



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0300; FRL-12832-01-R9]

Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “District”) portion of the California State Implementation Plan (SIP) concerning a rule submitted to address section 185 of the Clean Air Act (CAA or the “Act”) with respect to the revoked 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or “standard”). We are proposing action on this local rule that was submitted as an equivalent alternative to a statutory section 185 program. We are taking comments on this proposal and plan to follow with a final action.

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-2025-0300 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: Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4129 or by email at sherman.donique@epa.gov.

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

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I. The State’s Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted to the EPA by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local agency	Rule #	Rule title	Adopted	Submitted
SJVUAPCD	3171	Federally Mandated Ozone Nonattainment Fee – 1997 8-Hour Standard	10/19/23	01/10/24

On July 10, 2024, the submittal for SJVUAPCD Rule 3171 was deemed by operation of law to be complete. We have reviewed the submittal to ensure it meets the completeness criteria in 40 CFR part 51, appendix V.

B. Are there other versions of this rule?

There are no previous versions of Rule 3171 in the SIP.

C. What is the purpose of the submitted rule?

Under sections 182(d)(3), (e), (f) and 185 of the Act, states with ozone nonattainment areas classified as Severe or Extreme are required to submit a SIP revision that requires major stationary sources of volatile organic compounds (VOC) or oxides of nitrogen (NO_x) emissions in the area to pay a fee if the area fails to attain the standard by the attainment date. The required SIP revision must provide for annual payment of the fees, computed in accordance with section 185(b).

The purpose of SJVUAPCD Rule 3171 is to satisfy the requirements of sections 182(d)(3) and 185 of the Act by utilizing an equivalency approach consistent with the principles of section 172(e) of the Act. Under this rule, the District will track, calculate, analyze, and report on expenditures designed to result in VOC or NO_x reductions within the District to implement an alternative program that is not less stringent than a statutory CAA section 185 fee program. The rule includes calculation of the CAA section 185 fee obligation, establishment of a CAA section 185 fee equivalency demonstration system, an annual fee equivalency demonstration report, reporting to the EPA, and a provision requiring major sources to pay fees directly in the event of a fee collection shortfall. The fee equivalency demonstration system includes fees collected by the California Department of Motor Vehicles as an additional source of funding for the alternative 185 fee program and would need to demonstrate that the program's revenue would be greater than or equal to the revenue that would result under a direct implementation of the section 185 fee program if all major stationary sources covered by section 185 paid the

statutory fee amount.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable and must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements. See, respectively, CAA sections 110(a)(2) and 110(l). The EPA is also evaluating this rule for consistency with the statutory requirements of CAA section 185. Since the rule allows for an equivalent alternative program to meet the CAA section 185 obligation for the revoked 1997 8-hour ozone NAAQS, it must be consistent with the principles of CAA section 172(e) and must be “not less stringent” than the statutory section 185 program.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Does the rule meet the evaluation criteria?

We evaluated this rule to ensure it meets CAA requirements and is consistent with relevant guidance regarding enforceability, SIP revisions, and section 185. The equivalent alternative program provides a partial exemption for certain clean emissions units, and it allows for an alternative baseline in certain situations. However, the rule also provides for the collection of California Vehicle Code Fees, and then it compares the fees collected from major sources and

vehicle fees to the fees that would have been collected under a statutory section 185 program that simply collected fees from applicable major stationary sources. In the event of a shortfall, the rule requires the collection of this shortfall amount from the initially-exempt clean emissions units. This program ensures that the total fee amount collected is greater than or equal to the fee that would have been collected under a statutory section 185 program. Moreover, the fees that are collected are used to establish and implement surplus incentive-based emissions-reduction programs. This approach of ensuring fee equivalence, and using the collected funds to achieve reductions in the District, is consistent with the principles of 172(e) of the CAA. Based on our review, the rule meets the relevant requirements. The Technical Support Document (TSD) has more information on our evaluation.

C. Proposed action and public comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference SJVUAPCD Rule 3171, Federally Mandated Ozone Nonattainment Fee – 1997 8-Hour Standard, adopted on October 19, 2023, described in section I.A. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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: September 3, 2025.

Michael Martucci,
Acting Regional Administrator, Region IX.

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