

Illinois portion of the St. Louis area for EPA's response to this comment as it pertains to the Illinois portion of the St. Louis area.

The use of the phrase "can be considered to be approved" (see the January 30, 2003, proposed rule at 68 FR 4851, 4852) was merely a statement the SIPs will meet the section 110 requirements and as such "can be considered to be approved" if EPA were to approve certain plan elements, described in the proposed rulemakings. On January 30, 2003, EPA published two proposed rules found at 68 FR 4842 and 68 FR 4847. As part of these proposals, EPA proposed to approve revisions to Missouri's I/M rule. In today's **Federal Register**, EPA is taking final action approving Missouri's I/M rule. By taking these actions, EPA now concludes that Missouri's SIP is approved. The use of the quoted phrase was not intended to escape a statutory requirement. In fact, it recognized EPA's obligation to complete rulemakings in order to approve SIPs, and it recognized that EPA could not determine that the SIP was fully approved until it took final action to approve the remaining SIP elements. All of the SIP elements which are applicable to the St. Louis area for purposes of redesignation have either been approved in previous rulemakings (see response to comments 6, 7, 8, 13, 14, 15, and 16 for a discussion of these prior rulemakings) or are approved in rulemakings published today.

The proposed rule at 68 FR 4851 states that 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). 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's opinion 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 approved all SIP elements that are applicable to the St. Louis area and is determining that certain others are not applicable. This is not a "pseudo-approval" of the SIP elements, but a determination that because certain requirements (e.g., the attainment demonstration and RACM) are not applicable, they need not be approved. (See response to comment 8 for more discussion of the requirement for a fully approved SIP.) The applicable requirements which were approved prior to the June 26, 2001, action (e.g.,

VOC RACT, NO_x RACT, the ROP Plan) were subject to notice and comment rulemaking and judicial review. The measures approved today (the maintenance plan and contingency measures, MVEBs, I/M program revisions) have been subject to notice and comment rulemaking and EPA's action is subject to judicial review. EPA's determination that certain requirements are not applicable has been subject to notice and comment rulemaking and is subject to judicial review. The public has had full opportunity to comment on all of EPA's actions, as evidenced by the numerous comments submitted by the commenter. Therefore, EPA has not avoided any requirement for public comment or judicial review.

In acting upon a redesignation request, EPA may rely on any prior SIP approvals plus any additional approvals it may perform in conjunction with acting on the redesignation. EPA has already taken final action to approve all required SIP elements or is approving them in conjunction with this final action on the redesignation. Therefore, the St. Louis area has a fully approved SIP. See "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992, page 3 (Calcagni memo). The Calcagni memo allows for approval of SIP elements and redesignation to occur simultaneously, and EPA has frequently taken this approach in its redesignation actions. See (66 FR 53096) (Pittsburgh-Beaver Valley, Pennsylvania, October 19, 2001); (65 FR 37879) (Cincinnati-Hamilton, Ohio, June 19, 2000); (61 FR 20458) (Cleveland-Akron-Lorain, Ohio May 7, 1996); (60 FR 37366) (July 20, 1995), (61 FR 31832-31833) (June 21, 1996) (Grand Rapids, MI).

Comment 10: The SIPs fail to meet the section 110 requirements because the "inapplicable "moderate" area" requirements contained in the SIPs do not provide for implementation, maintenance, and enforcement of the NAAQS because modeling shows that the plan does not provide for attainment until 2004. Furthermore, Missouri has failed to meet the section 110(a)(2)(D) requirements related to the NO_x SIP call.

Response 10: EPA finds that the Missouri SIP meets the section 110 requirements. See the January 30, 2003, proposal and the responses to comments 8 and 9 for further discussion.

Submissions under the NO_x SIP call are not applicable requirements for purposes of evaluating a redesignation request.

At this time, Missouri is not subject to the NO_x SIP call. As explained in the proposal, EPA's determination that Missouri significantly contributes to downwind nonattainment was vacated by the Court of Appeals for the District of Columbia Circuit. EPA is not relying on a SIP to predict attainment but is relying on air quality monitoring data to show that the area has attained. With respect to the assertion that the area must have an approved attainment demonstration SIP in order to meet the requirements of section 110, EPA has addressed this issue in its response to comments on the lack of an approved attainment demonstration for the area. Section 110(a)(1) does not add any additional requirements for compliance with the NAAQS other than those included in section 172(c) and 182, and the commenter does not identify any specific additional requirements. See the responses to comments 3, 21, and 24 with respect to the assertion that the modeling for the area shows that it cannot attain until 2004.

The SIP call budget for Missouri was proposed on February 22, 2002 (67 FR 8396), but has not yet been finalized. For this reason alone, it is not an applicable requirement. In addition, the NO_x SIP call requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The NO_x SIP call submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state.

Thus, we do not agree that the NO_x SIP call submission should be construed to be an applicable requirement for purposes of redesignation. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174-53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati redesignation (65 FR 37890, June 19, 2000), and in the