

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 to 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 January 30, 2003 proposed rule at 68 FR 4858 states that emissions of NO_x in the Metro-East St. Louis area 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. Emissions of VOCs in the Metro-East St. Louis area 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, peak ozone levels will continue to be reduced from 2000 to 2014. Further modeling would continue to demonstrate attainment. The commenter has not provided any data to indicate that these emission reductions 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 with the NAAQS cannot be achieved until 2004.

Response 24: The commenter uses the same arguments in this comment to state that the attainment with the NAAQS cannot be maintained as was 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 evaluation of the modeling is to determine the likelihood of attainment by a future attainment deadline (2004 in this case). 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 references documents submitted by EPA and the States as well as 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 November 15, 2004. At the time these documents were developed, EPA and the States were basing their conclusions on the attainment demonstration including 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 SIPs 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. The commenter raises the following specific concerns with regard to Illinois:

a. The Illinois I/M funding expires on June 30, 2003. Illinois has no funding mechanism to replace this funding. Based on this observation, the EPA cannot lawfully find that Illinois has adequate funding to fully implement its SIP;

b. EPA cannot lawfully find that the Illinois motor vehicle emissions budgets are adequate because they presume full funding for the Illinois I/M program;

c. Illinois is failing to adequately administer and enforce the title V source operating permits program due mainly to a lack of funding. Illinois failed to issue all source permits within three years of receiving interim approval of its title V permits program by the EPA on March 7, 1995 (60 FR 12478). At

least 24 of the unpermitted sources are located in Madison and St. Clair Counties, Illinois. Illinois has announced that it will be very difficult to meet a commitment to issue all required source permits by the December 2003 deadline. Illinois is also violating the requirement to act on all source permit applications within 18 months of receipt, violating the requirements of 40 CFR 70.7(a)(2). This is due to a lack of adequate funding; and d. Illinois is failing to adequately enforce its title V program through regular source inspections.

The commenter expresses the general concern that Illinois lacks the funds to adequately enforce any of the Clean Air Act requirements and to implement its SIP, including NSR, PSD, and RACT rules. Therefore, the commenter believes that EPA should reject Illinois' statement in the maintenance plan that Illinois has the necessary resources to enforce any violations of its rules or source permit provisions.

Response 25: This comment refers to both the Missouri and 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 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, and as it relates to the general assertion that the Illinois maintenance plan lacks a showing of adequate resources.

With regard to the commenter's Illinois-specific comments, we have the following responses:

a. The Illinois I/M program, in the Metro-East St. Louis area, is currently funded through a combination of fuel taxes and Congestion Mitigation and Air Quality (CMAQ) funds. It is EPA's understanding that Illinois currently has sufficient funding from CMAQ previously appropriated and obligated and from fuel taxes to run this program through December 2003. Meanwhile, Illinois officials are seeking alternative funding sources to replace the expired CMAQ funding, including continuance of CMAQ funding through Congressional reauthorization. The EPA believes at this time that it is reasonable to assume that Illinois will continue to implement this program, for several reasons. First, Illinois is committed to continuing implementation of this program, which it has been operating since 1986. Second, if Illinois fails to maintain this program other than termination through approvable means (for example, by substituting an emissions control measure to achieve