

FR at 627 as supplemented by the response to comment found in this final rule.

Regarding the basis for approving Maryland's 45 percent reductions from the autobody refinishing rule, we incorporate by reference our responses to the comments on this issue found in response 18 of section II.X of our final rule published January 3, 2001. *See* 66 FR at 629.

Comment 6: We received comments that assert there is insufficient basis for granting full credit for the AIM rule as of November 15, 1999 because EPA has failed to offer any facts or analyses showing that only compliant products were in use as of November 15, 1999, and the late implementation deadline of September 12, 1999 virtually assures that this was not the case.

Response 6: We incorporate by reference our responses to the comments on this issue found in section II.J. *See* 66 FR at 614, and response 14 of section II.X of our final rule published January 3, 2001, *see* 66 FR at 627, as supplemented by the response to comment found in this final rule.

For the reasons explained in our prior response to comment (66 FR at 614, 627), EPA still believes that with these reductions the area has achieved the 9 percent ROP as expeditiously as practicable and that there is no other reasonable emissions control strategy that would allow the area to achieve the 9 percent ROP for the 1999 milestone any sooner.

4. Enforcement of Control Programs

Comment: The attainment demonstrations do not clearly set out programs for enforcement of the various control strategies relied on for emission reduction credit. We also received comments that assert that the 1996–1999 ROP plan and the attainment plan fail to include a program to provide for the enforcement of the adopted control measures, as required by section 110(a)(2)(C) of the CAA. The comments also assert that these plans must contain a legally enforceable SIP commitment to enforce the various control strategies relied upon for emission reduction credit. The comments assert that EPA review of state enforcement programs in connection with federal grantmaking does not satisfy EPA's duty to ensure that the SIP itself contains the legally required enforcement and funding commitments.

Response: We incorporate by reference our responses to the comments on these issues found in section II.K. *See* 66 FR at 615 and response 21 of section II.X of our final

rule published January 3, 2001, *see* 66 FR at 630.

5. Reliance on Commitments and State Rules Not Yet Adopted

Comment: We received comments that disagreed with the EPA's proposal to approve attainment demonstrations and rate-of-progress plans for the Washington ozone nonattainment area because not all of the emissions reductions credited in the demonstrations or plans are supported by legally enforceable limitations adopted and approved by the States and approved by the EPA as part of the SIP. Commenters also objected to accepting enforceable state commitments to adopt emission reduction control measures in the future in lieu of current adopted measures.

Response: When viewed in the context that this comment was made, this comment is not germane to the proposed action. This comment was made in response to a December 16, 1999, notice of proposed rulemaking (64 FR 70460) for the SIP revisions listed in Tables 1 and 2 of this document. That December 16, 1999, proposed rule contained a proposal to approve attainment demonstrations that contained an enforceable commitment to adopt additional measures to support the WOE that the area will attain.³³ EPA identified the areas where we had concluded that the WOE needed such supporting reductions but the Washington area was not such an area. *See* 64 FR at 70466, December 16, 1999. EPA has concluded that the WOE for the Washington area needs no additional reductions to support the WOE demonstration and is not approving such an enforceable commitment for the Washington area.

Further, EPA is not fully approving the attainment demonstration and ROP plan for the Washington area. Rather, as discussed previously in this document, EPA is conditionally approving these SIP revisions pursuant to section 110(k)(4) of the CAA which specifically authorizes this action. Section 110(k)(4) specifically allows the approval of commitments under certain circumstances. For the reasons set forth elsewhere in this document including those in response to other comments, EPA believes that a conditional approval is permissible. Therefore, EPA

believes this comment is not germane to this action.

6. Rate-of-Progress—NO_x Substitution

Comment: We received comments that assert the 9 percent ROP demonstration assumes that a 1 percent reduction in NO_x emissions is equivalent in ozone reducing benefit to a 1 percent reduction in VOC emissions. The commenter asserts that EPA's NO_x Substitution Guidance (December 1993) is flawed under section 182(c)(2)(C) of the Clean Air Act because it allows NO_x substitution without a demonstration that such substitution will in fact provide ozone reductions at least equivalent to that which would result from a 3 percent annual cut in VOC emissions. The commenter claims that such a demonstration requires photochemical grid modeling showing equivalency and that EPA's own guidance (*Guidance on the Post-1996 Rate-of-Progress Plan and Attainment Demonstration* (corrected version as of 2/18/94)) requires such modeling. The States cannot use a 1 percent NO_x for 1 percent VOC substitution without proving that a 1 percent NO_x cut will in fact provide ozone reductions at least equivalent to that resulting from a 1 percent VOC cut.

The commenter further asserts that more recent EPA guidance dated January 10, 2000 for NO_x substitution in out-year conformity budgets requires 1.6 tons in NO_x reductions to offset 1 ton of VOC reductions. The commenter does not disavow other comments that the States must prove the validity of their NO_x substitution ratios as discussed in the summary of the comments in the preceding paragraph but rather claim the 9 percent demonstration fails to use the ratio of 1.6 to 1 required by the more recent EPA guidance.

Additionally, the commenter asserts that substitutions should not be allowed because the plan does not demonstrate timely attainment.

Response: We incorporate by reference our responses to the comments on these issues found in section II.M. of our final rule published January 3, 2001, *see* 66 FR at 616–619, as supplemented by the response to comment found in this final rule:

EPA still disagrees with the assertion that the attainment plan does not demonstrate attainment. The TSD and other documents in the docket support the conclusion that the area will attain, as do our responses to other comments elsewhere in this notice.

In our January 3, 2001, final rule (66 FR 586), EPA placed a document titled "RACM Analysis for Four Serious Areas Designated Nonattainment for 1-hr

³³ *See* "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711.