TABLE 3—DESTINATION ENTRY SERVICE TO CONTIGUOUS STATES—Continued

Mail class	Contiguous states		
	Destination entry (at appropriate facility) range (days)		
	*DDU	*DLPC	*DRPDC
Package Services	1	2	3

*DDU = Destination Delivery Unit; DLPC = Destination Local Processing Center; DRPDC = Destination Regional Processing and Distribution Center or Campus.

Table 4. Destination entry service standard day ranges for mail to non-contiguous states and territories.

TABLE 4—DESTINATION ENTRY SERVICE TO NON-CONTIGUOUS STATES AND TERRITORIES

Mail class	Destination entry (at appropriate facility)						
	*DDU range (days)	*DLPC range (days)			*DRPDC range (days)		
		Alaska	**Hawaii, Guam, NMI, & AS	**PR & USVI	Alaska	Hawaii, Guam, NMI, & AS	PR & USVI
Periodicals	1	1–3	1–4	1–3	10–11	10	8–10
USPS Marketing Mail	2	3–4	3–5	3–5	14	13	12
Package Services	1	2	2–3	2–3	12	11	11

*DDU = Destination Delivery Unit; DLPC = Destination Local Processing Center; DRPDC = Destination Regional Processing and Distribution Center or Campus.
**AS = American Samoa; NMI = Northern Mariana Islands; PR = Puerto Rico; USVI = United States Virgin Islands.

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Attorney, Ethics & Legal Compliance.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2022–0987; FRL–10551–01–R3]

Air Plan Approval; District of Columbia, Maryland, Virginia; Determination of Attainment by the Attainment Date and Clean Data Determination for the Washington, DC-MD-VA Nonattainment Area for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Washington, DC-MD-VA nonattainment area (the Washington Area or the Area) has attained the 2015 8-hour ozone national ambient air quality standards (2015 ozone NAAQS) by the applicable attainment date of August 3, 2024. Accompanying this proposed determination of attainment by the attainment date is a re-proposed clean data determination (CDD) under the EPA's Clean Data Policy. If finalized, this action will address the EPA's obligation under Clean Air Act (CAA) sections 179(c) and 181(b)(2) to determine whether the Washington Area attained the 2015 ozone NAAQS by the August 3, 2024 attainment date and, as set forth in the EPA's Clean Data Policy, suspend the obligation of the District of Columbia (DC), the State of Maryland (MD), and the Commonwealth of Virginia (VA) to submit certain attainment planning requirements for as long as the Area continues to attain the 2015 ozone NAAQS. As part of this rulemaking, the EPA also proposes to take final agency action on an exceptional events request submitted by the District of Columbia on March 20, 2024, and concurred on by the EPA on July 17, 2024. The proposed attainment determination and CDD are based upon the EPA's concurrence on the exceptional events demonstration. This action is being taken under the CAA.

DATES: Written comments must be received on or before December 16, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2022–0987 at *www.regulations.gov,* or via email to *talley.david@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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.*

FOR FURTHER INFORMATION CONTACT: Ian Neiswinter, 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) 814–2011. Mr. Neiswinter can also be reached via electronic mail at *neiswinter.ian@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposed determination is based upon quality-assured, quality-controlled, and certified ambient air monitoring data from 2021 to 2023 available in the EPA's Air Quality System (AQS) database.

Neither this proposed attainment determination nor CDD redesignates the Washington Area to attainment for the 2015 ozone NAAQS. The Area remains designated nonattainment until such time as DC, MD, and VA submit a request for redesignation pursuant to 107(d)(3) of the CAA and the EPA determines that the area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Area.

I. Background

On October 26, 2015 (80 FR 65292), the EPA promulgated a revised primary and secondary ozone NAAQS to provide requisite increased protection of public health and welfare, respectively. In that action, the EPA strengthened both standards from 0.075 parts per million (ppm) to 0.070 ppm and retained the indicator (ozone), averaging time (8-hour), and form (annual fourth-highest daily maximum, averaged over three years) of the existing standards. Effective August 3, 2018 (83 FR 25776, June 4, 2018), the EPA designated 52 areas throughout the country as nonattainment for the 2015 ozone NAAQS, including the Washington Area,[1] which was classified as a Marginal nonattainment area. This designation was based on quality-assured, quality-controlled, and certified air quality monitoring data from calendar years 2014 to 2016. The EPA established the attainment date for Marginal 2015 ozone NAAQS nonattainment areas as 3 years from the effective date of the final designations, meaning the Washington Area had an attainment date of August 3, 2021.[2]

Effective November 7, 2022 (87 FR 60897), the EPA determined that 22 Marginal areas or portions of areas failed to attain the standard by the applicable Marginal attainment date, including the Washington Area. In that action, the EPA reclassified the Washington Area as Moderate nonattainment for the 2015 ozone NAAQS because it failed to attain the standard by the attainment date of August 3, 2021. That designation was based on quality-assured, quality-controlled, and certified ambient air monitoring data from calendar years 2018 to 2020. In that same action, the EPA established the Moderate attainment date as August 3, 2024.[3]

On February 1, 2023 (88 FR 6688), the EPA proposed a CDD for the Washington Area based on quality-assured, quality-controlled, and certified ambient air quality monitoring data showing the Area attained the 2015 ozone NAAQS based on 2019 to 2021 data. The EPA did not finalize that action due to a monitored violation of the 2015 ozone NAAQS prior to final approval.[4] On March 20, 2024, the Department of Energy and Environment (DOEE) on behalf of DC submitted an exceptional events (EE) demonstration to show that the ozone concentration recorded at the McMillan monitor (AQS Site ID #110010043) on June 29, 2023, was influenced by wildfires. The EPA concurred on this request on July 17, 2024. The EPA's Exceptional Events Rule and DOEE's exceptional events demonstration are discussed in more detail in section II of this document. Air monitoring data from 2021 to 2023, which pursuant to EPA's concurrence on the DOEE demonstration now excludes the June 29, 2023, exceptional events influenced monitor day, indicates that the Washington Area has attained the 2015 ozone NAAQS by the attainment date of August 3, 2024. In light of this supplemental information that shows continued attainment in the time following the 2023 CDD proposal, the EPA is also re-proposing a CDD for the area. The EPA is including this proposed rulemaking in the same docket as the February 1, 2023 proposed CDD for the Washington Area.[5]

II. Exceptional Events Demonstration

Congress has recognized that it may not be appropriate for the EPA to use certain monitoring data collected by the ambient air quality monitoring network and maintained in the EPA's AQS database in certain regulatory determinations. Thus, in 2005, Congress provided the statutory authority for the exclusion of data influenced by ''exceptional events'' meeting specific criteria by adding section 319(b) to the CAA and granted the EPA with the authority to propose regulations to review and manage air quality monitoring data influenced by exceptional events.[6]

On March 22, 2007 (72 FR 13560), the EPA promulgated the 2007 Exceptional Events Rule in order to implement this 2005 CAA amendment. The 2007 Exceptional Events Rule created a regulatory process codified at 40 CFR parts 50 and 51 (§§ 50.1, 50.14, and 51.930). These regulatory sections, which superseded the EPA's previous guidance on handling data influenced by exceptional events, contain definitions, procedural requirements, requirements for air agency demonstrations, criteria for the EPA's approval of the exclusion of event-affected air quality data from the data set used for regulation decisions, and requirements for air agencies to take appropriate and reasonable actions to protect public health from exceedances and violations of the NAAQS. On October 3, 2016 (81 FR 68216), the EPA promulgated a comprehensive revision to the 2007 Exceptional Events Rule. The 2016 Exceptional Events Rule revision included the requirement that, if a State demonstrates to the Administrator's satisfaction that emissions from a wildfire smoke event cause a specific air pollution concentration in excess of the NAAQS at a particular air quality monitoring location and otherwise satisfies the requirements of 40 CFR 50.14, the EPA must exclude that data from use in determinations of exceedances and violations.[7]

The CAA provides for the exclusion of air quality monitoring data from design value (DV) calculations when there are NAAQS exceedances caused by events, such as wildfires, that meet the criteria for an exceptional event identified in the EPA's Exceptional Events Rule at 40 CFR 50.1, 50.14, and 51.930. For the purposes of this proposed action, on March 20, 2024, DOEE on behalf of DC submitted an exceptional events demonstration to show that the maximum daily 8-hour average ozone concentration recorded at the McMillan monitor (AQS Site ID #110010043) on June 29, 2023, was influenced by Canadian wildfires. The EPA concurred on this request on July 17, 2024.[8]

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[1] The Washington Area consists of the following counties/cities: Calvert County, Charles County, Frederick County, Montgomery County, and Prince George's County in Maryland; Alexandria city, Arlington County, Fairfax County, Fairfax city, Falls Church city, Loudoun County, Manassas Park city, Manassas city, Prince William County in Virginia; and all of the District of Columbia. *See* 40 Code of Federal Regulations (CFR) 81.309, 81.321, and 81.347.

[2] *See* 83 FR 10376 (March 9, 2018) and 40 CFR 51.1303(a).

[3] *See* 87 FR 60897 (November 7, 2022).

[4] The EPA initially noted this violation based on preliminary data, which was later certified.

[5] *See www.regulations.gov/search/docket?filter=EPA-R03-OAR-2022-0987.*

[6] Under CAA section 319(b), an 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 EPA under the process established in regulations promulgated by the EPA in accordance with section 319(b)(2) to be an exceptional event. For the purposes of section 319(b), an 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.

[7] 40 CFR 50.14(b)(4).

[8] As described in the EPA's letter titled ''DOEE_WF_O3_Exceptional_Events_Letter RA'', provided in the docket of this action, DOEE requested

The EPA found that DOEE's demonstration met the Exceptional Events Rule criteria and determined that wildfire smoke events had regulatory significance for purposes of calculating the Area's most recent design value to make a determination of attainment by the attainment date and a CDD for the 2015 ozone NAAQS. As such, the EPA proposes to take final regulatory action on the concurred date, as an exceptional event to be removed from the dataset used for regulatory purposes. The rationale of the EPA's exceptional events proposal is detailed in the docket. For this proposed action, the EPA will rely on the calculated design values that exclude the event-influenced data for the purpose of demonstrating attainment of the 2015 ozone NAAQS. Further details on DOEE's analyses and the EPA's concurrence, including the exceptional events initial notification, exceptional events demonstration, and the EPA's response to the initial notification can be found in the docket for this regulatory action.

While the EPA has concurred with DOEE's request to exclude event-influenced air quality monitoring data from regulatory decisions, these regulatory actions require the EPA to provide an opportunity for public comment on the claimed exceptional events and all supporting data prior to the EPA taking final agency action. This proposed action provides the public with an opportunity to comment on the claimed exceptional events, all supporting documents, and the EPA's concurrence with DOEE's request.

III. Determination of Attainment by the Attainment Date and Clean Data Determination

A. Determination of Attainment by the Attainment Date

Sections 179(c)(1) and 181(b)(2)(A) of the CAA require the EPA to determine whether an ozone nonattainment area attained the ozone standard by the applicable attainment date. The EPA is required to issue this determination within six months of the attainment date. Because the ozone NAAQS is a concentration-based standard, a determination of attainment is based on a nonattainment area's DV as of the attainment date.[9] Under the EPA regulations at 40 CFR 50.19(b) and 40 CFR part 50, appendix U, the 2015 ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration (*i.e.,* DV) does not exceed 0.070 ppm at each monitor site within the nonattainment area.[10] Because the DV is based on the three most recent, complete calendar years of data, attainment must occur no later than the year prior to the attainment date. Notably, the 2015 ozone DVs are based solely on ozone season data.[11] Ozone season is defined for each State or portion of a State at 40 CFR part 58, appendix D, section 4.1, table D–3. The ozone season for DC, MD, and VA runs annually from March 1st to October 31st.[12]

As such, the EPA's proposed determination for the Area is based upon the complete, quality-assured, quality-controlled, and certified ozone monitoring data from calendar years 2021, 2022, and 2023. The EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's AQS database.[13] Ambient air quality monitoring data for the 3-year period preceding the year of the attainment date must meet the data completeness requirements in appendix U, section 4(b). These completeness requirements are met for the 3-year period at a monitoring site if daily maximum 8-hour average concentrations of ozone are available for at least 90 percent of the days within the ozone monitoring season, on average, for the 3-year period, and no single year has less than 75 percent data completeness.[14]

As detailed in section III.C of this document, the EPA has evaluated the relevant data and determined that the Washington Area attained the 2015 Ozone NAAQS by the Moderate area attainment date of August 3, 2024, based on the area's 2021–2023 DV. Notably, a determination of attainment by the attainment date does not constitute formal redesignation to attainment as provided for under CAA section 107(d)(3). Redesignations to attainment require, among other things, that the States responsible for ensuring attainment and maintenance of the NAAQS have met the applicable requirements under CAA section 110 and part D, and to submit to the EPA for approval a maintenance plan to ensure continued attainment of the standard for 10 years following redesignation, as provided under CAA section 175A.

B. Clean Data Policy and Clean Data Determinations

Following the enactment of the CAA Amendments of 1990, the EPA discussed its interpretation of the requirements for implementing the NAAQS in the ''General Preamble for the Implementation of title I of the CAA Amendments of 1990'' (General Preamble).[15] In 1995, based on the interpretation of CAA sections 171, 172, and 182 in the General Preamble, the EPA set forth what has become known as its ''Clean Data Policy'' for the 1-hour ozone NAAQS.[16] Under the Clean Data Policy, for a nonattainment area that can demonstrate attainment of the standard before implementing CAA nonattainment measures, the EPA interprets the requirements of the CAA that are specifically designed to help an

exclusion of data associated with exceptional events claims for ozone data on June 1–2, 2023, and June 29, 2023. The EPA concurred on the June 29, 2023, McMillan monitor day and deferred action on the remainder due to a lack of regulatory significance.

[9] A design value is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The DV for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The DV is calculated for each air quality monitor in an area, and the DV for an area is the highest DV among the individual monitoring sites located in the area.

[10] The rounding convention in 40 CFR part 50, appendix U, dictates that concentrations shall be reported in ''ppm'' to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.071 ppm is greater than 0.070 ppm and would exceed the standard, but a DV of 0.0709 is truncated to 0.070 and attains the 2015 ozone NAAQS.

[11] *See* 40 CFR 51.1300(b), which refers to 40 CFR part 50, appendix U.

[12] *See* 40 CFR 51.1300(j), which refers to 40 CFR part 58, appendix D, section 4.1, table D–3.

[13] The EPA maintains the AQS, a database that contains ambient air pollution data collected by the EPA, State, local, and Tribal air pollution control agencies. The AQS also contains meteorological data, descriptive information about each monitoring station (including its geographic location and its operator) and data quality assurance/quality control information. The AQS data is used to: (1) assess air quality, (2) assist in attainment/non-attainment designations, (3) evaluate State implementation plans for non-attainment areas, (4) perform modeling for permit review analysis, and (5) prepare reports for Congress as mandated by the CAA. *See www.epa.gov/aqs.*

[14] As noted, the ozone season is defined for each State or portion of a State at 40 CFR part 58, appendix D, section 4.1, table D–3. The ozone season for DC, MD, and VA runs annually from March 1st to October 31st.

[15] 57 FR 13498, 13564 (April 16, 1992).

[16] *See* Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment areas Meeting the Ozone National Ambient Air Quality Standard,'' dated May 10, 1995 (1995 John S. Seitz Memo). Further description of the EPA's Clean Data Policy can be found in the ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2'' (referred to as the Phase 2 Final Rule) (70 FR 71612, November 29, 2005). The Tenth, Seventh, and Ninth Circuit U.S. District Courts have upheld the EPA rulemakings applying the Clean Data Policy. *See Sierra Club* v. *EPA,* 99 F. 3d 1551 (10th Cir. 1996); *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004); *Our Children's Earth Foundation* v. *EPA,* No. 04–73032 (9th Cir., June 28, 2005) memorandum opinion.

area achieve attainment, including attainment demonstrations, implementation of reasonably available control measures (RACM), reasonable further progress (RFP) demonstrations, emissions limitations and control measures as necessary to provide for attainment, and contingency measures, to be suspended for so long as air quality continues to meet the standard.[17]

The EPA may issue a CDD under the EPA's Clean Data Policy when a nonattainment area is attaining the 2015 ozone NAAQS based on the most recent available data. The EPA will determine whether the area has attained the 2015 ozone NAAQS based on available information, including air quality monitoring data for the affected area. If the CDD is made final, then certain attainment plan requirements for the area are suspended for so long as the area continues to attain the NAAQS.

Furthermore, the suspension of the obligation to submit an attainment plan is only appropriate where the area remains in attainment of the NAAQS. A CDD under the Clean Data Policy does not serve to alter the area's nonattainment designation. The EPA will not take final action on the CDD for the Washington Area if the design value of a monitoring site within the Area violates the 2015 ozone NAAQS prior to final approval of the CDD. CDDs are not redesignations to attainment. As noted above, for the EPA to redesignate an area to attainment the State must submit, and the EPA must approve, a redesignation request for the area that meets the requirements of CAA section 107(d)(3).

C. Analysis of Air Quality Data

The EPA has reviewed the ambient air monitoring data for ozone, consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA's AQS database for the Washington Area from 2021 through 2023. That data is detailed in tables 1 through 3 of this document. On the basis of that review, the EPA has concluded that the Washington Area attained the 2015 ozone NAAQS by the applicable attainment date (August 3, 2024) based on quality-assured, quality-controlled, and certified ozone data from 2021 to 2023. Prior DVs from the monitoring periods 2019–2021 and 2020–2022 further support the EPA's conclusion that the area attained the 2015 ozone NAAQS.

As stated previously, under the EPA's regulations, the 2015 ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.070 ppm.[18] When calculating the DV, digits to the right of the third decimal place are truncated.[19] When the DV is less than or equal to 0.070 ppm at each monitor within the area, then the area is meeting the 2015 ozone NAAQS. As noted above, the 2015 ozone DVs are based solely on ozone season data, which runs annually from March 1st to October 31st for DC, MD, and VA.[20]

The data completeness requirement in 40 CFR part 50, appendix U, is met when the average percentage of days with valid ambient monitoring data is greater than 90% and no single year is less than 75% data complete. The Washington Area has complete data for the years 2019 to 2023, as shown in table 1 in this document, except for the Takoma Recreation Center monitor (AQS Site ID #110010050).

Due to building repairs, the Takoma Recreation Center monitoring operations were temporarily halted from April 28 to October 7, 2022. During this timeframe, the DC Department of Parks and Recreation began repairing the Takoma Recreation Center station's roof, forcing the site's closure.[21] Operations were disrupted again from April 5 to September 14, 2023, due to a burglary incident.[22] Unidentified individuals broke into the station, broke several windows, and took the data logger and the computer monitor. Building security has been enhanced since the most recent incident, and station operations and data collection have resumed.

The Takoma Recreation Center monitoring site (AQS ID #110010050) had a valid attaining design value in 2019–2021 of 0.066 ppm. The Takoma Recreation Center monitoring site has attained the 2015 ozone NAAQS standard of 0.070 ppm since 2016. Based on the monitoring history for this site and other sites in the Area, the EPA reasonably concludes that the Takoma Recreation Center monitoring site would not have exceeded the 2015 ozone NAAQS standard for the 2020–2022 or 2021–2023 DVs. For each monitor site in the area, except for the Takoma Recreation Center, the average completeness data percentage from 2019–2021, 2020–2022 and 2021–2023 is greater than 90% and no single monitor year is below 75% complete.

TABLE 1—COMPLETENESS DATA PERCENTAGE (%) FROM 2019 TO 2023 FOR THE WASHINGTON AREA

Location	AQS site ID	2019	2020	2021	2019–2021 Average	2022	2020–2022 Average	2023	2021–2023 Average
District of Columbia	110010041	100	98	98	99	95	97	98	97
District of Columbia	110010043	98	99	99	99	98	99	96	98
District of Columbia	110010050	100	97	99	99	*29	*75	*23	*50
Calvert, MD	240090011	93	96	90	93	97	94	96	94
Charles, MD	240170010	90	96	98	95	100	98	98	99
Frederick, MD	240210037	99	94	98	97	96	96	94	96
Montgomery, MD	240313001	96	97	98	97	98	98	99	98
Prince George's, MD	240330030	96	97	95	96	89	94	96	93
Prince George's, MD	240338003	95	95	98	96	97	97	97	97
Prince George's, MD	240339991	93	92	96	94	92	93	93	94
Arlington, VA	510130020	99	99	100	99	99	99	99	99
Fairfax, VA	510590030	98	98	99	98	98	98	98	98
Loudoun, VA	511071005	90	99	100	96	100	100	97	99
Prince William, VA	511530009	100	99	96	98	100	98	100	99

*This data is below the data completeness requirement in 40 CFR part 50, appendix U.

[17] 1995 John S. Seitz memo.

[18] *See* 40 CFR 50.19(b) and 40 CFR part 50, appendix U.

[19] *See* 40 CFR 51.1300(b), which refers to 40 CFR part 50, appendix U.

[20] *See* 40 CFR 51.1300(j), which refers to 40 CFR part 58, appendix D, section 4.1, table D–3.

[21] DOEE notified the EPA via email, included in the docket of this action, that the Takoma Recreation Center monitoring operations would be temporarily halted during the station's repair.

[22] DOEE notified the EPA via email, included in the docket of this action, that the Takoma Recreation Center monitoring operations would be temporarily halted due to the burglary incident. DOEE also noted of the temporary halt of operation in Footnote 1 on Pg. 23 of DOEE's 2024 Annual Ambient Air Monitoring Network Plan, included in the docket of this action.

Table 2 in this document shows the fourth-highest maximum 8-hour average ozone concentrations for the Washington Area monitors in each of the years 2019 to 2023. Table 3 in this document shows the ozone DV for these same monitors based on the average of the fourth-highest maximum 8-hour average ozone concentrations for the 2019–2021, 2020–2022, and 2021–2023 3-year periods.

TABLE 2—FOURTH-HIGHEST 8-HOUR OZONE AVERAGE CONCENTRATIONS (ppm) IN THE WASHINGTON AREA IN EACH YEAR FROM 2019 TO 2023

Location	AQS site ID	2019	2020	2021	2022	2023
District of Columbia	110010041	0.062	0.054	0.064	0.059	0.058
District of Columbia	110010043	0.071	0.063	0.072	0.066	0.072
District of Columbia	110010050	0.067	0.063	0.069	*0.051	*0.046
Calvert, MD	240090011	0.058	0.054	0.062	0.058	0.066
Charles, MD	240170010	0.061	0.052	0.066	0.061	0.069
Frederick, MD	240210037	0.065	0.063	0.067	0.061	0.074
Montgomery, MD	240313001	0.062	0.059	0.068	0.063	0.068
Prince George's, MD	240330030	0.071	0.064	0.066	0.061	0.070
Prince George's, MD	240338003	0.065	0.060	0.070	0.064	0.073
Prince George's, MD	240339991	0.075	0.065	0.071	0.065	0.072
Arlington, VA	510130020	0.068	0.062	0.070	0.061	0.071
Fairfax, VA	510590030	0.070	0.057	0.068	0.062	0.073
Loudoun, VA	511071005	0.060	0.060	0.066	0.061	0.067
Prince William, VA	511530009	0.060	0.057	0.062	0.058	0.070

*This data is shown in EPA's AQS as incomplete.

TABLE 3—OZONE DESIGN VALUES (ppm) FOR THE WASHINGTON AREA

Location	AQS site ID	2019–2021	2020–2022	2021–2023
District of Columbia	110010041	0.060	0.059	0.060
District of Columbia	110010043	0.068	0.067	0.070
District of Columbia	110010050	0.066	*0.061	*0.055
Calvert, MD	240090011	0.058	0.058	0.062
Charles, MD	240170010	0.059	0.059	0.065
Frederick, MD	240210037	0.065	0.063	0.067
Montgomery, MD	240313001	0.063	0.063	0.066
Prince George's, MD	240330030	0.067	0.063	0.065
Prince George's, MD	240338003	0.065	0.064	0.069
Prince George's, MD	240339991	0.070	0.067	0.069
Arlington, VA	510130020	0.066	0.064	0.067
Fairfax, VA	510590030	0.065	0.062	0.067
Loudoun, VA	511071005	0.062	0.062	0.064
Prince William, VA	511530009	0.059	0.059	0.063

*This data is shown in the EPA's AQS as incomplete.

The EPA's review of these data indicates that the 2021–2023 DV at each of the Washington Area's monitors that has valid 2021–2023 data met the attainment standard of 0.070 ppm, excluding the exceptional event impacted monitoring day summarized in section II of this document.[23] As a result, the EPA is able to determine that the Washington Area met the 2015 8-hour ozone standard by the applicable attainment date of August 3, 2024, and meets the requirements under the Clean Data Policy for a CDD. Prior ozone data from the 2019–2021 and 2020–2022 monitoring periods further supports the EPA's conclusion that the Area attained the 2015 ozone NAAQS.

[23] Further details on DOEE's exceptional events analysis and the EPA's concurrence on the demonstration can be found in the docket for this regulatory action.

IV. Proposed Action

The EPA is proposing to determine that the Washington moderate ozone nonattainment area has attained the 2015 8-hour ozone NAAQS by the attainment date of August 3, 2024. This proposed determination is based upon complete, quality-assured, quality-controlled, and certified ambient air monitoring data that show the Washington Area has monitored attainment of the 2015 8-hour ozone NAAQS for the 2021–2023 monitoring period, including an evaluation of an exceptional events demonstration. If finalized, this action will address the EPA's obligation under CAA sections 179(c) and 181(b)(2) to determine whether the Washington Area attained the 2015 ozone NAAQS by the August 3, 2024 attainment date.

The EPA is also re-proposing to determine that the Area has clean data, consistent with Agency policy described above. As provided in 40 CFR 51.1318, if the EPA finalizes this CDD, it would suspend the requirements for such area to submit attainment demonstrations, associated RACM, RFP plans, and contingency measures under CAA section 172(c)(9), and any other planning State implementation plan revision related to attainment of the 2015 8-hour ozone NAAQS for this Area, for so long as the Area continues to attain the standard. Finalizing either the attainment determination or CDD does not constitute a redesignation of the Washington Area to attainment for the 2015 8-hour ozone NAAQS under CAA section 107(d)(3). This action also does not involve approving any maintenance plan for the Washington Area and does not determine that the Washington Area has met all the requirements for redesignation under the CAA, including that the attainment

be due to permanent and enforceable measures. Therefore, the designation status of the Washington Area will remain nonattainment for the 2015 8-hour ozone NAAQS until such time as DC, MD, and VA submit a request for redesignation pursuant to 107(d)(3) of the CAA and the EPA determines that the area meets the CAA requirements for redesignation to attainment and takes action to redesignate the area.

The EPA also proposes to take final agency action on an exceptional events request submitted by DC on March 20, 2024, and concurred on by the EPA on July 17, 2024.

The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. The EPA previously received comments on the 2023 CDD Proposal (88 FR 6688, February 1, 2023). In re-proposing the CDD, the EPA will consider all comments received on the 2023 CDD Proposal as the Agency moves forward with the current rulemaking. Accordingly, commenters need not submit duplicate comments on the current proposal.[24] However, the EPA welcomes comments providing additional information not previously submitted to the Agency.

V. Statutory and Executive Order Reviews

This rulemaking proposes to make an attainment determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements and would not impose any additional requirements. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- 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.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income population, and Indigenous peoples.

In addition, this action for the Washington Area does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this action is not approved to apply in Indian country located in the Washington Area, and the EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

[24] Comments received on the 2023 Proposal are contained in the same docket as the current proposal: Docket ID No. EPA–R03–OAR–2022–0987.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2024–26423 Filed 11–14–24; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 213, 217, 239, and 252

[Docket DARS–2024–0034]

RIN 0750–AK23

Defense Federal Acquisition Regulation Supplement: Disclosure of Information Regarding Foreign Obligations (DFARS Case 2018–D064)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2019, which prohibits DoD from acquiring products, services, or systems relating to information or operational technology, cybersecurity, industrial control systems, or weapon systems through a contract unless the offeror or contractor provides disclosures related to sharing source code and computer code with foreign governments.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before January 14, 2025, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2018–D064, using either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Search for DFARS Case 2018–D064. Select ''Comment'' and follow the instructions to submit a comment. Please include ''DFARS Case 2018–D064'' on any attached documents.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2018–D064 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To