

redesignation requests in separate rulemakings.

I. Comments Related to Interstate Transport

Comment 42: EPA must ensure that the CAA requirements of Section 110(a)(2)(D) pertaining to interstate transport impacts are actively and adequately met through the states' SIPs and through federal control programs such as the NO_x SIP call.

Response 42: 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.

As stated above, EPA believes that submissions under the NO_x SIP call should not be considered applicable requirements for purposes of evaluating a redesignation request. The NO_x SIP call requirements are not linked with a particular nonattainment area's designation and classification. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the requirements that are the relevant measures to evaluate in reviewing a redesignation request. The NO_x SIP call submittal requirements continue to apply to a state regardless of the designation of any one particular area in the state.

Thus, we do not believe 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 (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati redesignation (65 FR 37890, June 19, 2000).

Missouri has adopted and EPA has approved into the SIP a state-wide NO_x rule (10 CSR 10–6.350 Emissions Limitations and Emissions Trading of Oxides of Nitrogen (65 FR 82285,

December 28, 2000). This rule will remain as a SIP requirement following redesignation of the area to attainment. EPA is also determining in a separate rulemaking (proposed at 67 FR 8396) whether or not the eastern part of Missouri is to be subject to the NO_x SIP call in response to a court remand.

Comment 43: The expected NO_x emission control programs and emission reductions for the St. Louis area should not be jeopardized due to the absence of continued federal enforceability of the SIPs.

Response 43: The SIPs will remain Federally enforceable following redesignation of the St. Louis area to attainment. In addition, all of the NO_x emission controls measures which are currently in place will remain as SIP requirements following redesignation to attainment. These emission control measures include NO_x RACT, and the state-wide NO_x rule in Missouri. Any revisions to SIP requirements would have to meet the applicable provisions of the CAA and be approved by EPA.

Comment 44: The redesignation of the St. Louis area to attainment should not weaken the impetus to rapidly address NO_x transport to downwind areas. These efforts are critical to addressing the 8-hour and 1-hour ozone NAAQS in the St. Louis and downwind areas.

Response 44: The St. Louis redesignation to attainment will not delay EPA's decision as to whether or not the eastern portion of Missouri is to be included in the NO_x SIP call. EPA will closely review any proposed changes to the NO_x emission control programs which are currently in place in the St. Louis area to ensure that the proposed changes will not adversely affect the maintenance of the NAAQS.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 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 approves 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 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 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a