

standard will not necessarily trigger the need for Illinois to conduct additional photochemical dispersion modeling for the St. Louis area. In this situation, the maintenance plan requirements place no specific ozone modeling requirements on the State. Illinois is free to choose the types of analyses it deems necessary to determine the levels and types of additional emission controls needed to rectify the ozone attainment problem. Redesignated areas are not subject to an obligation to meet additional nonattainment area requirements, such as attainment demonstrations, since they are no longer as nonattainment areas. Instead, they must implement contingency measures, which is what Congress provided in the Act.

#### *H. Comments Related to Redesignation of a Portion of the St. Louis Area*

*Comment 42:* One commenter requested that in the event the EPA is unable to finalize Missouri's I/M program, as proposed in a separate rulemaking on January 30, 2003, EPA should proceed with the redesignation for the Illinois portion of the St. Louis area.

*Response 42:* In a separate rule published in today's **Federal Register**, EPA is approving Missouri's revised I/M rule. In addition, as explained above, EPA is finalizing its actions on the Missouri and Illinois redesignation requests in separate rulemakings.

#### *I. Comments Related to Interstate Transport*

*Comment 43:* EPA must ensure that the CAA requirements of section 110(a)(2)(D) pertaining to interstate transport impacts are actively and adequately met through the States' SIP's and through Federal control programs such as the NO<sub>x</sub> SIP call.

*Response 43:* 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.

As stated above, EPA believes that state obligations under the NO<sub>x</sub> SIP call are not applicable requirements for purposes of evaluating a redesignation request. The NO<sub>x</sub> SIP call requirements are not linked with a particular area's ozone designation and classification. EPA believes that the requirements linked with a particular nonattainment area's classification are the requirements

that are the relevant measures to evaluate in reviewing a redesignation request. The NO<sub>x</sub> SIP call submittal requirements continue to apply to a State regardless of the designation of any one particular area in the State.

Thus, we do not believe that the NO<sub>x</sub> SIP call submission should be construed to be an applicable requirement for purposes of redesignation. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania proposed and final rulemakings (61 FR 53174–53176) (October 10, 1996), (62 FR 24826) (May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458) (May 7, 1996); and Tampa, Florida final rulemaking at (60 FR 62748, 62741) (December 7, 1995). See also the discussion on this issue in the Cincinnati redesignation (65 FR 37890) (June 19, 2000).

Illinois has adopted and EPA has approved statewide NO<sub>x</sub> rules into the SIP on November 8, 2001 (66 FR 56449 and 66 FR 56454). These rules will remain in effect and will remain Federally enforceable following the redesignation of the Metro-East St. Louis area to attainment of the one-hour ozone standard.

*Comment 44:* A commenter notes that the expected NO<sub>x</sub> emission control programs and emission reductions for the St. Louis area should not be jeopardized due to the absence of continued Federal enforceability of the SIPs.

*Response 44:* The SIPs will remain Federally enforceable following redesignation of the St. Louis area to attainment. In addition, NO<sub>x</sub> emission control measures (with the exception of NSR, which will be replaced by PSD) which are currently in place will remain as SIP requirements following redesignation to attainment. Illinois will continue to implement and enforce its statewide NO<sub>x</sub> emission control regulations adopted to comply with the NO<sub>x</sub> SIP call. This rulemaking, however, finalizes a NO<sub>x</sub> RACT waiver for the Metro-East St. Louis area. NO<sub>x</sub> RACT has never been part of the Illinois SIP. This redesignation does not jeopardize any NO<sub>x</sub> emission control regulations expected and part of the SIP for the Metro-East St. Louis area or for the State of Illinois.

*Comment 45:* The redesignation of the St. Louis area to attainment should not

weaken the impetus to rapidly address NO<sub>x</sub> transport to downwind areas. These efforts are critical to addressing the 8-hour and 1-hour ozone NAAQS in the St. Louis and downwind areas. Any revisions to SIP requirements would have to meet the applicable provisions of the Act and be approved by the EPA.

*Response 45:* As noted above, the redesignation of the St. Louis area to attainment of the one-hour ozone standard will have no effect on the implementation of the statewide NO<sub>x</sub> control rules in Illinois. In addition, regardless of the attainment status of the St. Louis area for the one-hour ozone standard, EPA will proceed with making its decision as to whether the eastern portion of Missouri must meet specific NO<sub>x</sub> SIP call requirements. EPA will closely review any proposed changes in the NO<sub>x</sub> emission control programs which are currently in place in the Metro-East St. Louis area and in Illinois to ensure that the proposed changes will not adversely affect the attainment of the NAAQS in the St. Louis area and in downwind ozone nonattainment areas.

#### **VI. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, therefore, is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175