

measures would not accelerate attainment. This is confoundingly circular reasoning which erases the "fully approved" requirements of the CAA. EPA's assertion is not relevant here.

Response 12: The April 16, 1992, General Preamble (57 FR 13560) states that EPA interprets section 172(c)(1) such that the RACM requirements are a "component" of an area's attainment demonstration. Thus, since the attainment demonstration is not an applicable requirement, RACM is also no longer an applicable requirement. See response to comment 8 for further discussion. Also, EPA has been consistent in this interpretation. See the final rulemaking for Pittsburgh, 66 FR 53096 (October 19, 2001) for additional discussion of this interpretation.

EPA believes that its policy is not "confoundingly circular reasoning" but rather straightforward reasoning. It is reasonable to conclude that states need not develop an attainment demonstration showing how they will attain a NAAQS that they have already attained. Similarly, states need not adopt additional reasonably available control measures as necessary to accelerate attainment when attainment has already been achieved.

As stated in the response to comments 8 and 9, SIPs must be "fully approved" as required by section 107(d)(3)(E)(ii), only with respect to the "applicable" requirements of section 110 and part D, as addressed in section 107(d)(3)(E)(v). If requirements are not "applicable" with respect to those sections, they need not be fully approved.

Comment 13: The RACM and RACT requirements of the CAA are not tied to reasonable further progress but are required by the CAA to be implemented as expeditiously as practicable. This is supported by H.R. Rep. No. 101-490, Part 2, 101st Cong., 2d Sess. at p. 223; *Sierra Club v. EPA*, 99 F.3d 1551, 1557 (10th Cir. 1996); *Wall v. EPA*, 265 F.3d 426, 441 (6th Cir. 2001); and, EPA's Seitz memo, page 4. EPA's contention that any additional RACM and RACT measures need not be adopted directly repudiates the plain language of the CAA.

Response 13: This comment refers to both the Missouri and Illinois portions of the St. Louis area. EPA is hereby providing a response regarding the Missouri portion of the St. Louis area. See the rulemaking in today's **Federal Register** regarding redesignation of the Illinois portion of the St. Louis area for EPA's response to this comment as it pertains to the Illinois portion of the St. Louis area.

EPA has previously addressed the rationale for its determination that additional RACM is not required for an area attaining the standard. (See, e.g., section II and response to comment 12.) The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. Section 182(b)(1)(A) sets forth the specific requirements for RFP for a moderate nonattainment area which includes a reduction in VOC emissions of at least 15 percent from baseline emissions. As stated in the January 30, 2003, proposed rule at 68 FR 4854, 4855, EPA approved Missouri's 15 percent ROP plan.

RACM is a general requirement of section 172(c)(1) which calls for SIPs to contain "all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology and shall provide for attainment of the national primary ambient air quality standards." EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could contribute to reasonable progress or attainment. (See General Preamble 57 FR 13498, April 16, 1992.) Thus, where an area has already met all applicable requirements for progress and has attained the relevant standard, no additional RACM measures are required.

Section 182(b)(2) specifies the SIP requirements for RACT in moderate nonattainment areas. These requirements include implementation of RACT at each source of VOCs covered by Control Technology Guidelines (CTGs) and all other major sources of VOCs. EPA has never indicated that the area could avoid implementing VOC RACT requirements because the area has attained the standard.

As stated in the January 30, 2003, proposed rule at 68 FR 4855, Missouri has adopted and implemented all required VOC RACT rules. In addition, section 182(f) establishes NO_x RACT requirements for major stationary sources. EPA approved Missouri's NO_x RACT rule into the SIP on May 18, 2000 (65 FR 31482).

The commenter states that H.R. Rep. No. 101-490, Part 2, 101st Cong., 2d Sess. at p. 223 does not tie RACM and RACT measures to RFP. This document is a recitation of the statute, but does not address tying RACM and RACT to RFP.

With respect to the commenter's contention that EPA's position regarding additional RACM and RACT measures was rejected in the Tenth Circuit *Sierra*

Club case and in *Wall*, the commenter is incorrect. The *Wall* case involved VOC RACT, which is not an issue here, because, as discussed previously, and in response to comment 14 below, Missouri has adopted all applicable VOC RACT measures. Missouri has also adopted NO_x RACT measures. The Tenth Circuit *Sierra Club* case upheld EPA's determination that RACT was not tied to reasonable further progress, and that case did not address EPA's interpretation of RACM at all. The commenter's Seventh Circuit brief, which it relies on to support its position that RACM requirements must be met for an area to be redesignated, argued that EPA's interpretation of the RACM requirement (that section 172(c)(1) requires only implementation of all RACM which would expedite attainment) is an improper reading of the CAA. That issue was not addressed or decided by the Seventh Circuit. However, the issue of EPA's interpretation of the RACM requirement was raised and upheld in the 5th Circuit (*Sierra Club v. EPA*, 314 F.3d 735, 743-745 (5th Cir. 2002)) and the District of Columbia Circuit (*Sierra Club v. EPA*, 294 F.3d 155, 162-163 (D.C. Cir. 2002)). Both circuits found that EPA's interpretation that the statute only required implementation of RACM measures that would advance attainment was reasonable.

Comment 14: The rulemaking should identify each VOC RACT rule implemented by the states and identify whether the states have met the VOC RACT requirements.

Response 14: This comment refers to both the Missouri and Illinois portions of the St. Louis area. EPA is hereby providing a response regarding the Missouri portion of the St. Louis area. See the rulemaking in today's **Federal Register** regarding redesignation of the Illinois portion of the St. Louis area for EPA's response to this comment as it pertains to the Illinois portion of the St. Louis area.

The January 30, 2003, proposed rule states at 68 FR 4855 that both states have adopted and implemented all required VOC RACT rules. In addition, the proposed rule provided the following web sites which contain the content of these rules, and references to EPA's rulemakings approving these rules. The Web site for Missouri is: <http://www.epa.gov/region07/programs/artd/air/rules/missouri/chap5.htm>.

The VOC RACT rules listed on this Web site and EPA's rulemakings approving these rules include the following:

10 CSR 10-5.070 Open Burning Restrictions, 37 FR 10842 (5/31/72)