.5. San Bernardino, Riverside, and Los Angeles counties
10 are the first, second, and third most ozone-polluted counties in the United States, respectively. For long-
11 term exposure to PM2.5, San Bernardino, Riverside, and Los Angeles counties rank as the tenth, twelfth,
12 and fourteenth most polluted counties in the United States, respectively.

13 3. The Clean Air Act is a model of cooperative federalism, whereby the EPA sets health-
14 based National Ambient Air Quality Standards (“NAAQS” or “standards”) and the states develop the
15 plans and strategies to achieve those standards. States submit their plans and strategies to EPA for
16 review and approval. EPA shall approve a submission if it meets the Act’s minimum requirements. EPA
17 and citizens may enforce the EPA-approved State Implementation Plan as a matter of federal law to hold
18 states and regulated entities accountable.

19 4. The California Air Resources Board (“CARB”) adopted the Regulation as part of its
20 strategy to reduce PM2.5 and ozone-forming air pollution, and CARB submitted the Regulation to EPA
21 for review and approval as part of the State Implementation Plan.

22 5. EPA’s review and approval of the Regulation, with public notice and opportunity to
23 comment, will ensure that the Regulation meets minimum Clean Air Act requirements, including but not
24 limited to ensuring the Regulation is enforceable by citizens and the EPA.

25 6. To date, EPA has failed to take final action on the Regulation.

JURISDICTION

26
27 7. This Court has jurisdiction over this action to compel the performance of a
28 nondiscretionary duty pursuant to 42 U.S.C. § 7604(a)(2) (citizen suit provision of the Clean Air Act)

1 and 28 U.S.C. § 1331 (federal question jurisdiction).

2 8. The declaratory and injunctive relief CCAEJ requests is authorized by 28 U.S.C. §§
3 2801(a) and 2202, and 42 U.S.C. § 7604.

4 9. On June 11, 2024, CCAEJ provided EPA, Regan, and Guzman written notice of the
5 claims stated in this action at least 60 days before commencing this action, as required by Clean Air Act
6 section 304(b)(2), 42 U.S.C. § 7604(b)(2) and 40 C.F.R. §§ 54.2 and 54.3. A copy of the notice letter,
7 sent by certified mail, return receipt requested, is attached as Exhibit 1. Although more than 60 days
8 have elapsed since CCAEJ provided written notice, EPA has failed to take final action and remains in
9 violation of the Clean Air Act.

10 **VENUE**

11 10. Venue lies in the Northern District of California pursuant to 28 U.S.C. § 1391(e)(1),
12 because the Regional Administrator for Region 9 is located in San Francisco County and because EPA's
13 alleged violations relate to the duties of the Regional Administrator in San Francisco.

14 **INTRADISTRICT ASSIGNMENT**

15 11. Because the failure to perform a nondiscretionary duty alleged in this Complaint relates
16 to the duties of the Regional Administrator located in San Francisco County, assignment to the San
17 Francisco Division or the Oakland Division of this Court is proper under Civil L.R. 3-2(c) and (d).

18 **PARTIES**

19 12. Plaintiff CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE
20 is a progressive, base-building, non-profit corporation that brings communities together to find
21 opportunities for cooperation, agreement, and problem solving to improve their social and natural
22 environment. CCAEJ uses the lens of environmental health to achieve social change and works within
23 communities to develop and sustain democratically based, participatory decision-making that promotes
24 the involvement of a diverse segment of the community in ways that empower communities. CCAEJ
25 prioritizes air quality and water quality advocacy to secure environmental justice and improve public
26 health and welfare in the Inland Empire and South Coast. Members of CENTER FOR COMMUNITY
27 ACTION AND ENVIRONMENTAL JUSTICE reside in Riverside and San Bernardino counties and in
28 the South Coast Air Basin.

1 13. Plaintiff CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE
2 is a person within the meaning of section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e), and may
3 commence a civil action under section 304(a) of the Act, 42 U.S.C. § 7604(a).

4 14. Members of CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL
5 JUSTICE live, raise their families, work, and recreate in Riverside and San Bernardino counties and the
6 South Coast Air Basin. They are adversely affected by exposure to levels of PM2.5 and ozone air
7 pollution that exceed the health-based National Ambient Air Quality Standards. The adverse effects of
8 such pollution include actual or threatened harm to their health, their families' health, their professional,
9 educational, and economic interests, and their aesthetic and recreational enjoyment of the environment
10 in the Inland Empire and South Coast.

11 15. The Clean Air Act violation alleged in this Complaint also deprives CENTER FOR
12 COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE members of certain procedural rights
13 associated with EPA's required action on the Regulation, including notice of, and opportunity to
14 comment on, EPA's action and the capacity to enforce the Regulation.

15 16. The Clean Air Act violation alleged in this Complaint has injured and continues to injure
16 CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE members. Granting the
17 relief requested in this lawsuit would redress these injuries by compelling EPA action that Congress
18 required as an integral part of the regulatory scheme for improving air quality in areas violating the
19 National Ambient Air Quality Standards.

20 17. Defendant UNITED STATES ENVIRONMENTAL PROTECTION AGENCY is the
21 federal agency Congress charged with implementation and enforcement of the Clean Air Act. As
22 described below, the Act assigns to the UNITED STATES ENVIRONMENTAL PROTECTION
23 AGENCY certain nondiscretionary duties.

24 18. Defendant MICHAEL REGAN is sued in his official capacity as Administrator of the
25 United States Environmental Protection Agency. He is charged in that role with taking various actions to
26 implement and enforce the Clean Air Act, including the actions sought in this Complaint.

27 19. Defendant MARTHA GUZMAN is sued in her official capacity as Regional
28 Administrator for Region 9 of the United States Environmental Protection Agency. She is responsible

1 for implementing and enforcing the Clean Air Act in Region 9, including the actions sought in this
2 Complaint. Region 9 includes California and the South Coast Air Basin.

3 **STATUTORY FRAMEWORK**

4 20. The Clean Air Act establishes a partnership between EPA and the states for the
5 attainment and maintenance of the National Ambient Air Quality Standards. *See* 42 U.S.C. §§ 7401-
6 7515. Under the Act, EPA has set health-based standards for six pollutants, including ozone and PM_{2.5}.
7 States must adopt a State Implementation Plan (“SIP”) that contains enforceable emissions limitations
8 necessary to attain the standards and meet applicable requirements of the Act. 42 U.S.C. §§ 7401(a)(1),
9 (a)(2)(A); 7502(c)(6). States must submit all such plans and plan revisions to the EPA. 42 U.S.C. §
10 7410(a)(1).

11 21. Within 60 days of EPA’s receipt of a proposed SIP revision, the Clean Air Act requires
12 EPA to determine whether the submission is sufficient to meet the minimum criteria established by EPA
13 for such proposals. 42 U.S.C. § 7410(k)(1)(B). If EPA fails to make this “completeness” finding, the
14 proposed SIP revision becomes complete by operation of law six months after a state submits the
15 revision. If EPA determines that the proposed SIP revision does not meet the minimum criteria, the state
16 is considered to have not made the submission. 42 U.S.C. 7410(k)(1)(C).

17 22. Within twelve months of an EPA finding that a proposed SIP revision is complete (or
18 deemed complete by operation of law), EPA must act to approve, disapprove, or approve in part and
19 disapprove in part, the submission. 42 U.S.C. § 7410(k)(2).

20 23. If EPA disapproves the SIP revision, in whole or in part, then the Clean Air Act requires
21 EPA to impose sanctions against the offending state or region, including increased offsets for new and
22 modified major stationary sources or a prohibition on the use of federal highway funds, unless the state
23 submits revisions within 18 months. 42 U.S.C. §§ 7509(a), (b). EPA must impose both offsets and
24 highway funding sanctions within 24 months unless the state has corrected the deficiency. Moreover, the
25 Act requires EPA to promulgate a Federal Implementation Plan within 24 months of disapproval unless
26 the state has corrected the deficiency and EPA has approved the revision. 42 U.S.C. § 7410(c).

27 24. Once EPA approves a SIP or SIP revision, the state and any regulated person must
28 comply with emissions standards and limitations contained in the SIP, and all such standards and

1 limitations become enforceable as a matter of federal law by EPA and citizens. 42 U.S.C. § 7413;
2 7604(a), (f).

3 25. If EPA fails to perform a non-discretionary duty, including acting on a proposed SIP or
4 SIP revision by the Clean Air Act deadline, then the Act allows any person to bring suit to compel EPA
5 to perform its duty. 42 U.S.C. § 7604(a)(2).

6 **FACTUAL BACKGROUND**

7 26. PM_{2.5} is a directly emitted pollutant and forms secondarily in the atmosphere by the
8 precursor pollutants nitrogen oxides (“NO_x”), ammonia, sulfur oxides, and volatile organic compounds
9 (“VOC”). Ground-level ozone is formed by a reaction between NO_x and VOC in the presence of heat
10 and sunlight. Unlike ozone in the upper atmosphere which is formed naturally and protects the Earth
11 from ultraviolet radiation, ozone at ground level is primarily formed from anthropogenic pollution.

12 27. Short-term exposure to PM_{2.5} pollution causes premature death, causes decreased lung
13 function, exacerbates respiratory disease such as asthma, and causes increased hospital admissions.
14 Long-term exposure causes development of asthma in children, causes decreased lung function growth
15 in children, exacerbates respiratory disease such as asthma, increases the risk of death from
16 cardiovascular disease, and increases the risk of death from heart attacks. Individuals particularly
17 sensitive to PM_{2.5} exposure include older adults, people with heart and lung disease, and children.

18 28. Short-term exposure to ozone irritates lung tissue, decreases lung function, exacerbates
19 respiratory disease such as asthma and Chronic Obstructive Pulmonary Disease (COPD), increases
20 susceptibility to respiratory infections such as pneumonia, all of which contribute to an increased
21 likelihood of emergency department visits and hospitalizations. Short-term exposure to ozone also
22 increases the risk of premature death, especially among older adults. Long-term exposure to ozone
23 causes asthma in children, decreases lung function, damages the airways, leads to development of
24 COPD, and increases allergic responses.

25 29. On July 18, 1997, the EPA established the 1997 24-hour PM_{2.5} standard of 65 µg/m³ and
26 the 1997 annual PM_{2.5} standard of 15 µg/m³ after considering evidence from “numerous health studies
27 demonstrating that serious health effects” occur from exposures to PM_{2.5}. *See* 81 Fed. Reg. 6936
28 (February 9, 2016); *see also* 62 Fed. Reg. 38652 (July 18, 1997); 40 C.F.R. § 50.7.

1 30. On October 17, 2006, EPA strengthened the short-term 24-hour PM_{2.5} standard by
2 promulgating the 2006 24-hour PM_{2.5} standard of 35 µg/m³. 70 Fed. Reg. 61144 (Oct. 17, 2006); 40
3 C.F.R. § 50.13.

4 31. Effective March 18, 2013, EPA strengthened the annual PM_{2.5} standard by promulgating
5 the 2012 annual PM_{2.5} standard of 12 µg/m³. 78 Fed. Reg. 3086 (January 15, 2013); 40 C.F.R. § 50.18.

6 32. Effective May 6, 2024, EPA strengthened the annual PM_{2.5} standard by promulgating
7 the 2024 annual PM_{2.5} standard of 9 µg/m³. 89 Fed. Reg. 16202 (March 6, 2024).

8 33. EPA has classified the South Coast as a moderate nonattainment area for the 2006 24-
9 hour standard and a serious nonattainment area for the 2012 annual PM_{2.5} standard. EPA has not yet
10 designated nonattainment areas for the 2024 annual PM_{2.5} standard and the design value for the South
11 Coast exceeds the 9 µg/m³ standard.

12 34. On July 18, 1997, EPA promulgated the 1997 8-hour ozone standard to replace the 1-
13 hour ozone standard. 62 Fed. Reg. 38856 (July 18, 1997); 40 C.F.R. § 50.9(b) (2003).

14 35. In 2008, EPA completed a review of the 8-hour ozone standard, found it necessary to
15 strengthen the standard by lowering the ambient ozone concentration to 0.075 parts per million, and
16 promulgated the 2008 8-hour ozone standard. 73 Fed. Reg. 16436 (March. 27, 2008); 40 C.F.R. § 50.15.
17 The EPA based this decision on its findings that “(1) the strong body of clinical evidence in healthy
18 people at exposure levels of 0.080 and above of lung function decrements, respiratory symptoms,
19 pulmonary inflammation, and other medically significant airway responses, as well as some indication
20 of lung function decrements and respiratory symptoms at lower levels; (2) the substantial body of
21 clinical and epidemiological evidence indicating that people with asthma are likely to experience larger
22 and more serious effects than healthy people; and (3) the body of epidemiological evidence indicating
23 associations are observed for a wide range of serious health effects, including respiratory emergency
24 department visits, hospital admissions, and premature mortality, at and below 0.080 ppm.” 73 Fed. Reg.
25 at 16476.

26 36. On October 26, 2015, EPA revised “the level of the [8-hour ozone] standard to 0.070
27 ppm to provide increased public health protection against health effects associated with long- and short-
28 term exposures” and promulgated the 2015 8-hour ozone standard. 80 Fed. Reg. 65292, 65294 (Oct. 26,

1 2015); 40 C.F.R. § 50.19.

2 37. EPA classified the South Coast as an extreme nonattainment area for the 2008 8-hour
3 ozone standard and an extreme nonattainment area for the 2015 8-hour ozone standard. The South Coast
4 has failed to attain either of the revoked ozone standards (the 1-hour and 1997 8-hour ozone standards).

5 38. On December 9, 2021, CARB adopted the Regulation.

6 39. Heavy-duty diesel trucks are one of the leading sources of ozone-forming, PM2.5-
7 forming, and directly emitted PM2.5 air pollution in the South Coast.

8 40. CARB promulgated the Regulation with the goal of ensuring that emission control
9 systems on heavy-duty diesel trucks operate as designed and that owners of such trucks repair any
10 malfunctioning emission control systems. CARB described the Regulation as “one of the most critical
11 measures in achieving near term federal attainment standards in the South Coast and San Joaquin
12 Valley.”

13 41. CARB estimates that the Regulation would reduce NOx emissions in the South Coast by
14 8.4 tons per day in 2024, 19.6 tons per day in 2031, 22.1 tons per day in 2037, and 29.1 tons per day in
15 2050. CARB projects significant health benefits from the Regulation, estimating it would prevent 4,278
16 cardiopulmonary-related deaths, 1,556 hospital visits, and 2,171 emergency room visits in the South
17 Coast.

18 **FIRST CLAIM FOR RELIEF**

19 **Failure to Perform a Non-Discretionary Duty to Act on the**

20 **Heavy-Duty Inspection and Maintenance Regulation**

21 **(42 U.S.C. § 7410(k)(2))**

22 42. CCAEJ re-alleges and incorporates by reference the allegations set forth in paragraphs 1-
23 41.

24 43. On December 7, 2022, the California Air Resources Board submitted the Regulation to
25 EPA for inclusion in the State Implementation Plan.

26 44. The Regulation became complete by operation of law on June 7, 2023.

27 45. EPA has a mandatory duty to act on the Regulation no later than June 7, 2024. 42 U.S.C.
28 § 7410(k)(2).

1 46. By failing to act on the Regulation, EPA has violated and continues to violate its
2 nondiscretionary duty to act on the Regulation pursuant to Clean Air Act section 110(k)(2), 42 U.S.C. §
3 7410(k)(2).

4 47. This Clean Air Act violation constitutes a “failure of the Administrator to perform any act
5 or duty under this chapter which is not discretionary with the Administrator” within the meaning of the
6 Act’s citizen suit provision. 42 U.S.C. § 7604(a)(2). EPA’s violation of the Act is ongoing and will
7 continue unless remedied by this Court.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff respectfully requests the Court grant the following relief:

- 10 A. DECLARE that the Defendants have violated and continue to violate the Clean Air Act by
11 failing to act on the Regulation;
- 12 B. ISSUE preliminary and permanent injunctions directing the Defendants to finalize action
13 on the Regulation;
- 14 C. RETAIN jurisdiction over this matter until such time as the Defendants have complied with
15 their nondiscretionary duty under the Clean Air Act;
- 16 D. AWARD to Plaintiff its costs of litigation, including reasonable attorney’s and expert
17 witness fees; and
- 18 E. GRANT such additional relief as the Court may deem just and proper.

19
20 Dated: August 12, 2024

Respectfully Submitted,

21 LAW OFFICE OF BRENT J. NEWELL

22 /s/ Brent J. Newell

23 Brent J. Newell
24 Attorney for Plaintiff
25 CENTER FOR COMMUNITY ACTION AND
26 ENVIRONMENTAL JUSTICE
27
28

LAW OFFICE OF BRENT J. NEWELL

June 11, 2024

By Certified Mail, Return Receipt Requested

Michael Regan, Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, D.C. 20460

Martha Guzman, Regional Administrator
U.S. Environmental Protection Agency Region 9
75 Hawthorne Street
Mail Code ORA-1
San Francisco, CA 94105

Re: Clean Air Act Notice of Intent to Sue for Failure to Take Action on Heavy-Duty Inspection and Maintenance Regulation.

Dear Administrator Regan and Regional Administrator Guzman:

The Center for Community Action and Environmental Justice (“CCA EJ”) gives notice to the Environmental Protection Agency, Michael Regan, and Martha Guzman (collectively “EPA”) of CCA EJ’s intent to sue EPA for its failure to fulfill its mandatory duty to take final action to approve, disapprove, or partially approve/disapprove the Heavy-Duty Inspection and Maintenance Regulation (“Heavy-Duty I/M Regulation” or “Regulation”). CCA EJ sends this notice pursuant to section 304(b) of the Clean Air Act (“Act”), 42 U.S.C. § 7604(b), and 40 C.F.R. §§ 54.2 and 54.3. At the conclusion of the 60-day notice period, CCA EJ intends to file suit under section 304 of the Act, 42 U.S.C. § 7604, to prosecute EPA’s failure to perform a non-discretionary duty.

CCA EJ is a progressive, base-building, non-profit organization bringing communities together to find opportunities for cooperation, agreement and problem solving in improving their social and natural environment. Using the lens of environmental health to achieve social change, CCA EJ works within communities to develop and sustain democratically based, participatory

decision-making that promotes involvement of a diverse segment of the community in ways that empower the community. CCAEJ advocates for improved air quality in the South Coast Air Basin and believes in a zero-emission future and in regenerative and sustainable communities.

Ozone and fine particulate matter (“PM2.5”) pollution remains a public health crisis in the South Coast Air Basin, which ranks among the most ozone and PM2.5-polluted air basins in the United States. Heavy-duty diesel trucks are one of the leading sources of ozone-forming and PM2.5-forming air pollution in the South Coast Air Basin. With respect to ozone, the South Coast is classified as an extreme nonattainment area for the 2008 8-hour ozone National Ambient Air Quality Standard (“NAAQS” or “standard”), an extreme nonattainment area for the 2015 8-hour ozone standard, and has failed to attain either of the revoked ozone standards (the 1-hour and 1997 8-hour ozone standards). With respect to PM2.5, the South Coast is classified as a moderate nonattainment area for the 1997 PM2.5 standards, a serious nonattainment area for the 2006 PM2.5 standard, and a serious nonattainment area for the 2012 PM2.5 standard.

Short-term exposure to ozone irritates lung tissue, decreases lung function, exacerbates respiratory disease such as asthma and Chronic Obstructive Pulmonary Disease (COPD), increases susceptibility to respiratory infections such as pneumonia, all of which contribute to an increased likelihood of emergency department visits and hospitalizations. Short-term exposure to ozone also increases the risk of premature death, especially among older adults. Long-term exposure to ozone causes asthma in children, decreases lung function, damages the airways, leads to development of COPD, and increases allergic responses.¹

Short-term exposure to PM2.5 pollution causes premature death, decreases lung function, exacerbates respiratory disease such as asthma, and causes increased hospital admissions. Long-term exposure causes development of asthma in children, decreased lung function growth in children, increased risk of death from cardiovascular disease, and increased risk of death from heart attacks.²

According to the American Lung Association, counties in the South Coast air basin rank among the worst in the United States for ozone and PM2.5 pollution. San Bernardino, Riverside, and Los Angeles counties are the first, second, and third most ozone-polluted counties in the

¹ AMERICAN LUNG ASSOCIATION STATE OF THE AIR 2024 at 30-31, available at <https://www.lung.org/getmedia/dabac59e-963b-4e9b-bf0f-73615b07bfd8/State-of-the-Air-2024.pdf> (last visited June 4, 2024).

² *Id.* at 28-29.

United States.³ With respect to long-term exposure to PM_{2.5}, San Bernardino, Riverside, and Los Angeles counties rank as the tenth, twelfth, and fourteenth most polluted counties.⁴

In 2019, the California Legislature successfully passed Senate Bill 210 (Leyva, Chapter 5.5, Statutes of 2019) into law. Senate Bill 210 directed the California Air Resources Board (“CARB”) to adopt a comprehensive heavy-duty truck inspection and maintenance program to more effectively reduced emissions from diesel trucks.⁵

On December 9, 2021, the California Air Resources Board (“CARB”) adopted the Heavy-Duty I/M Regulation.⁶ The Regulation would ensure that emission control systems on heavy-duty diesel trucks operate as designed and that owners of such trucks repair malfunctioning emission control systems. CARB described the Regulation as “one of the most critical measures in achieving near term federal attainment standards in the South Coast and San Joaquin Valley.”⁷ For the South Coast Air Basin, CARB estimates that the Heavy-Duty I/M Regulation would reduce NO_x emissions by 8.4 tons per day in 2024, 19.6 tons per day in 2031, 22.1 tons per day in 2037, and 29.1 tons per day in 2050.⁸ CARB projects significant health benefits from the Regulation, estimating it would prevent 4,278 cardiopulmonary-related deaths, 1,556 hospital visits, and 2,171 emergency room visits in the South Coast Air Basin.⁹

On December 7, 2022, CARB submitted the Heavy-Duty I/M Regulation to EPA for review and inclusion in the State Implementation Plan.

EPA shall act on the Heavy-Duty I/M Regulation, by full or partial approval or disapproval, within twelve months of a completeness finding. 42 U.S.C. § 7410(k)(2). Section 110(k)(1)(B) of the Act, 42 U.S.C. § 7410(k)(1)(B), requires that EPA shall make a completeness finding within 60 days of the date that EPA receives a plan or plan revision. A plan or plan revision shall be deemed complete by operation of law if EPA fails to make a

³ *Id.* at 25.

⁴ *Id.*

⁵ Cal. Health & Safety Code § 44152.

⁶ CARB Resolution 21-29.

⁷ Initial Statement of Reasons at ES-12, October 8, 2021, available at <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/hdim2021/isor.pdf> (last visited June 4, 2024).

⁸ *Id.*

⁹ *Id.* at ES-15.

completeness finding within six months of the date that EPA receives a plan or plan revision. 42 U.S.C. § 7410(k)(1)(B).

To date, EPA has not made a completeness finding and has not taken action on the Heavy-Duty I/M Regulation. EPA has a non-discretionary duty to take final action to approve, disapprove, or partially approve/disapprove the Regulation no later than June 7, 2024. EPA's failure to perform its non-discretionary duty under section 110(k)(2) of the Act, 42 U.S.C. § 7410(k)(2), has violated and continues to violate the Act.

Identity of the Noticing Party and its Attorney

CCA EJ

Ana Gonzalez, Executive Director
CCA EJ
P.O. Box 33124
Riverside, CA 92519
Telephone: (909) 275-9812
Email: ana.g@caej.org

Attorney for CCA EJ

Brent Newell
Law Office of Brent J. Newell
245 Kentucky Street, Suite A4
Petaluma, CA 94952
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Email: brentjnewell@outlook.com

Conclusion

Following the 60-day period, CCA EJ will file suit in U.S. District Court to compel EPA to perform its nondiscretionary duty under the Clean Air Act. If you wish to discuss this matter short of litigation, please direct all future correspondence to CCA EJ's attorney.

Sincerely,



Brent Newell

cc: Governor Gavin Newsom (By Certified Mail, Return Receipt Requested)
1021 O Street, Suite 9000
Sacramento, CA 95814

Liane Randolph, Chair (By Certified Mail, Return Receipt Requested)
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Steven Cliff, Executive Officer (By Certified Mail, Return Receipt Requested)
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

CIVIL COVER SHEET

h JS-CAND i i o rsh t nd th information ont in d h r in n ith r r p nor supp m nt th fi ng nd s r i of p dings or oth r p p s r quir d by w, x pt as pro id d by lo al rul s of ourt. This form, appæ d in its original form by th Judi al Conf r n of th Unit d Stat s in S pt mb r 197 , is r quir d for th Cl rk of Court to initiat th i il do k t sh t. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS c
Center for Community Action and Environmental Justice
(b) County of sid n of First List d Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorn ys (Firm Name, Address, and Telephone Number) c
Brent Newell, Law Office of Brent J. Newell, 245 Kentucky Street, Suite A4, Petaluma, CA, 94952, (661 5 6 24

DEFENDANTS
U.S. Environmental Protection Agency, Michael Regan, and Martha Guzman c
County of sid n of First List d D f ndant San Francisco (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE T ACT OF LAND INVOLVED.
Attorn ys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) c
1 U.S. Go rnm nt Plaintiff x 3 c F d ral Qu stion (U.S. Government Not a Party)
2 U.S. Go rnm nt D f ndant Di rsity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citiz n of This Stat PTF DEF 1 1 In orporat d or Prin ipal Pla of Busin ss In This Stat 4
Citiz n of Anoth r Stat 2 2 In orporat d and Prin ipal Pla of Busin ss In Anoth r Stat 5 5
Citiz n or Subj t of a For ign Nation 3 3 For ign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, OTHER STATUTES c

V. ORIGIN (Place an "X" in One Box Only)
x 1 Original Pro dng 2 R mo d from Stat Court 3 R mand d from App lat Court R 4 R instat d or c op n d 5 Transf rr d from Anoth r Distri t (specify) 6 Multidistri t Litigation-Transf r 8 Multidistri t Litigation-Dir t Fil c

VI. CAUSE OF ACTION
Cit th U.S. Ci id Statut und r whi h you ar filing (Do not cite jurisdictional statutes unless diversity): c
Brè f d s rntionæ of aus :

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDE ULE 3, F d. . Ci . P. CHECK YES only if d mand d in omplaint: c JURY DEMAND: Y s No

VIII. RELATED CASE(S), IF ANY (See instructions): c JUDGE DOCKET NUMBE

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only) x SAN FRANCISCO/OAKLAND c SAN JOSE c EUREKA-MCKINLEYVILLE

DATE Q /01/2024c SIGNATURE OF ATTORNEY OF RECORD c

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FOR JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND civil cover sheet and the information contained herein is placed on supplemental filings and is not a part of the pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1977, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter name (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a governmental agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a governmental agency, identify first the agency and then the official, giving both name and title.
 - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.
 - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting (in this section "see attachment").
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precede each in the order shown below.
- 1) Unit d Stat s plaintiff. Jurisdiction based on 28 USC §§ 1335 and 1338. Suits by agencies and officers of the United States are included here.
 - 2) Unit d Stat s d f ndant. When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - 3) F d al qu stion. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant cannot take precedence, and box 1 or 2 should be made.
 - 4) Di sity of citiz nship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. See Section III below; **NOTE: federal question actions take precedence over diversity cases.**
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND is to be completed if diversity of citizenship was indicated above. Make this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, but the cause of action, in Section VI below, is sufficient to establish the proper classification (in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- 1) O iginal P oc dings. Cases originating in the United States district courts.
 - 2) R mo d f om Stat Cou t. Pleadings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - 3) R mand d f om App llat Cou t. Check this box for cases removed to the district court for further action. Use the date of removal as the filing date.
 - 4) R instat d o R op n d. Check this box for cases instated or reopened in the district court. Use the reopening date as the filing date.
 - 5) T ansf d f om Anoth Dist ict. For cases transferred under Title 28 USC § 1407(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - 6) Multidist ict Litigation T ansf . Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check 5) above.
 - 7) Multidist ict Litigation Di ct Fil . Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that this is no Origin Code 7. Origin Code 7 was used for historical codes and is no longer intended to change in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Exmpl : U.S. Civil Statute : 7 USC § 553. B i f D sc iption: Unauthorized interception of cables.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Federal Rule of Civil Procedure 23. D mand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Ju y D mand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Pension Pensions or other matter is a Section 541 Class Action, leave this section blank. For all other cases, identify the divisional number according to Civil Local Rule 3-2: "the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated."

Date and Attorney Signature. Date and sign the civil cover sheet. **M**