

schedules and afford the States sufficient time to prepare the submittals, while also assuring that the required controls may be implemented by the attainment date. EPA cautions that because the determination of whether the areas attain the NAAQS by the end of 1996 must be based on air quality during the 1994–1996 period, the sooner the moderate controls are implemented, the more likely the area will reach attainment by the end of 1996.

In addition, this notice serves to announce EPA's determination that the Sussex, Delaware; Allentown-Bethlehem-Easton, Pennsylvania-New Jersey; Altoona, Pennsylvania; Erie, Pennsylvania; Harrisburg-Lebanon-Carlisle, Pennsylvania; Johnstown, Pennsylvania; Lancaster, Pennsylvania; Scranton-Wilkes-Barre, Pennsylvania; Youngstown-Warren-Sharon, Pennsylvania-Ohio; York, Pennsylvania; and Greenbrier, West Virginia marginal ozone nonattainment areas succeeded in demonstrating attainment of the ozone NAAQS by their attainment date of November 15, 1993. This determination is also based on ozone air quality data measured during the 1991–1993 period. All of these areas have average annual expected exceedances less than or equal to 1.0 for the 1991–1993 three year period.

Furthermore, EPA has determined that the Kent and Queen Anne's Counties area, Maryland did not attain the ozone standard by its attainment date, but has now attained the standard. During the 1991–1993 period, eight exceedances were monitored at the only monitoring site in the area, the Millington site (No. 24–029–0002). The average annual expected exceedances was 2.8 for the Kent and Queen Anne's areas in that period, and the design value was 0.133 ppm. However, data for the most recent three years period, 1992–1994, indicates that the area has now attained the ozone standard. Only two exceedance were recorded in that time period, making the average annual expected exceedances 0.66 and the ozone design value 0.121 ppm. (Because the ozone standard is 0.12 ppm ozone, design values ≤ 0.124 ppm, which are rounded off to ≤ 0.12 ppm, meet this standard. Design values ≥ 0.125 ppm do not meet the standard because they are rounded off to ≥ 0.13 ppm.) Since this area is no longer violating the ozone standard, reclassification to moderate is not warranted.

Although EPA has determined that the marginal nonattainment areas of Sussex County, DE; Kent and Queen Anne's Counties, MD; Allentown-Bethlehem-Easton, Altoona, Erie, Harrisburg-Lebanon-Carlisle,

Johnstown, Lancaster, Scranton-Wilkes-Barre, Youngstown-Warren-Sharon, and York areas, PA; and Greenbrier County, WV have attained the ozone NAAQS, they will continue to carry the designation of nonattainment and the classification of marginal. They are eligible to be redesignated to attainment under section 107(d)(3), if the criteria of that provision are met. A redesignation of an area to attainment must be a formal request by a State to EPA and include, among other things, a public hearing, all section 110 and part D requirements, and a ten year maintenance plan. EPA must review the request and follow the usual procedures of completeness review, a notice of proposed rulemaking, and a final action after reviewing public comments.

There was no ozone air quality monitoring in Smyth County, Virginia in the 1991–1993 period. Consequently, no determination can be made as to whether or not this area attained the ozone NAAQS. Therefore, EPA is taking no action in this notice regarding this nonattainment area. Smyth County's classification of marginal and rural transport will remain in place.

A detailed discussion of the air quality data used in EPA's attainment determinations is contained in the technical support document (TSD) prepared for this action. Copies of the TSD are available from the EPA Regional office listed in the ADDRESSES section of this document.

Final Action

In this action, EPA is promulgating a reclassification to moderate for the Hampton Roads, Virginia nonattainment area. Also in this action, EPA is notifying the public that future EPA determinations of whether an ozone nonattainment area attained the NAAQS by its attainment date will be made solely by reference to the AIRS data. EPA would not be required to publish a **Federal Register** notice concerning areas that attained the ozone NAAQS. Finally, this action serves to notify the public that the marginal nonattainment areas of Sussex County in Delaware; Kent and Queen Anne's Counties in Maryland; Allentown-Bethlehem-Easton, Altoona, Erie, Harrisburg-Lebanon-Carlisle, Johnstown, Lancaster, Scranton-Wilkes-Barre, Youngstown-Warren-Sharon, and York areas in Pennsylvania; and Greenbrier County in West Virginia have attained the ozone NAAQS. These areas will continue to carry the designation of nonattainment and the classification of marginal. These areas are eligible to be redesignated to attainment under section 107(d)(3) of

the Act, if the criteria of that provision are met.

This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective 60 days from date of this **Federal Register** document. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent documents will be published before the effective date. One document will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 20, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).]

Under E.O. 12291, EPA is required to judge whether an action is "major" and therefore subject to the requirement of a regulatory impact analysis. The Agency has determined that the reclassification made final today would result in none of the significant adverse economic effects set forth in section 1(b) of the E.O. as grounds for a finding that an action is "major." The Agency has, therefore, concluded that this action is not a "major" action under E.O. 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Reclassifications of nonattainment areas under section 181 of the Act do not, by themselves, create any new requirements. Therefore, because this action does not impose any new requirements, I certify that it does not have a significant impact on small