6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0587; FRL-12483-01-R9]

Finding of Failure to Attain the 1997 8-Hour Ozone Standards; California; San Joaquin Valley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed determination.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the San Joaquin Valley, California area failed to attain the 1997 8-hour ozone national ambient air quality standard by its June 15, 2024 "Extreme" area attainment date. This proposed determination is based on quality-assured and certified ambient air quality monitoring data from 2021 through 2023.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0587 at *https://www.regulations.gov*. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*. 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: Laura Lawrence, EPA Region IX, ARD-2, 75 Hawthorne St., San Francisco, CA 94105: telephone number: (415) 972-3407; email address: *lawrence.laura@epa.gov*.

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

Table of Contents

I. Background

A. Regulatory Context

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on- and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints.

Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone

can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.[1]

Under section 109 of the Clean Air Act (CAA or "Act"), the EPA promulgates national ambient air quality standards (NAAQS or "standards") for pervasive air pollutants, such as ozone. The NAAQS are concentration levels whose attainment and maintenance the EPA has determined to be requisite to protect public health and welfare. In 1979, under section 109 of the CAA, the EPA established primary and secondary standards for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period.[2]

In July 1997, the EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period.[3] The EPA set the 1997 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone standards were set. The EPA determined that the 8-hour standard would be more protective of human health, especially for children and for adults who are active outdoors, and for individuals with a preexisting respiratory disease, such as asthma.

In March 2008, the EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm.[4] The EPA revoked the 1997 8-hour ozone NAAQS effective April 6, 2015;[5] however, to comply with anti-backsliding requirements of the Act, areas designated nonattainment at the time that the 1997 8-hour ozone NAAQS was revoked remain subject to certain requirements based on their

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[1] EPA, Health Effects of Ozone Pollution, available at *https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution*.
[2] 44 FR 8202 (February 8, 1979).
[3] 62 FR 38856 (July 18, 1997). Primary standards provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Since the primary and secondary standards established in 1997 are set at the same level, we refer to them herein using the singular "1997 8-hour ozone NAAQS" or "1997 8-hour ozone standard."
[4] 73 FR 16436 (March 27, 2008).
[5] 80 FR 12264 (March 6, 2015).

classification at the time of revocation, including requirements related to nonattainment contingency measures under CAA sections 172(c)(9) and 182(c)(9) and, for "Severe" and "Extreme" areas, major source fee programs under CAA section 185.[6] The EPA's determination that an area failed to attain by its attainment date, which is made under CAA section 301 and consistent with section 181(b)(2), triggers these anti-backsliding requirements. *See South Coast Air Quality Mgmt. Dist. v. EPA*, 882 F.3d 1138, 1147 (D.C. Cir. 2018).

The San Joaquin Valley ozone area, excluding areas of Indian country,[7] is under the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or "District"). Under California law, SJVUAPCD is responsible for adopting and implementing stationary source rules in the San Joaquin Valley, such as the fee program rules required under CAA section 185, while the California Air Resources Board (CARB) adopts and implements consumer products and mobile source rules subject to the requirements of CAA section 209. CARB submits the District and State rules to the EPA.

An area is considered to have attained the 1997 8-hour ozone standard if there are no violations of the standard, as determined in accordance with 40 CFR 50.10, based on three consecutive years of complete, quality-assured, and certified monitoring data. A violation of the NAAQS occurs when the ambient ozone air quality monitoring data show that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is greater than 0.08 ppm.[8]

B. History of the 1997 8-Hour Ozone NAAQS in the San Joaquin Valley

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[6] 40 CFR 51.1100(o).

[7] "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."

[8] 40 CFR 50.10 and 40 CFR part 50, appendix I. As explained in section II.A. of this document, due to rounding and truncation conventions the computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm.

The San Joaquin Valley area consists of San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, and Kings counties, and the western portion of Kern County. The area stretches over 250 miles from north to south, averages a width of 80 miles, and encompasses over 23,000 square miles. It is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east.[9] The population of the San Joaquin Valley area is over 4.3 million people.[10]

Following promulgation of a new or revised NAAQS, the EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 15, 2004, the EPA designated the San Joaquin Valley as nonattainment for the 1997 8-hour ozone standard and classified it as "Serious" under CAA section 181(a)(1) and 40 CFR 51.903(a), table 1.[11] This designation and classification became effective on June 15, 2004.

In 2007, California requested that the EPA reclassify the San Joaquin Valley ozone nonattainment area from Serious to Extreme nonattainment for the 1997 8-hour ozone standard under CAA section 181(b)(3). On May 5, 2010, we granted California's request and reclassified the area to Extreme effective June 4, 2010, with an attainment date of no later than June 15, 2024.[12]

II. EPA Analysis

A. Applicable Statutory and Regulatory Provisions

For the revoked 1997 8-hour ozone NAAQS, the EPA is required to determine whether an ozone area attained the ozone standard by the area's attainment date solely for purposes of triggering any applicable anti-backsliding requirements. For Extreme areas, applicable requirements triggered upon a finding that an area failed to attain by the attainment date are nonattainment contingency measures and CAA section 185 fee programs.[13] A determination of

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[9] For a precise definition of the boundaries of the San Joaquin Valley area for the 1997 8-hour ozone NAAQS, see 40 CFR 81.305.
[10] SJVUAPCD, *2022 Plan for the 2015 8-Hour Ozone Standard (December 15, 2022)*, p. 2-7.
[11] 69 FR 23858, 23888–89 (April 30, 2004).
[12] 75 FR 24409 (May 5, 2010) and 40 CFR 81.305.
[13] 40 CFR 51.1105(d)(2)(iii).

whether an area's air quality meets the 1997 8-hour ozone standard is generally based on three years of complete, quality-assured, and certified air quality monitoring data gathered at established State and Local Air Monitoring Stations ("SLAMS") in the area and entered into the EPA's Air Quality System (AQS) database.[14] Data from ambient 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, the EPA relies primarily on data in its AQS database when determining the attainment status of an area.[15] All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix I.

Under EPA regulations at 40 CFR 50.10, the 1997 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding, based on the truncating conventions in 40 CFR part 50, appendix I). This 3-year average is referred to as the "design value." When the design value is greater than 0.084 ppm at any monitor within the area, then the area is violating the NAAQS. The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than or equal to 90 percent and no single year has less than 75 percent data completeness, as determined under appendix I of 40 CFR part 50.

The EPA is proposing to determine that the San Joaquin Valley failed to attain the 1997 8-hour ozone standard by its applicable attainment date; that is, that the average of the annual fourth-highest daily maximum 8-hour average ozone concentration was above 0.08 ppm in the period prior to the applicable attainment date, i.e., 2021–2023. This proposed determination is based on three years of quality-assured and certified ambient air quality monitoring data in AQS

[14] Generally, a "complete" data set for determining attainment of the ozone is one that includes three years of data. 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.
[15] 40 CFR 50.10; 40 CFR part 50, appendix I; 40 CFR part 53; 40 CFR part 58, appendices A, C, D, and E.

for the 2021–2023 monitoring period.

B. Monitoring Network Considerations

Section 110(a)(2)(B)(i) of the CAA requires states to establish and operate air monitoring networks to compile data on ambient air quality for all criteria pollutants. In the San Joaquin Valley, SJVUAPCD is the governmental agency with the authority and responsibilities under state law for collecting ambient air quality data. The ambient air monitoring network in the San Joaquin Valley area also includes air monitoring stations that are managed and operated by CARB and the National Park Service (NPS). As a result, SJVUAPCD submits annual network plans to the EPA. These plans document the status of SJVUAPCD's air monitoring network including the CARB and NPS air monitoring stations, as required under 40 CFR 58.10. The EPA reviews these annual network plans for compliance with specific requirements in 40 CFR part 58. With respect to ozone, we have found that the annual network plans submitted by SJVUAPCD meet the minimum monitoring requirements of 40 CFR part 58.[16] See table 1 for a summary of air quality monitors in the San Joaquin Valley.

Finally, the EPA conducts regular Technical Systems Audits (TSAs) where we review and inspect state and local ambient air monitoring programs to assess compliance with applicable regulations concerning the collection, analysis, validation, and reporting of ambient air quality data. For the purposes of this proposal, we reviewed the findings from the EPA's most recent TSA of SJVUAPCD's and CARB's ambient air monitoring program.[17] The results of this TSA do not preclude the EPA from determining that the San Joaquin Valley area has failed to attain the 1997 8-hour ozone NAAQS.

C. Data Considerations

In accordance with 40 CFR 58.15, SJVUAPCD, CARB, and the NPS certify annually

[16] We have included copies of SJVUAPCD's annual network plans for 2021–2023 in the docket for this action, along with our reviews of these plans and our associated transmittal correspondence.
[17] See letter from Matthew Lakin, Director, Air and Radiation Division, U.S. EPA Region IX, to Edie Chang, Deputy Executive Officer, CARB, dated March 14, 2024, and enclosure titled "Technical Systems Audit of the Ambient Air Monitoring Program: CARB, December 2021-August 2022."

that the previous year's ambient concentration and quality assurance data are completely submitted to AQS and that the ambient concentration data are accurate, taking into consideration the quality assurance findings.[18] There were 24 ozone monitoring sites located throughout the San Joaquin Valley in calendar years 2021 through 2023: one within Kings County, six within Fresno County, seven within Kern County, two within Madera County, one within Merced County, two within San Joaquin County, two within Stanislaus County and three within Tulare County.[19] Table 1 of this document summarizes the ozone monitoring data from the various monitoring sites in the San Joaquin Valley ozone area by showing the annual 4th highest daily maximum concentrations and design values over the 2021–2023 period. The data summarized in table 1 of this document are considered complete for the purposes of determining if the standard is met.[20]

Table 1–San Joaquin Valley Area Fourth High 8-Hour Ozone Average Concentrations and Design Values (ppm) for 2021–2023

		4th Highest Daily Maximum			Design Value (2021-2023)
AQS Site ID	**Site Name**	**2021**	**2022**	**2023**	
KINGS COUNTY					
06-031-1004	Hanford-Irwin	0.076	0.075	N/A[a]	Invalid[b]
FRESNO COUNTY					
06-019-0007	Fresno-Drummond	0.088	0.076	0.082	0.082
06-019-0011	Fresno-Garland	0.086	0.073	0.080	0.079
06-019-0242	Fresno-Sky Park	0.084	0.075	0.078	0.079
06-019-2009	Tranquility	0.072	0.063	0.064	0.066
06-019-4001	Parlier	0.090	0.081	0.081	0.084
06-019-5001	Clovis-Villa	0.085	0.080	0.081	0.082
KERN COUNTY					
06-029-0007	Edison	0.094	0.087	0.089	0.090
06-029-0008	Maricopa	0.073	0.074	0.079	0.075

[18] We have included SJVUAPCD's, CARB's, and NPS's annual data certifications for 2021, 2022, and 2023 in the docket for this action.
[19] See page 2 of SJVUAPCD's *2023 Air Monitoring Network Plan* (July 3, 2023) for a map illustrating the locations of the air monitoring sites in San Joaquin Valley.
[20] The criteria for data completeness are met at most of the ozone monitors over the 2021-2023 period but were not met for the ozone monitors at the Hanford-Irwin monitoring site. However, the failure of this monitor to meet the completeness criteria does not bear on the question of whether the area is violating because several other monitors within the area are violating the NAAQS.

06-029-0014	Bakersfield-California	0.077	0.071	0.075	0.074
06-029-0232	Oildale	0.086	0.085	0.076	0.082
06-029-2012	Bakersfield-Muni	0.085	0.084	0.082	0.083
06-029-5002	Arvin-Di Giorgio	0.084	0.085	0.088	0.085
06-029-6001	Shafter	0.076	0.077	0.073	0.075
MADERA COUNTY					
06-039-0004	Madera-Pump Yard	0.083	0.070	0.072	0.075
06-039-2010	Madera-City	0.085	0.078	0.077	0.080
MERCED COUNTY					
06-047-0003	Merced-Coffee	0.079	0.072	0.075	0.075
SAN JOAQUIN COUNTY					
06-077-1003	Stockton-University Park	0.061	0.067	0.064	0.064
06-077-3005	Tracy-Airport	0.069	0.062	0.062	0.064
STANISLAUS COUNTY					
06-099-0005	Modesto-14th Street	0.076	0.071	0.074	0.073
06-099-0006	Turlock	0.083	0.077	0.077	0.079
TULARE COUNTY					
06-107-0009	Sequoia-Ash Mountain	0.093	0.086	0.086	0.088
06-107-2003	Visalia-W. Ashland Avenue	0.094	0.090	0.080	0.088
06-107-2010	Porterville	0.092	0.083	0.087	0.087

[a] The required annual 75 percent completeness criterion was not met, therefore the annual 4th highest daily maximum values were not provided.
[b] The design value for the Hanford-Irwin site is invalid due to null coded data in AQS with poor quality assurance results from March through June of 2023. All other design values are valid.
Source: EPA, AQS Design Value (AMP480), Report Request ID: 2244187, December 9, 2024.

Generally, the highest ozone concentrations in the San Joaquin Valley occur in the central portions of the area. As shown in table 1 of this document, the highest 8-hour design value at any site in the San Joaquin Valley ozone area for 2021-2023 is 0.090 ppm at the Edison monitoring site in Kern County and represents a violation of the 1997 8-hour ozone standard.[21] Table 1 of this document shows that violations occur in Kern County and Tulare County. Taking into account the extent and reliability of the applicable ozone monitoring network, and the data collected therefrom and summarized in table 1 of this document, we propose to determine that the San Joaquin Valley area failed to attain the 1997 8-hour ozone standard (as defined in 40 CFR part 50, appendix I) by the applicable attainment date (i.e., June 15, 2024).

[21] For more information, please see "National 8-hour primary and secondary ambient air quality standards for ozone" (40 CFR 50.10) and "Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone" (40 CFR part 50, appendix I).

III. Public Comment and Proposed Action

We are proposing to determine that the San Joaquin Valley area failed to attain the 1997 8-hour ozone NAAQS by its June 15, 2024 attainment date, based on quality-assured and certified ambient air quality monitoring data from 2021 through 2023. The EPA is determining whether this area failed to attain by the applicable attainment date solely for purposes of triggering applicable anti-backsliding requirements.[22] For Extreme areas, applicable requirements triggered upon a finding that an area failed to attain by the attainment date are nonattainment contingency measures and CAA section 185 fee programs. We will accept comments from the public on this proposal until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders*.

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. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 does not apply because actions that make determinations under CAA section 181(b)(2) are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

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

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[22] In this instance, a final determination by the EPA of failure to attain the 1997 8-hour ozone standard in the San Joaquin Valley by the applicable attainment date would trigger CARB's Smog Check Contingency Measure in the Valley and the District's Rule 3171 ("Federally Mandated Ozone Nonattainment Fee - 1997 8-Hour Standard"). The EPA approved CARB's Smog Check Contingency Measure at 89 FR 56222 (July 9, 2024). CARB submitted District Rule 3171 to the EPA as a SIP revision on January 10, 2024, but the EPA has not yet taken action on it.

D. 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.

E. 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.

F. 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.

G. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175, because the obligations discussed herein do not apply to Indian Tribes and thus, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply to this action. Nonetheless, the EPA is notifying the Tribes within the San Joaquin Valley ozone area of the proposed determination.

H. Executive Order 13045: Protection of Children from Environmental Health Risks 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

not concern an environmental health risk or safety risk.

I. 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.

J. National Technology Transfer and 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 30, 2025.

Joshua F. W. Cook,
Regional Administrator, Region IX.

[FR Doc. 2025-12856 Filed: 7/9/2025 8:45 am; Publication Date: 7/10/2025]