

include promulgating the new mandatory Title I provisions like New Source Review, contingency measures and any shortfall measures that result from the MWAQC process. Maryland has already started to draft regulations for some of these SIP elements, but believes that it will take until March 1, 2004 to finalize many of the rules that will need to be included as part of the final SIP submittal.

The District of Columbia Department of Health, Division of Air Quality (DC DAQ), points out that the schedule adopted by the MWAQC is very aggressive and establishes milestones and actions for which MWAQC is responsible, but it does not include all the steps involved in developing a complete SIP.

DC DAQ notes it can not complete by July 2003 either the regulatory process for the required Title I NSR changes or the NO_x RACT determinations for sources that emit between 25 and 50 tons per year by July 2003. The DC DAQ notes it cannot complete these in less than six months and notes the normal schedule for adoption of rules is ten months. The DC DAQ has informed us that any measures identified as RACM will require time beyond July 2003 for the development of implementation plans and schedules.

The Virginia Department of Environmental Quality (DEQ) points out that the schedule adopted by the MWAQC is very aggressive and establishes milestones and actions for which MWAQC is responsible, but it does not include all the steps involved in developing a complete SIP.

DEQ notes it can not complete by 2004 either the regulatory process for the additional rulemakings required or the NO_x RACT determinations for sources that emit between 25 and 50 tons per year before March 2004. DEQ is currently working on both of these tasks. DEQ has informed us that any measures identified as RACM will require time beyond July for the development of implementation plans and schedules.

Given that the contingency measures or other necessary measures (e.g., any remaining reasonably available control measures or measure needed to uncover a shortfall found by the ROP planning which is scheduled to be available only in January 2003) have not been selected (or even identified), EPA does not believe that any State could adopt new measures between January and July 2003. Nothing from the States indicates otherwise.

For the reasons set forth above, we cannot conclude from the information before us that the schedule provided by

the one commenter reflects the intention that all three States would submit complete severe area SIP packages to EPA by July 2003. Indeed, three of the States have informed us that they could not meet, and have never intended or committed to meet, a July 2003 SIP submittal deadline.

Likewise, information received from the States provides no reason to extend the severe area SIP submittal date beyond what we proposed on November 13, 2002. We proposed a submittal date of one year after the effective date of a final reclassification to severe but not later than March 1, 2004. Because one year after the effective date of this action will be past March 1, 2004, we are setting a deadline for the submission of the severe area SIP as March 1, 2004.

Comments Supporting a Longer Schedule Than That Proposed

Two commenters asserted that one year to develop the severe area SIP is insufficient given the length of time required by one state's regulatory adoption process and the need to allow time to identify additional control measure needs to meet the severe area requirement. The first of these two commenters noted that one state needed 18 months to adopt control regulations while the second stated that the same state would require 18 to 24 months for this process. The first of these two commenters urged EPA to set the due date for submittal of the severe area SIP to 24 months. The second of these two commenters urged EPA to add at least six months to the proposed March 1, 2004, date found in the proposal or to allow enforceable commitments.

EPA's Response To Comment on Need for a Longer Schedule for Submission

EPA believes that the deadlines it has set for submission of the severe area requirements are consistent with the Clean Air Act and are adequate for the area to achieve compliance. EPA has discretion to adjust deadlines under section 182(i). EPA believes that a period up to eighteen months would be consistent with the Act, since under section 110(k)(5) the Clean Air Act SIP revision provision, states have up to 18 months to submit a SIP revision after receiving a SIP call notice.

Given that the States have indicated in this case that March 1, 2004, is not unreasonable, and we received no adverse comments from the states during the comment period indicating that they could not meet this deadline, EPA is setting a deadline for the submission of the severe area SIP as March 1, 2004.

C. Rate-of-Progress (ROP) and Contingency Measures for 2002

Comments in Support of Allowing the States To Adjust the 2002 Milestone

One commenter supported the "expeditious" standard as being appropriate. Another commenter agreed with EPA that the nine percent reduction should be achieved as soon as practicable after November 15, 2002.

Comments in Opposition To Allowing the States To Adjust the 2002 Milestone

One commenter stated that EPA cannot move the November 15, 2002, statutory deadline for the 2002 ROP reduction of nine percent between November 15, 1999, and November 15, 2002. The commenter claims that the ROP plan for the Washington area has to demonstrate a nine percent reduction in emissions between November 15, 1999, and November 15, 2002, (as well as nine percent between November 15, 1996, and November 15, 1999, and another nine percent between November 15, 2002, and November 15, 2005). The commenter claims that if the states cannot show a nine percent reduction between November 15, 1999 and November 15, 2002, then the states must implement the only alternative scheme allowed by statute, namely that of section 182(c)(2)(B)(ii).

The same commenter asserts that even if the statute were not explicit as to the ROP deadline, the proposed "as expeditiously as practicable" standard should be "as soon as possible with every control measure." The commenter further asserts that the term "practicable" in "as expeditiously as practicable" is not defined in terms of what factors will go into the determination and thus could be used to nullify the statutory deadline.

This commenter further asserts that EPA does not have the statutory authority to move the 2002 ROP milestone date and thus there is no need for the contingency plan requirement to account for a date other than November 15, 2002.

Response: With respect to the assertion that EPA lacks authority to allow the States to demonstrate the first required post-1999 nine percent ROP, due under the statute by November 15, 2002, as expeditiously as practicable, EPA disagrees, in light of the fact that the statutory deadline has passed. It is impossible for the states to demonstrate any progress by a date that passed before the time the area became classified a severe area and thus first became subject to the requirement to demonstrate post-1999 ROP. EPA agrees that the Washington area must now