

12 month (or earlier date set by the applicable permitting authority) time period to submit a timely application will commence in accordance with the state Title V program regulations applicable to that source.⁹

V. Final Action

For the reasons set forth in the notice of proposed rulemaking and in this final rulemaking notice, EPA has determined that the Washington ozone nonattainment area failed to attain the 1-hour ozone NAAQS by November 15, 1999, as required by section 181(a) of the CAA, and the Washington ozone nonattainment area is reclassified by operation of law to severe ozone nonattainment pursuant to section 181(b)(2) of the CAA.

A. What Is the New Attainment Date for the Washington Area?

Under section 181(a)(1) of the CAA, the new attainment deadline for the Washington area as a serious ozone nonattainment areas reclassified to severe under section 181(b)(2) is to attain the 1-hour ozone NAAQS as expeditiously as practicable but no later than November 15, 2005, which is the date applicable to the new severe nonattainment classification.

B. When Must District of Columbia, Maryland and Virginia Submit SIP Revisions Fulfilling the Requirements for Severe Ozone Attainment Areas?

Under section 181(a)(1) of the Act, the attainment deadline for serious ozone nonattainment areas reclassified to severe under section 181(b)(2) is as expeditiously as practicable but no later than November 15, 2005. Under section 182(i), such areas are required to submit SIP revisions addressing the severe area requirements for the 1-hour ozone NAAQS. Under section 182(d), severe area plans are required to meet all the requirements for serious area plans plus the requirements for severe areas, including, but not limited to: (1) A 25 ton per year major stationary source threshold; (2) additional reasonably available control technology (RACT) rules for sources subject to the new lower major applicability cutoff; (3) a new source review (NSR) offset requirement of at least 1.3 to 1; (4) a post-1999 rate-of-progress plan with on-road mobile source emission budgets in emission reductions of ozone precursors of at least 3 percent per year from November 15, 1999 until the attainment date; and (5) a fee requirement for major

sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) should the area fail to attain by 2005.¹⁰ 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 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

The District's, Maryland's and Virginia's severe ozone SIP for the Washington area must also contain adopted regulations, and/or enforceable commitments to adopt and implement control measures in regulatory form by specified dates, sufficient 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. Section 182(i) further provides that we 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 the District, Maryland and Virginia are required to submit SIP revisions meeting the CAA's pollution control requirements for severe areas.

For the reasons set forth in the notice of proposed rulemaking and this final rulemaking notice and pursuant to section 182(i) of the CAA, EPA is requiring the District of Columbia, Maryland and Virginia to submit SIP revisions addressing the CAA's pollution control requirements for severe ozone nonattainment areas by March 1, 2004.

C. What Will Be the Rate-of-Progress (ROP) and Contingency Measure Schedules?

For the reasons set forth in the notice of proposed rulemaking and this final rulemaking notice and pursuant to section 182(i) of the CAA, EPA is allowing the District, Maryland and Virginia to demonstrate the first required post-1999 nine percent ROP, due under the CAA by November 15, 2002, as expeditiously as practicable after that date (but in any case no later than November 15, 2005) in the event that control measures currently in the SIPs of the District, Maryland and Virginia or already promulgated by EPA do not achieve the required nine percent reduction by November 15, 2002.

The severe area SIP will have to provide for a total of a 18 percent reduction from base line emissions between November 15, 1999, through November 15, 2005. Because the 2002 ROP deadline is now past, the first 9 percent reduction requirement for the period 1999 to 2002 will have to be achieved as expeditiously as practicable after November 15, 2002. The second 9 percent reduction in base line emissions must be achieved by November 15, 2005, to address the 2002 through 2005 ROP requirement. Additionally, the area must submit adequate on-road mobile source emission budgets consistent with the 2002 and 2005 ROP plans.

Because EPA is allowing the District, Maryland and Virginia to demonstrate the first required post-1999 nine percent ROP, due under the CAA by November 15, 2002, as expeditiously as practicable after that date (but in any case no later than November 15, 2005), EPA is also allowing the District, Maryland and Virginia to adopt contingency measures keyed to this new date.

VI. 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

⁹Or, in the absence of an applicable state permit program covering the affected source, see 40 CFR 71.5(a)(1).

¹⁰Section 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 proposed to adjust this date to coincide with the submittal deadline for the rest of the severe area plan requirements.