

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 13, 2003.

James Gulliford,

Regional Administrator, Region 7.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MO 170-1170; IL 216-1; FRL-7444-5]

Determination of Attainment, Approval and Promulgation of Implementation Plans, and Designation of Areas for Air Quality Planning Purposes; States of Missouri and Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the St. Louis ozone nonattainment area (St. Louis area) has attained the 1-hour ozone National Ambient Air Quality Standard (NAAQS). This proposal is based on three years of complete, quality-assured ambient air quality monitoring data for the 2000 through 2002 ozone seasons that demonstrate that the 1-hour ozone NAAQS has been attained in the area. On the basis of this proposal, EPA is also proposing to determine that certain attainment demonstration requirements along with certain other related requirements of part D of Title I of the Clean Air Act (CAA) are not applicable to the St. Louis area.

The EPA is also proposing to approve an exemption from certain nitrogen

oxides (NO_x) requirements as provided for in section 182(f) for the Illinois portion of the St. Louis area. Section 182(f) establishes NO_x requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_x reductions would not contribute to attainment. Because the St. Louis area is currently attaining the ozone NAAQS, EPA is proposing to grant the Illinois portion of the St. Louis area an NO_x exemption from NO_x reasonably available control technology (RACT) requirements. If final action is taken, the Illinois portion of the St. Louis area would no longer be subject to these NO_x emission control requirements. However, all emission controls previously adopted by the state must continue to be implemented.

EPA is also proposing to approve requests from the States of Missouri and Illinois, submitted on December 6, 2002, and December 30, 2002, respectively, to redesignate the St. Louis area to attainment of the 1-hour ozone NAAQS. In proposing to approve these requests EPA is also proposing to approve the states' plans for maintaining the 1-hour ozone NAAQS through 2014, as revisions to the Missouri and Illinois State Implementation Plans (SIPs). EPA is also proposing to find adequate and approve the states' 2014 Motor Vehicle Emission Budgets (MVEBs) for volatile organic compounds (VOCs) and nitrogen oxide compounds (NO_x) in the submitted maintenance plans for transportation conformity purposes.

The St. Louis nonattainment area is located in portions of Illinois and Missouri. The Illinois portion of the nonattainment area includes Madison, Monroe, and St. Clair Counties (collectively referred to as the Metro-East area). The Missouri portion of the nonattainment area includes Franklin, Jefferson, St. Charles, and St. Louis Counties and St. Louis City.

DATES: Comments must be received on or before March 3, 2003.

ADDRESSES: Written comments should be mailed to Joshua Tapp, Chief, Air Planning and Development Branch, Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101; or, J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (ART-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Relevant documents are available for inspection during normal business hours at the above-listed Region 7 and Region 5 locations. Interested persons wanting to examine these documents

should make an appointment with the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT:

Tony Petruska, Region 7, (913) 551-7637, (petruska.anthony@epa.gov) or Edward Doty, Region 5, (312) 886-6057, (doty.edward@epa.gov).

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II. Statutory and Executive Order Reviews

I. Proposed Determination of Attainment and Redesignation

A. What Actions Is EPA Proposing to Take?

EPA is proposing to determine that the St. Louis nonattainment area has attained the 1-hour ozone standard. On the basis of this determination, EPA is also proposing to determine that certain attainment demonstration requirements (section 172(c)(1) of the CAA), along with certain other related requirements, of part D of Title I of the CAA, specifically the section 172(c)(9) contingency measure requirement (measures needed to mitigate a state's failure to achieve reasonable further progress toward, and attainment of, a NAAQS), the section 182(b)(1) attainment demonstration requirement and the section 182(j) multi-state attainment demonstration requirement, are not applicable to the St. Louis area as long as it continues to attain the ozone NAAQS. EPA is also proposing the following actions with respect to each state:

Illinois

EPA is proposing to approve a request from the state of Illinois to redesignate the Illinois portion of the St. Louis nonattainment area to attainment of the 1-hour ozone NAAQS.

In addition, for Illinois, EPA is proposing the following:

- Approve Illinois' plan for maintaining the 1-hour ozone NAAQS through 2014, as a revision to the Illinois SIP;
- Find adequate and approve the 2014 MVEBs for VOC and NO_x in the submitted maintenance plan for transportation conformity purposes;
- Determine that the attainment demonstration (and associated contingency measures) and Reasonably Available Control Measures (RACM) requirements of the CAA are not applicable so long as the area continues to attain the NAAQS; and
- Exempt the Illinois portion of the area from the NO_x RACT requirements of the CAA.

Missouri

EPA is proposing to approve a request from the State of Missouri to redesignate the Missouri portion of the St. Louis nonattainment area to attainment of the 1-hour ozone NAAQS.

In addition, for Missouri, EPA is proposing the following:

- Approve Missouri's plan for maintaining the 1-hour ozone NAAQS

through 2014, as a revision to the Missouri SIP;

- Find adequate and approve the 2014 MVEBs for VOC and NO_x in the submitted maintenance plans for transportation conformity purposes; and,
- Determine that the attainment demonstration (and related contingency measure requirements) and RACM requirements of the CAA are not applicable so long as the area continues to attain the NAAQS.

Although EPA is addressing separate requests from Missouri and Illinois, all of the above actions are being proposed in this rule. Where applicable, notations have been made indicating items specifically applicable to Missouri and those specifically applicable to Illinois. In any final rulemaking(s), EPA will consider addressing the above proposed actions in either one rule or in rules specific to each state.

B. Why Is EPA Taking These Actions?

As detailed below, EPA is proposing to determine that the St. Louis area has attained the 1-hour ozone standard and has fully met the requirements for redesignation found at section 107(d)(3)(E) of the CAA for redesignation of an area from nonattainment to attainment. The EPA believes that each state has demonstrated that the area has attained, and that the criteria for redesignation have been met.

C. What Would Be the Effect of These Actions?

A final determination that the St. Louis area has met the 1-hour ozone standard would relieve the states from the obligation to meet certain additional requirements, as identified above, which apply to areas not attaining that standard. EPA notes, however, that the area is likely to be designated nonattainment for the 8-hour ozone standard, and would be subject to any additional requirements as a result of such designation. EPA also notes that it is not proposing to revoke the 1-hour standard for the St. Louis area.

Approval of the Missouri redesignation request would change the official designation for the 1-hour ozone NAAQS found at 40 CFR part 81 for the St. Louis area, including the City of St. Louis, and the Counties of Franklin, Jefferson, St. Charles, and St. Louis from nonattainment to attainment. It would also incorporate into the Missouri SIP a plan for maintaining the 1-hour ozone NAAQS through 2014. The plan includes contingency measures to remedy any future violations of the 1-hour ozone NAAQS, and includes VOC

and NO_x MVEBs for 2014 for the Missouri portion of the St. Louis area.

Approval of the Illinois redesignation request would change the official designation for the 1-hour ozone NAAQS found at 40 CFR part 81 for the Illinois counties of Madison, Monroe, and St. Clair from nonattainment to attainment. It would also incorporate into the Illinois SIP a plan for maintaining the 1-hour ozone NAAQS through 2014. The plan includes contingency measures to remedy any future violations of the 1-hour ozone NAAQS, and includes VOC and NO_x MVEBs for 2014 for the Illinois portion of the St. Louis area.

D. What Is the Background for These Actions?

With respect to the proposed finding of attainment and proposed determination that certain requirements are not applicable to an area monitoring attainment of the 1-hour ozone standard, EPA described its interpretation of the attainment demonstration requirements (and related requirements) in detail in its proposed rule on the Cincinnati-Hamilton area (65 FR 3630, 3631–3632, January 24, 2000). In summary, EPA interprets the CAA's general nonattainment provisions of subpart 1 of part D of Title I (sections 171 and 172) and the more specific attainment demonstration and related provisions of subpart 2 (section 182), relating to SIP requirements for ozone nonattainment areas to not require the submission of SIP revisions concerning reasonable further progress (RFP), attainment demonstrations, or contingency measures for areas where the monitoring data show that the area is attaining the 1-hour ozone standard. (*See Sierra Club v. EPA*, 99 F.3d 1551 (10th Cir. 1996)). This rationale is described in a 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. (See also, the proposed determination of attainment for Louisville, 66 FR 27483, 27486, May 17, 2001, and the proposed determination of attainment for Pittsburgh-Beaver Valley, 66 FR 1925, January 10, 2001, for more recent applications of this interpretation.)

With regard to the redesignation requests, under section 107(d) of the CAA, the St. Louis area was designated as an ozone nonattainment area in March 1978 (43 FR 8962). On November

15, 1990, the CAA Amendments of 1990 were enacted. Under section 107(d)(4)(A) of the CAA, on November 6, 1991 (56 FR 56694), the St. Louis area was designated as a moderate ozone nonattainment area as a result of monitored violations of the one-hour ozone NAAQS during the 1987–1989 period. In a separate rulemaking, EPA is reclassifying the area to a serious nonattainment area. However, as explained below, in Section I.F.2, the basis for the proposed redesignation does not depend on the area's "serious" classification.

Illinois and Missouri have adopted and implemented emission control programs required under the CAA to reduce emissions of VOC and NO_x. These emission control programs include stationary source RACT, vehicle inspection and maintenance (I/M) programs, transportation control measures (TCMs), and other measures (see the analysis and discussion of specific emission control measures below). As a result of the emission control programs, ozone monitors in the St. Louis area have recorded three years of ozone monitoring data for the 2000–2002 period showing that the area has attained the 1-hour ozone NAAQS.

On December 6, 2002, the Missouri Department of Natural Resources submitted a Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis ozone nonattainment area along with a request to redesignate the Missouri portion of the St. Louis nonattainment area to attainment of the 1-hour ozone NAAQS. Included in the Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis nonattainment area is a plan to maintain the 1-hour ozone NAAQS for at least the next 10 years, and the 2014 MVEBs for transportation conformity purposes.

On December 30, 2002, the Illinois Environmental Protection Agency submitted a Maintenance Plan for the Illinois Portion of the St. Louis ozone nonattainment area along with a request to redesignate the Illinois portion of the St. Louis nonattainment area to attainment of the 1-hour ozone NAAQS. Included in the Maintenance Plan for the Illinois Portion of the St. Louis ozone nonattainment area is a plan to maintain the 1-hour ozone NAAQS for at least the next 10 years, and the 2014 MVEBs for transportation conformity purposes.

E. What Are the Redesignation Review Criteria?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section

107(d)(3)(E) allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the state containing such area has met all requirements applicable to the area under section 110 and part D.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

State Implementation Plans; General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498), April 16, 1992 (General Preamble);

"Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,"

Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

"Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

"Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;

"State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

"Technical Support Documents (TSD's) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,"

Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

"State Implementation Plan (SIP) Requirements for Areas Submitting

Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993; "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

F. What Is EPA's Analysis of the Requests?

EPA believes that Missouri and Illinois have demonstrated that the St. Louis area has attained the 1-hour ozone standard and have demonstrated that the area meets all of the applicable criteria for redesignation to attainment as specified in Section 107(d)(3)(E) of the CAA.

1. Criterion (1): The Area Must Be Attaining the 1-Hour Ozone NAAQS

EPA proposes to find that the area has attained the 1-hour ozone standard and to approve the redesignation requests submitted by Missouri and Illinois for the St. Louis area as meeting this requirement because complete, quality-assured, ambient air monitoring data for the 2000 to 2002 ozone seasons (April through September, when the highest ozone concentrations are expected to occur in this area) demonstrate that the 1-hour ozone NAAQS has been attained in the entire St. Louis area. For ozone, an area may be considered to be attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and appendix H, based on three complete, consecutive calendar years of quality-assured ambient monitoring data. A violation of the 1-hour ozone NAAQS occurs when the estimated number of exceedances per year averaged over three years is greater than 1.0 at any monitoring site in the area or its downwind environs, using conventional rounding techniques.

The calculation of the estimated exceedances takes into account not only the number of exceedances during a

given ozone season, but also completeness of data, and daily peak ozone concentrations on days in the ozone season that can be assumed to be less than the level of the standard. An example calculation of estimated exceedances at the West Alton monitor is given below. A daily exceedance

occurs when the maximum hourly ozone concentration during a given day is greater than or equal to 0.125 parts per million (ppm), using conventional rounding techniques. Monitoring data must be collected and quality-assured in accordance with 40 CFR part 58, and

recorded in EPA's Aerometric Information Retrieval System (AIRS).

MDNR and IEPA submitted quality-assured ozone monitoring data to EPA for the 2000 to 2002 ozone monitoring seasons. Table 1 below summarizes these air quality data.

TABLE 1.—1-HOUR OZONE NAAQS EXCEEDANCES IN THE ST. LOUIS, ILLINOIS-MISSOURI AREA FROM 2000 TO 2002

Site name	County or city and state	Estimated exceedances			Average number of estimated exceedances 2000–2002
		2000	2001	2002	
Jerseyville	Jersey, IL	0.0	1.0	1.0	0.7
Alton	Madison, IL	0.0	0.0	0.0	0.0
Maryville	Madison, IL	0.0	0.0	1.0	0.3
Edwardsville	Madison, IL	0.0	0.0	0.0	0.0
Wood River	Madison, IL	0.0	1.0	0.0	0.3
Houston	Randolph, IL	0.0	0.0	0.0	0.0
East St. Louis	St. Clair, IL	0.0	0.0	0.0	0.0
Arnold	Jefferson, MO	0.0	0.0	0.0	0.0
West Alton	St. Charles, MO	1.0	1.0	1.0	1.0
Orchard Farm	St. Charles, MO	0.0	0.0	2.0	0.7
Bonne Terre	St. Genevieve, MO	0.0	0.0	0.0	0.0
South Lindbergh	St. Louis, MO	0.0	0.0	2.0	0.7
Queeney	St. Louis, MO	0.0	0.0	0.0	0.0
Hunter	St. Louis, MO	0.0	0.0	0.0	0.0
Flo Valley	St. Louis, MO	0.0	0.0	0.0	0.0
St. Ann (old)	St. Louis, MO	0.0	n/a	n/a	¹ 0.0
St. Ann (new)	St. Louis, MO	n/a	0.0	0.0	¹ n/a
Broadway	St. Louis City, MO	0.0	0.0	0.0	0.0
Clark	St. Louis City, MO	0.0	0.0	0.0	0.0
Margaretta	St. Louis City, MO	0.0	0.0	0.0	0.0

¹ The owner of the property on which the old St. Ann monitor was located terminated the lease agreement with MDNR. The new site is 0.7 miles east of the old site. In general, ambient monitors should remain at the same location for the duration of the monitoring period required for demonstrating attainment. However, when three complete, consecutive calendar years of data is not available for a monitoring site, adjustments are made consistent with EPA monitoring criteria, in determining the average number of estimated exceedances per year. The average number of estimated exceedances for 2000–2002 for the old St. Ann monitor is the estimated exceedances for 2000, or 0.0. In addition, where a monitor has been in operation less than three years, the average estimated number of exceedances cannot be determined. Since the new St. Ann monitor has been in operation less than three years, the average number of estimated exceedances for 2000–2002 was not determined.

The following is an example of how the number of estimated exceedances at the West Alton Monitor were determined: During the 2000 to 2002 time period, the West Alton monitor was determined to have an annual average number of estimated exceedances of 1.0. This value was determined in accordance with 40 CFR 50.9 and appendix H, as follows:

$$e = v + [(v/n)*(N-n-z)] \text{ where}$$

Variable description	Comments
e = the estimated number of exceedances for the year.	Calculated.
N = the number of required monitoring days in the year.	Missouri's ozone season is April 1 through September 30.
n = the number of valid daily maxima.	Days with valid data based on 40 CFR part 50 and appendix H.

$$e = v + [(v/n)*(N-n-z)] \text{ where}$$

Variable description	Comments
v = the number of daily values above the level of the standard.	Based on monitored values.
Z = the number of days assumed to be less than the standard level.	Based on 40 CFR part 50, Appendix H, for days that were likely below the standard.

WEST ALTON MONITOR

Variable	2000	2001	2002
e	1.0	1.0	1.0
N	214	214	214
n	214	213	213
v	1	1	1
z	0	1	0

WEST ALTON MONITOR—Continued

Variable	2000	2001	2002
Average Number of Estimated Exceedances = (1.0 + 1.0 + 1.0)/3 = 1.0			

2. Criteria (2) and (5): The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Background

In order to analyze whether the Missouri and the Illinois portions of the area each meet these criteria, it is necessary to discuss what requirements are applicable to the St. Louis area, and for the applicable SIP requirements, the extent to which they are fully approved under section 110(k). In a notice accompanying a rulemaking published June 26, 2001, EPA explained how the states had previously submitted, and

EPA had previously approved, various SIPs for the area in order to meet the CAA requirements applicable to a moderate ozone nonattainment area (66 FR 33996, 34001). The EPA incorporates that discussion into this notice by reference. In redesignating an area EPA may rely on prior SIP approvals and rulemaking actions, and need not reopen earlier issues with regard to the SIP. See, *Wall v. EPA*, 265 F. 3d 426, 438 (6th Cir. 2001) and *Southwestern Pa. Growth Alliance v. Browner*, 144 F. 3d 984, 989–90 (6th Cir. 1998). In the June 26, 2001, rulemaking, EPA also approved into the Missouri and Illinois SIPs, several plan elements which ensured that the states had fully approved SIPs (e.g., the states' attainment demonstrations for the area) (66 FR 33996, 34010).

On November 25, 2002, the U.S. Court of Appeals for the Seventh Circuit (Court) issued a decision in *Sierra Club and Missouri Coalition for the Environment v. EPA*, 311 F. 3d 853 (7th Cir. 2002) ("Sierra Club"). In this decision, the Court vacated the June 26, 2001, rule and remanded to EPA for entry of a final rule that reclassifies St. Louis as a serious nonattainment area for ozone. Although the Court addressed only EPA's action extending the attainment date for St. Louis, the Court's order vacated the other EPA actions in the rulemaking as well. EPA has reviewed the other actions in the June 26, 2001, rulemaking, and proposes to find, as discussed below, that the SIP actions vacated by the Court are no longer applicable requirements since the area has attained the NAAQS. EPA is also reproposing to approve the exemption granted in the June 26 rule to Illinois from the NO_x RACT requirements under section 182(f) of the Act, since the area has attained the NAAQS. Therefore, EPA is proposing to grant the exemption in this rulemaking, as discussed elsewhere in this notice. In addition, in a separate rulemaking, EPA is reclassifying the St. Louis area as a serious nonattainment area in accordance with the Court's Order. With respect to the redesignation criteria applicable to St. Louis, the following includes a discussion of the effect of the Court's action and of the reclassification on EPA's ability to redesignate the area.

The September 4, 1992, Calcagni memorandum (see "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of the Section 107(d)(3)(E) requirement. Under this interpretation, states requesting redesignation to

attainment must meet the relevant CAA requirements that come due prior to the submittal of a complete redesignation request. Areas may be redesignated even though they have not adopted measures that come due after the submission of a complete redesignation request.

The May 10, 1995, Seitz memorandum (see "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995) states that certain SIP revisions need not be submitted for EPA to approve a request for redesignation, since the requirements would no longer be considered applicable requirements as long as the area continues to attain the 1-hour ozone NAAQS. The SIP requirements subject to this policy are described as the general provisions of subpart 1, part D, title I of the CAA (sections 171 and 172) concerning RFP, attainment demonstrations, and contingency measures, as well as the ozone-specific provisions of subpart 2 of the CAA. The Seitz memorandum was discussed above, in section I.D. and in more detail in the proposed rulemaking on the Cincinnati-Hamilton area, 65 FR 3630, 3631–3632 (January 24, 2000), also referenced previously.

EPA sets forth, in a separate rulemaking published today, a schedule for the states of Missouri and Illinois to submit the serious area SIP requirements within one year after today's date. However, because the States have already submitted complete redesignation requests, EPA believes, pursuant to the policies described above, that the serious nonattainment requirements are not applicable, for purposes of reviewing and acting on the redesignation requests. Therefore, for purposes of acting on the redesignation requests, EPA's analysis includes a proposed determination that the area has met the applicable CAA requirements for moderate nonattainment areas.

If the area violates the 1-hour ozone NAAQS prior to final action on the redesignation request, however, not only would the serious area requirements become applicable, but the redesignation request could not be approved because the area would no longer meet the criterion of having attained the 1-hour NAAQS. (Seitz memorandum dated May 10, 1995.) Furthermore, requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request would continue to be applicable

to the area until a redesignation is approved but are not required as a prerequisite for redesignation (see section 175A(c) of the CAA). If the redesignation were to be disapproved, the States remain obligated to fulfill all of the serious area requirements.

The following is a discussion of the relevant requirements for the St. Louis area. Where appropriate, EPA addresses the SIP actions in the June 26, 2001, rulemaking vacated by the Court in *Sierra Club*, and explains its conclusion that each state has met its obligation to have fully approved SIPs for its portion of the nonattainment area. EPA also identifies the SIP actions for the area which pre-dated the June 26, 2001, rulemaking and were not impacted by the *Sierra Club* ruling. (As stated above, those prior actions were also discussed in the June 26, 2001, rulemaking.)

a. Section 110 Requirements

General SIP elements and requirements are delineated in section 110(a)(2) of Title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate apparatus, methods, systems, and procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)); provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for stationary source emission control measures, source monitoring, and source reporting; provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Illinois

Review of the Illinois SIP, as codified in 40 CFR part 52, subpart O, and specifically 40 CFR 52.720, 52.722, and 52.726, shows that Illinois has an approved ozone SIP which meets the general requirements of section 110(a)(2) of the CAA, and which can be considered to be approved under section 110(k) of the CAA. The SIP, which has undergone public review: (a) Provides for the control of ozone precursor emissions, including those from stationary sources, in the Metro-East area at sufficient control levels to attain the ozone standard; (b) provides for continued monitoring of ozone in this area; (c) contains provisions covering permitting of new sources

under PSD and NSR provisions; and (d) where appropriate, requires stationary source monitoring.

Missouri

The Missouri SIP, is codified in 40 CFR part 52, subpart AA. If EPA finalizes its proposal for the revisions to the Missouri motor vehicle inspection and maintenance (I/M) program, published elsewhere in this **Federal Register**, as described below in the Vehicle Inspection/Maintenance Requirements, the Missouri ozone SIP will meet the applicable requirements of section 110 and part D, and can be considered to be approved under section 110(k) of the CAA. The SIP, which has undergone public review: (a) Provides for the control of ozone precursor emissions, including those from stationary sources, at sufficient control levels to attain the ozone standard; (b) provides for continued monitoring of ozone in this area; (c) contains provisions covering permitting of new sources under PSD and NSR provisions; and (d) where appropriate, requires stationary source monitoring.

b. Transport of Ozone Precursors to Downwind Areas

Modeling results generated using EPA's Regional Oxidant Model (ROM) indicate that ozone precursor emissions from various states outside of the Ozone Transport Region (OTR), in the Northeastern United States, contribute significantly to increased ozone concentrations in the OTR (as well as to increased ozone concentrations in other states in the Eastern portion of the United States). On October 27, 1998, (63 FR 57356), EPA issued a NO_x SIP call, requiring the District of Columbia and 22 states, including Illinois and Missouri, to reduce their statewide emissions of NO_x in order to reduce the transport of ozone and ozone precursors. In March 2000, the United States Circuit Court of Appeals for the District of Columbia largely upheld the SIP call, *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000). Illinois is currently subject to the NO_x SIP call. However, the Court vacated and remanded the SIP call as it relates to Missouri.

Illinois

In compliance with EPA's NO_x SIP call, Illinois has developed rules governing the control of NO_x emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, and major cement kilns. EPA approved Illinois' rules for major non-EGU industrial boilers and major cement kilns on November 8, 2001 (66 FR

56449), and Illinois' rules for EGUs on November 8, 2001 (66 FR 56454).

Missouri

On February 22, 2002 (67 FR 8396), EPA proposed modifications to the NO_x SIP call for Missouri. EPA has not finalized the rulemaking to require Missouri to submit this SIP revision. When finalized, EPA anticipates that the rule will specify a schedule for submission of necessary SIP revisions. Missouri is not subject to the NO_x SIP call at this time.

c. Part D: General Provisions for Nonattainment Areas

Before an area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D. Under part D of Title I of the CAA, an area's ozone classification determines the requirements to which it is subject. Subpart 1 of part D specifies the basic requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under Table 1 of section 181(a) of the CAA. As described in the General Preamble for Implementation of Title I of the CAA, specific requirements of subpart 2 may override or modify subpart 1's general provisions (57 FR 13501, April 16, 1992). Therefore, in order to be redesignated, the states must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D.

EPA believes that Illinois and Missouri have each met the requirements of subpart 1 of part D—specifically sections 172(c), and 176, insofar as applicable, as well as the applicable requirements of subpart 2 of part D of the CAA as described below. EPA is proposing to determine that the requirement for a SIP revision providing an attainment demonstration to meet the requirements of sections 172(c)(1), 182(b)(1), and 182(j) is not applicable. In addition, although the St. Louis area is being reclassified to a serious nonattainment area in a separate rulemaking, EPA believes that the serious area requirements which have not yet been adopted by the states² are not yet applicable to the St. Louis area until such time as they are due. The States of Missouri and Illinois are not

² Each state has adopted certain permit applicability rules which are dependent on the nonattainment area's classification (e.g., the minimum applicability threshold is 50 tons per year of VOC or NO_x in a serious area as compared to a 100-ton minimum threshold in a moderate area). These rules apply, according to their terms, as long as the area remains classified as a "serious" nonattainment area for the 1-hour ozone standard.

required to submit the serious area SIP requirements for one year from today. The discussion below demonstrates how the St. Louis area has met the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D.

d. Section 172(c) Requirements

This section contains general requirements for nonattainment area SIPs. For reasons discussed previously, EPA proposes to determine that certain requirements relating to attainment of the NAAQS do not apply to St. Louis because the area has attained the standard. A thorough discussion of the requirements contained in section 172(c) may be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992). The following discussion summarizes the requirements in section 172(c) of the CAA. This is followed by a discussion of the extent to which the St. Louis area has met these requirements, and an identification of the requirements which EPA proposes to find are not applicable to the St. Louis area.

General Plan Requirements—The plan provisions, to the extent applicable, must provide for the implementation of all RACM as expeditiously as practicable. At a minimum, the plan must require the implementation of RACT for stationary sources. Also to the extent applicable, the plan must also provide for the attainment of the national primary ambient air quality standards (those standards set to protect public health);

RFP—RFP reflects a steady, annual progress towards attainment of the air quality standards, generally addressed in terms of annual emission reductions. To the extent applicable, the plan must document and provide for such annual progress;

Emissions Inventory—The plan needs to include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant as determined necessary by the Administrator to assure that the requirements of part D of the CAA are met;

Identification and Quantification of Allowable Emissions for Major New or Modified Stationary Sources—The quantified emissions must be consistent with the emission levels needed to achieve RFP and attainment of the NAAQS;

Permits for New and Modified Major Stationary Sources—The plan provisions must require permits for the construction and operation of new or

modified major stationary sources anywhere in the nonattainment area;

Other Emission Control Measures—The plan must include enforceable emission limitations and other control measures and time schedules for implementation of emission controls as needed to assure attainment of the NAAQS by the applicable attainment date;

Compliance With Section 110(a)(2)—The plan must contain provisions to meet the requirements of section 110(a)(2) of the CAA (see the discussion of section 110 requirements above); and

Contingency Measures—The plan must provide, to the extent applicable, for the implementation of specific measures to be undertaken if the area fails to achieve RFP or to attain the NAAQS by the applicable attainment date. Such measures must take effect, if triggered, without further action by the State or the EPA.

(1) RACM and RACT

These requirements are discussed below under Subpart 2, Section 182 Requirements.

(2) RFP

The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. Section 182(b)(1)(A) sets forth the specific requirements for RFP. As described elsewhere in this proposal, EPA believes it is reasonable to interpret that the Clean Air Act provisions regarding RFP and attainment demonstrations, along with certain other related provisions do not require certain SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.*, has three consecutive years of complete, quality-assured, air quality monitoring data) without those provisions being implemented. However, EPA has approved the regulations that were submitted by Illinois and Missouri, and their respective 15 percent rate-of-progress (or ROP) plans, as described below in the discussion of the section 182 requirements. These plans were submitted before the 2000 to 2002 time frame during which attainment has been monitored, and provided permanent and enforceable emission reductions for the St. Louis area during the 2000 through 2002 ozone seasons (*see* the discussion under the heading “Criterion 3,” below). These previously-approved SIP control measures must continue to

be implemented and enforced and are not affected by this action.³

(3) Emissions Inventories

These requirements are discussed below under Subpart 2, Section 182 Requirements.

(4) Identification and Quantification of Allowable

Emissions for Major New or Modified Stationary Sources and Permits for New and Modified Major Stationary Sources
Illinois

The state of Illinois has a fully approved set of adopted Prevention of Significant Deterioration (PSD) and nonattainment area New Source Review (NSR) rules, as documented at the following EPA Web site: <http://www.epa.gov/region5/air/sips/sips.htm>.

Missouri

The state of Missouri has a fully approved set of adopted Prevention of Significant Deterioration (PSD) and nonattainment area New Source Review (NSR) rules, as documented at the following EPA Web site: <http://www.epa.gov/region07/programs/artd/air/rules/missouri/chap6.htm>.

Both states' maintenance plans for the St. Louis ozone nonattainment area and the 15 percent ROP plans for the area document expected additional VOC and NO_x emissions due to major source growth. Where possible, the states specifically identified the emission increases expected by source category. The emission growth estimates take into account the allowable emissions increases expected to result for each source category. As such, EPA believes the states have complied with the requirement for the identification and quantification of allowable emissions due to major new or modified stationary sources.

(5) Other Emission Control Measures Illinois

Illinois' maintenance plan for the St. Louis area indicates emission control measures which will maintain the 1-hour ozone standard until 2014. In addition, the state's 15 percent ROP plan identifies sufficient emission controls to achieve the required rate of progress (*see* EPA's approval of Illinois' ROP plan at 62 FR 37494, July 14, 1997).

³ The RFP requirements in section 182(c)(2)(B), relating to RFP for serious nonattainment areas, are not yet due (as explained elsewhere, they would be due within a year after the reclassification), and, in any event, are not applicable requirements for the reasons stated above.

Missouri

Missouri's maintenance plan for the St. Louis area indicates emission control measures which will maintain the 1-hour ozone standard until 2014. In addition, the State's 15 percent ROP plan identifies sufficient emission controls to achieve the required rate of progress (*see* EPA's approval of Missouri's ROP plan at 65 FR 31485, May 18, 2000).

(6) Contingency Measures

In the June 26, 2001, rulemaking, EPA found that both states had met their obligations to have contingency measures in the event of failure to attain the 1-hour standard. Although that finding was not challenged, the finding was vacated in the *Sierra Club* decision. However, because the area has now attained the standard, and for the reasons described previously, the relevant contingency measures are those necessary to maintain the standard. The contingency measures are identified below, and a more detailed discussion is included under the discussion of the maintenance plan, in Criterion 4, below.

Illinois

Illinois' ozone redesignation request for the St. Louis area contains a contingency plan for the area that will result in the adoption and implementation of contingency measures as needed to maintain the ozone standard in the St. Louis area.

Missouri

Missouri's ozone redesignation request for the St. Louis area contains a contingency plan for the area that will result in the adoption and implementation of contingency measures as needed to maintain the ozone standard in the St. Louis area.

e. Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. of the Federal Transit Act (“transportation conformity”), as well as to all other Federally supported or funded projects (“general conformity”). Section 176 further provides that state conformity revisions must be consistent with Federal conformity regulations that the CAA required the EPA to promulgate.

EPA believes it is reasonable to interpret the conformity requirements as

not applying for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Second, the EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally approved state rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. *See, Wall v. EPA*, 265 F. 3d 426, 439 (6th Cir. 2001) upholding this interpretation.

Illinois

The State of Illinois has fully adopted general conformity procedures, approved by the EPA on December 23, 1997 (62 FR 67000). The State does not have fully adopted and approved transportation conformity procedures in the SIP. For the reasons stated above, EPA believes the adoption of conformity rules is not a prerequisite for redesignation. For the Illinois portion of the area, the Federal conformity rules continue to apply.

Missouri

The State of Missouri has adopted general conformity procedures found at 10 CSR 10–6.300, approved by EPA on May 14, 1997 (62 FR 26395), and has adopted transportation conformity procedures found at 10 CSR 10–5.480, approved by EPA on September 5, 1997 (62 FR 46880), corrected on February 10, 1998 (63 FR 6645).

f. Subpart 2 Section 182 Requirements

For purposes of this redesignation, the part D, subpart 2, section 182 (a) and (b) requirements for a nonattainment area apply to the St. Louis area.

g. Attainment Demonstration

Section 182(b)(1) of the CAA requires an attainment demonstration that provides specific annual reductions in emissions necessary to attain the NAAQS by the attainment date. Section 182(j) provides additional requirements for multistate areas.

EPA approved Missouri's and Illinois' attainment demonstrations in the June 26, 2001, rulemaking (66 FR 33996). This rulemaking was vacated in the

November 25, 2002, U.S. Court of Appeals for the Seventh Circuit (Court) decision in the *Sierra Club* case (311 F. 3d 853, 862). The Court vacated the rulemaking based on EPA's granting of an attainment date extension for the area, which the Court found unlawful. In its petition, the Sierra Club raised other objections to the rulemaking, including EPA's approval of the attainment demonstration. The Court stated that it would not reach these other issues, and that it expressed no opinion on them. *Id.* However, because the Court vacated the entire rule, the area does not have an approved attainment demonstration.

Although the approval of the attainment demonstration for the St. Louis area has been vacated, for the reasons discussed previously, EPA believes that the attainment demonstration requirement under Section 182(b)(1) and 182(j) is no longer applicable provided the area continues to attain the 1-hour ozone NAAQS. This conclusion is based upon the monitored attainment with the NAAQS. EPA believes that upon monitoring attainment, there is no need for an area to take further action regarding additional measures to achieve attainment. This is consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I. EPA stated in the Preamble no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since "attainment will have been reached" (57 FR 13564). Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A. (See also, the proposal on Cincinnati-Hamilton, discussed previously in Section I.F.2 of this proposal, 65 FR 3630, 3631–32.)

h. 1990 Base Year Inventory and Periodic Emissions Inventories Updates Illinois

Illinois has submitted a complete and accurate 1990 emissions inventory for VOC and NO_x for the Metro-East area as noted in EPA's final approval of the emissions inventory on March 14, 1995 (60 FR 13631). The 1990 emissions inventory has formed the basic emissions input for the State's ROP plan.

Illinois has submitted updated versions of the emissions inventories for 1996 and 2000.

Missouri

Missouri submitted a complete and accurate 1990 emissions inventory of VOC and NO_x for the St. Louis area as noted in EPA's final approval of the emissions inventory on February 17, 2000 (65 FR 8060).

Missouri submitted updated versions of the emissions inventories for 1996 as part of the ROP plan approved on May 18, 2000 (65 FR 31485), and for 2000 as part of the redesignation request submitted on December 6, 2002.

i. Emissions Statement Requirements Illinois

As noted in the following EPA web site for adopted SIP revisions, Illinois' SIP includes regulations requiring annual emissions statements from major sources. The Web site is: <http://www.epa.gov/region5/air/sips/sips.htm>

Missouri

As noted in the following EPA web site for adopted SIP revisions, Missouri's SIP includes regulations requiring annual emissions statements from major sources. The Web site is: <http://www.epa.gov/region07/programs/artd/air/rules/missouri/chap6.htm>.

Missouri's requirements to submit annual emissions statements from major sources can be found at the above web site at 10 CSR 10–6.110.

j. 15 Percent Rate-Of-Progress Plan Requirements

Section 182(b)(1) of the CAA requires the submission of a 15 percent Rate-Of-Progress (ROP) plan. This plan is to provide for VOC emission reductions in the nonattainment area of at least 15 percent, from the 1990 baseline emissions levels, by no later than November 15, 1996. A discussion of the extent to which the requirement is applicable to an area monitoring attainment of the standard is included above. We note that the Missouri and Illinois SIPs contain these provisions as indicated below.

Illinois

In November 1994 the IEPA submitted a 15 percent ROP plan for the control of VOC emissions in the Metro-East area. This ROP plan was supplemented by the state through a submittal on January 31, 1995. The ROP plan, as supplemented, was approved by the EPA in a final rulemaking on July 14, 1997 (62 FR 37494).

Missouri

In 1995 MDNR submitted a 15 percent ROP plan for the control of VOC emissions in the St. Louis area. On

March 18, 1996, EPA proposed a limited approval of the ROP plan (61 FR 10968). On November 12, 1999, MDNR submitted a revised ROP. The revised ROP plan was approved by the EPA in a final rulemaking on May 18, 2000 (65 FR 31485). EPA's approval of the Missouri ROP was upheld in *Sierra Club v. EPA*, 252 F.3d 943 (8th Cir. 2001).

k. VOC RACT Requirements

Sections 172(c) of the CAA specifies that SIPs must provide for the implementation of all Reasonably Available Control Measures (RACM) including all Reasonably Available Control Technology (RACT) as expeditiously as practicable to attain the NAAQS. At a minimum, the SIPs must require the implementation of RACT for two classes of VOC sources. The VOC source classes are: (a) All sources covered by a Control Techniques Guideline (CTG) document issued by the Administrator by the date of attainment of the ozone standard; and (b) all other major non-CTG stationary sources.

Illinois

The Illinois redesignation request, submitted on December 30, 2002, shows that Illinois has adopted and implemented all required VOC RACT rules. EPA, through a number of rulemakings, has approved RACT rules for Illinois fully meeting the VOC RACT requirements of the CAA. The contents of these RACT rules and EPA's rulemakings approving these RACT rules are documented at the following EPA Web site: <http://www.epa.gov/region5/air/sips/sips.htm>.

Missouri

The Missouri redesignation request, submitted on December 6, 2002, shows that Missouri has adopted and implemented all required VOC RACT rules. EPA, through a number of rulemakings, has approved RACT rules for Missouri fully meeting the RACT requirements of the CAA. The contents of these RACT rules and EPA's rulemakings approving these RACT rules are documented at the following EPA Web site: <http://www.epa.gov/region07/programs/artd/air/rules/missouri/chap5.htm>.

l. RACM

On April 19, 2001, EPA proposed to approve Illinois' and Missouri's SIPs for the St. Louis area as meeting the RACM requirements of the CAA (66 FR 20122). The approval of the Illinois and Missouri SIPs as meeting the RACM requirements of the CAA was finalized on June 26, 2001 (66 FR 33996). As

explained previously, the June 26, 2001, rule was vacated on November 25, 2002, by the Seventh Circuit in the *Sierra Club* case.

EPA believes that no additional RACM controls beyond what are already required in the SIP are necessary for redesignation to attainment. The General Preamble, April 16, 1992 (57 FR 13560), explains that section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of RACM as expeditiously as practicable. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement those measures that are reasonably available and necessary to attain as expeditiously as practicable. However, measures need not be adopted, and would not be considered RACM, if they would not accelerate attainment (see 57 FR 13498, 13560). Because attainment has been achieved, no additional measures are needed to provide for attainment.

The suspension of the attainment demonstration requirements pursuant to our determination of attainment include the section 172(c)(1) RACM requirements as well. The General Preamble treats the RACM requirements as a "component" of an area's attainment demonstration. Thus, the suspension of the attainment demonstration requirement pursuant to our determination of attainment applies to the RACM requirement, since it is a component of the attainment demonstration.

m. Stage II Vapor Recovery Requirements

Section 182(b)(3) of the CAA requires states to submit Stage II vapor recovery rules.

Illinois

The Stage II vapor recovery regulations for the Metro-East area were originally found in Illinois Administrative Code, Title 35: Environmental Protection; subtitle B: Air Pollution, chapter I: Pollution Control Board, part 219: Organic Material Standards and Limitations for the Metro-East Area; subpart Y: Gasoline Distribution; section 219.583: Gasoline Dispensing Facilities—Storage Tank Filling Operations, and section 219.586: Gasoline Dispensing Facilities—Motor Vehicle Fueling Operations. EPA approved the incorporation of these regulations into the Illinois SIP on January 12, 1993 (58 FR 3841).

Section 202(a)(6) of the CAA provides that Stage II vapor recovery regulations are not required in moderate ozone

nonattainment areas if EPA promulgates On-Board Vapor Recovery (OBVR) regulations for vehicles. EPA promulgated such regulations on April 6, 1994 (59 FR 16262), which became effective on May 6, 1994.

Pursuant to section 202 of the CAA, the State of Illinois repealed the Stage II vapor recovery regulations for the Metro-East area and requested a SIP revision to remove these regulations from the SIP. EPA approved the removal of these regulations from the SIP on December 16, 1994 (59 FR 64853). Therefore, the Metro-East area has no Stage II vapor recovery regulations currently in place in the SIP, and is not required to have such regulations by virtue of section 202(a)(6) of the CAA.

Missouri

Missouri established a Stage II vapor recovery program in the 1970s and has revised the program periodically. On May 18, 2000 (65 FR 31489), EPA approved into Missouri's SIP the most recent revisions to the state rule entitled "Control of Petroleum Liquid Storage, Loading, and Transfer" (10 CSR 10–5.220). This rule fully adopts and implements the Stage II vapor recovery requirements in Missouri.

n. Vehicle Inspection/Maintenance (I/M) Requirements

Section 182(b)(4) and EPA's final I/M regulations in 40 CFR part 51, subpart S require the states to submit a fully adopted I/M program.

Illinois

EPA approved an enhanced vehicle I/M program for the Metro-East area as part of the Illinois SIP on February 22, 1999 (64 FR 8517). This revision to the SIP became effective on April 23, 1999.

Missouri

EPA approved Missouri's I/M program on May 18, 2000 (65 FR 31480). It can be found at 10 CSR 10–5.380.

In April 2000, Missouri began testing vehicles under its SIP approved I/M program. In April 2001, EPA published revised I/M program requirements including the use of on-board diagnostics (OBD) testing. These rules are found at 40 CFR part 85. The use of OBD testing was to begin January 1, 2002.

Under EPA's new OBD rule, states were given the opportunity to request an extension of one year to implement the OBD testing. If requested, a state could delay implementation of OBD testing until January 1, 2003. In a letter dated January 10, 2002, the MDNR stated its intent to implement OBD testing but requested to delay implementation of

OBD testing along with incorporating a phase-in period. In this letter, MDNR requested a one-year delay in implementing the OBD testing, along with a two-year phase-in period. Under MDNR's request, full implementation of the OBD testing will not occur until January 1, 2005.

In August 2002, Missouri revised its state rule incorporating the requested delay and phase-in period. The new state rule requires OBD testing to begin January 1, 2003, but allows for the use of the transient emissions test only, for the retest, if a vehicle fails the initial OBD emissions test during the two-year phase-in period. EPA's rule requires an OBD test for the retest during the phase-in period.

In a separate proposed rulemaking in this **Federal Register**, EPA is proposing to modify Missouri's SIP by approving revisions to the state's Motor Vehicle Emission Inspection rule found at 10 CSR 10-5.380. A detailed discussion of the revision and EPA's rationale for approval can be found in that proposal.

The regulation at 40 CFR 51.372(c) states, in part, that a redesignation request for any nonattainment area that would qualify for redesignation to attainment shall receive full approval of a SIP submittal if the submittal contains legal authority to implement an I/M program, the inclusion of an I/M upgrade into the contingency measures portion of the maintenance plan, and a contingency commitment that includes the legal authority and an enforceable commitment and schedule for adoption and implementation of the OBD program.

Pursuant to the provisions of 40 CFR 51.372(c), by incorporating the OBD testing program as a contingency into the maintenance plan (the OBD testing program is the I/M upgrade required by EPA's new OBD rule), and by meeting the other requirements specified in 40 CFR 51.372(c), the SIP can receive full approval.

The maintenance plan submitted by Missouri contains the OBD testing program, consistent with EPA's OBD rule, as a contingency measure in the maintenance plan. It also contains a demonstration of legal authority to adopt the program, and a schedule for adoption with appropriate milestones. EPA believes the submission meets the requirement of 40 CFR 51.372(c). A more detailed discussion of the rule is contained in EPA's proposed rule on the I/M revisions for Missouri elsewhere in this **Federal Register**. Thus, upon completion of the accompanying rulemaking approving Missouri's I/M rule into the SIP, EPA believes that the Missouri SIP for the St. Louis 1-hour

ozone nonattainment area will satisfy all of the Section 182(b)(4) requirements of the CAA. Note, however, that EPA will not approve the redesignation request unless it takes final action to approve the I/M SIP revision.

o. NO_x Emission Control Requirements

Section 182(f) establishes NO_x requirements for ozone nonattainment areas which require the same provisions for major stationary sources of NO_x as apply to major stationary sources of VOCs. One of the requirements for major sources of VOCs is RACT. However, section 182(f) also provides that these requirements do not apply to an area if the Administrator determines that NO_x reductions would not contribute to attainment.

Illinois

As part of the June 26, 2001, rulemaking (66 FR 33996) regarding the St. Louis ozone nonattainment area, EPA granted a waiver to the state of Illinois from the section 182(f) requirements for NO_x RACT. The basis for the waiver was that Illinois demonstrated that additional NO_x emission controls in the Metro-East area would not contribute to the attainment of the 1-hour ozone standard in the area. EPA concluded that the area would achieve the 1-hour ozone standard without these additional NO_x emission controls. This conclusion was not challenged in the *Sierra Club* case and was not addressed by the Court. However, the grant of the waiver was vacated as part of the Court's action on the June 26, 2001, rule.

EPA's policy on the NO_x RACT requirements for areas which qualify for redesignation is stated in the September 17, 1993, memorandum from Michael H. Shapiro, referenced previously. The memorandum states that additional NO_x reductions would not contribute to attainment if attainment is already being monitored, but that such reductions might contribute to maintenance. Therefore, EPA stated that it could allow an exemption from the section 182(f) NO_x requirement, in the absence of a modeling demonstration, if the maintenance plan contains NO_x RACT as a contingency measure.

The EPA is reproposing to approve Illinois' request for an exemption from the NO_x RACT requirement. This proposal is based on the area attaining the 1-hour ozone NAAQS. Illinois has included NO_x RACT as a contingency measure in its maintenance plan. Therefore, EPA believes that it can exempt the Illinois portion of the St. Louis area from the section 182(f) requirements. If EPA finalizes this

exemption as proposed, and finalizes the redesignation as proposed, all controls previously adopted by Illinois must continue to be implemented, but no additional NO_x RACT measures would be required. However, if there is a violation of the ozone NAAQS in any portion of the St. Louis area, Illinois would be required to evaluate, and if appropriate, implement additional NO_x controls to address the violation.

Missouri

On May 18, 2000 (65 FR 31482), EPA approved Missouri's NO_x RACT rule into the SIP. This rule can be found at 10. CSR 10-5.510 and imposes RACT requirements for major sources of NO_x emissions. This rule meets the Section 182(f) requirements for the Missouri portion of the St. Louis area.

Based on the analysis described above, EPA believes the area meets the requirements for redesignation in Section 107(d)(3)(E)(ii) and (v).

3. Criterion (3): The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions

The improvement in air quality must be due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state-adopted measures.

a. Emission Controls

EPA believes that the states have demonstrated that the observed air quality improvements are due to the implementation of permanent and enforceable emission reductions through the implementation of emission controls contained in their SIPs.

Illinois

Subsequent to the 1990 CAA amendments, Illinois implemented a number of emission controls. The area has complied with all of the emission requirements for a moderate ozone nonattainment area as required by the CAA.

Some of the emission reductions were achieved through the implementation of a 15 percent ROP plan, approved by EPA on December 18, 1997 (62 FR 66279). The 15 percent ROP plan produced a VOC emission reduction of 38.1 tons per day in the Metro-East area, and included both Federal and state emission control measures, including the use of low volatility gasoline, more stringent Tier I motor vehicle emission standards, implementation of a more stringent vehicle inspection and maintenance (I/M) program, controls on area sources, and the adoption of tighter emissions limits on existing stationary

sources. Some of the specific state emission control measures included in the 15 percent ROP plan are:

- Basic I/M for Motor Vehicles
- Transportation Control Measures (TCMs)
- Low-Volatility (low Reid Vapor Pressure (RVP)) Gasoline
- Tightened Reasonably Available Control Technology (RACT) Standards for Some Source Categories
- RACT for Sources Covered By New Control Techniques Guidelines (CTGs)
- Architectural Surface Coating Standards
- Volatile Organic Liquids Storage Facility Controls
- Automobile Refinishing Operation Controls
- Marine Vessel Loading Emission Controls

All of the emission control measures contained in Illinois' 15 percent ROP plan have been fully adopted, have been implemented, and are enforceable in the Metro-East area.

Illinois has adopted and implemented emission control rules requiring existing sources of VOC to meet, at minimum, RACT. These requirements apply to sources in categories covered by CTGs and other major non-CTG sources. Some of these RACT emission controls were achieved in addition to the RACT controls reflected in the 15 percent ROP plan.

The stationary NO_x source emission reductions in Illinois are primarily due to the implementation of acid rain emission controls implemented in compliance with Title IV of the CAA.

Missouri

MDNR explained that some of the VOC emission reductions were due to the implementation of Missouri's 15 percent ROP plan, including its implementation of a centralized motor vehicle inspection and maintenance program and stationary source controls. Additional reductions were due to tighter Federal standards for new vehicles, and some were due to requirements for reformulated and low RVP gasoline for motor vehicles. In addition, Title IV of the CAA resulted in reduced NO_x emissions from utility sources.

b. Meteorological Conditions

In addition to identifying the controls which have led to emission reductions and air quality improvements, both Illinois and Missouri have evaluated whether ozone air quality improvements in the St. Louis area could be

attributable to favorable meteorological conditions, by comparing the trend of 1-hour ozone design values⁴ to the number of ozone conducive days⁵ that have occurred annually from 1989 to the present. While ozone design values trended significantly downward from 1989 to the present, the number of ozone conducive days, which varied from year-to-year, showed no significant trend over the period studied. Therefore, EPA believes that concentration is not due to changes in meteorology. EPA believes that reductions in emissions due to regulatory control programs have led to the improvement in ozone air quality.

Illinois

The IEPA assessed the changes in VOC and NO_x emissions in the Metro-East area for 1990 and 2000 (the first year of the three year attainment period). The 1990 emissions are the base year emissions taken from an inventory approved by EPA on September 13, 1994 (59 FR 46920). To derive the 2000 emissions, the IEPA used a 1999 update to the emissions inventory. Emissions documented in this emissions inventory were grown to 2000 to derive the 2000 attainment year emissions. Point source emissions were grown using EPA's EGAS model. Area source emissions were grown using source activity levels (indicators, such as population, source sector employment, etc.) appropriate for each source category grown to the 2000 levels and applied using appropriate source emission factors. On-road mobile source emissions for 2000 were calculated using EPA's MOBILE6 emissions model and 1999 Vehicle Miles Traveled (VMT) data grown to 2000 assuming a 2 percent per year growth rate. On-road mobile source emissions for 1990 were calculated using EPA's MOBILE6 emissions model. Off-road emissions were grown to 2000 using source sector activity levels and growth factors employed in the 1999 periodic emissions inventory update.

⁴ An ozone design value is the fourth highest daily peak 1-hour ozone concentration at the worst-case ozone monitor for a given three-year period.

⁵ The IEPA and the MDNR have analyzed ozone concentrations and meteorological conditions in the St. Louis area, and have found that peak ozone concentrations are highly dependent on certain meteorological conditions. Days are judged to be conducive to high ozone concentrations if the following conditions simultaneously exist:

- Maximum temperatures greater than 85 degrees Fahrenheit
- Wind speeds less than 10 miles per hour
- Solar insolation greater than 500 Langleys
- Little or no precipitation
- Southerly wind directions.

The table below documents the 1990 and 2000 VOC and NO_x emissions in the Metro-East area.

1990 AND 2000 METRO-EAST AREA VOC AND NO_x EMISSIONS

[Emissions in tons per ozone season
weekday]

Source category	VOC	NO _x
1990		
Point Sources	74.05	95.85
Area Sources	33.84	1.66
On-Road Mobile Sources	43.27	45.13
Off-Road Mobile Sources	23.49	23.99
1990 Totals	174.65	166.63
2000		
Point Sources	17.91	61.91
Area Sources	28.32	1.18
On-Road Mobile Sources	26.57	54.71
Off-Road Mobile Sources	21.31	23.85
2000 Totals	94.11	141.64

It can be seen that both the VOC emissions and NO_x emissions have decreased in the Metro-East area between 1990 and 2000. The IEPA notes that these emission decreases are primarily due to the application of permanent and enforceable emission controls, and that these emission controls have contributed to the ozone air quality emission improvement in the St. Louis area.

Missouri

Similar to Illinois, Missouri compared VOC and NO_x emissions in 1990 (the base year emissions inventory) to those in 2000 (the attainment year emissions inventory). The 2000 emissions were derived by growing the 1999 periodic emissions inventory emissions. The 1999 periodic emissions inventory and source growth parameters are documented in the state's redesignation request. MDNR developed the 1990 on-road emissions using EPA's MOBILE5b emissions model. For purposes of comparison, MDNR included in the redesignation request, 2000 on-road emissions developed using EPA's MOBILE5b emissions model and MOBILE6 emissions model. Note that the discussion below only includes the 2000 on-road mobile emissions derived from using the MOBILE6 emissions model.

The following table presents the 1990 and 2000 VOC and NO_x emissions for the Missouri portion of the St. Louis ozone nonattainment area.

1990 AND 2000 MISSOURI PORTION OF THE ST. LOUIS NONATTAINMENT AREA VOC AND NO_x EMISSIONS

[Emissions in tons per ozone season
weekday]

Source category	VOC	NO _x
1990		
Point Sources	81.97	347.61
Area Sources	87.74	29.47
On-Road Mobile Sources	135.42	135.00
Off-Road Mobile Sources	64.30	114.32
1990 Totals	369.43	626.40
2000		
Point Sources	46.59	165.96
Area Sources	57.38	32.27
On-Road Mobile Sources	103.79	181.75
Off-Road Mobile Sources	40.59	73.16
2000 Totals	248.35	453.14

As can be seen from the above table, both the VOC and the NO_x emissions in the Missouri portion of the St. Louis ozone nonattainment area have been significantly reduced between 1990 and 2000 (VOC emissions have been reduced by 121 tons per day and NO_x emissions have been reduced by 173 tons per day). These emission reductions are primarily due to the implementation of permanent and enforceable emission controls and are primarily responsible for the observed improvement in ozone air quality in the area.

The states have demonstrated that the implementation of permanent and enforceable emission controls have reduced local VOC and NO_x emissions. The states have also demonstrated that year-to-year meteorological changes and trends are not the likely source of the overall, long-term improvement in ozone levels. EPA believes that emission reductions are the cause of the long-term improvement in ozone levels, and are the cause of the area achieving attainment of the ozone standard.

4. Criterion (4): The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision that provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The Calcagni memorandum dated September 4, 1992, provides additional guidance on the required content of a maintenance plan. An ozone maintenance plan should address the following five areas: the attainment emissions inventory,

maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The attainment emissions inventory identifies the emissions level in the area that is sufficient to attain the 1-hour ozone NAAQS, based on emissions during a three-year period which had no monitored violations. Maintenance is demonstrated by showing that future emissions will not exceed the level established by the attainment inventory. The "attainment inventory" approach to demonstrating maintenance was upheld in *Wall v. EPA*, 426 F. 3d at 435–37. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The state must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include a list of potential contingency measures which ensure prompt correction of any violation of the 1-hour ozone NAAQS.

a. Attainment Emissions Inventory

Both Illinois and Missouri selected 2000 as "the attainment year" for purposes of demonstrating attainment of the 1-hour ozone NAAQS.

The projected 2000 VOC and NO_x emissions for the St. Louis area are summarized in the table above.

b. Maintenance Demonstration

To demonstrate maintenance of the ozone standard through a ten-year maintenance period, both Illinois and Missouri projected VOC and NO_x emissions for the St. Louis area to 2007 and 2014 and compared these projected emissions to the 2000 attainment year emissions. The 2007 emission estimates were generated to test a midpoint in the ten-year maintenance period.

The following tables summarize the VOC and NO_x emission estimates for the St. Louis area for 2000, 2007, and 2014 periods.

ILLINOIS 2000, 2007, AND 2014 METRO-EAST AREA VOC AND NO_x EMISSIONS

[Emissions in tons per ozone season
weekday]

Source category	VOC	NO _x
2000		
Point Sources	17.91	61.91
Area Sources	28.32	1.18
On-Road Mobile Sources	26.57	54.71
Off-Road Mobile Sources	21.31	23.85
2000 Totals	94.11	141.64
2007		
Point Sources	21.19	54.34
Area Sources	28.07	1.24
On-Road Mobile Sources	16.31	36.87

ILLINOIS 2000, 2007, AND 2014 METRO-EAST AREA VOC AND NO_x EMISSIONS—Continued

[Emissions in tons per ozone season
weekday]

Source category	VOC	NO _x
Off-Road Mobile Sources	16.04	19.07
2007 Totals	81.61	111.52
2014		
Point Sources	24.49	62.13
Area Sources	28.10	1.29
On-Road Mobile Sources	10.13	18.72
Off-Road Mobile Sources	13.26	14.54
2014 Totals	75.98	96.67

MISSOURI 2000, 2007, AND 2014 ST. LOUIS AREA VOC AND NO_x EMIS- SIONS

[Emissions in tons per ozone season
weekday]

Source category	VOC	NO _x
2000		
Point Sources	46.59	165.96
Area Sources	57.38	32.27
On-Road Mobile Sources (MOBILE6-based esti- mates)	103.79	181.75
Off-Road Mobile Sources	40.59	73.16
2000 Totals	248.35	453.14
2007		
Point Sources	47.72	149.5
Area Sources	57.19	34.12
On-Road Mobile Sources	74.46	130.55
Off-Road Mobile Sources	27.91	66.01
2007 Totals	207.28	380.18
2014		
Point Sources	51.73	154.57
Area Sources	59.42	35.58
On-Road Mobile Sources	47.14	68.59
Off-Road Mobile Sources	24.28	58.84
2014 Totals	182.57	317.58

c. Monitoring Network

Missouri and Illinois have addressed the maintenance plan requirements for monitoring and emissions inventories. Both have committed to continue the operation of the monitors in the area in accordance with 40 CFR part 58.

d. Verification of Continued Attainment

Both the states of Illinois and Missouri have the legal authority to implement and enforce the requirements of the ozone maintenance plan. This includes the authority to adopt, implement, and enforce any subsequent emission control contingency measures determined to be necessary to correct future ozone attainment problems.

To implement the ozone maintenance plan, the states will continue to monitor ozone levels in the St. Louis area. The states also committed to update the emissions inventory for the St. Louis area every three years for the duration of the maintenance plan. The ozone monitoring data and the updated emissions inventories will be used through the states' contingency plan to assure maintenance of the 1-hour ozone standard.

e. Contingency Plan

The contingency plan portion of each state's maintenance plans delineate the states' planned actions in the event of future 1-hour ozone standard violations, increasing ozone levels threatening a subsequent violation of the ozone standard, and unanticipated increases in ozone precursor emissions threatening a subsequent violation of the ozone standard. Illinois and Missouri have prepared similar and compatible contingency plans, with some differences in the possible emission control contingency measures list selected for each state. The states have developed contingency plans with several levels of triggered actions depending on whether the ozone standard has actually been violated after the redesignation of the area to attainment or whether a subsequent violation of the ozone standard is threatened on the basis of increased ozone concentrations approaching the standard or unanticipated significant increases in ozone precursor emissions. Each state has also committed to continue to implement all control measures included in the SIP prior to redesignation consistent with section 175A(d) of the CAA.

The action trigger levels and planned corrective actions in each contingency plan are the following:

A Level I Trigger will be exceeded if: (1) The monitored ambient ozone levels exceed 124 parts per billion, one-hour averaged, more than once per year at any monitoring site in the St. Louis ozone nonattainment area (the current St. Louis ozone nonattainment area), or more than two exceedances in any two- or three-year period; or (2) the St. Louis maintenance area's VOC or NO_x emissions for 2005 or 2008 increase more than 5 percent above the 2000 attainment levels. In the event one of these action trigger levels are exceeded, Illinois and Missouri will work together to evaluate the situation and determine if adverse emissions trends are likely to continue. If so, the states will determine what and where emission controls may be required to avoid a violation of the 1-hour ozone NAAQS. A study shall be

completed within nine months of the determination of the action trigger exceedance.

A Level II Trigger will be exceeded if a violation of the 1-hour ozone NAAQS at any monitoring site in the St. Louis ozone maintenance area is recorded after the area is redesignated to attainment of the standard. If this trigger is exceeded, Illinois and Missouri will work together to conduct a thorough analysis to determine appropriate measures, from those listed below, to address the cause of the ozone standard violation.

Missouri

The contingency plan for Missouri lists a number of possible contingency measures. The plan calls for the appropriate contingency measures to be adopted and implemented within 18 months of a Level I or Level II trigger being exceeded. The list of possible contingency measures in Missouri's contingency plan include the following:

- Point Source Measures—
- NO_x SIP Call Phase II (non-utility)
- Apply RACT to smaller existing sources
- Tighten RACT for existing sources covered by EPA Control Techniques Guidelines
- Expanded geographic coverage of current point source measures
- Maximum Available Control Technology for industrial sources
- New source offsets and Lowest Achievable Emission Rates
- Other measures to be identified
- Mobile Source Measures—
- Transportation Control Measures, including, but not limited to, area-wide rideshare programs, telecommuting, transit improvements, and traffic flow improvements.
- High Enhanced I/M (OBDII)
- California Engine Standards
- Other measures to be identified
- Area Source Measures—
- California Architectural/Industrial Maintenance (AIM)
- California Commercial and Consumer Products
- Broader geographic applicability of existing measures
- California Off-road Engine Standards
- Other measures to be identified

Illinois

The contingency plan for Illinois lists a number of possible contingency measures. The plan calls for the appropriate contingency measures to be adopted no later than 18 months of a Level I or Level II trigger being exceeded. The list of possible contingency measures in Illinois' contingency plan include the following:

Point Source Measures—

- NO_x SIP call Phase II (non-utility measures)
- Reinstatement of requirements for new source offsets and/or Lowest Achievable Emission Rates
- Apply RACT to smaller existing sources
- Tighten RACT for existing sources covered by Control Techniques Guidelines
- NO_x RACT
- Expand geographic coverage of current point source emission control measures
- Apply Maximum Available Control Technology for industrial sources
- Other point source measures to be identified

Mobile Source Measures —

- Transportation Control Measures, including, but not limited to, area-wide rideshare programs, telecommuting, transit improvements, and traffic flow improvements
- High-enhanced vehicle inspection/maintenance (OBDII)
- California engine standards
- Other mobile source measures to be identified

Area Source Measures—

- California architectural/industrial maintenance coating emission controls
- California commercial and consumer products coating emission controls
- Broader geographic applicability of existing emission control measures
- California off-road engine standards
- Other area source measures to be identified

Missouri's and Illinois' submittals adequately address the five basic components which comprise a maintenance plan (attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan) and, therefore, satisfy the maintenance plan requirement.

f. Motor Vehicle Emissions Budgets

In addition to meeting the criteria for redesignation, as a control strategy SIP, the maintenance plans must contain motor vehicle emissions budgets that, in conjunction with emissions from all other sources, are consistent with attainment and maintenance. Illinois and Missouri developed MVEBs for the maintenance plan year of 2014. The MVEBs are for both VOC and NO_x, as precursors to ozone formation, and would be applicable for the St. Louis area upon the effective date of a MVEB adequacy finding.

A motor vehicle emissions budget is the total allowable VOC and NO_x

emissions allocated to highway and transit vehicle use during the maintenance period (highway and transit vehicle use emissions impacted by transportation plans would be projected to 2014 and tested against the 2014 motor vehicle emissions budget). The rules and requirements governing transportation conformity require certain transportation activities to be consistent with the motor vehicle emissions budgets contained in emission control SIPs (40 CFR 93.118). The projected emissions resulting from the transportation activities must be less than or equal to the emissions budget levels (40 CFR 93.118(a)). The review of the transportation plan impacts relative to the emissions budget will occur after EPA declares that the emissions budget meets the adequacy criteria of the transportation conformity rule under 40 CFR 93.118(e).

The motor vehicle emissions budgets for the St. Louis area were developed using emission factors generated through the use of EPA's MOBILE6 model. Inputs into this model were developed through coordinated efforts and review of a workgroup formed by representatives of the IEPA, MDNR, East-West Gateway Coordinating Council, Missouri Department of Transportation, Illinois Department of Transportation, and EPA.

EPA is proposing to find the MVEBs included in Missouri's and Illinois' maintenance plans adequate and is proposing to approve these budgets for conformity purposes. EPA believes that the MVEBs submitted by each state are consistent with the control measures identified in each SIP, and that each SIP, as a whole, demonstrates maintenance with the 1-hour ozone standard.

The 2014 motor vehicle emission budgets included in the states' maintenance plans are summarized in the table below:

**ST. LOUIS AREA 2014 MOTOR
VEHICLE EMISSION BUDGETS**

[Emissions in tons per ozone season
weekday]

State	VOC	NO _x
Illinois	10.13	18.72
Missouri	47.14	68.59

**G. Where Is the Public Record and
Where Do I Send Comments?**

The official record for this proposed rule is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. Public comments are solicited on EPA's proposed rulemaking action. Public comments received by March 3, 2003, will be considered in the development of EPA's final rulemaking action.

**II. Statutory and Executive Order
Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

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

Dated: January 13, 2003.

James Gulliford,

Regional Administrator, Region 7.

Dated: January 16, 2003.

Thomas V. Skinner,

Regional Administrator, Region 5.

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