

EPA had previously approved, various SIPs for the area in order to meet the CAA requirements applicable to a moderate ozone nonattainment area (66 FR 33996, 34001). The EPA incorporates that discussion into this notice by reference. In redesignating an area EPA may rely on prior SIP approvals and rulemaking actions, and need not reopen earlier issues with regard to the SIP. See, *Wall v. EPA*, 265 F. 3d 426, 438 (6th Cir. 2001) and *Southwestern Pa. Growth Alliance v. Browner*, 144 F. 3d 984, 989–90 (6th Cir. 1998). In the June 26, 2001, rulemaking, EPA also approved into the Missouri and Illinois SIPs, several plan elements which ensured that the states had fully approved SIPs (e.g., the states' attainment demonstrations for the area) (66 FR 33996, 34010).

On November 25, 2002, the U.S. Court of Appeals for the Seventh Circuit (Court) issued a decision in *Sierra Club and Missouri Coalition for the Environment v. EPA*, 311 F. 3d 853 (7th Cir. 2002) ("Sierra Club"). In this decision, the Court vacated the June 26, 2001, rule and remanded to EPA for entry of a final rule that reclassifies St. Louis as a serious nonattainment area for ozone. Although the Court addressed only EPA's action extending the attainment date for St. Louis, the Court's order vacated the other EPA actions in the rulemaking as well. EPA has reviewed the other actions in the June 26, 2001, rulemaking, and proposes to find, as discussed below, that the SIP actions vacated by the Court are no longer applicable requirements since the area has attained the NAAQS. EPA is also reproposing to approve the exemption granted in the June 26 rule to Illinois from the NO<sub>x</sub> RACT requirements under section 182(f) of the Act, since the area has attained the NAAQS. Therefore, EPA is proposing to grant the exemption in this rulemaking, as discussed elsewhere in this notice. In addition, in a separate rulemaking, EPA is reclassifying the St. Louis area as a serious nonattainment area in accordance with the Court's Order. With respect to the redesignation criteria applicable to St. Louis, the following includes a discussion of the effect of the Court's action and of the reclassification on EPA's ability to redesignate the area.

The September 4, 1992, Calcagni memorandum (see "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of the Section 107(d)(3)(E) requirement. Under this interpretation, states requesting redesignation to

attainment must meet the relevant CAA requirements that come due prior to the submittal of a complete redesignation request. Areas may be redesignated even though they have not adopted measures that come due after the submission of a complete redesignation request.

The May 10, 1995, Seitz memorandum (see "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995) states that certain SIP revisions need not be submitted for EPA to approve a request for redesignation, since the requirements would no longer be considered applicable requirements as long as the area continues to attain the 1-hour ozone NAAQS. The SIP requirements subject to this policy are described as the general provisions of subpart 1, part D, title I of the CAA (sections 171 and 172) concerning RFP, attainment demonstrations, and contingency measures, as well as the ozone-specific provisions of subpart 2 of the CAA. The Seitz memorandum was discussed above, in section I.D. and in more detail in the proposed rulemaking on the Cincinnati-Hamilton area, 65 FR 3630, 3631–3632 (January 24, 2000), also referenced previously.

EPA sets forth, in a separate rulemaking published today, a schedule for the states of Missouri and Illinois to submit the serious area SIP requirements within one year after today's date. However, because the States have already submitted complete redesignation requests, EPA believes, pursuant to the policies described above, that the serious nonattainment requirements are not applicable, for purposes of reviewing and acting on the redesignation requests. Therefore, for purposes of acting on the redesignation requests, EPA's analysis includes a proposed determination that the area has met the applicable CAA requirements for moderate nonattainment areas.

If the area violates the 1-hour ozone NAAQS prior to final action on the redesignation request, however, not only would the serious area requirements become applicable, but the redesignation request could not be approved because the area would no longer meet the criterion of having attained the 1-hour NAAQS. (Seitz memorandum dated May 10, 1995.) Furthermore, requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request would continue to be applicable

to the area until a redesignation is approved but are not required as a prerequisite for redesignation (see section 175A(c) of the CAA). If the redesignation were to be disapproved, the States remain obligated to fulfill all of the serious area requirements.

The following is a discussion of the relevant requirements for the St. Louis area. Where appropriate, EPA addresses the SIP actions in the June 26, 2001, rulemaking vacated by the Court in *Sierra Club*, and explains its conclusion that each state has met its obligation to have fully approved SIPs for its portion of the nonattainment area. EPA also identifies the SIP actions for the area which pre-dated the June 26, 2001, rulemaking and were not impacted by the *Sierra Club* ruling. (As stated above, those prior actions were also discussed in the June 26, 2001, rulemaking.)

#### a. Section 110 Requirements

General SIP elements and requirements are delineated in section 110(a)(2) of Title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate apparatus, methods, systems, and procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)); provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for stationary source emission control measures, source monitoring, and source reporting; provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

#### Illinois

Review of the Illinois SIP, as codified in 40 CFR part 52, subpart O, and specifically 40 CFR 52.720, 52.722, and 52.726, shows that Illinois has an approved ozone SIP which meets the general requirements of section 110(a)(2) of the CAA, and which can be considered to be approved under section 110(k) of the CAA. The SIP, which has undergone public review: (a) Provides for the control of ozone precursor emissions, including those from stationary sources, in the Metro-East area at sufficient control levels to attain the ozone standard; (b) provides for continued monitoring of ozone in this area; (c) contains provisions covering permitting of new sources