

(J) Revise new source review offset requirements to require an offset ratio of at least 1.3 to 1.

(K) Submit as part of the SIP a fee requirement for major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) should the area fail to attain by November 15, 2005.

(L) Include as part of the SIP a revision that identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or number of vehicle trips and to attain reductions in motor vehicle emissions as necessary, in combination with other emission reduction requirements in the Washington area, to comply with the ROP requirements for severe areas. Measures specified in section 108(f) of the Clean Air Act will be considered and implemented as necessary to demonstrate attainment.

These required submittals are the same elements needed to fulfill the new severe area requirements that became applicable to the area when the area was reclassified on March 25, 2003, (68 FR 3210, January 24, 2003).

5. Alternative Proposal and Protective Finding

Comment: The commenter supports EPA's proposal in the alternative to disapprove attainment demonstration SIPs for the Washington area, but questions the proposal to issue a protective finding under EPA's transportation conformity regulations should EPA proceed with a final disapproval of the SIPs.

Response: EPA has concluded that a conditional approval is appropriate in this case and therefore will not be issuing a final disapproval nor a protective finding on the attainment demonstrations for the Washington area. Therefore, any comments relating to the proposed protective finding are not germane to this final action and EPA will not be responding to any such comments in this final action.

B. Comments Made on the Proposed Reclassification

On March 5, 2003, we received a comment letter submitted by the Sierra Club incorporating by reference their comments submitted on December 13, 2002, relating to the proposed reclassification of the Washington area to severe nonattainment (67 FR 68805, November 13, 2002). To the extent that these comments are germane to the current action we incorporate by reference our responses to the comments on these issues found in our final rule published January 24, 2003

(see 68 FR at 3412–3421) as supplemented by the response to comment found in this final rule.

C. Comments Made Regarding Adequacy of Motor Vehicle Emissions Budgets

On March 5, 2003, we received a comment letter submitted by the Sierra Club incorporating by reference their comments submitted on September 9, 2002, and on February 14, 2000, that related to the adequacy of the motor vehicle emissions budgets in the 1996–1999 ROP plan and the attainment demonstration.

Comment: We received a number of comments about the process and substance of EPA's review of the adequacy of motor vehicle emissions budgets for transportation conformity purposes. We also received comments asserting that EPA should not find the budgets adequate because EPA is plainly obligated to disapprove the attainment SIP because: (1) The budgets are based on a 2005 attainment date, rather than the area's then current attainment date of 1999; (2) the budgets do not necessarily reflect all RACM; (3) there are no budgets corresponding to the post-1999 rate-of-progress requirement; (4) the SIP lacks contingency measures; (5) the budgets do not reflect the potential that the budgets will be further tightened as a result of severe area SIP requirements; (6) the attainment demonstration is flawed due to the use of the weight of evidence approach; and (7) the budgets were developed using the MOBILE5 model.

Response: In the notice of proposed rulemaking EPA proposed to conditionally approve the attainment demonstration and ROP SIP revisions and did not propose to find the budgets adequate. EPA is conditionally approving the motor vehicle emissions budgets rather than making an adequacy determination. Therefore, comments relating to adequacy of budgets are not germane to this rulemaking. To the extent comments are germane to conditional approval of the SIPs, EPA addresses them elsewhere in this notice in response to comments on various aspects of the plans.

D. Comments Relating to Supplemental Information To Support Proposed Approvals of One-Hour Ozone Attainment Demonstrations for Serious Ozone Nonattainment Areas

On March 5, 2003, we received a comment letter submitted by the Sierra Club incorporating by reference their comments submitted on November 15, 2000, relating to EPA's proposed

“Supplemental Information to Support Proposed Approvals of One-Hour Ozone Attainment Demonstrations for Serious Ozone Nonattainment Areas” (65 FR 61134, October 16, 2000) relating to RACM requirements.

These comments are not germane to this action because EPA is not relying upon the supplemental information to show that the RACM requirement has been fulfilled.

E. Prior Comments on the Approvability of the Attainment and Rate-of-Progress Plans

On March 5, 2003, we received a comment letter submitted by the Sierra Club incorporating by reference their comments submitted on February 14, 2000, October 30, 2000, and November 20, 2000 relating to the approval of the attainment demonstration and ROP plans.

1. Comments Relating to Extension of the Attainment Date to November 15, 2005

We received comments objecting to EPA's attainment date extension policy (a memorandum “Extension of Attainment Dates for Downwind Transport Areas” issued July 16, 1998), and to application of the extension policy to the Washington area. These comments are not germane to this action because EPA is not applying the extension policy to the area but rather has extended the attainment date to November 15, 2005, by reclassifying the area to severe nonattainment (see 68 FR 3410, January 24, 2003).

2. Motor Vehicle Emissions Inventory

Comment: We received comments stating that the motor vehicle emissions inventory is not current, particularly with respect to the fleet mix.²⁹ The comments stated that the fleet mix does not accurately reflect the growing proportion of sport utility vehicles and gasoline trucks, which pollute more than conventional cars. In the February 14, 2000 comment letter, we received comments asserting that EPA looks only at those “weights” that favor a finding of attainment and specifically identified the changing fleet mix. We also received comments asserting that the Maryland and Virginia attainment and 1996–1999 ROP plans are flawed because they assume a fleet mix that does not accurately reflect the growing proportion of sport utility vehicles and gasoline trucks. The comments cite data from the Maryland Department of the

²⁹ These comments were contained in the February 14, 2000, October 30, 2000, and November 20, 2000, letters.