

Public Workshop

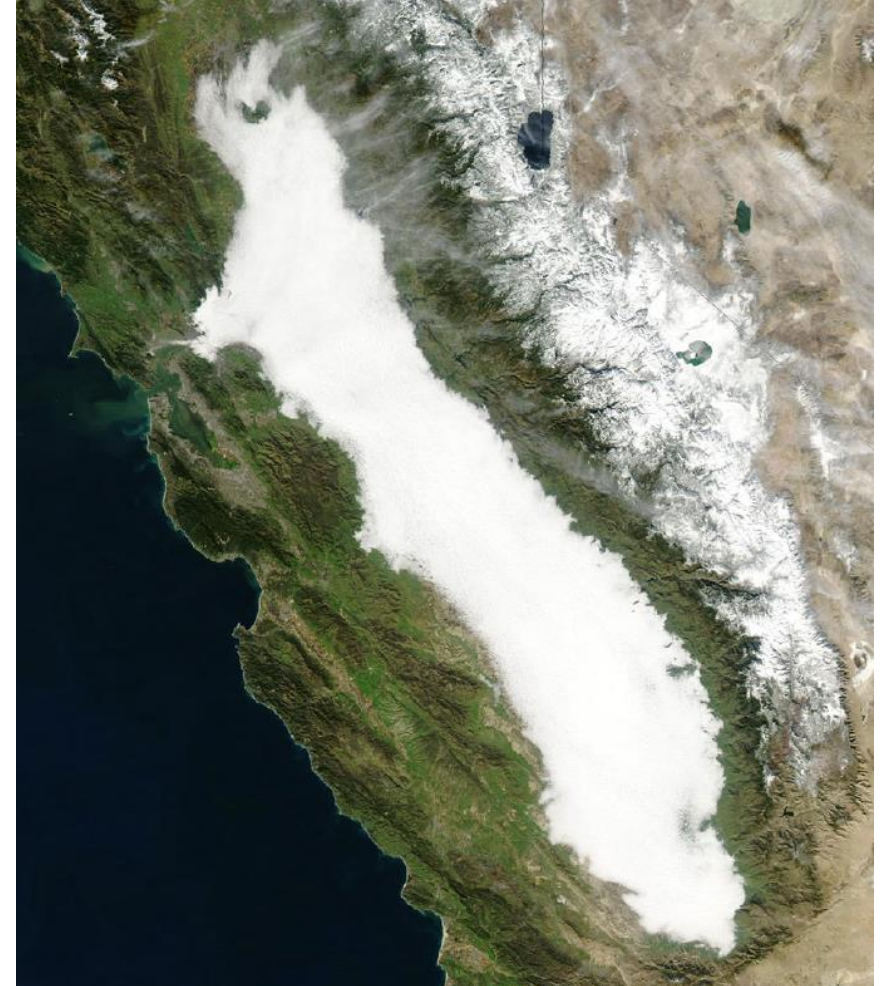
Proposed Draft Rule 3171 (Federally Mandated Ozone Nonattainment Fee – 1997 8-Hour Standard)

June 27, 2023

webcast@valleyair.org

Valley's Air Quality Challenges

- Valley's challenges in meeting federal air quality standards unmatched due to unique combination of topography and meteorology
- Valley faced with variety of challenges including role as major goods movement corridor, high population growth, pollution transport from other areas, wildfires
- Conditions require substantially greater emissions reductions in Valley to meet clean air targets than other regions



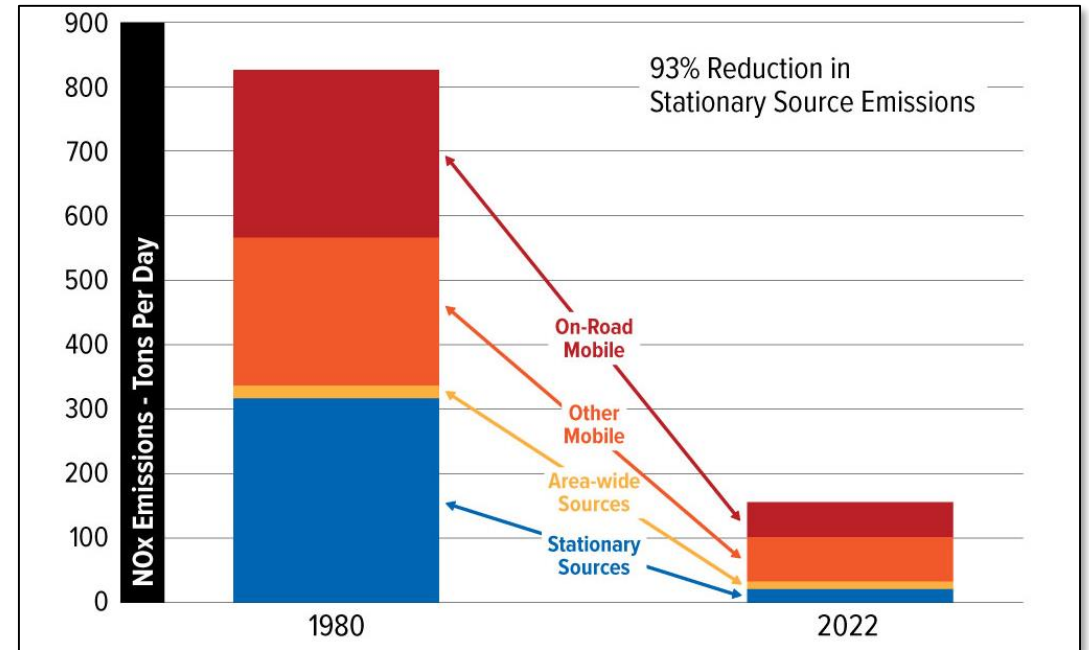
Sources of Emissions

- Emissions come from a variety of sources in the Valley, all contributing to regional air pollution



Adopted Controls Are Improving Air Quality

- Governing Board has adopted numerous attainment plans and air quality control strategies to address federal standards
 - Stationary source ozone and PM-forming NOx emissions reduced by over 90% through hundreds of regulatory actions
- California Air Resources Board (CARB) has adopted numerous mobile source control strategies
- District/CARB combined efforts represent nation's toughest emissions control program
- Strong incentive programs (\$5 billion in public/private investment)
- Through significant clean air investments, Valley continues to make major improvements with respect to air quality



1997 8-Hour Ozone Standard

- Valley is classified as Extreme non-attainment for the now-revoked 1997 8-Hour Ozone NAAQS
- 2007 Ozone Plan outlined the strategies for attainment by June 2024 attainment date
- Significant progress made in reducing ozone concentrations, Valley on verge of attaining this standard
- District/CARB are conducting additional analysis, including Exceptional Event documentation, in support of upcoming clean data finding submittal to EPA for action as provided under the Clean Air Act

Clean Air Act Requirements

- Clean Air Act (CAA) requires that “Severe” or “Extreme” ozone nonattainment areas adopt rules to implement CAA Section 185
- CAA Section 185 requires assessment of a fee intended as a penalty in the event an area misses an applicable ozone attainment date for a standard
 - Applies to Major Sources of NO_x and VOC in “Severe” or “Extreme” nonattainment areas
- Affected sources are required to pay these fees on an annual basis until the area reaches attainment of the Ozone NAAQS or EPA terminates the anti-backsliding requirements associated with the Section 185 penalty for revoked Ozone NAAQS
- CAA and EPA Guidance have allowed alternative fee programs to satisfy Section 185 requirements for revoked standards

District CAA Section 185 Fee Rules

Rule 3170

- To implement the mandated fees for the now-revoked 1979 1-hour ozone standard
- Fees required since 2011 Fee Assessment Basis Year
- EPA determined Valley in attainment in 2016 – first and only region in the nation with “Extreme” nonattainment classification to attain standard
- Maintenance Plan submitted to EPA along with request to terminate Section 185 nonattainment fees – awaiting EPA action

Proposed Rule 3171 (*subject of today's item*)

- To implement mandated fees for the now-revoked 1997 8-hour Ozone Standard in the event the Valley does not attain

Future Rule 3172

- To implement mandated fees for the 2008 8-hour Ozone Standard in the event the Valley does not attain

Future Rule 3173

- To implement mandated fees for the 2015 8-hour Ozone Standard in the event the Valley does not attain

CAA Section 185

- CAA Section 185 Fee
 - Baseline Period based on the attainment year for the different CAA standards
 - Fee based on VOC and NOx emitted in excess of 80% of baseline emissions
 - Annual Fee is \$5,000 per ton of pollutant (in 1990 dollars)
 - Annually adjusted for inflation using U.S. City Average Consumer Price Index for all-urban consumers in accordance with Section 502(b)(3)(B)(v) of the federal Clean Air Act.
 - EPA's 2022 Fee: \$11,122 per ton

Proposed District Rule 3171

- Implements an Alternative Fee Program for revoked 1997 8-Hour Ozone NAAQS to satisfy Section 185 requirements
 - Maintains Rule 3170's recognition of emission units that are well controlled
 - Attempts equitable distribution of responsibility between stationary and mobile sources for ozone attainment
 - Avoids collection of 185 fees by EPA (would go into general federal treasury)
- Assesses fees from any Major Source that has equipment that does not meet the definition of "Clean Emissions Unit"
 - Units that do not meet or exceed Achieved-in-Practice BACT requirements as specified in the rule
- Remaining balance of Section 185 fees will be made up by fees collected from motor vehicles registered in San Joaquin Valley Air Basin
 - District Board adopted motor vehicle fees under AB 2522 for the purpose of meeting Section 185 requirements
 - Fees are used in District grant programs to fund surplus emission reductions

Baseline Period

- District Rule 3171 Baseline Period is either:
 - Attainment Year (the EPA-approved date that the San Joaquin Valley Air Basin must attain the 1997 8-hour Ozone NAAQS), or
 - Alternative baseline period reflecting the average of at least two consecutive years within the five year period immediately prior to and including the Attainment Year, if those years are determined by the APCO as more representative of normal source operation
- All Major Sources of NO_x or VOC must submit annual emissions statements of actual NO_x and VOC emissions

Annual Tracking and Reporting

- Annual report will demonstrate that total fees collected are equal to direct implementation of section 185
- Report will include:
 - Sum of NOx and VOC emissions for all Major Sources
 - Sum of total fees required under a direct implementation
 - Total fees collected under Rule 3171
 - Total motor vehicle fees collected under AB 2522
 - Demonstration that fees from Rule 3171 and motor vehicle fees under AB 2522 meet or exceed fee revenue compared to a direct implementation of CAA Section 185
- Annual report to EPA and the public by November 1st
- Backstop provisions in event of fee collection shortfall
 - Additional fees will be assessed to Major Sources on an emissions-weighted basis

Next Steps: Public Engagement Process for Rule 3171

Public Comment Period
Through July 11, 2023

30-Day Publication of
Proposed Rule Package
July 2023

Governing Board
Public Hearing
August 2023

Public participation is encouraged throughout process

Contact

Contact: Johnathan Yoshimura
E-Mail: Johnathan.Yoshimura@valleyair.org
Phone: (209) 557-6449
Mail: 4800 Enterprise Way
Modesto, CA 95356

Comments/Questions

webcast@valleyair.org