

On June 26, 2001, EPA issued a final rule (66 FR 33996) in which EPA extended the attainment date for the St. Louis area, consistent with the extension policy, and withdrew the March 19, 2001, rulemaking. The rule also approved the attainment demonstration for the St. Louis area and took several other related actions.

Petitions were filed in the U.S. Court of Appeals for the Seventh Circuit (Court) (*Sierra Club and Missouri Coalition for the Environment v. EPA*, (Nos. 01-2844 and 01-2845)) for review of the May 16, 2001, and June 26, 2001, rules. On November 25, 2002, the Court granted the petitions, vacated the June 26, 2001, rule extending the St. Louis area's attainment date, and remanded to EPA for "entry of a final rule that reclassifies St. Louis as a serious nonattainment area effective immediately * * *" (*Sierra Club and Missouri Coalition for the Environment v. EPA*, 311 F. 3d 853 (7th Cir. 2002)).

This rule reclassifies the St. Louis area as a serious nonattainment area in accordance with the Court's Order, and in accordance with section 181(b)(2)(A) of the CAA. Additional background for this rule may be found in the March 18, 1999, proposal (64 FR 13384) and in the March 19, 2001, final rule (66 FR 15578). This action reinstates EPA's finding that the St. Louis area failed to attain the 1-hour standard by November 15, 1996, as prescribed in Section 181 of the CAA. A summary and discussion of the air quality monitoring data for the St. Louis area for 1994 through 1996 used to make this finding can be found in the March 18, 1999, proposal (64 FR 13384, 13385-87) and in the March 19, 2001, rule (66 FR 15578, 15580-15581, 15583-15584). EPA incorporates by reference in this rule the analyses and discussion of the air quality monitoring data and of the area's new classification set forth in the March 18, 1999, proposed rule and in the March 19, 2001, final rule.

EPA received comments on the March 18, 1999, proposal (and on an April 17, 2000, proposal, 65 FR 24040—see 66 FR 15585-15586 for a discussion of comments on the April 17, 2000, proposal) relating to the necessity and scope of a reclassification of the St. Louis area, which are summarized in the March 19, 2001, final rule (66 FR 15578, 15585-15587). The final rule also contains EPA's detailed response to the comments, which is incorporated by reference in this final rule.

What Is the New Attainment Date for the St. Louis Area?

As part of the reclassification of an area, EPA must establish an attainment

date for the reclassified area. Section 181 of the CAA states that the attainment date for serious nonattainment areas shall be as expeditiously as practicable but not later than 9 years after enactment (November 15, 1999). Where an attainment date has already passed and is therefore impossible to meet, EPA has reasoned that the Administrator may establish an attainment date later than the date specified in the CAA. However, EPA believes that it must establish a new attainment date in accordance with the principle in the CAA that attainment must be achieved as expeditiously as practicable.

In the March 19, 2001, rule (66 FR 15578), EPA set forth its reasoning and conclusion that the most appropriate attainment date is one which is as expeditious as practicable and accounts for the upwind reductions associated with the NO_x SIP call, or no later than November 15, 2004. In the March 19, 2001, rule (66 FR 15578, 15587), EPA summarized the comments on the appropriate attainment date for the reclassified area and provided EPA's responses to the comments. EPA incorporates its responses and its rationale by reference in this final rule.

When Must Missouri and Illinois Submit SIP Revisions Fulfilling the Requirements for Serious Ozone Nonattainment Areas?

In addition to establishing a new attainment date, EPA must also address the schedule by which Illinois and Missouri are required to submit SIP revisions meeting the CAA's pollution control requirements for serious areas. The measures required by section 182(c) of the CAA include, but are not limited to, the following: (1) Attainment and reasonable further progress demonstrations; (2) enhanced vehicle inspection and maintenance (I/M) programs; (3) clean-fuel vehicle programs; (4) the major source threshold lowered from 100 to 50 tons per year for volatile organic compounds (VOCs) and nitrogen oxide compounds (NO_x); (5) more stringent new source review requirements; (6) an enhanced air monitoring program; and (7) contingency provisions.

In the March 18, 1999, proposal (64 FR 13384) and in the March 19, 2001, rule (66 FR 15585), EPA stated that a submittal deadline of 12 months after the effective date of reclassification will give the states adequate time to adopt and submit the additional serious area requirements. EPA also noted that the 12-month deadline is consistent with the time given to other areas (such as Dallas-Fort Worth, Phoenix, and Santa

Barbara) which were reclassified from moderate to serious. EPA received one comment in support of a 12-month deadline and no other comments on the proposed deadline. In the March 19, 2001, rule, EPA required Missouri and Illinois to submit SIP revisions addressing the Act's pollution control requirements for serious ozone nonattainment areas within 12 months of the effective date of the rule.

EPA has determined that a 12-month deadline for submitting SIP revisions meeting the CAA's pollution control requirements for serious areas is appropriate for the reasons stated in the March 19, 2001, rule. Therefore, EPA is requiring that the "serious" area measures be submitted within 12 months of the date of publication of this rule.

What Is the Effective Date of the Reclassification to a Serious Nonattainment Area?

The Court, in its November 25, 2002, Order, vacated the June 26, 2001, rule (66 FR 33996) and remanded for entry of a final rule that reclassifies St. Louis as a serious nonattainment area effective immediately.

On May 16, 2001, EPA published a rule (66 FR 27036) delaying the effective date of reclassification of the St. Louis area to a serious nonattainment area until June 29, 2001. On June 26, 2001, EPA published a rule (66 FR 33996) in which the reclassification of the St. Louis area to a serious nonattainment area was withdrawn. By vacating the June 26, 2001, rule, the Court's Order also vacated the withdrawal of the reclassification.

One conclusion which could be drawn from the Court's Order vacating the June 26, 2001, rule is that the effective date of the reclassification to a serious nonattainment area reverts back to June 29, 2001. Such a conclusion would be inconsistent with the language used by the Court in its remand. The court ordered EPA to "reclassify" the St. Louis area, and to make the reclassification "effective immediately." Thus, EPA believes that the Court intended for the reclassification of the St. Louis area to a serious nonattainment to be effective immediately upon publication of this rule.

Although it is not appropriate to make this rule retroactive, EPA is making this final rulemaking effective upon publication. Section 553(d) of the Administrative Procedures Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good