

Monitoring data collected in a calendar quarter can be quality assured and entered into AIRS at any time prior to 90 days after the end of that quarter.

The monitoring data is quality assured and entered into AIRS by the state and local agencies in the St. Louis area. The regulation at 40 CFR 58.20 requires states to adopt and submit to EPA revisions to the SIP which provide for meeting the requirements of appendix A. On September 27, 1984 (49 FR 38103), EPA approved Missouri's Air Quality Monitoring Plan. EPA stated in this September 27, 1984, rulemaking that "the Missouri Air Quality Monitoring Plan satisfies the requirements of 40 CFR 58.20." On March 4, 1981 (46 FR 15136), EPA approved Illinois' Air Quality Surveillance Plan. EPA stated in this March 4, 1981, rulemaking that EPA has reviewed the plan and "it meets the requirements of \* \* \* EPA regulations in 40 CFR part 58." As part of the September 27, 1984, and March 4, 1981, rulemakings the public was provided the opportunity to review and comment on Missouri's and Illinois' quality assurance procedures. Pursuant to the Calcagni memo, page 3, and upheld in *Wall v. EPA* (265 F.3d 426, 437), an EPA action on a redesignation request does not mean that earlier issues with regard to the SIP will be reopened. Thus, there is no requirement to present quality assurance procedures in this rulemaking.

In addition to Missouri's Air Quality Monitoring Plan and Illinois' Air Quality Surveillance Plan, EPA reviewed and approved the States' Quality Management Plans (QMP). Under the states' QMP, the state and local agencies conducting the ambient monitoring develop Quality Assurance Project Plans (QAPP). It is through the QMP and QAPP that EPA reviewed and approved the states' and local agencies' quality assurance procedures. In order to verify that the state and local agencies followed these procedures and that the data meets the data collection and quality assurance procedures of 40 CFR part 58, EPA conducted the actions listed in the response to comment 2 above.

*C. Comments Related to Criterion 2: The Area Must Have a Fully Approved SIP Under Section 110(k)*

*Comment 6:* The serious area SIP requirements of the CAA are applicable to the St. Louis area. These requirements have not been promulgated by the states and there is no "claim" that they could not have been submitted with the redesignation request. Thus, the SIPs are not "fully

approved." In addition, the Calcagni memo includes procedures suggested by EPA for reducing the stringency of the control measures to become part of the contingency measure. The states have not done these procedures.

*Response 6:* The SIP which is required to be "fully approved" under criterion 2 is the "applicable" implementation plan (section 107(d)(3)(E)(ii)). This section requires that the SIP must be "fully approved" under section 110(k) rather than partial, conditional, or limited approval (Calcagni memo, page 3). Section 107(d)(3)(E)(v) requires the SIP to include "all requirements applicable to the area under Section 110 and Part D." This comment relates to the issue of which requirements are "applicable," rather than whether the SIP is fully approved. The commenter asserts, without explanation, that the statute requires EPA to determine that the "serious" area requirements are applicable to its consideration of the redesignation request for the area. However, the CAA is not as prescriptive as the commenter assumes. (*See, Wall v. EPA*, 265 F.3d 426, 438 (6th Cir. 2001) which states: "The statute, however, does not describe how the EPA is to decide which Part D requirements are 'applicable' in evaluating a redesignation request.")

EPA has established a policy to provide guidance in determining how to apply the statutory criterion with respect to which requirements are applicable in reviewing a redesignation request. As stated in the January 30, 2003, proposed rule (page 4851), the September 4, 1992, Calcagni memo (*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. A detailed discussion of EPA's rationale for this interpretation is contained in the rule redesignating Detroit-Ann Arbor, 60 FR 12459, 12465–12466 (March 7, 1995). Pursuant to the January 30, 2003, final rule reclassifying the St. Louis area to "serious" (68 FR 4836), the serious nonattainment area requirements are due on January 30, 2004. The final rule has not been timely challenged under

section 307(b)(1) of the CAA. Thus, the serious nonattainment area requirements due date is January 30, 2004. Since the serious area requirements are not yet due, the SIP is not deficient because the serious area requirements have not been included. EPA policy and a reasonable application of sections 107(d)(3)(E)(ii) and (v) allow for an area to be redesignated even though the area has not adopted measures which are not yet due. EPA has consistently applied this policy and interpretation in other redesignations including the Detroit-Ann Arbor redesignation cited above.

In addition, there is no requirement in section 107(d)(3)(E) that states must "claim" (or demonstrate) that they could not have submitted the serious area SIP revisions or any additional revisions at the time of the redesignation requests, if those requirements are not applicable to the area when the request is made. EPA's action to reclassify the area to a serious nonattainment area was published in the **Federal Register** after both states had submitted their redesignation requests to attainment, and it established a deadline for submission of the serious area requirements which had not yet passed, and still remains in the future. Thus, Missouri was not required to include in its request a "claim" that the state cannot complete the serious area requirements.

Finally, the Calcagni memo discusses the statutory requirement that the state must implement all measures included in the SIP prior to redesignation (pages 12–13). (In response to comment 32, EPA discusses how this requirement has been met.) This requirement does not expand the universe of requirements which are "applicable" for purposes of redesignation. Unless the serious area requirements are applicable to an area, and already contained in a SIP prior to redesignation, the discussion in the Calcagni memo does not relate to the issue raised by the commenter.

Because the serious area requirements are not applicable requirements for St. Louis, for the reasons discussed above, and are not included in the SIP for St. Louis, the guidance in the Calcagni memo and in a memorandum entitled "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" dated September 17, 1993 (Shapiro memo), relating to mechanisms for converting part D measures into contingency measures is