

portions of the St. Louis area. EPA is hereby providing a response regarding the Illinois portion of the St. Louis area. See the separate rulemaking in today's **Federal Register** regarding the redesignation of the Missouri portion of the St. Louis area for EPA's response to this comment as it pertains to the Missouri portion of the St. Louis area.

The RFP requirement under section 172(c)(2) of the Act is defined via section 171(1) of the Act as an annual incremental reduction in emissions of the relevant air pollutant (VOC and NO<sub>x</sub> in this case) that is required to ensure attainment of the applicable standard (here the one-hour ozone standard) by the applicable date. Section 182(b)(1)(A) sets forth the specific requirements for RFP for a moderate nonattainment area which includes a reduction in VOC emissions of at least 15 percent from baseline emissions. As stated in the January 30, 2003 proposed rule at 68 FR 4854, EPA approved Illinois' 15 percent ROP plan on July 14, 1997 (62 FR 37494).

RACM is a general requirement of section 172(c)(1) which calls for SIPs to contain "all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology and shall provide for attainment of the national primary ambient air quality standards." EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could contribute to reasonable progress or attainment. See General Preamble 57 FR 13498, April 16, 1992. Thus, where an area has already met all applicable requirements for progress and has attained the relevant standard, no additional RACM measures are required.

Section 182(b)(2) specifies the SIP requirements for RACT in moderate nonattainment areas. These requirements include implementation of RACT at each source of VOC covered by Control Technology Guidelines (CTGs) and at all other major sources of VOC. EPA has never indicated that the area could avoid implementing VOC RACT requirements because the area has attained the standard.

As stated in the January 30, 2003 proposed rule at 68 FR 4855, Illinois has adopted and implemented all required VOC RACT rules. In addition, section 182(f) establishes NO<sub>x</sub> RACT requirements for major stationary sources. Under the provisions of section 182(f), the EPA is exempting the Illinois portion of the St. Louis ozone

nonattainment area from the requirements for NO<sub>x</sub> RACT in this rulemaking. With the granting of this exemption, Illinois has met all applicable RACT requirements.

The commenter states that H.R. Rep. No. 101-490, Part 2, 101st Cong., 2d Sess. at p. 223 does not tie RACM and RACT measures to RFP. This document is a recitation of the statute, but does not address tying RACM and RACT to RFP.

With respect to the commenter's contention that EPA's position regarding additional RACM and RACT measures being rejected in the Tenth Circuit Sierra Club case and in *Wall v. EPA*, the commenter is incorrect. The *Wall* case involved VOC RACT, which is not an issue here, because, as discussed previously, and in response to comment 14 below, Illinois has adopted all applicable VOC RACT measures. The Tenth Circuit Sierra Club case upheld EPA's determination that RACT was not tied to reasonable further progress, and that case did not address EPA's interpretation of RACM at all. The commenter's Seventh Circuit brief, which it relies on to support its position that RACM requirements must be met for an area to be redesignated, argued that EPA's interpretation of the RACM requirement (that section 172(c)(1) requires only implementation of all RACM which would expedite attainment) is an improper reading of the CAA. That issue was not addressed or decided by the Seventh Circuit. However, the issue of EPA's interpretation of the RACM requirement was raised and upheld in the 5th Circuit (*Sierra Club v. EPA*, 314 F.3d 735, 743-45 (5th Cir. 2002)) and in the District of Columbia Circuit (*Sierra Club v. EPA*, 294 F.3d 155, 162-63 (D.C. Cir. 2002)). Both circuits found that EPA's interpretation that the statute only required implementation of RACM measures that would advance attainment was reasonable.

*Comment 14:* The rulemaking should identify each VOC RACT rule implemented by the states and identify whether the states have met the VOC RACT requirements.

*Response 14:* This comment refers to both the Missouri and the Illinois portions of the St. Louis area. EPA is here providing a response regarding the Illinois portion of the St. Louis area. See a separate rulemaking in today's **Federal Register** regarding redesignation of the Missouri portion of the St. Louis area for EPA's response to this comment as it pertains to the Missouri portion of the St. Louis area.

The January 30, 2003 proposed rule states at 68 FR 4855 that both States have adopted and implemented all

required VOC RACT rules. In addition, the proposed rule provided the following Web site which contains the content of Illinois rules: <http://www.epa.gov/region5/air/sips/sips.htm>.

The Illinois VOC RACT rules for the Metro-East St. Louis area listed on this Web site include the following:

- Part 219—A General Provisions
- Part 219—B Organic Emissions From Storage And Loading Operations
- Part 219—C Organic Emissions From Miscellaneous Equipment
- Part 219—E Solvent Cleaning
- Part 219—F Coating Operations
- Part 219—G Use Of Organic Material
- Part 219—H Printing And Publishing
- Part 219—Q Synthetic Organic Chemical And Polymer Manufacturing Plant
- Part 219—R Petroleum Refining And Related Industries; Asphalt Materials
- Part 219—S Rubber And Miscellaneous Plastic Products
- Part 219—T Pharmaceutical Manufacturing
- Part 219—V Socmi: Batch And Air Oxidation Processes
- Part 219—W Agriculture
- Part 219—X Construction
- Part 219—Y Gasoline Distribution
- Part 219—Z Dry Cleaners
- Part 219—Aa Paint And Ink Manufacturing
- Part 219—Bb Polystyrene Plants
- Part 219—Gg Marine Terminals
- Part 219—Hh Motor Vehicle Refinishing
- Part 219—Pp Miscellaneous Manufacturing
- Part 219—Qq Misc. Formulation Mfg.
- Part 219—Rr Misc. Organic Chemical Mfg.
- Part 219—Tt Other Emission Units
- Part 219—Appendices.

These VOC control rules have been incorporated into the Illinois SIP by reference at 40 CFR 52.720. As part of the December 26, 2002 redesignation request submittal, the IEPA has confirmed that the State has implemented all RACT rules contained in the SIP.

*Comment 15:* The January 30, 2003 proposed rule concedes that EPA's waiver of the NO<sub>x</sub> RACT requirements for the Illinois portion of the nonattainment area was vacated by the Court of Appeals for the Seventh Circuit. Therefore, the Illinois SIP is not approvable because it fails to meet the NO<sub>x</sub> RACT requirements of the Act.

*Response 15:* As proposed in the January 30, 2003 proposed rule at 68 FR 4847 and as finalized in this rulemaking, the EPA is exempting the Metro-East St. Louis area from the NO<sub>x</sub> RACT requirements under section 182(f) of the Act. This NO<sub>x</sub> RACT exemption