

what the demonstration required in 40 CFR 51.112(a) must include. The Sixth Circuit in *Wall v. EPA* (265 F.3d 426, 435) determined that EPA's position that the regulation at 40 CFR 51.112(a) applies only to attainment demonstrations and not maintenance plans is "neither impermissible nor in conflict with a statutory mandate * * *". Moreover, EPA's actions are completely consistent with its own interpretive memorandum, which allows for NAAQS maintenance to be demonstrated by showing that the future emissions of a pollutant's precursors will not exceed the level that allowed the area to achieve attainment in the first place."

Lastly, the proposed rule at 68 FR 4858 states that projected emissions of NO_x in Illinois will be reduced from 141.64 to 96.67 tons per ozone season weekday from 2000 to 2014 and in Missouri, they will be reduced from 453.14 to 317.58 tons per ozone season weekday from 2000 to 2014. Projected emissions of VOCs in Illinois will be reduced from 94.11 to 75.98 tons per ozone season weekday from 2000 to 2014 and in Missouri, they will be reduced from 248.35 to 182.57 tons per ozone season weekday from 2000 to 2014. A "common sense" conclusion is that further emission reductions are projected to occur through 2014. Based on past trends of emissions decreases, reduced peak ozone levels will continue from 2000 to 2014. Further modeling would continue to demonstrate attainment. The commenter has not provided any data to indicate that these reductions in ozone precursors would lead to modeled increases in ozone concentrations.

Comment 24: EPA and the states have stated in testimony provided to courts and the public that maintenance of the NAAQS in 2003 is not possible. EPA and the states have stated that, due to upwind emissions, attainment of the NAAQS cannot be achieved until 2004. EPA's modeling demonstrates that it is not possible to assure that the NAAQS would be maintained in 2003.

Response 24: The Commenter uses the same arguments in this comment to state that the attainment of the NAAQS cannot be maintained as were used in comment 21 above to claim that the area cannot attain the NAAQS. See the response to comment 21 for further discussion.

EPA disagrees with the commenter's assertion that the modeling demonstrated it was impossible to maintain the standard in 2003. The purpose of the modeling is to predict the likelihood of attainment. EPA's approval of the states' attainment

demonstrations did not include a determination that attainment or maintenance of the standard prior to 2004 was impossible.

The commenter refers to documents submitted by EPA and the states, as well as to language used in various rulemakings stating, in effect, that reductions in upwind emissions are necessary for attainment of the standard and that the earliest attainment date is projected to be November 15, 2004. At the time these documents were developed, EPA and the states were basing their conclusions on the attainment demonstration and the accompanying modeling. The statements made were the best conclusions that could be drawn from the available information.

The conclusion that the maintenance plan will provide for maintenance of the NAAQS for the next ten years as required by section 175A is based, in part, on more recent information than what was relied upon in the attainment demonstration which included the modeling referred to by the commenter. The maintenance plan includes an emission inventory which is more recent than the inventory used in the attainment demonstration. See the response to comment 36 for further discussion.

EPA has no data to support the commenter's hypothesis that variations in out-of-state transport may account for the improvement in air quality. The commenter only speculates that out-of-state transport solely account for the improvement in air quality. EPA concludes that the plan demonstrates maintenance through 2014.

Comment 25: The SIP must provide assurance that the states have adequate personnel, funding and authority to carry out the SIP. The record for this action must provide real evidence of this assurance.

Response 25: This comment refers to both the Missouri and Illinois portions of the St. Louis area. EPA is hereby providing a response regarding the Missouri portion of the St. Louis area. See the rulemaking in today's **Federal Register** regarding redesignation of the 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.

EPA disagrees with the commenter that this action must include in the record further evidence of resource commitments. The analysis has already been performed in prior rulemakings and need not be reopened here. See the redesignation of Cincinnati (65 FR 37881-37882), Pittsburgh (66 FR 53102), and Cleveland (65 FR 77308, 77315) for

additional examples in which EPA has taken this position. *See also, Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984 (6th Cir. 1998).

In a final rulemaking action published on April 9, 1980 (45 FR 24146), EPA approve Missouri's SIP as meeting the financial and manpower resource commitments of the CAA.

The Sixth Circuit in *Wall v. EPA* (265 F.3d 426, 437) determined regarding resource and authority commitments for enforcement that "there is no language in the CAA or in the EPA's regulations that specifically requires that a separate commitment be made within the maintenance plans themselves * * *". Moreover, this decision is in accord with the interpretation given to the CAA under the Calcagni Memorandum, advising that "an EPA action on a redesignation request does not mean that earlier issues with regard to the SIP will be reopened," an interpretation that has been upheld by this court."

EPA also notes that more recent resource commitment reviews have been performed. For example, in the February 17, 2000, proposed rule at 65 FR 8099 EPA noted that in proposing to approve Missouri's I/M program, the "the SIP includes a detailed budget plan that describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. * * * The SIP meets the Federal requirements for evidence of adequate tools and resources under 40 CFR.51.372 and 51.354."

Comment 26: EPA policy states that a state may not relax existing controls upon redesignation. However, the states are moving LAER, offsets and NO_x RACT to the contingency plan without a modeling demonstration showing that these control measures are not needed for attainment, contrary to EPA policy.

Response 26: This comment refers to both the Missouri and Illinois portions of the St. Louis area. EPA is hereby providing a response regarding the Missouri portion of the St. Louis area. *See* the rulemaking in today's **Federal Register** regarding redesignation of the 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.

Missouri has a commitment on page 29 of the maintenance plan which states "The department provides assurance that all of the control measures adopted by state rules and listed in the ROP plan or this document will be enforced to ensure maintenance of the one-hour ozone NAAQS."

The commenter refers to the Calcagni memo at page 10 which states that "the