



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and Part 81**

**[EPA-R03-OAR-2025-1872; FRL- 12994-01-R3]**

### **Proposed Revisions of the Nonattainment Designation for the 2008 and 2015 Ozone**

### **Standards and Clean Data Determinations for the 2008 and 2015 Ozone Standards: Cecil**

### **County, MD and New Castle County, DE**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve two separate requests from Maryland and Delaware to revise the designation for the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area (hereafter referred to as the Philadelphia nonattainment area) for the 2008 primary and secondary ozone national ambient air quality standards (NAAQS) and the 2015 primary and secondary ozone NAAQS. Due to the concurrent requests from Maryland and Delaware, the EPA is proposing to revise the existing Philadelphia nonattainment area boundary into three distinct nonattainment areas that together cover the identical geographic area of the existing area. The EPA is also proposing to issue clean data determinations (CDDs) for the revised Maryland and Delaware nonattainment areas for both the 2008 and 2015 ozone NAAQS. The EPA is taking this action pursuant to Clean Air Act (CAA) sections 107, 110, 172, and 182.

**DATES:** Written 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-R03-OAR-2025-1872 at [www.regulations.gov](http://www.regulations.gov), or via email to [gordon.mike@epa.gov](mailto:gordon.mike@epa.gov). For comments submitted at [Regulations.gov](http://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://Regulations.gov). For either manner of submission,

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 [www.epa.gov/dockets/commenting-epa-dockets](http://www.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Sarah McCabe, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5786. Ms. McCabe can also be reached via electronic mail at [mccabe.sarah@epa.gov](mailto:mccabe.sarah@epa.gov).

**SUPPLEMENTARY INFORMATION:**

On February 13, 2025, Maryland submitted a request to revise the Philadelphia nonattainment area into two separate nonattainment areas, covering the identical geographic area of the existing Philadelphia nonattainment area, and creating a smaller stand-alone nonattainment area for Cecil County, MD and a larger nonattainment area consisting of the remainder of the counties in the existing Philadelphia nonattainment area. On August 15, 2025, Delaware also submitted a request to revise the boundaries for the existing Philadelphia nonattainment area and create a stand-alone nonattainment area for New Castle County, DE. However, considering both requests, the EPA is proposing to act on these separate requests in the same notice to streamline the changes to the Philadelphia nonattainment area boundaries. Thus, the EPA is proposing to split the identical geographic area of the existing Philadelphia nonattainment area into three nonattainment areas: the Cecil County, MD nonattainment area, the New Castle County, DE

nonattainment area, and the revised Philadelphia-Atlantic City, PA-NJ nonattainment area. These proposed revised designations are supported by an analysis of air quality data, emissions and emissions-related data, meteorology, geography/topography, and jurisdictional boundaries. If finalized, all areas would retain their current designation statuses and classifications for each respective ozone NAAQS. Additionally, if the revised designations and CDDs are finalized, the proposed CDDs would suspend the obligations of Maryland and Delaware to submit certain attainment planning requirements for their respective nonattainment areas for as long as each area continues to attain the 2008 and 2015 ozone NAAQS. Nonetheless, the EPA views each state's request as separable redesignation requests and may take separate final action on each request and adjust the area boundaries accordingly.

## **I. Background**

Under section 109 of the CAA, the EPA has established primary and secondary NAAQS for certain air pollutants (referred to as "criteria pollutants") and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The primary NAAQS represent ambient air quality standards which the EPA has determined are necessary to protect the public health with an adequate margin of safety. The secondary NAAQS represent ambient air quality standards which the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

Ground-level ozone is one such NAAQS. Ozone forms from complex chemical reactions in ambient air between nitrogen oxides ( $\text{NO}_x$ ) and volatile organic compounds (VOCs). Cars, trucks, buses, engines, industries, power plants and products such as solvents and paints are among the major manmade sources of ozone-forming emissions. Exposure to ozone can harm the respiratory system, aggravate asthma and other lung diseases, and is linked to premature death from respiratory causes.

Following promulgation of a new or revised NAAQS, the EPA is required by section

107(d)(1) of the CAA to designate areas throughout the United States as attainment, nonattainment, or unclassifiable for the NAAQS.

On March 27, 2008 ([73 FR 16436](#)), the EPA revised the 8-hour ozone NAAQS by lowering the level of the primary and secondary standards from 0.08 parts per million (ppm) to 0.075 ppm (75 parts per billion (ppb)) (40 CFR 50.15). The standards are based on the annual 4<sup>th</sup> highest daily maximum 8-hour average ozone concentration, averaged over three consecutive years.<sup>1</sup> This average is referred to as the design value for each 3-year period.<sup>2</sup> Only ozone measurement data collected in accordance with the quality assurance (QA) requirements using approved Federal Reference Method (FRM) or Federal Equivalent Method (FEM) monitors are used for NAAQS compliance determinations.<sup>3</sup> The EPA uses FRM/FEM measurement data residing in the EPA's Air Quality System (AQS) database to calculate the ozone design values. On May 21, 2012 ([77 FR 30088](#)), the EPA designated the Philadelphia nonattainment area as nonattainment for the 2008 ozone NAAQS, based on air quality data from the 2008-2010 monitoring period that showed a design value of 83 ppb.<sup>4</sup> Cecil County, MD and New Castle County, DE were included in the Philadelphia nonattainment area based on air quality data from the 2008-2010 monitoring period that showed design values of 80 ppb and 76 ppb for each county, respectively.

At the time of designation, the Philadelphia nonattainment area was initially classified as Marginal with an attainment date of July 20, 2015, for the 2008 ozone NAAQS. On May 4, 2016, the EPA determined that the area qualified for a one-year attainment date extension to July 20, 2016 ([81 FR 26697](#)).

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<sup>1</sup> See 40 CFR 50.15(b) and 50.19(b).

<sup>2</sup> The specific methodology for calculating the ozone design values, including computational formulas and data completeness requirements, is described in 40 CFR part 50, appendix U.

<sup>3</sup> The QA requirements for ozone monitoring data are specified in 40 CFR part 58, appendix A. The performance test requirements for candidate FEMs are provided in 40 CFR part 53, subpart B.

<sup>4</sup> The Philadelphia nonattainment area consists of the following counties: New Castle County in Delaware; Cecil County in Maryland; Atlantic County, Burlington County, Camden County, Cape May County, Cumberland County, Gloucester County, Mercer County, Ocean County, and Salem County in New Jersey; and Bucks County, Chester County, Delaware County, Montgomery County, and Philadelphia County in Pennsylvania. *See* 40 CFR 81.308, 81.321, 81.331, and 81.339.

On November 2, 2017, the EPA determined that the Philadelphia nonattainment area had attained the standard by its extended attainment date of July 20, 2016, effective December 4, 2017 (82 FR 50814). This determination was based on complete, certified, and quality assured ambient air quality monitoring data for the Philadelphia nonattainment area for the 2013-2015 monitoring period. The determination of attainment of the 2008 ozone NAAQS is not equivalent to a redesignation to attainment or a CDD; the states in the Philadelphia nonattainment area must still meet the statutory requirements for redesignation in order to be redesignated to attainment.

On October 26, 2015, the EPA further revised the 8-hour ozone NAAQS by lowering the level of the primary and secondary standards from 75 ppb to 70 ppb (40 CFR 50.19). Effective August 3, 2018, the EPA designated 52 areas throughout the country as nonattainment for the 2015 ozone NAAQS, including the Philadelphia nonattainment area, which was initially classified as a Marginal nonattainment area based on certified air quality monitoring data from calendar years 2014 to 2016 (83 FR 25776, June 4, 2018). The design value for the Philadelphia nonattainment area for the 2014-2016 monitoring period was 77 ppb. Cecil County, MD and New Castle County, DE were included in the Philadelphia nonattainment area based on air quality data from the 2014-2016 monitoring period that showed design values of 74 ppb for each county. As established by the EPA's March 2018 "Classifications Rule", the attainment date for Marginal nonattainment areas as three years from the effective date of the final designations.<sup>5</sup> Thus, the attainment date for the Philadelphia nonattainment area for the 2015 ozone NAAQS was August 3, 2021.

Effective November 7, 2022, the EPA determined that the Philadelphia nonattainment area failed to attain by the Marginal area attainment date and the area was reclassified by operation of law to Moderate.<sup>6</sup> This finding was based on certified air quality monitoring data from calendar years 2018 to 2020. The design value for the Philadelphia nonattainment area for

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<sup>5</sup> See 40 CFR 51.1303(a) and 83 FR 10376 (March 9, 2018).

<sup>6</sup> 87 FR 60897 (October 7, 2022).

the 2018-2020 monitoring period was 74 ppb. For that same period, the design value for Cecil County, MD was 68 ppb, and the design value for New Castle County, DE was 65 ppb. As established by the March 2018 “Classifications Rule”, the Moderate area attainment date for the 2015 ozone NAAQS was August 3, 2024, six years from the effective date of designation.

On July 30, 2024 (89 FR 61025), the EPA granted a request from the Commonwealth of Pennsylvania (Pennsylvania) and the States of New Jersey, Maryland, and Delaware to voluntarily reclassify the Philadelphia nonattainment area from Moderate to Serious for the 2015 ozone NAAQS under CAA section 181(b)(3). The attainment date for 2015 ozone NAAQS Serious areas is August 3, 2027, nine years from the effective date of designation.<sup>7</sup> Accordingly, each state in the Philadelphia nonattainment area must provide a Serious nonattainment plan to the EPA by January 1, 2026, demonstrating how the area will come into attainment with the standard by the attainment date.<sup>8</sup>

## **II. Summary of Maryland’s Redesignation Request and EPA Analysis**

On February 13, 2025, Governor Wes Moore and the Maryland Department of the Environment (MDE) submitted a request and accompanying five-factor analysis for the EPA to revise the boundary of the Philadelphia nonattainment area for the 2008 ozone NAAQS and 2015 ozone NAAQS.<sup>9</sup> Maryland requested, under CAA section 107(d)(3)(D), to revise the boundary for the existing Philadelphia nonattainment area by splitting it into two distinct nonattainment areas for the 2008 ozone NAAQS and 2015 ozone NAAQS: a Southern Philadelphia nonattainment area encompassing all of Cecil County, MD and a Central Philadelphia nonattainment area encompassing the existing nonattainment area counties in Delaware, New Jersey, and Pennsylvania. As discussed in section IV of this proposal, due to Delaware’s similar concurrent proposal, the EPA is proposing to revise the Philadelphia nonattainment area into

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<sup>7</sup> March 2018 Classifications Rule (n 5).

<sup>8</sup> See 40 CFR 51.1402(b)(1), 40 CFR 51.1400, and 90 FR 5651 (January 17, 2025).

<sup>9</sup> Maryland’s submittal can be found in the docket of this rulemaking using Docket ID No. EPA-R03-OAR-2025-1872.

three distinct nonattainment areas.

There are 20 FRM/FEM ozone monitors throughout the existing Philadelphia nonattainment area. The data from these monitors demonstrate a decrease in ozone levels in the Philadelphia nonattainment area from 2014 to 2024. The design values from the Fair Hill monitor in Cecil County, MD have remained below the 2015 NAAQS since the 2018-2020 monitoring period.<sup>10</sup>

The EPA is using the technical information contained in Maryland's February 13, 2025 submittal and the most recent complete, quality-assured, and certified air quality data for the 2022-2024 monitoring period to support the record for this proposed rulemaking.

### **III. Summary of Delaware's Redesignation Request and EPA Analysis**

On August 15, 2025, Governor Matt Meyer and the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a request and accompanying five-factor analysis for the EPA to revise the boundary of the Philadelphia nonattainment area for the 2008 ozone NAAQS and 2015 ozone NAAQS.<sup>11</sup> Delaware requested, under CAA section 107(d)(3)(D), to revise the boundary for the existing Philadelphia nonattainment area for the 2008 ozone NAAQS and the 2015 ozone NAAQS to create a stand-alone nonattainment area for New Castle County, Delaware.

There are 20 ozone monitors throughout the existing Philadelphia nonattainment area. The data from these monitors demonstrate a decrease in ozone levels in the Philadelphia nonattainment area from 2014 to 2024. The design values from the four monitors in New Castle County, DE have remained below the 2015 NAAQS since the 2017-2019 monitoring period.<sup>12</sup>

The EPA is using the technical information contained in Delaware's August 15, 2025 submittal, the EPA's supplemental analyses, and the most recent complete, quality-assured, and

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<sup>10</sup> See Table 1 of the EPA's Technical Support Document (TSD) at page 9.

<sup>11</sup> Delaware's submittal can be found in the docket of this rulemaking using Docket ID No. EPA-R03-OAR-2025-1872.

<sup>12</sup> See Table 7 of EPA's TSD at page 19 for this rulemaking.

certified air quality data for the 2022-2024 monitoring period to support the record for this proposed rulemaking.

#### **IV. Proposed Actions**

In this rulemaking, the EPA is proposing to take six actions. In two separate actions, under the authority of CAA section 107(d)(3)(D), the EPA is proposing to approve Maryland and Delaware's separate requested revisions to the Philadelphia nonattainment area. To take both requests into consideration, the EPA is proposing to revise the original Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2008 ozone NAAQS and 2015 ozone NAAQS into three separate nonattainment areas that together cover the identical geographic area of the original nonattainment area. Second, pursuant to regulations at 40 CFR 51.1118 and 51.1318, the EPA is proposing to issue four CDDs for the proposed Cecil County, MD nonattainment area and proposed New Castle County, DE nonattainment area for the 2008 and 2015 ozone NAAQS.

Maryland's redesignation request is separable from Delaware's redesignation request. Each redesignation request is also separable from its associated CDDs, such that the EPA may take final action on the redesignation request separate from the associated CDDs, so long as action on the redesignation request precedes that area's CDDs. A CDD for the 2015 ozone NAAQS is separable from a CDD for the 2008 ozone NAAQS. The proposed Cecil County, MD nonattainment area CDDs are also separable from the proposed New Castle County, DE nonattainment area CDDs. Thus, final action on the CDDs for the Cecil County, MD nonattainment area will not impact final action on the CDDs for the New Castle County, DE nonattainment area. The proposed revisions to the Philadelphia nonattainment area boundary for the 2008 and 2015 ozone NAAQS does not affect the boundary of the Philadelphia-Wilmington, PA-NJ-DE maintenance area for the 2006 24-hour fine particulate matter NAAQS.

##### *A. Revisions to the Philadelphia Nonattainment Area Boundary*

In determining whether to approve or deny a state's request for a revision to the

designation of an area under CAA section 107(d)(3)(D), the EPA considers the same factors when the EPA initiates a revision to a designation of an area on its own motion under CAA section 107(d)(3)(A). These, CAA section 107(d)(3)(A), factors include “air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate.” Using CAA section 107(d)(3)(A) as a framework, the EPA considers 5 factors when issuing initial area designations and when evaluating requests under CAA section 107(d)(3)(D): air quality data, emissions and emissions-related data, meteorology, geography/topography, and jurisdictional boundaries.<sup>13</sup>

If the EPA finalizes this rulemaking as proposed, the current Philadelphia nonattainment area for the 2008 ozone NAAQS and the 2015 ozone NAAQS would be split into three distinct nonattainment areas that together cover the identical geographic area of the current area. One of the proposed separate areas, to be called the “Cecil County, MD Nonattainment Area,” would consist of Cecil County, MD. The other proposed separate area, to be called the “New Castle County, DE Nonattainment Area,” would consist of New Castle County, DE. The revised Philadelphia nonattainment area would consist of the remaining existing nonattainment area counties in New Jersey and Pennsylvania, and be called the “Philadelphia-Atlantic City, PA-NJ” nonattainment area.<sup>14</sup> All areas would continue to be designated nonattainment and classified as Marginal for the 2008 ozone NAAQS and classified as Serious for the 2015 ozone NAAQS.

Section 107(d)(1)(A)(i) of the CAA defines “nonattainment” as “any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet)” the NAAQS. Therefore, consistent with the statute the EPA will not redraw the boundaries of nonattainment areas where one portion of the area contributes to the nonattainment of another portion of the

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<sup>13</sup> The March 28, 2000, memorandum entitled “Boundary Guidance on Air Quality Designations for the 8-Hour Ozone National Ambient Air Quality Standards,” the December 4, 2008, memorandum entitled “Area Designations for the 2008 Revised Ozone National Ambient Air Quality Standards,” and the February 25, 2016, memorandum entitled “Area Designations for the 2015 Ozone National Ambient Air Quality Standards” can be found in the docket of this rulemaking using Docket ID No. EPA-R03-OAR-2025-1872.

<sup>14</sup> If, for example, the EPA takes final action on Maryland’s redesignation request separate from Delaware’s redesignation request, the EPA proposes that it would first create two separate nonattainment areas consisting of the “Cecil County, MD nonattainment area” and the “Philadelphia-Atlantic City, PA-NJ-DE nonattainment area.”

area.

*1. Proposed Cecil County, MD Nonattainment Area for the 2008 and 2015 Ozone NAAQS*

Based on a consideration of the information submitted by Maryland and other available information discussed in the EPA's TSD included in the docket for this rulemaking, the EPA is proposing to find that the air quality data, emissions and emissions-related data, meteorology, geography/topography, jurisdictional boundaries, other air quality related considerations, as well as planning and control considerations, support the state's request to revise the Philadelphia nonattainment area boundary.

Maryland's February 13, 2025, submittal requested that the EPA split the Philadelphia nonattainment area for the 2008 ozone NAAQS and 2015 ozone NAAQS and create a stand-alone nonattainment area for Cecil County, MD. In this rulemaking, the EPA is proposing to revise the existing nonattainment area boundary into three separate nonattainment areas, acknowledging the differences in the factors contributing to ozone levels in the separate areas, and thus providing Maryland with additional flexibility in meeting the CAA's nonattainment area planning and emissions control requirements. This includes the ability to account for differences in air quality in the separate areas in the event that one of the new, separate areas attains the ozone standards faster than the other.

The EPA proposes in this rulemaking that the available information demonstrates that the proposed new Cecil County, MD nonattainment area does not contribute to a violation of the 2015 ozone NAAQS in the proposed Philadelphia nonattainment area or the proposed New Castle County, DE nonattainment area (there is no violation in this area), and thus it is appropriate that the three areas be considered separate for implementation and planning purposes. An analysis of the five recommended factors and a weight-of-evidence approach supports this conclusion. The air quality data in Cecil County, MD show that there have been no violations of the 2015 ozone standard since 2020. An analysis of emissions data, considering meteorological and geographical/topographical factors, support the conclusion that the emissions

from this area are not contributing to the violations in the proposed Philadelphia nonattainment area. Additionally, to take jurisdictional boundaries into consideration, the proposed Cecil County, MD nonattainment area follows the county boundary. A detailed analysis supporting this demonstration can be found in the TSD contained in the docket for this rulemaking.

Because this rulemaking also proposes to find that the proposed Cecil County, MD nonattainment area is attaining the 2015 ozone NAAQS, it is not necessary to consider whether the proposed Philadelphia-Atlantic City, PA-NJ nonattainment area or the proposed New Castle County, DE nonattainment area contributes to a violation of the 2015 ozone NAAQS in the proposed Cecil County, MD nonattainment area, as no such violation exists. Because the 2015 ozone NAAQS retains the same general form and averaging time as the 2008 ozone NAAQS, but is set at a more protective level, the EPA's analysis for the 2015 ozone NAAQS suffices as a demonstration for an identical nonattainment area boundary revision for the less stringent 2008 ozone NAAQS.

## *2. Proposed New Castle County, DE Nonattainment Area for the 2008 and 2015 Ozone NAAQS*

Based on a consideration of the information submitted by Delaware and other available information discussed in the EPA's TSD included in the docket for this rulemaking, the EPA is proposing to find that the air quality data, emissions and emissions-related data, meteorology, geography/topography, and jurisdictional boundaries, as well as planning and control considerations, support the state's request to revise the Philadelphia nonattainment area boundary.

Delaware's August 15, 2025, submittal requested that the EPA revise the boundary for the existing Philadelphia nonattainment area for the 2008 ozone NAAQS and the 2015 ozone NAAQS and create a stand-alone nonattainment area for New Castle County, DE. To this end, the EPA proposes to revise the existing nonattainment area boundary into three separate nonattainment areas, acknowledging the differences in the factors contributing to ozone levels in the separate areas, thus providing Delaware with additional flexibility in meeting the CAA's

nonattainment area planning and emissions control requirements. This includes the ability to account for differences in air quality in the separate areas in the event that one of the new, separate areas attains the ozone standards faster than the other.

The EPA proposes in this document that the available information demonstrates that the proposed New Castle County, DE nonattainment area does not contribute to a violation of the 2015 ozone NAAQS in the proposed Philadelphia nonattainment area or the proposed Cecil County MD, nonattainment area (there is no violation in this area), and thus it is appropriate that the three areas be considered separate for implementation and planning purposes. An analysis of the five recommended factors and a weight-of-evidence approach supports this conclusion. The air quality data in New Castle County, DE show that there have been no violations of the 2015 ozone standard since 2019. An analysis of emissions data, considering meteorological and geographical/topographical factors, support the conclusion that the emissions from this area are not contributing to the violations in the proposed Philadelphia nonattainment area. The EPA supplemented Delaware's meteorological data by analyzing monitors that violated the standard in 2023 and 2024 using HYSPLIT (HYbrid Single-Particle Lagrangian Integrated Trajectory) modeling and TROPOMI (Tropospheric Monitoring Instrument) satellite images. Additionally, to take jurisdictional boundaries into consideration, the proposed New Castle County, DE nonattainment area follows the county boundary. A detailed analysis supporting this demonstration can be found in the TSD contained in the docket for this rulemaking.

Because this rulemaking also proposes to find that the proposed New Castle County, DE nonattainment area is attaining the 2015 ozone NAAQS, it is not necessary to consider whether the proposed Philadelphia-Atlantic City, PA-NJ nonattainment area or the proposed Cecil County, MD nonattainment area contributes to a violation of the 2015 ozone NAAQS in the proposed New Castle County, DE nonattainment area, as no such violation exists. Because the 2015 ozone NAAQS retains the same general form and averaging time as the 2008 ozone NAAQS, but is set at a more protective level, the EPA's analysis for the 2015 ozone NAAQS

suffices as a demonstration for an identical nonattainment area boundary revision for the less stringent 2008 ozone NAAQS.

### *B. Clean Data Determinations*

An area is attaining the 2015 ozone NAAQS if it meets the 2015 ozone NAAQS, as determined in accordance with 40 CFR 50.19 and appendix U of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the 2015 ozone NAAQS, the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 70 ppb. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's AQS. Ambient air quality monitoring data for the three-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,<sup>15</sup> on average, for the three-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the three-year period. *See* section 4 of appendix U to 40 CFR part 50.

#### *1. Clean Data Determinations for the Cecil County, MD Nonattainment Area for the 2008 and 2015 Ozone NAAQS*

In accordance with 40 CFR 51.1118 and 51.1318, the EPA proposes to determine that the proposed Cecil County, MD nonattainment area is attaining the 2015 ozone NAAQS. Because the 2015 ozone NAAQS retains the same general form and averaging time as the 2008 ozone NAAQS, but is set at a more protective level, the EPA's analysis for the 2015 ozone NAAQS CDD suffices as a CDD analysis for the less stringent 2008 ozone NAAQS. This determination is based upon two three-year periods of complete, quality-assured and certified data for the 2021-2023 and 2022-2024 monitoring periods. The Fair Hill monitor with site ID 24-015-0003 is the

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<sup>15</sup> Per 40 CFR 51.1300(j), the ozone season is varied by state as defined in 40 CFR part 58 appendix D, section 4.1(i). The ozone season for Maryland and Delaware runs from March 1 to October 31.

only FRM ozone monitor within the proposed separate Cecil County, MD nonattainment area; the annual fourth-highest 8-hour ozone concentrations and the three-year average of these concentrations (monitoring site ozone design values) for this monitoring site are summarized in Table 1 in this document.

*Table 1—Annual 4th Highest Daily Maximum 8-Hour Ozone Concentrations and Three-Year Average of the 4th Highest Daily Maximum 8-Hour Ozone Concentrations for the Proposed Cecil County, MD Nonattainment Area*

County, State	AQS Site ID	Site Name	2021 4 <sup>th</sup> high (ppb)	2022 4 <sup>th</sup> high (ppb)	2023 4 <sup>th</sup> high (ppb)	2024 4 <sup>th</sup> high (ppb)	2021-2023 DV (ppb)	2022-2024 DV (ppb)
Cecil, MD	240150003	Fair Hill	70	63	70	70	67	67

The most recent three-year ozone design value for the proposed Cecil County, MD nonattainment area is 67 ppb, which meets the 2015 ozone NAAQS. Therefore, in this rulemaking, the EPA proposes to determine that the proposed separate Cecil County, MD nonattainment area is attaining the 2008 and 2015 ozone NAAQS.

The EPA will not take final action to determine that the proposed separate Cecil County, MD nonattainment area is attaining the 2008 or 2015 ozone NAAQS if the design value of a monitoring site in the area exceeds the 2008 or 2015 ozone NAAQS respectively after proposal but prior to final approval of the CDD. Additionally, if after proposal but prior to final approval, the proposed separate Cecil County, MD nonattainment area is attaining the 2008 ozone NAAQS but not the 2015 ozone NAAQS, the EPA may finalize a CDD for only the 2008 standard and not the 2015 standard. The EPA will not finalize any CDD for Cecil County unless and until the EPA takes final action on the proposed revision splitting Cecil County, MD nonattainment area from the Philadelphia nonattainment area.

Should this rulemaking be finalized, the requirements for MDE to submit attainment demonstrations, and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, and any other planning requirements related

to attainment of the 2008 and 2015 ozone NAAQS for the proposed Cecil County, MD nonattainment area, would be suspended until the EPA rescinds the CDD due to the area no longer attaining the 2015 ozone NAAQS. This rulemaking does not constitute a redesignation of the area to attainment of the 2008 or 2015 ozone NAAQS under section 107(d)(3)(E) of the CAA, nor does it constitute approval of a maintenance plan for the area as required under section 175A of the CAA, nor does it find that the area has met all other requirements for redesignation. The proposed Cecil County, MD nonattainment area will remain designated nonattainment for the 2008 and 2015 ozone NAAQS until such time as the EPA determines that the area meets CAA requirements for redesignation to attainment and takes a separate action to redesignate the area.

*2. Clean Data Determinations for the New Castle County, DE Nonattainment Area for the 2008 and 2015 Ozone NAAQS*

In accordance with 40 CFR 51.1118 and 51.1318, the EPA proposes to determine that the proposed New Castle County, DE nonattainment area is attaining the 2008 and 2015 ozone NAAQS. Because the 2015 ozone NAAQS retains the same general form and averaging time as the 2008 ozone NAAQS, but is set at a more protective level, the EPA’s analysis for the 2015 ozone NAAQS CDD suffices as a CDD analysis for the less stringent 2008 ozone NAAQS. This determination is based upon two three-year periods of complete, quality-assured and certified data for the 2021-2023 and 2022-2024 monitoring periods. There are four FRM/FEM monitors within the proposed separate New Castle County, DE nonattainment area; the annual fourth-highest 8-hour ozone concentrations and the three-year average of these concentrations (monitoring site ozone design values) for these monitoring sites are summarized in Table 2 in this document.

*Table 2—Annual 4th Highest Daily Maximum 8-Hour Ozone Concentrations and Three-Year Average of the 4th Highest Daily Maximum 8-Hour Ozone Concentrations for the Proposed New Castle County, DE Nonattainment Area*

County, State	AQS Site ID	Site Name	2021 4 <sup>th</sup>	2022 4 <sup>th</sup>	2023 4 <sup>th</sup>	2024 4 <sup>th</sup>	2021-2023	2022-2024
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			high (ppb)	high (ppb)	high (ppb)	high (ppb)	DV (ppb)	DV (ppb)
New Castle, DE	100031007	Lums Pond	63	64	72	66	66	67
	100031010	BCSP	65	64	70	63	66	65
	100031013	Bellevue	64	65	69	68	66	67
	100032004	MLK	66	65	69	70	66	68

Where several monitors are located in a county (or a designated nonattainment area or maintenance area), the design value for the county or area is determined by the monitor with the highest level. The highest most recent three-year ozone design value for the proposed New Castle County, DE nonattainment area is 68 ppb, which meets the 2015 ozone NAAQS. Therefore, in this rulemaking, the EPA proposes to determine that the proposed separate New Castle County, DE nonattainment area is attaining the 2008 and 2015 ozone NAAQS.

The EPA will not take final action to determine that the proposed separate New Castle County, DE nonattainment area is attaining the 2008 or 2015 ozone NAAQS if the design value of a monitoring site in the area exceeds the 2008 or 2015 ozone NAAQS respectively after proposal but prior to final approval of the CDDs. Additionally, if after proposal but prior to final approval, the proposed separate New Castle County, DE nonattainment area is attaining the 2008 ozone NAAQS but not the 2015 ozone NAAQS, the EPA may finalize a CDD for only the 2008 standard and not the 2015 standard. The EPA will not finalize any CDD for New Castle County unless and until the EPA takes final action on the proposed revision splitting New Castle County, DE nonattainment area from the Philadelphia nonattainment area.

Should this rulemaking be finalized, the requirements for DNREC to submit attainment demonstrations, and associated RACM, RFP plans, contingency measures, and any other planning requirements related to attainment of the 2008 and 2015 ozone NAAQS for the proposed New Castle County, DE nonattainment area, would be suspended until the EPA rescinds the CDD due to the area no longer attaining the 2015 ozone NAAQS. This rulemaking does not constitute a redesignation of the area to attainment of the 2008 or 2015 ozone NAAQS under section 107(d)(3)(E) of the CAA, nor does it constitute approval of a maintenance plan for the area as required under section 175A of the CAA, nor does it find that the area has met all

other requirements for redesignation. The proposed New Castle County, DE nonattainment area will remain designated nonattainment for the 2008 and 2015 ozone NAAQS until such time as the EPA determines that the area meets CAA requirements for redesignation to attainment and takes a separate action to redesignate the area.

### *C. Summary*

This rulemaking proposes to revise the boundary of an existing ozone nonattainment area by splitting it into three separate nonattainment areas that together cover the identical geographic area of the original nonattainment area and proposes to make a determination of attainment of the 2008 and 2015 ozone NAAQS based on air quality data for two of those proposed areas—the Cecil County, MD nonattainment area and the New Castle County, DE nonattainment area. If the EPA finalizes the boundary revision for the Cecil County, MD nonattainment area, and the CDDs for that proposed revised area, then, the EPA will suspend requirements to submit certain plan requirements to attain the 2008 and 2015 ozone NAAQS, so long as the area continues to attain the standard. Similarly, if the EPA finalizes the boundary revision for the New Castle County, DE nonattainment area, and the CDDs for that proposed revised area, then, EPA will suspend requirements to submit certain plan requirements to attain the 2008 and 2015 ozone NAAQS, so long as the area continues to attain the standard. These actions do not impose additional requirements.

### **V. Statutory and Executive Order Reviews**

This rulemaking proposes to revise the boundary of an existing ozone nonattainment area by splitting it into three separate nonattainment areas that together cover the identical geographic area of the original nonattainment area. It also proposes to make CDDs for the two new areas in Cecil County, MD and New Castle County, DE resulting from the proposed revisions, which if finalized would suspend the requirement to submit certain attainment plan requirements for the 2008 and 2015 ozone NAAQS. This proposed rulemaking action does not impose additional requirements. For that reason, this 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 it is not a significant regulatory action 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 is not a significant regulatory action under Executive Order 12866;
- 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, this rulemaking action 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 dioxide, Ozone, Volatile organic compounds.

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, Designations, Intergovernmental relations, Redesignation, Reporting and recordkeeping requirements, Nitrogen dioxide, Ozone, Volatile organic compounds.

**Amy Van Blarcom-Lackey,**

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*Region III.*

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