



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-1938; FRL-13058-01-R9]

Air Plan Approval; California; San Joaquin Valley 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 Air Pollution Control District (SJVAPCD or “District”) portion of the California State Implementation Plan (SIP) concerning two rules submitted to address section 185 of the Clean Air Act (CAA or the “Act”) with respect to the 2008 and 2015 ozone national ambient air quality standards (NAAQS or “standards”). 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-2025-1938 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: Tom Kelly, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105, telephone number: (415) 972-3856, email address:

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

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I. The State’s Submittal

A. What rules did the State submit?

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

Table 1–Submitted Rules

Local agency	Rule Number	Rule title	Adopted	Submitted
SJVAPCD	3172	Federally Mandated Ozone Nonattainment Fee – 2008 8-Hour Standard	12/21/23	03/13/24
SJVAPCD	3173	Federally Mandated Ozone	12/21/23	03/13/24

Local agency	Rule Number	Rule title	Adopted	Submitted
		Nonattainment Fee – 2015 8-Hour Standard		

On September 13, 2024, the submittal for SJVAPCD Rules 3172 and 3173 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 these rules?

There are no previous versions of SJVAPCD Rule 3172 or 3173 in the SIP. These rules address the CAA section 185 fee requirement for the 2008 and 2015 ozone NAAQS. SJVAPCD has previously issued a rule addressing the 1-hour ozone NAAQS, Rule 3170 which the EPA has approved into the SIP,¹ and the 1997 8-hour ozone NAAQS, Rule 3171 which the EPA has proposed to approve into the SIP.²

C. What is the purpose of the submitted rules?

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 CAA section 185(b). SJVAPCD Rule 3172 is intended to satisfy the requirements for the 2008 ozone NAAQS and Rule 3173 is intended to satisfy the requirements for the 2015 ozone NAAQS.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rules?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)) and must not interfere with applicable requirements concerning attainment and reasonable further progress or other

¹ 77 FR 50021 (August 20, 2012).

² 90 FR 44155 (September 12, 2025).

CAA requirements (see CAA section 110(l)). The EPA is also evaluating the rule for consistency with the statutory requirements of CAA section 185.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements 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. Do the rules meet the evaluation criteria?

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability and SIP revisions. The rules are also consistent with the requirements of section 185. As required by section 185, these rules apply to all major sources of VOC or NO_x, and calculate the fees to be paid as specified in section 185(b). The rules will become applicable if and when the EPA finalizes a finding that the San Joaquin Valley Air Basin has failed to attain either the 2008 ozone NAAQS (for Rule 3172) or the 2015 ozone NAAQS (for Rule 3173) by the applicable attainment date for that NAAQS. The EPA's technical support document for this rulemaking 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 rules because they fulfill 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 rules, our final action will incorporate SJVAPCD Rules 3172 and 3173 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 SJVAPCD Rule 3172, Federally Mandated Ozone Nonattainment Fee – 2008 8-Hour Standards and Rule 3173, Federally Mandated Ozone Nonattainment Fee – 2015 8-Hour Standards, both adopted on December 21, 2023, and described in more detail 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 CAA, 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 CAA. 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 CAA.

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: November 24, 2025.

Michael Martucci,

Acting Regional Administrator, Region IX.

[FR Doc. 2025-22530 Filed: 12/10/2025 8:45 am; Publication Date: 12/11/2025]