

The modeling supported the contention that the NAAQS could be attained only in 2004 after all control measures are adopted. Thus, the monitored ozone standard attainment during the 2000–2002 period is a “fluke” explainable by factors other than the success of the pollution control measures. In addition, based on a September 4, 1992 EPA policy memorandum (“Procedures for Processing Requests to Redesignate Areas to Attainment,” from John Calcagni) (the Calcagni Memo), the commenter believes that supplemental ozone modeling may be necessary to determine the representativeness of the monitored data. Without such supplemental modeling, the commenter asserts that the January 30, 2003 proposed rule’s implicit conclusion that the St. Louis area ozone data are “representative” is baseless.

Response 3: See the response to comment 3 in the separate rule in today’s **Federal Register** regarding the determination of attainment for the St. Louis area. See also the responses to comments 19, 21, 23, and 24 below.

Comment 4: The monitored data do not support a conclusion of continued attainment since the number of exceedances tripled from 2000 to 2001 and more than doubled from 2001 to 2002, showing an upward trend in peak ozone concentrations. The commenter notes that, if the same number of ozone standard exceedances that occurred in 2002 occur in 2003 or 2004, the area will again violate the one-hour ozone standard.

Response 4: See the response to comment 4 in the separate rule in today’s **Federal Register** regarding the determination of attainment for the St. Louis area. See also the response to comment 20 below.

Comment 5: EPA asserts that the data are “quality assured” but provided no explanation. EPA must demonstrate that the data are quality-assured. EPA must document the adequacy of the states’ quality-assurance plans. In addition, the commenter questions whether the ozone data relied on for the attainment determination were quality-assured since they were entered into AIRS faster than usual.

Response 5: See the response to comment 5 in the separate rule in today’s **Federal Register** regarding the determination of attainment for the St. Louis area. See also the response to comment 2 in the separate rule concerning EPA’s actions taken to insure the proper monitoring and quality-assurance of ozone data.

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 met 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 by requiring them to become part of the contingency plan. 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 partially, conditionally, or limitedly approved (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”. 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 Act 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 this issue. As stated in the January 30, 2003 proposed rule (68 FR 4851), the Calcagni Memo 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. Pursuant to the January 30, 2003 final rule (68 FR 4836), the emission control measures and plans resulting from serious nonattainment area requirements for the St. Louis area are due on January 30, 2004. Since these emission control measures and plans are not yet due, the Illinois SIP is not deficient. EPA policy

and a reasonable application of sections 107(d)(3)(E)(ii) and (v) allow for an area to be redesignated without the area adopting measures which are not yet due. EPA has consistently applied this policy and interpretation in other redesignations, including the Detroit-Ann Arbor redesignation discussed at 60 FR 12465–12466.

In addition, there is no requirement in section 107(d)(3)(E) that indicates that States must “claim” 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 requests are made. EPA’s action to reclassify the St. Louis area to a serious nonattainment area was published in the **Federal Register** after Illinois had submitted its redesignation request, and it established a deadline for submission of the serious area requirements which has not yet passed. Thus, Illinois is not required to include in its request a “claim” that the State cannot complete the serious area requirements.

Finally, the Calcagni Memo (pages 12–13) discusses the statutory requirement that the State must implement all measures included in its SIP prior to redesignation. (In our response to comment 26 below, we discuss 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, and already contained in the 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 the Metro-East St. Louis area and Illinois, the guidance in the Calcagni Memo relating to mechanisms for converting part D measures into contingency measures is not applicable for the purposes of this redesignation and assessment of Illinois’ ozone maintenance plan.

Comment 7: The January 30, 2003 proposed rule suggests that a SIP meeting the serious area requirements need not be fully approved because such a plan is not yet due. The commenter believes that the CAA does not make an exception for SIP revisions that have or have not become due. In fact, the serious area requirements have, as a matter of law, become due. The plans were due by June 14, 1998, and no later than May 18, 2002 pursuant to previous EPA and Court actions. The commenter stated that the May 18, 2002 date was set by EPA in a March 19, 2001 rulemaking, and that the effect of a