

OBD testing along with incorporating a phase-in period. In this letter, MDNR requested a one-year delay in implementing the OBD testing, along with a two-year phase-in period. Under MDNR's request, full implementation of the OBD testing will not occur until January 1, 2005.

In August 2002, Missouri revised its state rule incorporating the requested delay and phase-in period. The new state rule requires OBD testing to begin January 1, 2003, but allows for the use of the transient emissions test only, for the retest, if a vehicle fails the initial OBD emissions test during the two-year phase-in period. EPA's rule requires an OBD test for the retest during the phase-in period.

In a separate proposed rulemaking in this **Federal Register**, EPA is proposing to modify Missouri's SIP by approving revisions to the state's Motor Vehicle Emission Inspection rule found at 10 CSR 10-5.380. A detailed discussion of the revision and EPA's rationale for approval can be found in that proposal.

The regulation at 40 CFR 51.372(c) states, in part, that a redesignation request for any nonattainment area that would qualify for redesignation to attainment shall receive full approval of a SIP submittal if the submittal contains legal authority to implement an I/M program, the inclusion of an I/M upgrade into the contingency measures portion of the maintenance plan, and a contingency commitment that includes the legal authority and an enforceable commitment and schedule for adoption and implementation of the OBD program.

Pursuant to the provisions of 40 CFR 51.372(c), by incorporating the OBD testing program as a contingency into the maintenance plan (the OBD testing program is the I/M upgrade required by EPA's new OBD rule), and by meeting the other requirements specified in 40 CFR 51.372(c), the SIP can receive full approval.

The maintenance plan submitted by Missouri contains the OBD testing program, consistent with EPA's OBD rule, as a contingency measure in the maintenance plan. It also contains a demonstration of legal authority to adopt the program, and a schedule for adoption with appropriate milestones. EPA believes the submission meets the requirement of 40 CFR 51.372(c). A more detailed discussion of the rule is contained in EPA's proposed rule on the I/M revisions for Missouri elsewhere in this **Federal Register**. Thus, upon completion of the accompanying rulemaking approving Missouri's I/M rule into the SIP, EPA believes that the Missouri SIP for the St. Louis 1-hour

ozone nonattainment area will satisfy all of the Section 182(b)(4) requirements of the CAA. Note, however, that EPA will not approve the redesignation request unless it takes final action to approve the I/M SIP revision.

o. NO_x Emission Control Requirements

Section 182(f) establishes NO_x requirements for ozone nonattainment areas which require the same provisions for major stationary sources of NO_x as apply to major stationary sources of VOCs. One of the requirements for major sources of VOCs is RACT. However, section 182(f) also provides that these requirements do not apply to an area if the Administrator determines that NO_x reductions would not contribute to attainment.

Illinois

As part of the June 26, 2001, rulemaking (66 FR 33996) regarding the St. Louis ozone nonattainment area, EPA granted a waiver to the state of Illinois from the section 182(f) requirements for NO_x RACT. The basis for the waiver was that Illinois demonstrated that additional NO_x emission controls in the Metro-East area would not contribute to the attainment of the 1-hour ozone standard in the area. EPA concluded that the area would achieve the 1-hour ozone standard without these additional NO_x emission controls. This conclusion was not challenged in the *Sierra Club* case and was not addressed by the Court. However, the grant of the waiver was vacated as part of the Court's action on the June 26, 2001, rule.

EPA's policy on the NO_x RACT requirements for areas which qualify for redesignation is stated in the September 17, 1993, memorandum from Michael H. Shapiro, referenced previously. The memorandum states that additional NO_x reductions would not contribute to attainment if attainment is already being monitored, but that such reductions might contribute to maintenance. Therefore, EPA stated that it could allow an exemption from the section 182(f) NO_x requirement, in the absence of a modeling demonstration, if the maintenance plan contains NO_x RACT as a contingency measure.

The EPA is reproposing to approve Illinois' request for an exemption from the NO_x RACT requirement. This proposal is based on the area attaining the 1-hour ozone NAAQS. Illinois has included NO_x RACT as a contingency measure in its maintenance plan. Therefore, EPA believes that it can exempt the Illinois portion of the St. Louis area from the section 182(f) requirements. If EPA finalizes this

exemption as proposed, and finalizes the redesignation as proposed, all controls previously adopted by Illinois must continue to be implemented, but no additional NO_x RACT measures would be required. However, if there is a violation of the ozone NAAQS in any portion of the St. Louis area, Illinois would be required to evaluate, and if appropriate, implement additional NO_x controls to address the violation.

Missouri

On May 18, 2000 (65 FR 31482), EPA approved Missouri's NO_x RACT rule into the SIP. This rule can be found at 10. CSR 10-5.510 and imposes RACT requirements for major sources of NO_x emissions. This rule meets the Section 182(f) requirements for the Missouri portion of the St. Louis area.

Based on the analysis described above, EPA believes the area meets the requirements for redesignation in Section 107(d)(3)(E)(ii) and (v).

3. Criterion (3): The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions

The improvement in air quality must be due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state-adopted measures.

a. Emission Controls

EPA believes that the states have demonstrated that the observed air quality improvements are due to the implementation of permanent and enforceable emission reductions through the implementation of emission controls contained in their SIPs.

Illinois

Subsequent to the 1990 CAA amendments, Illinois implemented a number of emission controls. The area has complied with all of the emission requirements for a moderate ozone nonattainment area as required by the CAA.

Some of the emission reductions were achieved through the implementation of a 15 percent ROP plan, approved by EPA on December 18, 1997 (62 FR 66279). The 15 percent ROP plan produced a VOC emission reduction of 38.1 tons per day in the Metro-East area, and included both Federal and state emission control measures, including the use of low volatility gasoline, more stringent Tier I motor vehicle emission standards, implementation of a more stringent vehicle inspection and maintenance (I/M) program, controls on area sources, and the adoption of tighter emissions limits on existing stationary