person's judgment for mitigating and abating the conditions or practices causing the emergency.

12. Add new § 250.1932 to read as follows:

§ 250.1932 What are my employee participation program requirements?

(a) Management must consult with their employees on the development and implementation of the company's SEMS program.

(b) Management must develop a written plan of action regarding how appropriate employees, in both the operator's offices and working on offshore facilities, will participate in their SEMS program development and implementation.

(c) You must provide each employee of the operator and each contractor access to your SEMS program.

(d) Management must provide BOEMRE a copy of their employee participation program upon request.

(e) Management must assure that their employee participation program is made available during an audit.

13. Add new § 250.1933 to read as follows:

§ 250.1933 What criteria must be included for reporting unsafe work conditions?

(a) Your SEMS program must include procedures that address the reporting of unsafe work conditions. These procedures must include the existing Coast Guard unsafe working conditions reporting requirements found in 33 CFR 142.7 and 46 CFR 109.419.

(b) The unsafe work conditions section of your SEMS program must ensure all personnel including the operator's employees contractor employees, as well as, contractors providing domestic services to the lessee or other contractors, including domestic services include janitorial work, food and beverage service, laundry service, housekeeping, and similar activities, who perform activities on the OCS that are under BOEMRE jurisdiction are covered by the program. An employee or contractor is not required to know whether a specific BOEMRE order or regulation has been violated in order to report unsafe conditions.

(c) Any person may report to BOEMRE a possible violation of any BOEMRE order, standard, or regulation in this subchapter, or other Federal law relating to offshore safety, or any other hazardous or unsafe working condition on any facility engaged in OCS activities under BOEMRE jurisdiction. The report should contain sufficient credible information to establish a reasonable basis for BOEMRE to investigate whether a violation or other hazardous or unsafe working condition exists.

(1) To report hazardous or unsafe working conditions or a violation, you can contact BOEMRE by:

(2) [By Phone]: 1–877–440–0173 or 202–208–5646 (BOEMRE Safety Hotline).

(3) [Write To]: U.S. Department of the Interior, Bureau of Ocean Energy Management, Regulation and Enforcement, Investigations and Review Unit, 1849 C Street, NW., MS–5560, Washington, DC 20240, Attention: IRU Hotline Operations. You should include the following items in your report:

(i) Your name, address, and telephone number (Anonymous reports can be processed in regards to unsafe working activities. If you would like to make an anonymous safety-only report, please use the BOEMRE Safety Hotline listed above.);

(ii) The specific order or regulation of BOEMRE, or the specific provision of Federal law in question (if known);

(iii) Any other facts, data, and applicable information.

(d) After reviewing the report and conducting any necessary investigation, BOEMRE will notify the operator of any deficiency or hazard and initiate enforcement measures as the circumstances warrant.

(e) The identity of any person making a report under paragraph (c) of this section shall not be made available, without the permission of the reporting person, to anyone other than the employees of BOEMRE who have a need for the record in the performance of their official duties.

(f) All operators must post a notice explaining personnel rights and remedies under this section. The notice must be posted at the place of employment in a visible location frequently visited by personnel.

(g) Each operator must provide training to employees on unsafe work conditions policy within 30 days of employment, and not less than once every 12 months thereafter.

(h) Each employee must be provided a card that contains the BOEMRE telephone number (1–877–440–0173) which employees can call to get information or report unsafe activities under this section.

[FR Doc. 2011–23537 Filed 9–13–11; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0638; FRL–9463–9]

Approval and Promulgation of Air Quality Implementation Plans; California; Determinations of Failure To Attain the One-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to determine that three areas in California, previously designated nonattainment for the one-hour ozone national ambient air quality standard (NAAQS), did not attain that standard by their applicable attainment dates: the Los Angeles-South Coast Air Basin Area (''South Coast''), the San Joaquin Valley Area (''San Joaquin Valley''), and the Southeast Desert Modified Air Quality Maintenance Area (''Southeast Desert''). These proposed determinations are based on three years of quality-assured and certified ambient air quality monitoring data for the period preceding the applicable attainment deadline.

DATES: Written comments must be received on or before October 14, 2011.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R09–OAR–2011–0638, by one of the following methods:

1. *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail:* Doris Lo at *lo.doris@epa.gov.*

3. *Fax:* Doris Lo, Air Planning Office (AIR–2), at fax number 415–947–3579.

4. *Mail:* Doris Lo, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105.

5. *Hand or Courier Delivery:* Doris Lo, Air Planning Section (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105. Such deliveries are only accepted during the Docket's normal hours of operation. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R09–OAR–2011–0638. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail that you consider to be CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an anonymous access system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov index*. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Office (Air-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: Doris Lo, (415) 972–3959, or by e-mail at *lo.doris@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. What actions is EPA taking?

EPA is proposing to determine, under the Clean Air Act (CAA or ''Act''), that three areas previously designated nonattainment for the one-hour ozone NAAQS—the South Coast, the San Joaquin Valley, and the Southeast Desert—failed to attain the NAAQS for one-hour ozone by their applicable one-hour NAAQS attainment dates.

II. Background

Regulatory Context

The Act requires us to establish NAAQS for certain widespread pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare (sections 108 and 109 of the Act). In 1979, we promulgated the revised one-hour ozone standard of 0.12 parts per million (ppm) (44 FR 8202, February 8, 1979).[1]

An area is considered to have attained the one-hour ozone standard if there are no violations of the standard, as determined in accordance with the regulation codified at 40 CFR 50.9, based on three consecutive calendar years of complete, quality-assured and certified monitoring data. A violation occurs when the ambient ozone air quality monitoring data show greater than one (1.0) ''expected number'' of exceedances per year at any site in the area, when averaged over three consecutive calendar years.[2] 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 area that was violating the one-hour ozone standard, generally based on air quality monitoring data from the 1987 through 1989 period (section 107(d)(4) of the Act; 56 FR 56694, November 6, 1991). The Act further classified these areas, based on the severity of their nonattainment problem, as Marginal, Moderate, Serious, Severe, or Extreme.

The control requirements and date by which attainment of the one-hour ozone standard was to be achieved varied with an 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 fails 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'').

Designations and Classifications

On November 6, 1991, EPA designated the South Coast[3] as ''Extreme'' nonattainment for the one-hour ozone standard, with an attainment date no later than November 15, 2010 (56 FR 56694). In its November 6, 1991 final rule, EPA designated the San Joaquin Valley[4] as ''Serious'' nonattainment for the one-hour ozone standard, but later reclassified the valley as ''Severe'' (66 FR 56476, November 8, 2001), and then as ''Extreme'' (69 FR 20550, April 16, 2004) for the one-hour ozone standard, with the same attainment date (November 15, 2010) as the South Coast. In its 1991 final rule, EPA designated the Southeast Desert[5] as ''Severe-17'' nonattainment for the one-hour ozone standard, with an attainment date no later than November 15, 2007.

[1] For ease of communication, many reports of ozone concentrations are given in parts per billion (ppb); ppb = ppm × 1000. Thus, 0.12 ppm becomes 120 ppb (or between 120 to 124 ppb, when rounding is considered).

[2] 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).

[3] The South Coast includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County (see 40 CFR 81.305).

[4] San Joaquin Valley includes all of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare counties, as well as the western half of Kern County (see 40 CFR 81.305).

[5] 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).

Outside of Indian country,[6] the South Coast lies within the jurisdiction of the South Coast Air Quality Management District (SCAQMD). Similarly, with the exception of Indian country, San Joaquin Valley lies within the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). Likewise, excluding 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 SCAQMD.

Under California law, each air district is responsible for adopting and implementing stationary source rules, 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. The district and state rules are submitted to EPA by CARB.

Transition From One-Hour Ozone Standard to Eight-Hour Ozone Standard

In 1997, EPA promulgated a new, more protective standard for ozone based on an eight-hour average concentration (the 1997 eight-hour ozone standard). In 2004, EPA published the 1997 eight-hour ozone designations and classifications and a rule governing certain facets of implementation of the eight-hour ozone standard (Phase 1 Rule) (69 FR 23858 and 69 FR 23951, respectively, April 30, 2004).

Although EPA revoked the one-hour ozone standard (effective June 15, 2005), to comply with anti-backsliding requirements of the Act, eight-hour ozone nonattainment areas remain subject to certain requirements based on their one-hour ozone classification. Initially, in our rules to address the transition from the one-hour to the eight-hour ozone standard, EPA did not include contingency measures or the section 185 fee program among the measures retained as one-hour ozone anti-backsliding requirements.[7] However, on December 23, 2006, the United States Court of Appeals for the District of Columbia Circuit determined that EPA should not have excluded these requirements from its anti-backsliding requirements. *South Coast Air Quality Management District* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006) reh'g denied 489 F.3d 1245 (clarifying that the vacatur was limited to the issues on which the court granted the petitions for review).

Thus, the Court vacated the provisions that excluded these requirements. As a result, States must continue to meet the obligations for one-hour ozone NAAQS contingency measures and, for Severe and Extreme areas, major source fee programs. EPA has issued a proposed rule that would remove the vacated provisions of 40 CFR 51.905(e), and that addresses contingency measures for failure to attain or make reasonable further progress toward attainment of the one-hour standard. See 74 FR 2936, January 16, 2009 (proposed rule); 74 FR 7027, February 12, 2009 (notice of public hearing and extension of comment period).

Rationale for Today's Proposed Action

After revocation of the one-hour ozone standard, EPA must continue to provide a mechanism to give effect to the one-hour anti-backsliding requirements. See *SCAQMD* v. *EPA,* 47 F.3d 882, at 903. In keeping with this responsibility with respect to one-hour anti-backsliding contingency measures and section 185 fee programs for these three California areas, EPA proposes to determine that each area failed to attain the one-hour ozone standard by its applicable attainment date.

III. What is EPA's analysis?

A determination of whether an area's air quality meets the one-hour ozone standard is generally based upon three years of complete,[8] 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 the 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 one-hour ozone standard is attained at a monitoring site when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million (235 micrograms per cubic meter) is equal to or less than 1, as determined by 40 CFR part 50, appendix H.[9]

EPA proposes to determine that the South Coast, the San Joaquin Valley, and the Southeast Desert failed to attain the one-hour ozone standard by their applicable attainment dates; that is, the number of expected exceedances at sites in each of the three nonattainment areas was greater than one per year in the period prior to the applicable attainment date. These proposed determinations are based on three years of quality-assured and certified ambient air quality monitoring data in AQS for the 2008–2010 monitoring period for the South Coast and the San Joaquin Valley, and quality-assured and certified data in AQS for 2005–2007 for the Southeast Desert.

A. South Coast One-Hour Ozone Nonattainment Area

In the South Coast, the South Coast Air Quality Management District (SCAQMD) is responsible for assuring that the area meets air quality monitoring requirements. SCAQMD Annual Network Plans describe the air monitoring network and discuss its status, as required under 40 CFR 58.10.

Since 2007, EPA has regularly reviewed these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to ozone, EPA has found that the area's network plans meet the applicable requirements under 40 CFR part 58.[10] Furthermore, we

[6] ''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.''

[7] Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1, 69 FR 23951 (April 30, 2004).

[8] 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.

[9] The average number of expected exceedances is determined by averaging the expected exceedances of the one-hour ozone standard over a consecutive three calendar year period. *See* 40 CFR part 50 appendix H.

[10] See, *e.g.,* letter from Matthew Lakin, Manager, Air Quality Analysis Office, Air Division, EPA

concluded in our Technical System Audit of the SCAQMD network conducted during April 2010, that the ambient air monitoring network operated by SCAQMD network currently meets or exceeds the requirements for the minimum number of SLAMS monitoring sites for all criteria pollutants, and that all of the required ozone monitoring sites are properly located with respect to monitoring objectives, spatial scales and other site criteria, as required by 40 CFR part 58, appendix D.[11] Also, SCAQMD annually certifies that the data it submits to AQS are quality-assured.[12]

There were 29 ozone monitoring sites located throughout the South Coast in calendar years 2008 through 2010: 13 within Los Angeles County, four within Orange County, seven within Riverside County, and five within San Bernardino County.[13] All SCAQMD sites monitor ozone concentrations on a continuous basis using ultraviolet absorption monitors.[14] SCAQMD administered 28 of the 29 sites, and one was administered by the Morongo Band of Mission Indians. Table 1 summarizes the ozone monitoring data from the various monitoring sites in the South Coast Air Basin by showing the expected exceedances per year and as an average over the 2008–2010 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 SOUTH COAST ONE-HOUR OZONE NONATTAINMENT AREA

General location	Site (AQS ID)	Expected exceedances by year			Expected exceedances 3-yr average
		2008	2009	2010	2008–2010
LOS ANGELES COUNTY:					
East San Gabriel Valley	Azusa (06–037–0002)	7.0	4.0	0.0	3.6
East San Fernando Valley	Burbank (06–037–1002)	1.0	1.0	0.0	0.7
South Central Los Angeles County [a]	Lynwood/Compton (06–037–1301/06–037–1302)	0.0	0.0	0.0	0.0
East San Gabriel Valley	Glendora (06–037–0016)	12.0	7.4	0.0	6.5
Southwest Coastal LA County	Los Angeles—LAX (06–037–5005)	0.0	0.0	0.0	0.0
South Coastal LA County	North Long Beach (06–037–4002)	0.0	0.0	0.0	0.0
Central Los Angeles	Los Angeles-N. Main Street (06–037–1103)	0.0	1.0	0.0	0.3
West San Gabriel Valley	Pasadena (06–037–2005)	0.0	3.0	0.0	1.0
South San Gabriel Valley	Pico Rivera (06–037–1602)	0.0	1.0	0.0	0.3
Pomona/Walnut Valley	Pomona (06–037–1701)	5.0	1.0	0.0	2.0
West San Fernando Valley	Reseda (06–037–1201)	0.0	1.0	0.0	0.3
Santa Clarita Valley	Santa Clarita (06–037–6012)	8.1	5.1	1.1	4.8
Northwest Coastal LA County	West Los Angeles (06–037–0113)	0.0	1.0	0.0	0.3
ORANGE COUNTY:					
Central Orange County	Anaheim (06–059–0007)	0.0	0.0	0.0	0.0
North Coastal Orange County	Costa Mesa (06–059–1003)	0.0	0.0	0.0	0.0
North Orange County	La Habra (06–059–5001)	0.0	0.0	0.0	0.0
Saddleback Valley	Mission Viejo (06–059–2022)	0.0	0.0	0.0	0.0
RIVERSIDE COUNTY:					
Banning Airport	Banning (06–065–0012)	10.0	1.0	0.0	3.7
Banning Airport [b]	Morongo Reservation (06–065–1016)	12.1	2.7	4.0	6.3
Lake Elsinore	Lake Elsinore (06–065–9001)	6.1	1.0	0.0	2.4
Mira Loma	Mira Loma—Jurupa High School (06–065–0004)	6.9	1.1	0.0	2.7
Mira Loma	Mira Loma—Van Buren (06–065–8005)	4.0	0.0	0.0	1.3
Perris Valley	Perris (06–065–6001)	4.0	1.0	0.0	1.7
Metropolitan Riverside County	Rubidoux (06–065–8001)	8.0	0.0	1.0	3.0
SAN BERNARDINO COUNTY:					
Central San Bernardino Mountains	Crestline (06–071–0005)	16.2	7.0	8.0	10.4
Central San Bernardino Valley	Fontana (06–071–2002)	8.1	3.0	2.8	4.6
East San Bernardino Valley	Redlands (06–071–4003)	12.0	1.0	1.0	4.7
Central San Bernardino Valley	San Bernardino (06–071–9004)	11.1	2.0	1.0	4.7
Northwest San Bernardino Valley	Upland (06–071–1004)	9.1	3.0	1.0	4.4

[a] Data for year 2008 is from the Lynwood monitor, which was relocated to Compton in late 2008.
[b] This site is run by the Morongo Tribe of Mission Indians on the Morongo Reservation. It is not part of the SCAQMD monitoring network.
Source: Quicklook Report, June 16, 2011 (in the docket to this proposed action).

Region IX, to Dr. Chung S. Liu, Deputy Executive Officer, Science and Technology Advancement, SCAQMD, dated November 1, 2010, approving SCAQMD's 2009 Annual Air Quality Monitoring Network Plan.

[11] 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.''

[12] See, *e.g.,* letter from Chung S. Liu, Deputy Executive Office, Science and Technology Advancement, SCAQMD, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying 2009 ozone data.

[13] See figure 1 in appendix A to SCAQMD's *Annual Air Quality Monitoring Network Plan* (July 2010) for a map of SCAQMD's ozone monitors in the South Coast.

[14] SCAQMD operates federal equivalent method (FEM) monitors for ozone, specifically, Thermo Electron model 49i and Teledyne/API 400 series ultraviolet absorption monitors. See SCAQMD's *Annual Air Quality Monitoring Network Plan* (July 2010). These monitoring devices have an EPA designation number EQOA–0880–047 and EQOA–0992–087, respectively. See EPA ''List of Designated Reference and Equivalent Methods, page 27 (February 1, 2011), available on the Internet at: *http://www.epa.gov/ttn/amtic/criteria.html.*

[15] The criteria for data completeness are met at most of the ozone monitors over the 2008–2010 period, but are not met for the ozone monitors at certain stations over the 2008–2010 period: Pomona, Morongo Reservation, Mira Loma (Jurupa High School), and Fontana. However, with respect to these four monitors, the failure to meet the completeness criteria does not bear on the question of whether the data is complete for the purposes of this determination because there are sufficient observed exceedances during the relevant three-year period to establish that the standard was not met by the applicable attainment date at those sites. See 40 CFR part 50, appendix H, section 3, first paragraph.

Generally, the highest ozone concentrations in the South Coast occur in the northern and eastern portions of the area. As shown in Table 1, the highest three-year average of expected exceedances at any site in the South Coast Air Basin for 2008–2010 is 10.4 (at Crestline, a site located at 4,500 feet elevation in the San Bernardino Mountains). The calculated exceedance rate of 10.4 represents a violation of the one-hour ozone standard (a three-year average of expected exceedances less than or equal to 1). 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). Table 1 also shows that, while the most frequent violations occur in the San Bernardino Mountains, violations are widespread in eastern Riverside County and southwestern San Bernardino County as well as the Santa Clarita and east San Gabriel valleys in Los Angeles County.

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 South Coast Air Basin failed to attain the one-hour ozone standard (as defined in 40 CFR part 50, appendix H) by the applicable attainment date (*i.e.,* November 15, 2010).

B. San Joaquin Valley One-Hour Ozone Nonattainment Area

In the San Joaquin Valley, CARB and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) are the agencies responsible for assuring that the area meets air quality monitoring requirements. The SLAMS network of ozone monitors in the valley includes monitors operated by SJVUAPCD and monitors operated by CARB. SJVUAPCD submits annual monitoring network plans to EPA. SJVUAPCD Network Plans describe the various monitoring sites operated by SJVUAPCD as well as those operated by CARB. These plans discuss the status of the air monitoring network, as required under 40 CFR 58.10. See SJVUAPCD's *Air Monitoring Network Plan,* dated June 30, 2010.

As noted above for the South Coast, EPA regularly reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to ozone, EPA has found that the area's network plans meet the applicable requirements under 40 CFR part 58.[16] Furthermore, we concluded in our Technical System Audit of the CARB Primary Quality Assurance Organization (PQAO),[17] conducted during summer 2007, that, with one exception, the combined ambient air monitoring network operated by CARB and SJVUAPCD in the San Joaquin Valley currently meets or exceeds the requirements for the minimum number of SLAMS monitoring sites for ozone. In our audit, we found that our regulations required an additional ozone monitor in the Visalia-Porterville Metropolitan Statistical Area (MSA) to meet the minimum SLAMS monitoring requirements. In response, SJVUAPCD opened an ozone monitoring station in Porterville. The new station began reporting ozone data in March 2010. CARB annually certifies that the data the agency submits to AQS are quality-assured, including data collected by CARB at monitoring sites in San Joaquin Valley.[18] SJVUAPCD does the same for monitors operated by the District.[19]

There were 22 ozone monitoring sites located throughout the San Joaquin Valley in calendar years 2008 through 2010: six within Kern County, five within Fresno County, three within Tulare County, two within Kings, San Joaquin and Stanislaus counties, and one each in Madera and Merced counties.[20] All of the sites monitor ozone concentrations on a continuous basis using ultraviolet absorption monitors. CARB or SJVUAPCD operate 19 of the 22 ozone monitoring sites; the National Park Service operates two ozone monitoring sites in Sequoia National Park in Tulare County; and the Tachi-Yokut Tribe operates an ozone monitor at the Santa Rosa Rancheria in Kings County.

Table 2 summarizes the ozone monitoring data from the various monitoring sites in the San Joaquin Valley by showing the expected exceedances per year and as an average over the 2008–2010 period. The data summarized in Table 2 are considered complete for the purposes of determining if the standard is met.[21]

[16] See, *e.g.,* letter from Matthew Lakin, Manager, Air Quality Analysis Office, Air Division, EPA Region IX, to Scott Nester, Planning Director, SJVUAPCD, dated November 1, 2010, approving SJVUAPCD's 2009 Ambient Air Monitoring Network Plan.

[17] A primary quality assurance organization is responsible for a group of monitoring stations for which data quality assessments can be pooled. See 40 CFR 58.1. CARB is the lead PQAO for all the air districts in the Sacramento Metro Area.

[18] See, *e.g.,* letter from Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying calendar year 2010 ambient air quality data and quality assurance data, dated April 28, 2011.

[19] See, *e.g.,* letter from Seyed Sadredin, Executive Director/Air Pollution Control Officer, letter to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying in part calendar year 2010 ambient air quality data and quality assurance data, dated June 13, 2011. The District's 2010 partial certification dated June 13, 2011 covered ozone data.

[20] See figure 1 in SJVUAPCD's *Air Monitoring Network Plan* (June 30, 2010) for a map of the ozone monitors in the San Joaquin Valley.

[21] The criteria for data completeness are met at most of the ozone monitors over the 2008–2010 period, but are not met for the ozone monitors at certain stations over the 2008–2010 period: Fresno (Drummond Street), Clovis, Hanford/Corcoran, and Sequoia National Park (06–017–0009). However, with respect to all of these monitors except for Fresno (Drummond Street), the failure to meet the completeness criteria does not bear on the question of whether the data is complete for the purposes of this determination because there are sufficient observed exceedances during the relevant three-year period to establish that the standard was not met by the applicable attainment date at those sites. See 40 CFR part 50, appendix H, section 3, first paragraph. Moreover, despite the lack of complete data from Fresno (Drummond Street), sufficient data from the network as a whole exist to support the proposed determination of failure to attain the one-hour ozone NAAQS by the applicable attainment date within the San Joaquin Valley.

TABLE 2—ONE-HOUR OZONE DATA FOR THE SAN JOAQUIN VALLEY ONE-HOUR OZONE NONATTAINMENT AREA

Site (AQS ID)	Expected exceedances by year			Expected exceedances 3-yr average
	2008	2009	2010	2008–2010
FRESNO COUNTY:				
Clovis (06–019–5001)	8.3	0.0	3.0	3.8
Fresno—Drummond Street (06–019–0007)	0.0	0.0	0.0	0.0
Fresno—North First Street (06–019–0008)	7.1	0.0	2.0	3.0
Fresno—Sierra Skypark #2 (06–019–0242)	2.1	0.0	2.4	1.5
Parlier (06–019–4001)	2.0	0.0	1.1	1.0
KERN COUNTY:				
Arvin (06–029–5001)	14.3	3.1	2.4	6.6
Bakersfield (06–029–0014)	1.0	0.0	0.0	0.3
Edison (06–029–0007)	5.0	2.0	1.0	2.7
Maricopa (06–029–0008)	0.0	0.0	0.0	0.0
Oildale (06–029–0232)	0.0	0.0	0.0	0.0
Shafter (06–029–6001)	1.0	0.0	0.0	0.3
KINGS COUNTY:				
Hanford/Corcoran [a] (06–031–1004/06–031–0004)	4.4	0.0	2.7	2.4
Santa Rosa Rancheria (06–031–0500)	2.2	0.0	0.0	0.7
MADERA COUNTY:				
Madera (06–039–0004)	0.0	0.0	0.0	0.0
MERCED COUNTY:				
Merced (06–047–0003)	3.1	0.0	0.0	1.0
SAN JOAQUIN COUNTY:				
Stockton (06–077–1002)	0.0	0.0	0.0	0.0
Tracy (06–077–3005)	0.0	0.0	0.0	0.0
STANISLAUS COUNTY:				
Modesto (06–099–0005)	1.0	0.0	0.0	0.3
Turlock (06–099–0006)	3.0	1.0	0.0	1.3
TULARE COUNTY:				
Sequoia National Park—Lower Kaweah (06–107–0006)	1.0	0.0	0.0	0.3
Sequoia National Park—Sequoia and Kings Canyon Nat'l Park (06–107–0009)	6.9	0.0	0.0	2.3
Visalia (06–107–2002)	3.0	0.0	0.0	1.0

[a] The data reflect the combined data from the Corcoran site (2008 and 2009) and the Hanford site (2010). The Hanford site was closed due to renovation during 2008 and 2009, and an ozone monitor was added to the Corcoran site to serve as a temporary replacement during the renovation.

Source: Quicklook Report, May 19, 2011 (in the docket to this proposed action).

It should be noted that CARB and SJVUAPCD have flagged certain ozone exceedances in years 2008 and 2010 as exceptional events,[22] but because EPA has not yet concurred on, or determined to exclude, any of the flagged events, Table 2 includes the flagged data. Generally, the highest ozone concentrations in San Joaquin Valley occur in the central (*i.e.,* in and around the city of Fresno) and the southern portions (*i.e.,* southeast of Bakersfield) of the area. As shown in Table 2, the highest three-year average of expected exceedances at any site in the San Joaquin Valley for 2008–2010 is 6.6 at Arvin, a site located with mountains to the east, west, and south. The calculated exceedance rate of 6.6 represents a violation of the one-hour ozone standard (a three-year average of expected exceedances less than or equal to 1). Even if EPA were to concur on all of the flagged exceedances and determine that they qualify for exclusion for the purpose of determining attainment, the calculated exceedance rate at Arvin would be 3.9, which still constitutes a violation of the standard.

Taking into account the extent and reliability of the applicable ozone monitoring network, and the data collected therefrom and summarized in Table 2, we propose to determine that the San Joaquin Valley failed to attain the one-hour ozone standard (as defined in 40 CFR part 50, appendix H) by the applicable attainment date (*i.e.,* November 15, 2010).

[22] Under CAA section 319(b)(1)(A), the term ''exceptional event'' means an event that—(i) Affects air quality; (ii) is not reasonably controllable or preventable; (iii) is an event caused by human activity that is unlikely to recur at a particular location or a natural event; and (iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event. Under CAA section 319(b)(1)(B), the term ''exceptional event'' does not include—(i) Stagnation of air masses or meteorological inversions; (ii) a meteorological event involving high temperatures or lack of precipitation; or (iii) air pollution relating to source noncompliance. EPA's regulations referred to in CAA section 309(b)(1)(A) were promulgated at 40 CFR 50.14.

C. Southeast Desert One-Hour Ozone Nonattainment Area

In the Southeast Desert, CARB is the agency responsible for assuring that the area meets air quality monitoring requirements. The Antelope Valley Air Quality Management District (AVAQMD) operates monitors in the Los Angeles County portion of the Southeast Desert; the Mojave Desert Air Quality Management District (MDAQMD) operates monitors in the San Bernardino County portion of the Southeast Desert; and SCAQMD operate monitors in the Riverside County portion of the Southeast Desert. All three agencies submit annual monitoring network plans to EPA. These plans discuss the status of the air monitoring network, as required under 40 CFR 58.10.

SCAQMD's annual network plans and data certifications, as well as EPA's TSA of SCAQMD's ambient air monitoring program, are discussed above in connection with the South Coast Air Basin. With respect to the annual network plans submitted by AVAQMD

and MDAQMD, we have reviewed these plans and found that they meet the applicable requirements for such plans.[23] The TSA we conducted in 2007 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.[24]

There were nine ozone monitoring sites located throughout the Southeast Desert in calendar years 2005 through 2007: one in Los Angeles County, three in Riverside County, and five in San Bernardino County.[25] All of the sites monitor ozone concentrations on a continuous basis using ultraviolet absorption monitors.[26] AVAQMD operates the one monitor in Los Angeles County. SCAQMD operates two of the three monitors in Riverside County; the third monitor is operated by the National Park Service at Joshua Tree National Park. MDAQMD operates four of the five sites in San Bernardino County; the fifth monitor is operated by the National Park Service at Joshua Tree National Park.

Table 3 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 2005–2007 period. The data summarized in Table 3 are considered complete for the purposes of determining if the standard is met.[27]

TABLE 3—ONE-HOUR OZONE DATA FOR THE SOUTHEAST DESERT ONE-HOUR OZONE NONATTAINMENT AREA

General location	Site (AWS ID)	Expected exceedances by year			Expected exceedances 3-yr average
		2005	2006	2007	2005–2007
Antelope Valley	Lancaster (06–037–9033)	1.0	2.0	0.0	1.0
Coachella Valley	Indio (06–065–2002)	0.0	0.0	0.0	0.0
Joshua Tree National Park	Cottonwood Visitor Center (06–065–0008)	NA	0.0	0.0	0.0
Coachella Valley	Palm Springs (06–065–5001)	4.0	2.0	1.0	2.3
Northern portion of SE Desert AQMA	Barstow (06–071–0001)	0.0	0.0	0.0	0.0
SW portion of SE Desert AQMA	Hesperia (06–071–4001)	3.0	2.0	2.0	2.3
SW portion of SE Desert AQMA	Phelan (06–071–0012)	2.0	2.0	0.0	1.3
SW portion of SE Desert AQMA	Victorville (06–071–0306)	2.0	1.0	0.0	1.0
Joshua Tree National Park	Yucca Valley (06–071–9002)	2.0	1.0	1.0	1.3

NA = No data is available.
Source: Quicklook Report, May 11, 2011 (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 3, the highest three-year average of expected exceedances at any site in the Southeast Desert for 2005–2007 is 2.3 at Palm Springs in Riverside County and Hesperia in San Bernardino County. The calculated exceedance rate of 2.3 represents a violation of the one-hour ozone standard (a three-year average of expected exceedances less than or equal to 1).[28]

Taking into account the extent and reliability of the applicable ozone monitoring network, and the data collected therefrom and summarized in Table 3, we propose to determine that the Southeast Desert failed to attain the one-hour ozone standard (as defined in 40 CFR part 50, appendix H) by the applicable attainment date (*i.e.,* November 15, 2007).

IV. What is the effect of the proposed determinations?

A final determination of a Severe or Extreme area's failure to attain by its one-hour ozone NAAQS attainment date would trigger the obligation to implement one-hour contingency measures for failure to attain under section 172(c)(9) and fee programs under sections 182(d)(3), 182(f), and 185. Section 172(c)(9) requires one-hour ozone SIPs, other than for ''Marginal'' areas, to provide for implementation of specific measures (referred to herein as ''contingency measures'') to be undertaken if the area fails to attain the NAAQS by the attainment date. The effect of the proposed determinations would be to give effect to any one-hour ozone contingency measures that are not already in effect within the three subject California nonattainment areas.

Section 182(d)(3) requires SIPs to include the provisions required under section 185, and section 185 requires one-hour ozone SIPs in areas classified as ''Severe'' or ''Extreme'' to provide that, if the area has failed to attain the standard by the applicable attainment date, each major stationary source of ozone precursors located in the area must begin paying a fee [computed in accordance with section 185(b)] to the State. Section 182(f) extends the section 185 requirements, among others, that apply to major stationary sources of VOCs to major stationary sources of NO_X unless EPA has waived such

[23] See, *e.g.,* letter dated April 30, 2008 from Sean P. Hogan, Manager, Air Quality Analysis Office, EPA Region IX, to Eldon Heaston, Executive Director, MDAQMD.

[24] See, *e.g.,* letter dated June 27, 2007 from Chris Collins, A/Q Supervisor, MDAQMD, to Wayne Nastri, Regional Administrator, EPA Region IX, certifying calendar year 2006 ambient air quality data in both MDAQMD and AVAQMD.

[25] 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.

[26] AVAQMD and MDAQMD operate Federal Equivalent Method (FEM) monitors for ozone, specifically, Teledyne/API 400 series ultraviolet absorption monitors.

[27] The criteria for data completeness are met at all of the ozone monitors in the Southeast Desert over the 2005–2007 period except for the ozone monitor at the Joshua Tree National Park (06–065–0008). Despite the lack of complete data from that one monitor, sufficient data from the network as a whole exist to support the proposed determination of failure to attain the one-hour ozone NAAQS by the applicable attainment date within the Southeast Desert.

[28] A preliminary review of more recent data (2008–2010) for the Southeast Desert suggests that only one monitoring site (the site in Phelan, San Bernardino County) remains in violation of the one-hour ozone standard with a calculated expected annual exceedance rate of 1.7. However, due to the four exceedances recorded in 2010, the soonest that the Phelan site could be determined to be attaining the one-hour ozone standard will be in 2014 (assuming such a determination is supported by 2011–2013 data).

requirements for NO_X sources in the particular nonattainment area.

The three subject ozone nonattainment areas, the South Coast, the San Joaquin Valley, and the Southeast Desert, lie within the jurisdictions of four California air districts: The SCAQMD, the SJVUAPCD, the AVAQMD, and the MDAQMD. Each of the four air districts has adopted rules intended to comply with sections 182(d)(3) and 185 of the Act and CARB has submitted them to EPA for approval into the SIP. EPA has taken action on one of the rules, SJVUAPCD Rule 3170. See 75 FR 1716 (January 13, 2010). Since then, SJVUAPCD Rule 3170 has been revised, and EPA has recently proposed approval of the amended rule. See 76 FR 45212 (July 28, 2011). EPA has not yet taken action on the rules developed by the other three districts (SCAQMD Rule 317, AVAQMD Rule 315, and MDAQMD Rule 315, all of which were submitted on April 22, 2011). Another effect of the proposed determinations of failure to attain the 1-hour ozone standard by the applicable attainment dates would be to give effect to the section 185 requirements to the extent they are not already in effect within the three subject California nonattainment areas.

V. Proposed Actions

Under EPA's authority under CAA section 301(a) to ensure implementation of one-hour ozone anti-backsliding requirements, EPA is proposing to determine that the South Coast, the San Joaquin Valley, and the Southeast Desert failed to attain the one-hour ozone standard by the applicable attainment dates. For South Coast and San Joaquin Valley, quality-assured and certified data collected during 2008–2010 show that these two ''Extreme'' one-hour ozone nonattainment areas failed to attain the standard by November 15, 2010. For Southeast Desert, a ''Severe-17'' one-hour ozone nonattainment area, quality-assured and certified data for 2005–2007 show that the area failed to attain the standard by November 15, 2007.

These proposed determinations, if finalized, would bear on the areas' obligations with respect to certain one-hour standard anti-backsliding requirements whose implementation is triggered by a 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. Through this proposed rule, EPA is soliciting comments on the above determinations.

VI. Statutory and Executive Order Reviews

These actions propose to make determinations that certain areas did not attain the applicable standard based on air quality, and do not impose any requirements beyond those required by statute. For that reason, these proposed actions:

- Are 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);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the 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; and
- Do not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that 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, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 1, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011–23544 Filed 9–13–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0604–201140; FRL–9464–1]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Atlanta; Determination of Attaining Data for the 1997 Annual Fine Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make two determinations regarding the Atlanta, Georgia, fine particulate ($PM_{2.5}$) nonattainment area (hereafter referred to as the ''Atlanta Area'' or ''Area''). First, EPA is proposing to determine that the Area has attained the 1997 annual average $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). This proposed determination of attaining data is based upon complete, quality-assured and certified ambient air monitoring data for the 2008–2010 period showing that the Area has monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. If EPA finalizes this proposed determination of attaining data, the requirements for the Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the standard shall be suspended so long as the Area continues to attain the annual $PM_{2.5}$ NAAQS. Second, EPA is also proposing to determine, based on quality-assured and certified monitoring data for the 2007–2009 monitoring period, that the area has attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010.

DATES: Comments must be received on or before October 14, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2010–0604, by one of the following methods: