

for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

*For the reasons discussed above, I certify that the proposed AD:*

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**General Electric Company:** Docket No. FAA-2007-0419; Directorate Identifier 2007-NE-52-AD.

#### Comments Due Date

- (a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by September 22, 2008.

#### Affected ADs

- (b) None.

### Applicability

(c) This AD applies to General Electric Company (GE) CF34-1A, -3A, -3A1, -3A2, -3B, and -3B1 turbofan engines, with high-pressure (HP) rotor 4-step air balance piston stationary seals (4-step seals), part numbers (P/Ns) 4923T54G01, 6019T90G03, 6037T99G01, 6037T99G02, and 6037T99G03, installed. These engines are installed on, but not limited to, Bombardier, Inc. airplane models CL-600-2A12, -2B16, and -2B19.

### Unsafe Condition

(d) This AD results from the investigation of an airplane accident. Both engines experienced high-altitude flameouts. Rotation of the HP rotors was not maintained during descent and the engines could not be restarted. We are issuing this AD to prevent the inability to restart both engines after flameout due to excessive friction of the 4-step seal, which could result in subsequent forced landing of the airplane.

### Compliance

(e) You are responsible for having the actions required by this AD performed at the next piece-part exposure after the effective date of this AD, unless the actions have already been done.

(f) Remove the 4-step seals, P/Ns 4923T54G01, 6019T90G03, 6037T99G01, 6037T99G02, and 6037T99G03.

(g) Incorporate an 8-step seal, either by modifying the existing 4-step seal to an 8-step seal, or by replacing it with an 8-step seal.

(h) Information on modifying the seal and part number configuration charts, can be found in GE Service Bulletin (SB) No. CF34-AL S/B 72-0238, dated July 27, 2007 (CL-600-2B19), and SB No. CF34-BJ S/B 72-0217, dated July 27, 2007 (CL-600-2A12 and CL-600-2B16).

### Definition

(i) For the purposes of this AD, piece-part exposure means when the 4-step seal is removed from the combustion module in accordance with the disassembly instructions in the engine manufacturer's, or other FAA-approved engine manual.

### Alternative Methods of Compliance

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

### Related Information

(k) Contact Kenneth Steeves, Aerospace Engineer, Engine Certification Office, Engine and Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803; *e-mail:* keneth.steeves@faa.gov; telephone: (781) 238-7765, fax: (781) 238-7199; for more information about this AD.

Issued in Burlington, Massachusetts, on July 16, 2008.

**Marc Bouthillier,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. E8-16884 Filed 7-22-08; 8:45 am]

**BILLING CODE 4910-13-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2008-0479; FRL-8696-2]

### Determination of Attainment of the One-Hour Ozone Standard for the Southern New Jersey Portion of the Philadelphia Metropolitan Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine that the one-hour ozone nonattainment area in Southern New Jersey, that is, the New Jersey portion of the Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD area, attained the one-hour ozone standard, is not subject to the imposition of penalty fees under section 185 of the Clean Air Act and does not need to implement contingency measures. Areas that EPA classified as severe ozone nonattainment areas for the one-hour National Ambient Air Quality Standard and did not attain the Standard by the applicable attainment date of November 15, 2005 may be subject to these penalty fees. However, since the air quality in the Philadelphia-Wilmington-Trenton area attained the ozone standard as of November 15, 2005, EPA is proposing not to implement these fees. This proposed determination of attainment is not a redesignation of attainment for this area, only a fulfillment of a Clean Air Act obligation to determine if an area attains the ozone standard by its applicable attainment date.

**DATES:** Comments must be received on or before August 22, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R02-OAR-2008-0479, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail:* Werner.Raymond@epa.gov.
- *Fax:* 212-637-3901.
- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.
- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional

Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R02-OAR-2008-0479. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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 [www.regulations.gov](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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Kelly, Air Programs Branch, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor,

New York, New York 10007-1866, 212-637-4249.

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##### I. What Are Today's Actions?

EPA is proposing two actions for the Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD one-hour ozone nonattainment area (the "Philadelphia metropolitan" nonattainment area). First, EPA is proposing to determine that this area attained the one-hour ozone National Ambient Air Quality Standard (NAAQS) by its attainment date, November 15, 2005. Because EPA is proposing to find that this area has attained the one-hour ozone NAAQS by its applicable attainment date, EPA also proposes to find that this area is not subject to the imposition of the section 185 penalty fees and does not need to implement contingency measures. In a separate proposed rule at 73 FR 22896, EPA's Region 3 office proposed to find that the Philadelphia metropolitan nonattainment area attained the one-hour ozone NAAQS by its applicable attainment date and is not subject to the imposition of section 185 penalty fees. Since EPA region 2 retains authority for addressing comments and making findings for the New Jersey portion of the area, we are issuing this separate notice.

Under Section 181(b)(2) of the CAA, EPA must determine whether ozone nonattainment areas attained the ozone NAAQS by their attainment date. EPA uses an area's design value, calculated from three years of complete, quality assured air monitoring data as of the attainment date. For the Philadelphia area, attainment date is 2005; therefore EPA is using the 2005 design value, which includes air quality monitoring data for the 2003 through 2005 ozone

seasons. The design value used for the one-hour ozone NAAQS is the fourth highest daily one-hour ozone concentration over the three-year period. Since this value is not greater than 0.12 parts per million (ppm) at any monitor in the nonattainment area, this area is attaining the one-hour ozone NAAQS<sup>1</sup>.

##### II. What Is the Background for These Actions?

###### II.a. When Were These Areas Designated and Where Are They Located?

When the CAA Amendments were enacted in 1990, each area of the country that was designated nonattainment for the one-hour ozone NAAQS, including the Philadelphia metropolitan area, was classified by operation of law as marginal, moderate, serious, severe, or extreme depending on the severity of the area's air quality problem. (See CAA sections 107(d)(1)(c) and 181(a).) The Philadelphia one-hour ozone nonattainment area was classified as "severe-15" with a statutory attainment date of November 15, 2005. See 56 FR 56694, November 6, 1991. Section 185(a) of the CAA states that for a severe or extreme ozone nonattainment area a State must collect fees on certain stationary sources of air pollution if the area "has failed to attain the national primary ambient air quality standard for ozone by the applicable attainment date." The Philadelphia area consists of the following counties: Cecil County, Maryland; Kent and New Castle Counties in Delaware; Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem Counties in New Jersey; and, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties in Pennsylvania.

###### II.b. What Effect Did the 1997 Eight-Hour Ozone Standard Have on Requirements for the One-Hour Ozone Nonattainment Areas, Including Section 185?

In an April 30, 2004 final rule (69 FR 23858), EPA designated and classified most areas of the country under the eight-hour ozone NAAQS promulgated in 40 CFR 50.10. On April 30, 2004, EPA also issued a final rule (69 FR

<sup>1</sup> EPA remains obligated under section 181(b)(2) to determine whether an area attained the one-hour ozone NAAQS by its attainment date. However, after the revocation of the one-hour ozone NAAQS, EPA is no longer obligated to reclassify an area to a higher classification for the one-hour NAAQS based upon a determination that the area failed to attain the one-hour NAAQS by the area's attainment date for the one-hour NAAQS. (40 CFR 51.905(e)(2)(i)(B).) Thus even if we make a finding that an area has failed to attain the one-hour ozone NAAQS by its attainment date, the area would not be reclassified to a higher classification.

23951) entitled “Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1” (Phase 1 Rule). Among other matters, this rule revoked the one-hour ozone NAAQS in the Philadelphia area (as well as most other areas of the country), effective June 15, 2005. (See, 40 CFR 50.9(b); 69 FR at 23996; and 70 FR 44470, August 3, 2005.) This Phase 1 Rule also set forth how anti-backsliding principles will ensure continued progress toward attainment of the eight-hour ozone NAAQS by identifying which one-hour requirements remain applicable in an area after revocation of the one-hour ozone NAAQS.

Among the requirements not retained were the section 185 requirements for one-hour severe or extreme nonattainment areas that fail to attain the one-hour ozone NAAQS by the applicable one-hour attainment date and the requirement to implement contingency measures for failure to attain the one-hour ozone NAAQS by the applicable attainment date. (See, 69 FR 23951, April 30, 2004, and 70 FR 30592, May 26, 2005.)

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (the Court) vacated EPA’s Phase 1 Implementation Rule for the eight-hour Ozone Standard (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (DC Cir. 2006). Subsequently, in *South Coast Air Quality Management Dist. v. EPA*, 489 F.3d 1295 (DC Cir. 2007), in response to several petitions for rehearing, the Court clarified that the Phase 1 Rule was vacated only with regard to those parts of the rule that had been successfully challenged. With respect to the challenges to the anti-backsliding provisions of the rule, the Court vacated three provisions that would have allowed States to remove from the SIP or to not adopt three one-hour obligations once the one-hour ozone NAAQS was revoked: (1) Nonattainment area new source review (NSR) requirements based on an area’s one-hour nonattainment classification; (2) section 185 requirement for one-hour severe or extreme nonattainment areas that fail to attain the one-hour ozone NAAQS by the one-hour attainment date; and (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the one-hour NAAQS or for failure to attain that NAAQS. The Court clarified that one-hour conformity determinations are not required for anti-backsliding purposes.

The provisions in 40 CFR 51.905(a)–(c) remain in effect and areas must continue to meet those anti-backsliding requirements. However, the three provisions noted previously, which are specified in 51.905(e), were vacated by the Court. As a result, States must continue to meet the obligations for one-hour NSR; one-hour contingency measures; and, for severe and extreme areas, the obligations related to the section 185 requirement. Currently, EPA is developing two proposed rules to address the Court’s vacatur and remand with respect to these three requirements. EPA will address in this proposed rule how the one-hour obligations that currently continue to apply under EPA’s anti-backsliding rule (as interpreted by the Court) apply where EPA has made a determination that the area attained the one-hour ozone NAAQS by its attainment date.

#### *II.c. How Does EPA Compute Whether an Area Complies With the One-Hour Ozone Standard?*

Although the one-hour ozone NAAQS as promulgated in 40 CFR 50.9 includes no discussion of specific data handling conventions, EPA’s publicly articulated position and the approach long since universally adopted by the air quality management community is that the interpretation of the one-hour ozone standard requires rounding ambient air quality data consistent with the stated level of the standard, which is 0.12 ppm. 40 CFR 50.9(a) states that: “The level of the national one-hour primary and secondary ambient air quality standards for ozone \* \* \* is 0.12 parts per million. \* \* \* The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations of 0.12 parts per million \* \* \* is equal to or less than 1, as determined by appendix H to this part.”

EPA has clearly communicated the data handling conventions for the one-hour ozone NAAQS in guidance documents. As early as 1979, EPA issued guidance that the level of our NAAQS dictates the number of significant figures to be used in determining whether the standard was exceeded. The stated level of the standard is taken as defining the number of significant figures to be used in comparisons with the standard. For example, a standard level of 0.12 ppm means that measurements are to be rounded to two decimal places (0.005 rounds up), and, therefore, 0.125 ppm is the smallest concentration value in excess of the level of the standard. (See, “Guideline for the Interpretation of Ozone Air Quality Standards,” EPA–

450/4–79–003, OAQPS No. 1.2–108, January 1979.) EPA has consistently applied the rounding convention in this 1979 guideline. For example, see, 68 FR 19106 at 19111, April 17, 2003; 68 FR 62041 at 62043, October 31, 2003; and, 69 FR 21717 at 21719, April 22, 2004.

#### *II.d. Does the Clean Air Act Require EPA To Determine Attainment of the One-Hour Ozone Standard?*

Section 181(b)(2)(A) requires the Administrator to determine after the attainment date whether ozone nonattainment areas have attained the NAAQS. This provision states: “Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area’s design value (as of the attainment date), whether the area attained the standard by the date.” Although section 181(b)(2)(A) states that the determination of attainment status be based on the area’s “design value,” EPA interprets this provision generally to refer to EPA’s methodology for determining attainment status. That is, EPA determines attainment status under the one-hour ozone NAAQS on the basis of the annual average number of expected exceedances of the NAAQS over the three-year period up to, and including, the attainment date. (See, 60 FR 3349, January 17, 1995 and see, also, “General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 at 13506, April 16, 1992 (the “General Preamble”).

EPA will determine whether an area’s air quality is meeting the NAAQS for purposes of sections 181(b)(2) based upon data that has been collected and quality-assured in accordance with 40 CFR part 58, and recorded in EPA’s Air Quality System (AQS) database, (formerly known as the Aerometric Information Retrieval System (AIRS)). The one-hour ozone NAAQS is 0.12 ppm, not to be exceeded on average more than 1 day per year averaged over any 3-year period. (See 40 CFR 50.9 and appendix H to 40 CFR part 50.) To account for missing data, the procedures found in appendix H to 40 CFR part 50 are used to adjust the actual number of monitored exceedances of the standard to yield the annual number of expected exceedances (“expected exceedance days”) at an air quality monitoring site. Under EPA’s policies, we determine if an area has attained the one-hour ozone NAAQS by calculating, at each monitor, the average expected number of days over the standard per year (i.e., “average number of expected exceedance days”)

during the applicable 3-year period. See, generally the General Preamble, 57 FR at 13506, April 16, 1992 and Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; "Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas," February 3, 1994. While the latter is explicitly applicable only to marginal areas, the general procedures for evaluating attainment in terms of the average number of expected exceedance days during the applicable 3-year period in this memorandum apply regardless of the initial classification of an area because all findings of attainment are made pursuant to the same CAA requirements in section 181(b)(2).

As noted previously, the applicable attainment date under the one-hour ozone NAAQS for the Philadelphia metropolitan area was November 15,

2005. Under these requirements for severe ozone nonattainment areas with a statutory attainment date of November 15, 2005, EPA bases its proposed determination of attainment of the one-hour ozone NAAQS by the applicable attainment date on the average number of expected exceedance days per year for the period 2003 through 2005 to determine whether the area met its applicable attainment date under section 181 of the CAA. EPA has reviewed this data to determine the area's air quality status in accordance with 40 CFR 50.9, and EPA policy guidance as discussed in the preceding paragraphs and in the previous discussion on rounding conventions elsewhere in this document.

*II.e. Did the Philadelphia Metropolitan Nonattainment Area Attain the One-Hour Ozone Standard by 2005?*

As noted previously, the applicable attainment date for the Philadelphia

metropolitan nonattainment area was November 15, 2005. EPA is evaluating attainment based on the data from 2003 through 2005. During the entire 2003 to 2005 period, state and local air pollution control agencies operated eighteen ozone monitoring stations in the Philadelphia area. One other monitor discontinued operations in 2003.<sup>2</sup>

Table 1 summarizes the ozone data collected at the eighteen ozone monitoring stations during the 2003 to 2005 period and included in AQS for the Philadelphia area. These data have been quality assured and are recorded in AQS. The Philadelphia area States use the AQS as the permanent database to maintain its data and quality assure the data transfers and content for accuracy. EPA has used the established rounding conventions set forth in our guidance documents and regulations.

TABLE 1.—AVERAGE NUMBER OF OZONE EXPECTED EXCEEDANCE DAYS PER YEAR BY MONITORS IN THE PHILADELPHIA AREA 2003 TO 2005

Monitor information			Number of expected exceedance days			Average number of expected exceedance days per year 2003–05
State	Monitor	AQS ID	2003	2004	2005	
DE .....	Killens Pond Rd, Kent Co .....	100010002	1.0	0.0	0.0	0.3
DE .....	Lums Pond State Park, New Castle Co .....	100031007	1.0	0.0	2.0	1.0
DE .....	Brandywine Creek State Park, New Castle Co .....	100031010	0.0	0.0	0.0	0.0
DE .....	Bellevue State Park, New Castle Co .....	100031013	0.0	0.0	0.0	0.0
MD .....	Fairhill, Cecil Co .....	240150003	0.0	0.0	2.0	0.7
NJ .....	Copewood E. Davis Sts, Camden .....	340070003	0.0	0.0	0.0	0.0
NJ .....	Ancora State Hospital, Camden Co .....	340071001	2.0	0.0	0.0	0.7
NJ .....	Lincoln Ave. & Highway 55, Vineland, Cumberland Co .....	340110007	1.0	0.0	1.0	0.7
NJ .....	Shady Lane Rest Home, Clarksboro, Gloucester Co .....	340150002	2.0	0.0	0.0	0.7
NJ .....	Rider College, Mercer Co .....	340210005	0.0	0.0	0.0	0.0
PA .....	Rockview Lane, Bristol, Bucks Co .....	420170012	0.0	0.0	1.0	0.3
PA .....	New Garden Airport—Toughkenamon, Chester Co .....	420290100	0.0	0.0	1.0	0.3
PA .....	Front St & Norris St, Chester, Delaware Co .....	420450002	0.0	0.0	1.1	0.4
PA .....	State Armory, Norristown, Montgomery Co .....	420910013	0.0	0.0	0.0	0.0
PA .....	1501 E Lycoming Ave AMS Lab, Philadelphia .....	421010004	0.0	0.0	0.0	0.0
PA .....	Roxy Water Pump Sta, Philadelphia .....	421010014	0.0	0.0	0.0	0.0
PA .....	Grant-Ashton Roads, NE Airport, Philadelphia .....	421010024	0.0	0.0	2.0	0.7
PA .....	Amtrak, 5917 Elmwood Avenue, Philadelphia .....	421010136	0.0	0.0	0.0	0.0

Source: EPA Air Quality System (AQS) Database.

As shown in Table 1, the average number of expected exceedance days per year is less than or equal to 1.0 at all of the sites. Therefore, EPA proposes to find that the Philadelphia area attained the one-hour ozone NAAQS by November 15, 2005, which was the applicable attainment date under the one-hour ozone NAAQS for this nonattainment area.

*II.f. Do Areas That Attain the One-Hour Ozone Standard Need To Implement the Section 185 Fee Program?*

If a severe or extreme one-hour ozone nonattainment area attains by its one-hour ozone attainment date, it is not required to implement the section 185 penalty fees program. Section 185(a) of the CAA states that a severe or extreme ozone nonattainment area must

implement a program to impose fees on certain stationary sources of air pollution if the area "has failed to attain the national primary ambient air quality standard for ozone by the applicable attainment date." Consequently, if such an area has attained the standard as of its applicable attainment date, even if it subsequently lapses into nonattainment, the area would not be required to

<sup>2</sup> This was the monitor located at West Chester University in West Chester, Chester County, Pennsylvania (AQS ID# 420290050). The monitor

had averaged 0.3 exceedances per year over this 3-year period from 2001 to 2003. Therefore, EPA concludes that this monitor was attaining the one-

hour ozone NAAQS at the time monitoring ceased at this site.

implement the section 185 penalty fees program.

In addition, because the area has attained the one-hour ozone NAAQS by the applicable attainment date, the area is not subject to the requirement to implement contingency measures for failure to attain the one-hour ozone NAAQS by its attainment date. Since the area has met its attainment deadline, even if the area subsequently lapses into nonattainment, it would not be required to implement the contingency measures for failure to attain the one-hour ozone NAAQS by its attainment date.

#### IV. What Is EPA Proposing?

Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA is proposing to determine that the New Jersey portion of the Philadelphia severe one-hour ozone nonattainment area attained the one-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also proposes to find that this area is not subject to the imposition of the section 185 penalty fees and will not need to implement contingency measures, which were required to be implemented only if the area did not attain the one-hour standard by the attainment date.

#### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements, it 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).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to make a determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it proposes to determine that air quality in the affected area is meeting Federal standards.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply because it would be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures that otherwise satisfy the provisions of the Clean Air Act.

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) Under Executive Order 12898, EPA finds that this rule involves a proposed determination of attainment based on air quality data and will not have disproportionately high and adverse human health or environmental effects on any communities in the area, including minority and low-income communities.

#### List of Subjects in 40 CFR Part 52

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

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

Dated: July 8, 2008.

**Alan J. Steinberg,**

*Regional Administrator, Region 2.*

[FR Doc. E8-16836 Filed 7-22-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R03-OAR-2007-0624; FRL-8694-9]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Clearfield/Indiana 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Maintenance Plan and 2002 Base-Year Inventory

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a redesignation request and State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Clearfield and Indiana Counties ozone nonattainment area (Clearfield/Indiana Area) be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). EPA is proposing to approve the ozone redesignation request for the Clearfield/Indiana Area. In conjunction with its redesignation request, PADEP submitted a SIP revision consisting of a maintenance plan for the Clearfield/Indiana Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation. EPA is proposing to make a determination that the Clearfield/Indiana Area has attained the 8-hour ozone NAAQS, based upon three years of complete quality-assured ambient air quality ozone monitoring data for 2004-2006. EPA's proposed approval of the 8-hour ozone redesignation request is based on its determination that the Clearfield/Indiana Area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA). In addition, PADEP submitted a 2002 base-year inventory for the Clearfield/Indiana Area which EPA is proposing to approve as a SIP revision. EPA is also providing information on the status of its adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Clearfield/Indiana Area maintenance plan for purposes of transportation conformity, which EPA is also