

for basic I/M areas² that qualify for redesignation to attainment. Under this additional flexibility, an as-of-yet unimplemented I/M program element may be converted into a contingency measure as part of the area's approved maintenance plan (which, in turn, forms a part of the area's approved redesignation request). We believe that the St. Louis nonattainment area is eligible for redesignation and, in a separate rulemaking, are proposing to find that the area has attained the 1-hour ozone standard and to redesignate the area from nonattainment to attainment for that standard.

Other elements needed for the I/M program and redesignation request to be approved include legal authority for the as-of-yet unimplemented I/M program element(s), a request to place the as-of-yet unimplemented I/M upgrade into the contingency measures portion of the maintenance plan upon redesignation, a commitment to adopt (or consider adopting) the regulations needed to implement the deferred I/M program element(s) including an enforceable schedule for adoption and implementation of those I/M program element(s). See 40 CFR 51.372(c).

The legal authority for the program is discussed above (see Applicability). Missouri has legal authority to implement and operate an I/M program as required including OBD.

Section 6.1 of the maintenance plan, contingency measures, contains a request that the OBD test measures in 40 CFR Parts 51 and 82 be placed in the contingency measures portion of the SIP, upon redesignation of the area to attainment. This requirement is fulfilled.

Section 6.1 of the maintenance plan also contains a commitment that MDNR will adopt or consider adopting regulations to implement EPA's OBD testing requirement to correct a violation of the ozone standard. This requirement is fulfilled.

Section 6.1 of the maintenance plan also contains an enforceable schedule for development, proposal, adoption, submission, and implementation of the OBD testing requirements. This requirement is fulfilled.

The criteria for full approval also requires that basic areas continuing operation of I/M programs as part of the maintenance plan without implemented upgrades shall be assumed to be 80 percent as effective as an implemented, upgraded version of the same I/M program. The presumption that

Missouri's I/M program is 80 percent as effective is not applicable. We are not discounting the effectiveness of Missouri's program as they are not taking any credit for emissions reduction benefits for OBD testing during the 2003–2004 time period in the MOBILE modeling efforts done for the emission inventories in the maintenance plan.

For the reasons set forth above, this portion of the SIP is approvable only if the St. Louis nonattainment area is redesignated. This portion of the SIP is not approvable if the area is not redesignated. For the reasons listed above we are not discounting the effectiveness of the Missouri program by 20 percent.

Test Equipment (40 CFR 51.358)

As required by Federal rule, the original state submittal contained the written technical specifications for all test equipment to be used in the program. The specifications required the use of computerized test systems. The specifications also included performance features and functional characteristics of the computerized test systems that meet the applicable Federal I/M regulations and were approvable.

Additional language was added to the regulatory amendment to clarify the performance features of the emission test equipment, the functional characteristic of computerized test systems, and that the evaporative system pressure test equipment, the single-speed and two-speed idle test equipment, the transient emission test equipment, and the OBD test equipment must meet standards specified by EPA. This portion of the SIP continues to be approvable.

Waivers and Compliance via Diagnostic Inspection (40 CFR 51.360)

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements, that permits a motorist to comply without meeting the applicable test standards. For enhanced I/M programs, an expenditure of at least \$450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared with the CPI for 1989, is required to qualify for a waiver. For the basic program the minimum expenditure is \$75 for pre-1981 vehicles and \$200 for 1981 and newer vehicles.

As required, the Missouri statute provides legislative authority to issue waivers, set and adjust cost limits, and administer and enforce the waiver system. Previously, the dollar amounts were set by statutes. This amendment

increased the amount that must be spent on qualifying repairs and added a requirement that measured tailpipe emissions must show a reduction upon reinspection. The waiver amount for pre-1981 model year vehicles is set at \$200 and the amount for 1981 and all subsequent model year vehicles is \$450. After January 1, 2005, 1996 and newer model year vehicles will not be eligible for a waiver. The state statute allows these amounts to be adjusted for inflation after January 1, 2001, to be consistent with an enhanced I/M program. Waivers will be issued for vehicles that do not pass the emission inspection and meet the waiver criteria. The repair record must show that the repair expenditures were not covered by either a recall or manufacturer warranty and that parts costs and labor costs of recognized technicians total the minimum applicable amount for the model year of the vehicle. However, because Missouri is subject to the basic program requirements, they are only required to meet or exceed the basic I/M requirements of a minimum of \$75 for pre-1981 vehicles and \$200 for 1981 and newer vehicles.

Missouri regulations include provisions that address waiver criteria and procedures, including cost limits, tampering and warranty-related repairs, quality control, and administration. Parts and labor costs for qualifying emission repairs count toward the waiver amount if the repairs were performed or supervised by a recognized repair technician. The SIP sets a waiver rate and describes corrective action that will be taken if the actual waiver rate exceeds the commitment in the SIP. The SIP meets this portion of the regulation and is acceptable.

Motorist Compliance Enforcement (40 CFR 51.361)

The Federal regulation requires that compliance will be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. A basic I/M area may use an alternative enforcement mechanism if it demonstrates that the alternative will be as effective as registration denial. To register a vehicle subject to the I/M requirements, the Missouri Department of Revenue by rule, 12 CSR 10–23.170, requires an owner to present an original, current certificate of emissions inspection no older than 60 days. Senate Bill 019 in 1999 provided that for the purpose of registration, for vehicles sold by a licensed motor vehicle dealer, any inspection and approval within 120

² As noted previously, the St. Louis area is still being evaluated as a basic area, since the enhanced area requirements have not yet come due.