

January 30, 2003 proposed rule at 68 FR 4851–4852) was merely a statement that the SIP will meet the section 110 requirements and, as such, “can be considered to be approved” if EPA approves certain plan elements, described in the proposed rulemakings. In the January 30, 2003 proposed rule, EPA proposed to grant an exemption to the State of Illinois from the NO_x RACT requirements in the Illinois portion of the St. Louis area under section 182(f) of the Act. In today’s final rule, EPA is taking final action exempting the State of Illinois from the NO_x RACT requirements in the Metro-East St. Louis area. By taking this action, EPA now concludes that the Illinois SIP is fully approved. The use of the quoted phrase was not intended to escape a statutory requirement. In fact, it recognized EPA’s obligation to complete rulemaking in order to approve the SIP, and it recognized that EPA could not determine that the SIP was fully approved and complete the redesignation of the Illinois portion of the St. Louis area to attainment of the one-hour ozone NAAQS until it took final action to approve the remaining SIP element (an exemption from a RACT requirement, as approved today, eliminates the CAA requirement for NO_x RACT and moots this SIP element). All of the SIP elements which are applicable to the Metro-East St. Louis area for purposes of redesignation have either been approved in previous rulemakings or are approved in today’s rule.

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) (“*Sierra Club*”). In this decision, the Court vacated the June 26, 2001 final 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 decision extensively addressed only EPA’s action extending the attainment date for St. Louis providing its rationale for vacating this action, the Court’s order also vacated the other EPA actions in the June 26, 2001 final rule. EPA has approved all SIP elements that are applicable to the Metro-East St. Louis area, and is today determining that others are not applicable. This is not a “pseudo-approval” of the SIP elements, but a determination that because certain requirements are not applicable (e.g., the ozone attainment demonstration and RACM), they need not be approved. (See response to comment 8 for more

discussion.) The applicable requirements which were approved prior to the vacated June 26, 2001 action (e.g., VOC RACT and the 15 percent ROP plan) were subject to notice and comment rulemaking and judicial review. The measures approved today (the ozone maintenance plan and contingency measures, MVEBs, and NO_x RACT exemption) have been subject to notice and comment rulemaking and this action is subject to judicial review. Our 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 our 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 on a redesignation request, EPA can 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 Metro-East St. Louis area has a fully approved SIP. See the Calcagni Memo, page 3. The Calcagni Memo allows for approval of SIP elements and redesignation to attainment 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); and (61 FR 31832–31833) (Grand Rapids, Michigan, June 21, 1996).

Comment 10: The SIP fails to meet the section 110 requirements because the inapplicable “moderate” area requirements contained in the SIP do not provide for implementation, maintenance, and enforcement of the NAAQS; modeling shows that the plan does not provide for attainment until 2004.

Response 10: EPA finds that the Illinois SIP meets the section 110 requirements. See the January 30, 2003 proposed rule and responses to comments 8 and 9 for further discussion. See the responses to comments 19, 21, 23, and 24 below. See also the response to comment 3 in the separate rule published in today’s **Federal Register** with regard to the redesignation of the Missouri portion of the St. Louis area.

Comment 11: The SIP fails to meet the part D requirements of the CAA. EPA asserts that certain requirements of part D are not applicable because monitoring data show that the area has attained. EPA relies on the case of *Sierra Club v. EPA* for this conclusion. However, this case has no application here because it was not a “redesignation case”. Given the attainment demonstration modeling, it would be impossible to conclude that any of the “Part D requirements are not necessary”. All part D requirements are applicable unless, prior to redesignation, EPA formally exempts the St. Louis area from the Part D requirements.

Response 11: See section II.A of the separate rule published in today’s **Federal Register** with regard to the redesignation of the Missouri portion of the St. Louis area for a discussion of the rationale for EPA’s determination of attainment and suspension of certain CAA requirements.

The part D requirements applicable to the Metro-East St. Louis area specifically include the requirements of sections 172(c) and 176 as well as the applicable requirements of subpart 2. The section 172(c) requirements include General Plan Requirements which, to the extent applicable, must provide for the implementation of all RACM as expeditiously as practicable (at a minimum, this requires RACT for stationary sources), Reasonable Further Progress (RFP), emissions inventories, identification and quantification of allowable emissions for major new or modified stationary sources, permits for new and modified major stationary source, other emission control measures needed to assure attainment of the NAAQS, section 110(a)(2) requirements, and contingency measures. Section 110(a)(2) requirements include: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate apparatus, methods, systems, and procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)); provisions for the implementation of part D requirements (nonattainment area New Source Review (NSR)) permit programs); provisions for stationary source emission control measures, source monitoring, and source reporting; provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.