

compounds (VOC) and nitrogen oxides (NO<sub>x</sub>)<sup>4</sup> should the area fail to attain by 2005.<sup>5</sup> In addition, under Section 211(k) of the Act the use of reformulated gasoline (RFG) will be required in the Baton Rouge area beginning one year from the effective date of this rule. The application of the RFG requirement occurs by operation of law in any area reclassified to severe ozone nonattainment status. We have issued a "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" that sets forth our preliminary views on these section 182 requirements and how we will act on SIPs submitted under Title I. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

Additionally, since the Baton Rouge area did not attain by the serious area attainment date, and in order to fulfill the contingency measures requirements of sections 172(c)(9) and 182(c)(9) of the CAA, the implementation of the failure-to-attain contingency measures in the current SIP is triggered automatically upon the effective date of this rule. Further, Louisiana is required to submit a revision to the SIP containing additional contingency measures for its severe area SIP to meet ROP requirements and backfill for failure to attain. See 57 FR 13498, 13511 (1992).

The Baton Rouge severe area plan must also contain enforceable regulations, control measures, means or techniques as necessary or appropriate to make the required rate of progress and to attain the 1-hour ozone NAAQS as expeditiously as practicable but no later than November 15, 2005. The severe area SIP and its budgets must use the MOBILE6 emissions model. Using MOBILE6 may require a revision to the 1990 base year inventory and ROP targets. Section 182(i) further provides that EPA may adjust the CAA deadlines for submitting these severe area SIP requirements. In addition to establishing a new attainment date, EPA must also address the schedule by which Louisiana is required to submit SIP revisions meeting the CAA's pollution control requirements for severe areas. In our June 24, 2002, redesignation rulemaking, after taking comments, we required that Louisiana submit SIP revisions fulfilling all of the severe area

requirements, no later than one year after the effective date of the reclassification. We also concluded that if the submission showed that the area could attain the one-hour ozone NAAQS sooner than the attainment date established in the June 24, 2002, reclassification notice, we would adjust the attainment date to reflect the earlier date, consistent with the requirement in section 181(a)(1) that the NAAQS be attained as expeditiously as practicable. EPA did not receive any comments on the proposed schedule. We conclude that the severe SIP revision schedule is reasonable and appropriate. Therefore, EPA is requiring Louisiana to submit SIP revisions within 12 months of the effective date of this rule. These revisions must address the Act's pollution control requirements for severe ozone nonattainment areas and must demonstrate attainment by November 15, 2005.

#### **IX. What Is the Impact of a Reclassification on the Title V Operating Permit Program?**

In the June 24, 2002, final rule, EPA listed most of the SIP revisions that would be required to be submitted by Louisiana addressing the severe area requirements. One of these requirements is the lowering of the major stationary source threshold for VOC and NO<sub>x</sub> emissions from 50 tons per year to 25 tons per year.

As a consequence of the reclassification of the Baton Rouge area to severe, additional sources become subject to the Title V major stationary source operating permit program. The affected sources are those with a potential to emit at least 25 tons per year of either VOC or NO<sub>x</sub>, or both VOC and NO<sub>x</sub>. Any new major stationary source must submit a timely Title V permit application. "A timely application for a source applying for a part 70 permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program or on or before such earlier date as the permitting authority may establish." See 40 CFR 70.5(a)(1) and see 40 CFR 71.5(a)(1). On the effective date of this action that can be found in the **DATES** section of this final rule, the 12 month (or earlier date set by Louisiana) time period to submit a timely application will commence in accordance with the State's Title V program regulations applicable to that source.

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

##### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities."

The Agency has determined that the finding of nonattainment would result in none of the effects identified in section 3(f) of the Executive Order. Under section 181(b)(2) of the CAA, determinations of nonattainment are based upon air quality considerations and the resulting reclassifications must occur by operation of law. They do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, determinations of nonattainment and reclassification cannot be said to impose a materially adverse impact on state, local, or tribal governments or communities.

##### *B. Paperwork Reduction Act*

This final action to reclassify the Baton Rouge area as a severe ozone nonattainment area and to adjust applicable deadlines does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

<sup>4</sup> Ozone is not emitted directly into the air, but is formed through the photochemical reaction of NO<sub>x</sub> and VOCs.

<sup>5</sup> Section 182(d)(3) sets a deadline of December 31, 2000, to submit the plan revision requiring fees for major sources should the area fail to attain. This date can be adjusted pursuant to CAA section 182(i). We adjusted this date to coincide with the submittal deadline for the rest of the severe area plan requirements.