



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0587; FRL-12483-02-R9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final determination.

SUMMARY: The Environmental Protection Agency (EPA) has determined that the San Joaquin Valley, California area failed to attain the 1997 8-hour ozone national ambient air quality standard (NAAQS) by its June 15, 2024 “Extreme” area attainment date. This determination is based on quality-assured and certified ambient air quality monitoring data from 2021 through 2023. As a result of this determination, the State of California is required to implement nonattainment contingency measures and the stationary source fee program required under Clean Air Act (CAA) section 185.

DATES: This determination is effective on **[Insert date 30 days after date of publication in the FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2024-0587. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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.

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

Table of Contents

- I. Background
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Background

On July 10, 2025, the EPA proposed to determine that the San Joaquin Valley area failed to attain the 1997 8-hour ozone NAAQS by its applicable attainment date.¹ Our proposed determination was based on three years of quality-assured and certified ambient air quality monitoring data for the 2021 to 2023 monitoring period.²

In 1997, the EPA revised the 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 tightened the 8-hour ozone NAAQS in 2008 and tightened the 8-hour ozone NAAQS further in 2015, but this determination applies only to the 1997 8-hour ozone NAAQS.⁴ The EPA revoked the 1997 8-hour ozone NAAQS effective April 6, 2015;⁵ however, to comply with anti-backsliding

¹ 90 FR 30607.

² 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 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. 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.

³ 62 FR 38856 (July 18, 1997). We refer to the ozone NAAQS established by the EPA in 1997 as the “1997 8-hour ozone NAAQS” or “1997 8-hour ozone standard.”

⁴ 73 FR 16436 (March 27, 2008) (referred to as the “2008 ozone NAAQS”). The EPA further tightened the 8-hour ozone NAAQS at 80 FR 65292 (October 26, 2015) (referred to as the “2015 ozone NAAQS”).

⁵ 80 FR 12264 (March 6, 2015).

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 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) (“*South Coast IP*”).

The area designated as 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.⁷ The population of the San Joaquin Valley area is over 4.3 million people.⁸

The San Joaquin Valley area, excluding areas of Indian country,⁹ lies within 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 District and State rules to the EPA for approval into the state implementation

⁶ 40 CFR 51.1100(o).

⁷ 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.

⁸ SJVUAPCD, *2022 Plan for the 2015 8-Hour Ozone Standard (December 15, 2022)*, p. 2-7.

⁹ “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.”

plan (SIP).

Our proposed determination provides additional background information on the effects of exposure to elevated levels of ground level ozone, the designation and classification of the San Joaquin Valley under the CAA for the 1997 ozone NAAQS, and the statutory and regulatory provisions that apply to determinations of attainment. It also describes our review of the air quality monitoring data on which we based our proposed determination that the area failed to attain the 1997 ozone NAAQS by the applicable attainment date.

II. Public Comments and EPA Responses

Our July 10, 2025 proposed determination provided a 30-day public comment period that closed on August 11, 2025. During this period, we received three comment letters. The comment letters are included in the docket for this action. Our summary of the comments and our responses are as follows:

Comment 1: An anonymous commenter asserts that the EPA's proposed determination underscores the chronic difficulty in controlling ozone precursors in a region with high population vulnerability, intense industrial and agricultural activity, and significant climate exposure. The commenter observes that warming temperatures driven by elevated carbon dioxide (CO₂) accelerate photochemical reactions, lengthen the ozone season, and reduce the effectiveness of existing controls. The commenter urges the EPA to recognize the amplifying role of CO₂-driven climate effects on ozone nonattainment, particularly in climate-sensitive regions like California's Central Valley; to encourage California and local air districts to integrate greenhouse gas (GHG) mitigation strategies into ozone planning; and to promote transparency in SIP updates and future planning by requiring or recommending that CO₂ co-emissions from major sources be disclosed and evaluated.

Response 1: The EPA acknowledges the points made by the commenter, but notes that none of the statements or arguments are adverse to the action being undertaken here, and therefore they do not argue for a changed outcome within the present action. The commenter's

comments do not address the EPA's rationale for the proposed determination of failure to attain and are outside the scope of this action.

Comment 2: The District describes the many challenges facing the San Joaquin Valley in meeting the NAAQS, but it also notes the progress in reducing ambient concentrations over the past 20 years, both in terms of lower design values and reduced areas subject to violations of the standard, through the adoption and implementation of various state and local control measures and strategies. The District also acknowledges that additional progress is needed and cites the critical need for continued coordination with CARB and the EPA to reduce sources of emissions in the San Joaquin Valley, especially mobile sources that make up a significant portion of the Valley's emissions.

Response 2: The EPA acknowledges the points made by the District, but we also note that none of the statements or arguments are adverse to the action being undertaken here, and they therefore do not argue for a changed outcome within the present action. The District's comments do not address the EPA's rationale for the proposed determination of failure to attain and are outside the scope of this action.

Comment 3: The Committee for a Better Arvin, Medical Advocates for Healthy Air, and Sierra Club ("Air Advocates") support the proposed determination of failure to attain the 1997 ozone NAAQS by the applicable attainment date in San Joaquin Valley. The Air Advocates note that, while the proposed determination is based on the design value for the 2021-2023 period, the design value for the 2022-2024 period for the San Joaquin Valley area continues to fail to attain the 1997 ozone NAAQS.

Response 3: While, as Air Advocates notes, the determination of failure to attain the 1997 ozone NAAQS in the San Joaquin Valley is based on the three-year (calendar) period (in this case, 2021-2023) prior to the June 15, 2024 attainment date, the EPA acknowledges that the

San Joaquin Valley area continues to fail to attain based on a design value of 0.088 ppm for the 2022-2024 period.¹⁰

III. EPA Action

Pursuant to CAA section 301 and consistent with CAA section 181(b)(2), and after considering comments received, the EPA is finalizing its determination that the San Joaquin Valley 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 that this area failed to attain by the applicable attainment date solely for purposes of triggering applicable anti-backsliding requirements.¹¹ 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.

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 consistent with CAA section 181(b)(2) are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

¹⁰ EPA, 2024 Design Values Reports, “Ozone Design Values, 2024,” excel spreadsheet, updated May 28, 2025. For comparison, the highest design value consistent with a finding of attainment for the 1997 ozone NAAQS is 0.084 ppm. See 40 CFR 50.10; and 40 CFR part 50, appendix I, section 2.3.

¹¹ In this instance, the final determination of failure to attain the 1997 8-hour ozone standard in the San Joaquin Valley by the applicable attainment date triggers 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.

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.

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 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: Consultation and 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 final determination.

H. Executive Order 13045: Protection of Children From Environmental Health 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.

K. Congressional Review Act (CRA)

This action is not a rule and is therefore not subject to the CRA. The action is an informal adjudication dealing with the application of specific facts to preestablished discernible criteria.

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this action does not affect the finality of this action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of this action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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 11, 2025.

Michael Martucci,
Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F - California

2. Section 52.282 is amended by adding paragraph (p) to read as follows:

§ 52.282 Control strategy and regulations: Ozone.

* * * * *

(p) *Determination of Failure to Attain the 1997 8-Hour Ozone NAAQS.* The EPA has determined that, as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the San Joaquin Valley Area Extreme 8-hour ozone nonattainment area did not attain the 1997 8-hour ozone NAAQS by the applicable attainment date of June 15, 2024. This determination bears on the area’s obligations with respect to the 1997 eight-hour ozone standard anti-backsliding requirements whose implementation is triggered by a determination of failure to attain by the applicable attainment date: section 172(c)(9) contingency measures for failure to attain and sections 182(d)(3) and 185 major stationary source fee programs.

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