

expeditiously as practicable, if control measures currently in the SIPs, or already promulgated by EPA, did not achieve the required nine percent reduction by November 15, 2002. (See 68 FR 3418). Therefore, the date for fulfilling the first post-1999 ROP requirement lies in the future, and the requirement to implement any needed contingency measures for failure to meet that ROP has not been, and may not ever be, triggered. This is true, too, for the 1999 ROP requirement. It has not yet been determined that the Washington area did, or did not, meet its 1999 ROP requirement and the requirement to implement contingency measures for failure to meet the 1999 ROP requirement has not yet been (and may not ever be) triggered. As with any contingency measures that would be implemented for a future failure to attain, because the obligation to implement contingency measures for failure to meet the post-1999 ROP requirements has not arisen, the area has no obligation to account for these measures in the attainment demonstration MVEB.

Finally, the commenter argues that all the defects it has asserted entail that any conditional approval would violate section 110(l) of the Act, which prohibits EPA from approving a SIP revision that would interfere with any applicable requirement of the Act. However, EPA has concluded that the submitted attainment demonstration, coupled with the commitments the States have made to remedy the deficiencies in their demonstrations, fully satisfy all of the applicable requirements of the Act requisite to support a conditional approval.

2. Attainment Demonstration

a. RACM and Attainment as Expeditiously as Practicable.

Comment: The commenter argues that the submitted SIPs do not provide for attainment as expeditiously as practicable, as required by the Act, because the States have not properly analyzed whether any additional RACMs could advance the 2005 attainment date.

Response: EPA acknowledges that the RACM analyses in the SIPs are not sufficient, as noted by the Court of Appeals in *Sierra Club*, *supra*. However, the attainment demonstration does provide for attainment by 2005, a date consistent with the outside statutory date for attainment for severe ozone nonattainment areas and one that is only two years away. EPA therefore concludes, in light of the States' commitments to conduct a RACM analysis and submit any additional

measures determined to constitute RACM within a year, that it is appropriate to conditionally approve the attainment demonstration SIPs at this time. Should the RACM analyses determine that there are in fact potential RACM that could advance the attainment date, then EPA could approve an earlier attainment demonstration including such measures. However, in advance of completion of such RACM analyses EPA believes on the basis of the attainment demonstration before it that the SIP does demonstrate attainment as expeditiously as practicable. This preliminary conclusion is neither arbitrary nor capricious given the short period of time until the attainment date. Although no final conclusions can be reached until the RACM analyses are completed, given the time necessary for implementation of measures EPA believes it is unlikely that sufficient measures could be adopted and implemented to allow the Washington area to reach attainment by the 2004 ozone season. Specifically, the state process for developing control requirements in the form of SIP revisions, providing a public hearing, and adopting SIP revisions, typically takes at least a full year. In addition, the state typically allows a period of at least a year, often longer, for sources to implement required controls. Even if these process were significantly accelerated, it is highly unlikely that controls would be implemented by the start of the 2004 ozone season.

b. Demonstration of Attainment by 2005.

Comment: We received comments declaring that the attainment demonstration, and EPA's analysis of it, look only at ozone levels in 2005, not 2003 and 2004. The comments assert that to demonstrate attainment by November 15, 2005, the demonstration of attainment must show that no monitor in the nonattainment area will have an average of more than 1.0 expected exceedance per year for the period 2003–2005 but that the demonstration does not address the entire period. The comments cite § 50.9 of 40 CFR part 50.

Response: EPA disagrees with the comment. While EPA does agree that § 50.9 of 40 CFR part 50 establishes the form of the 1-hour ozone standard in terms of an annual average number of expected exceedances, EPA's guidance for conducting an attainment demonstration are a reasonable interpretation of the requirements for an attainment demonstration required under section 182(c) of the CAA in light of the form of the ozone NAAQS.

Air quality models do not know what year is being modeled, only the emissions levels and the meteorology. The meteorology component would be the same for any year because historical weather episodes are modeled.

Under EPA's modeling guidance the States are required to model severe episodes corresponding to those weather conditions thought to generate high levels of ground level ozone. In contrast, all monitored exceedances count towards a determination of whether all monitors are actually meeting the standard under the standard set in 40 CFR 50.9 and appendix H to 40 CFR part 50. A monitored value of 0.125 ppm counts as one exceedance to the same extent as a value of 0.150 ppm. Modeling demonstrating that the most severe episodes will yield few or no exceedances will be consistent with elimination of exceedances on less severe weather days.

As EPA stated in the technical support for this rule, the modeling demonstration considered severe episodes: the ozone forming potential rank is very high for one day—July 20, 1991. This is the thirteenth most severe day out of approximately the last 50 years, one that is likely to recur only once every 4 to 5 years on average. This type of day is not likely to occur often enough to be a major causative factor for nonattainment, especially since the emission controls modeled in this plan should eliminate ozone exceedances for all but the most meteorologically severe days.

EPA has concluded that the modeling analysis allows anthropogenic emissions in the Washington area of 360 tons per day of VOC and 538 tons per day of NO_x.

To reduce future year emissions to levels consistent with the modeling demonstration, the attainment demonstration has to provide for enough emission reductions net of growth to reduce emissions down to the levels allowed by the attainment modeling demonstration. Therefore, the attainment demonstration has to provide for emission reductions to accomplish two purposes: first, the plan has to offset growth in emissions due to increases in emissions-related activity to reduce emissions to the base year levels; and, second, the plan has to produce sufficient additional reductions beyond that needed to offset post-1990 growth to reduce emissions to the levels allowed by the attainment modeling demonstration.

When viewed from this perspective, the Post-1996 ROP plan for the 1999 milestone (hereafter "the 1996–1999 ROP plan") had to achieve reductions