

equal or greater emissions reductions), the program remains an enforceable component of the approved SIP. Finally, it is noted that this program is contractor operated, with the contractor operating under a binding contract extending through 2005. This contract, which is on file at EPA as part of the documentation for this portion of the SIP, contains penalty clauses insuring that the State will continue funding the I/M program through the lifetime of the contract (in the event that the State prematurely terminates the contract, the State would still be obligated to reimburse the contractor through 2005 for the estimated value of the contract). Illinois has no financial incentive to discontinue the I/M program;

b. Since, for the reasons described above, EPA can assume that the Illinois I/M program will continue to operate in the Metro-East St. Louis area and since this program is an ozone maintenance measure assumed in Illinois' ozone maintenance demonstration, it is correct to conclude that Illinois' mobile source emissions budgets are acceptable and are not in jeopardy due to a pending termination of the I/M program; and

c-d. As evidenced in the December 23, 2003 maintenance plan, Illinois remains committed to implementing the SIP after redesignation of the area. The Illinois ozone SIP for the Metro-East St. Louis area has been fully approved, and there are no criteria requiring EPA to evaluate and assess title V programs prior to redesignation of the area to attainment. The SIP approval and redesignation criteria do not include evaluating permitting programs to ascertain whether any deficiencies exist in these programs. The maintenance plan is designed to assure that attainment of the one-hour ozone standard is preserved. Whatever deficiencies are confirmed to exist in the source permitting program may be addressed and corrected in other contexts, including a finding of failure to implement under section 173(b) of the Act. Therefore, this comment is not a basis for disapproving Illinois' ozone maintenance plan and the EPA disagrees with the commenter on this issue.

In addition, it should be noted that section 107(d)(3) and section 175A ozone redesignation and ozone maintenance plan requirements require compliance with section 110 and part D requirements under title I of the Act. Title I of the Act itself does not require compliance with title V of the Act for purposes of considering redesignations to attainment of the NAAQS. Therefore, even if the commenter were correct in its assertion that Illinois is not properly

implementing its title V permit program, this would not be a basis for disapproval of the redesignation request and concerns with title V compliance and implementation are moot.

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EPA disagrees with the commenter that this action must include in the record further evidence of Illinois resource commitments. Neither this commenter nor any other person has submitted substantive comments that would lead EPA to separately analyze whether it should call on the State to revise its section 110(a)(2) SIP regarding enforcement and funding.

Comment 26: EPA policy indicates that a state may not relax existing controls upon redesignation. However, the States are moving requirements for Lowest Achievable Emissions Rates (LAER), new source emission offsets, and NO_x RACT to the contingency plans without a modeling demonstration showing that these control measures are not needed for attainment, contrary to EPA policy.

Response 26: 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 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.

Illinois has a commitment on page 26 of the maintenance plan to maintain all of the emission control measures implemented in the Metro-East St. Louis area to ensure maintenance of the one-hour ozone NAAQS.

The commenter refers to the Calcagni Memo at page 10 which states that "the State will be expected to maintain its implemented control strategy despite redesignation to attainment, unless such measures are shown to be unnecessary for maintenance or are replaced with

measures that achieve equivalent reductions".

Section 175A of the Act requires that maintenance plans shall contain contingency provisions deemed necessary to assure that the States will promptly correct any violation of the standard which occurs after redesignation of the area as an attainment area. These provisions shall include a requirement that the State will implement "all measures with respect to the control of the air pollutant concerned which were contained in the SIP for the area before redesignation of the area as an attainment area". On page 6 of an October 14, 1994 memorandum entitled, "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment" from Mary D. Nichols, assistant Administrator for Air and Radiation, EPA stated its interpretation that the term "measures" used in section 175A does not include part D NSR permitting programs. In accordance with this interpretation, EPA believes that LAER and offsets, which are components of Illinois' part D NSR permitting program, are not required to be retained following redesignation of the Metro-East St. Louis area as an attainment area.

LAER and new source emissions offsets are specified in part D and subpart 2 of the Act to be applicable to nonattainment areas. Upon redesignation to attainment, these requirements are no longer applicable. Removing the LAER and offsets provision in the State's permitting program is not contrary to the above mentioned policy. Upon redesignation to attainment, the LAER requirements included in stationary source permits and the emissions offsets which were obtained by stationary sources at the time when the LAER and offset provisions were in effect will remain in effect for those facilities. Thus, the LAER and offset measures which were relied upon to attain the NAAQS will remain in effect following redesignation.

Following redesignation, any new facilities subject to the State's permitting requirements will be subject to the PSD requirements of part C of title I of the Act. Under these requirements, the State must ensure that such new facilities will not cause significant deterioration of air quality to the extent that they cause or contribute to peak ozone levels in excess of the NAAQS (see section 165 of the Act). As part of the PSD program, sources are required to perform a source-specific air quality demonstration to show no adverse impact on the NAAQS. This is a more accurate way of predicting impacts than