

I. Executive Order 13211, Actions that Significantly Affect Energy Supply, Distribution, or Use

Under Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), EPA must prepare for those matters identified as significant energy actions. A "significant energy action" is any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking that is a significant regulatory action under Executive Order 12866 and, and is likely to have a significant adverse effect on the supply, distribution, or use of energy. Under Executive Order 12866, this action is not a "significant regulatory action." For this reason, the proposed finding of nonattainment and reclassification is also not subject to Executive Order 13211.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 25, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to reclassify the Washington, DC area as a severe ozone attainment area and to adjust applicable deadlines may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 15, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

Accordingly, 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. Section 81.309 is amended by revising the ozone table entry for the Washington area to read as follows:

§ 81.309 District of Columbia.

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DISTRICT OF COLUMBIA—OZONE
[1-Hour Standard]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Washington Area: Washington Entire Area	Nonattainment	3/25/03	Severe

¹ This date is November 15, 1990, unless otherwise noted.

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3. Section 81.321 is amended by revising the ozone table entry for the Washington, DC area to read as follows:

§ 81.321 Maryland.

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MARYLAND—OZONE
[1-Hour Standard]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
Washington, DC Area:				
Calvert County	Nonattainment	3/25/03	Severe
Charles County	Nonattainment	3/25/03	Severe
Frederick County	Nonattainment	3/25/03	Severe
Montgomery County	Nonattainment	3/25/03	Severe
Prince George's County	Nonattainment	3/25/03	Severe
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¹ This date is October 18, 2000, unless otherwise noted.