



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0612; FRL-9915-67-Region-9]

**Determination of Attainment of the 1-Hour Ozone National Ambient
Air Quality Standard in the Southeast Desert Nonattainment Area
in California**

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Southeast Desert nonattainment area has attained the 1-hour ozone National Ambient Air Quality Standard. This proposed determination is based on complete, quality-assured, and certified data for the most recent three-year period (2011-2013).

DATES: Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2014-0612, by one of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
- E-mail: kelly.thomasp@epa.gov.
- Mail or deliver: Tom Kelly, Office of Air Planning (AIR-2),

U.S. Environmental Protection Agency Region IX, 75

Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically on the www.regulations.gov website and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material or large

maps), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3856, kelly.thomasp@epa.gov.

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

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I. Background

The Clean Air Act (CAA or "Act") requires us to establish National Ambient Air Quality Standards (NAAQS or "standards") for certain widespread pollutants, such as ozone, that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare (see sections 108 and 109 of the Act). In 1979, we promulgated an ozone NAAQS of 0.12 parts per million (ppm), one-hour average ("1-hour ozone standard"). See 44 FR 8202, February 8, 1979.

An area is considered to have attained the 1-hour ozone standard if there are no violations of the standard, as determined in accordance with the regulation codified at 40 CFR section 50.9, based on three consecutive calendar years of complete, quality-assured and certified monitoring data. A violation occurs when the "expected number" of days per calendar year with maximum hourly average concentrations above 0.12 ppm is greater than one (1.0) at any site in the area, when averaged over three consecutive calendar years.¹ An exceedance occurs when the maximum hourly ozone concentration during any day exceeds 0.124 ppm. For more information, please see "National 1-hour primary and secondary ambient air quality standards for ozone" (40 CFR 50.9) and "Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone" (40 CFR part 50, appendix H).

The Act, as amended in 1990, required EPA to designate as nonattainment any ozone area that was still designated nonattainment under the 1977 Act Amendments, and any other area violating the 1-hour ozone standard, generally based on air quality monitoring data from the 1987 through 1989 period

¹ An "expected number" of exceedances is a statistical term that refers to an arithmetic average. An "expected number" of exceedances may be equivalent to the number of observed exceedances plus an increment that accounts for incomplete sampling. See, 40 CFR part 50, appendix H. Because, in this context, the term "exceedances" refers to days (during which the daily maximum hourly ozone concentration exceeded 0.124 ppm), the maximum possible number of exceedances in a given year is 365 (or 366 in a leap year).

(section 107(d)(4) of the Act; 56 FR 56694, November 6, 1991). The 1990 Amended Act further classified these areas, based on the severity of their nonattainment problem, as Marginal, Moderate, Serious, Severe, or Extreme. In response, EPA designated the Southeast Desert Modified Air Quality Maintenance Area (AQMA) ("Southeast Desert") as "Severe-17" nonattainment for the 1-hour ozone standard, with an attainment date no later than November 15, 2007.² See 56 FR 56694, November 6, 1991. Outside of Indian country, the Los Angeles portion of the Southeast Desert lies within the Antelope Valley Air Quality Management District (AVAQMD), the San Bernardino County portion of the Southeast Desert lies within the Mojave Desert Air Quality Management District (MDAQMD), and the Riverside County portion of the Southeast Desert lies within the South Coast Air Quality Management District (SCAQMD).³

The control requirements and date by which attainment of the 1-hour ozone standard was to be achieved varied with an

² The Southeast Desert covers the Victor Valley/Barstow region in San Bernardino County, the Coachella Valley region in Riverside County, and the Antelope Valley portion of Los Angeles County (see 40 CFR 81.305 for the precise boundaries of the 1-hour ozone nonattainment area).

³ "Indian country" as defined at 18 U.S.C. 1151 refers to: "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

area's classification. Marginal areas were subject to the fewest mandated control requirements and had the earliest attainment date, November 15, 1993, while Severe and Extreme areas were subject to more stringent planning requirements and were provided more time to attain the standard. Two measures that are triggered if a Severe or Extreme area failed to attain the standard by the applicable attainment date are contingency measures [section 172(c)(9)] and a major stationary source fee provision [sections 182(d)(3) and 185] ("major source fee program" or "section 185 fee program").

In 1997, EPA promulgated an 8-hour ozone standard (0.08 ppm) ("1997 8-hour ozone standard"), 62 FR 38856 (July 18, 1997), to replace the 1-hour ozone standard. While the 1-hour ozone standard was revoked in 2005, we continue to determine whether areas attain, or fail to attain, the 1-hour ozone standard because of the continued applicability of certain 1-hour ozone control requirements in areas, such as the Southeast Desert, that are designated as nonattainment for the 1997 8-hour ozone standard and the connection between some of those requirements and attainment of the 1-hour ozone standard.

In the decades since the 1990 CAA Amendments, in large part due to decreases in upwind emissions of ozone precursors, 1-hour ozone concentrations in the Southeast Desert have decreased substantially. For instance, from 1990 to 2005, the number of

exceedances of the standard in the Southeast Desert decreased from 27 to 4 at the Palm Springs monitor in Coachella Valley and from 59 to 3 at the Hesperia monitor in Victor Valley. However, despite the improvements, upon review of the ambient data for the three years preceding the applicable attainment date (i.e., 2005-2007), we determined that the Southeast Desert failed to attain the 1-hour ozone standard by the 2007 statutory deadline. See 76 FR 82133 (December 30, 2011).

In our proposal to determine that the Southeast Desert had failed to attain the standard, we noted that preliminary review of data from 2008 through 2010 suggested that the trend toward cleaner air in the Southeast Desert was continuing. 76 FR 56694, at 56700 (September 14, 2011). Indeed, the trend has continued with 2010-2012 being the first three-year period in which preliminary review of the data suggests that the Southeast Desert attained the standard. Given the further improvement in ozone conditions in the Southeast Desert, the California Air Resources Board (CARB) has requested that EPA make a determination that the Southeast Desert has attained the 1-hour ozone standard.⁴ Year 2013 data is now available, and thus EPA's action herein is based on the most recent three-year period (2011-2013).

⁴ See Letter from Richard W. Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX, dated February 25, 2014.

II. EPA's analysis

A determination of whether an area's air quality meets the 1-hour ozone standard is generally based upon three years of complete,⁵ quality-assured and certified air quality monitoring data gathered at established State and Local Air Monitoring Stations ("SLAMS") in the nonattainment area and entered into EPA's Air Quality System (AQS) database. Data from air monitors operated by state/local agencies in compliance with EPA monitoring requirements must be submitted to the AQS database. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in its AQS database when determining the attainment status of an area. See 40 CFR 50.9; 40 CFR part 50, appendix H; 40 CFR part 53; 40 CFR part 58, appendices A, C, D and E. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix H.

Under EPA regulations at 40 CFR 50.9, the 1-hour ozone standard is attained at a monitoring site when the expected number of days per calendar year with maximum hourly average

⁵ Generally, a "complete" data set for determining attainment of the ozone is one that includes three years of data with an average percent of days with valid monitoring data greater than 90% with no single year less than 75%. See 40 CFR part 50, appendix I. There are less stringent data requirements for showing that a monitor has failed an attainment test and thus has recorded a violation of the standard.

concentrations above 0.12 ppm is equal to or less than 1.0, as determined by 40 CFR part 50, appendix H.⁶

The CARB is the Primary Quality Assurance Organization (PQAO) responsible for assuring that the area meets air quality monitoring requirements in the Los Angeles County and San Bernardino County portions of the Southeast Desert, and the SCAQMD is the PQAO responsible for assuring that the requirements are met in the Riverside County portion of the Southeast Desert. The AVAQMD operates monitors in the Los Angeles County portion of the Southeast Desert; the MDAQMD operates monitors in the San Bernardino County portion of the Southeast Desert; and the SCAQMD operate monitors in the Riverside County portion of the Southeast Desert. All agencies are required to submit annual monitoring network plans to EPA. The AVAQMD and MDAQMD monitoring networks are included in the CARB annual network plan, while SCAQMD submits a separate annual network plan. These plans discuss the status of the air monitoring network, as required under 40 CFR 58.10.

With respect to the annual network plans submitted by CARB that includes the AVAQMD and MDAQMD monitors, we have reviewed these plans and found that they meet the applicable requirements

⁶ The average number of expected exceedances is determined by averaging the expected exceedances of the 1-hour ozone standard over a consecutive three calendar year period. See 40 CFR part 50, appendix H.

under 40 CFR part 58.⁷ The Technical System Audit (TSA) we conducted in 2011 of the CARB PQAO included a review of the network requirements in AVAQMD and MDAQMD. In the TSA, we concluded that the combined ambient air monitoring networks operated by CARB and the air districts currently meet or exceed the requirements for the minimum number of SLAMS monitoring sites for ozone in the Southeast Desert. Also, AVAQMD and MDAQMD annually certify that the data submitted to AQS are quality-assured.⁸

EPA has reviewed SCAQMD's plans for compliance with the applicable requirements in 40 CFR part 58 on an annual basis. With respect to ozone, EPA has found that the SCAQMD's network plans meet the applicable requirements under 40 CFR part 58.⁹ Furthermore, we concluded in our TSA of the SCAQMD network conducted during April 2010, that the ambient air monitoring network operated by SCAQMD currently meets or exceeds the requirements for the minimum number of SLAMS monitoring sites for all criteria pollutants, and the ozone monitoring sites within the Southeast Desert are properly located with respect to

⁷ See, e.g., letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Karen Magliano, Air Quality Data Branch, Planning and Technical Support Division, CARB, dated May 7, 2014.

⁸ See, e.g., letters from Christopher A. Collins, Supervising AQ Engineer, MDAQMD, to Fletcher Clover, EPA Region IX, dated May 6, 2014, certifying 2013 data from AVAQMD and MDAQMD.

⁹ See, e.g., letter from Meredith Kurpius, Manager, Air Quality Analysis Office, Air Division, EPA Region IX, to Dr. Matt Miyasato, Deputy Executive Officer, Science and Technology Advancement, SCAQMD, dated March 11, 2014.

monitoring objectives, spatial scales and other site criteria, as required by 40 CFR part 58, appendix D.¹⁰ Also, SCAQMD annually certifies that the data it submits to AQS are quality-assured.¹¹

There were eight ozone monitoring sites located throughout the Southeast Desert in calendar years 2011 through 2013 that collected data for regulatory purposes: one in Los Angeles County, two in Riverside County, and five in San Bernardino County.¹² All of the sites monitor ozone concentrations on a continuous basis using Federal Equivalent Method (FEM) monitors. AVAQMD operates the one monitor in Los Angeles County. SCAQMD operates two in Riverside County. MDAQMD operates four in San Bernardino County. The National Park Service operates one monitor in San Bernardino County at Joshua Tree National Park (Yucca Valley).¹³ Also, the National Park Service annually certifies that the data it submits to AQS are quality-assured.¹⁴

¹⁰ See letter from Deborah Jordan, Director, Air Division, U.S. EPA Region IX, to Barry Wallerstein, Executive Officer, SCAQMD, dated March 14, 2011, and enclosure titled, "Technical System Audit Report, South Coast Air Quality Management District, April 13-April 16, 2010."

¹¹ See, e.g., letter from Matt Miyasoto, Deputy Executive Office, Science and Technology Advancement, SCAQMD, to Jared Blumenfeld, Regional Administrator, EPA Region IX, dated June 27, 2014, certifying 2013 ozone data.

¹² See figures 5 and 11 from CARB's *State and Local Air Monitoring Network Plan* (June 2009) for illustrations of the locations of the ozone monitors within the Southeast Desert.

¹³ The National Park Service also operates an ozone monitor in Riverside County at Joshua Tree National Park (Cottonwood Visitor Center; AQS ID 06-065-0008), but until recently, the monitor has not been either a federal reference method or federal equivalent method monitor. Thus, we are not using

Table 1 summarizes the ozone monitoring data from the various monitoring sites in the Southeast Desert, showing the expected exceedances per year and as an average over the 2011-2013 period. The data summarized in table 1 are considered complete for the purposes of determining if the standard is met.¹⁵

Table 1 - One-Hour Ozone Data for the Southeast Desert 1-Hour Ozone Nonattainment Area					
General Location	Site (AQS ID)	Expected Exceedances by Year			Expected Exceedances 3-year average
		2011	2012	2013	2011-2013
Antelope Valley / Los Angeles County	Lancaster (06-037-9033)	0.0	0.0	0.0	0.0
Coachella Valley / Riverside County	Indio (06-065-2002)	0.0	0.0	0.0	0.0
Coachella Valley / Riverside County	Palm Springs (06-065-5001)	0.0	1.0	0.0	0.3
Northern portion of SE Desert AQMA / San Bernardino County	Barstow (06-071-0001)	0.0	0.0	0.0	0.0
SW portion of SE Desert AQMA / San Bernardino County	Hesperia (06-071-4001)	1.0	0.0	0.0	0.3
SW portion of SE Desert AQMA / San Bernardino County	Phelan (06-071-0012)	0.0	0.0	0.0	0.0
SW portion of SE Desert AQMA / San Bernardino County	Victorville (06-071-0306)	0.0	0.0	0.0	0.0

the data from this Cottonwood monitor for the proposed determination of attainment.

¹⁴ See, e.g., letter from Kristi Morris, Program Manager, National Park Service, to Lew Weinstock, EPA, dated April 29, 2014, certifying 2013 ozone data.

¹⁵ The criteria for data completeness are met at all of the ozone monitors in the Southeast Desert over the 2011-2013 period.

Bernardino County					
Joshua Tree National Park / San Bernardino County	Yucca Valley (06-071-9002)	0.0	0.0	0.0	0.0
Source: AQS Quick Look Report, May 9, 2014 (in the docket to this proposed action).					

Generally, the highest ozone concentrations in the Southeast Desert occur in the far southwestern portion of the area, near mountain passes through which pollutants are transported to the Southeast Desert from the South Coast Air Basin. As shown in table 1, the highest three-year average of expected exceedances at any site in the Southeast Desert for 2011-2013 is 0.3 at Palm Springs in Riverside County and Hesperia in San Bernardino County. The calculated exceedance rate of 0.3 represents attainment of the 1-hour ozone standard (a three-year average of expected exceedances less than or equal to 1).

Taking into account the extent and reliability of the applicable ozone monitoring network, and the data collected therefrom and summarized in table 1, we propose to determine that the Southeast Desert has attained the 1-hour ozone standard (as defined in 40 CFR part 50, appendix H) based on the most recent three years of monitoring data for the area (2011-2013). Data for 2014 will be reviewed prior to our final action to

ensure that it is consistent with continued attainment of the 1-hour ozone standard in the Southeast Desert.

III. Proposed EPA Action and Request for Public Comment

EPA is proposing to determine that the Southeast Desert Area has attained the 1-hour ozone standard based on complete, quality-assured and certified ambient air quality monitoring data for the 2011-2013 monitoring period.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

IV. Statutory and Executive Order Reviews

This action proposes to make a determination based on air quality data and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: August 12, 2014.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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