

will have on the transportation system. The comments discuss the transportation model's land use assumptions, and imply that the Metropolitan Planning Organization (the Metropolitan Washington Council of Governments, MWCOC) (hereafter, "the MPO") has not included the effects of land use in the model and that EPA has known about this issue since 1998.

Response 1: We incorporate by reference our responses to the comments on this issue found in response 1 of section II.P of our final rule published January 3, 2001, see 66 FR at 619–620.

Comment 2: We have received comments saying that the temperature assumed in the mobile source modeling inputs was 93 degrees (Fahrenheit), yet the maximum recorded temperatures for those days during which peak ozone values in the 1999 ozone season were recorded were higher (96 to 98 degrees).

Response 2: For two reasons EPA disagrees with the comment that this is a reason to determine that the budgets are not approvable. First, the comments cite peak temperatures for a particular ozone season. This is at odds with EPA's guidance. EPA guidance on projecting all future mobile source emissions inventories requires the States to use the temperatures representative of a "typical ozone season day". See section 3.3.5.2 of *Procedures for Emission Inventory Preparation Volume IV: Mobile Sources*, EPA-450/4-81-026d (Revised), 1992, which also sets the procedure for determining the temperature for the base year and all subsequent projection inventories. EPA has updated this guidance for use with the MOBILE6 emissions factor model, but the updated guidance still requires the use of the typical ozone season day.³⁶ The typical ozone season day conditions are those used when determining the typical daily emissions for the base year emissions inventory. The same typical ozone season day is also used when setting target levels of emissions in ROP plans and all future year projection inventories in ROP plans and the budgets for attainment demonstrations.

EPA believes that the ambient temperature is key to estimating emission rates for highway vehicles with MOBILE6.³⁷ Temperature inputs were a key input to the MOBILE5 mobile source emission factor model as

well.³⁸ For this reason mobile source emission factors produced by EPA approved mobile source emission factor models are temperature dependant.

Second, if EPA were to require SIPs to be revised periodically on the basis of more recent temperatures, EPA would have to allow revisions and conformity determinations incorporating more recent data that reflect a lower temperature profile, and hence lower mobile source emissions, as well as requiring revisions to incorporate more recent data which includes higher temperatures.

EPA believes it is reasonable to use the same typical ozone season day temperatures used to develop the base year inventory rather than trying to predict actual future year temperatures when projecting future emissions because these projections are made in advance when actual temperatures cannot be known.

10. NO_x RACT Size Cutoff

Comment: We received a comment asserting that all of the States should extend NO_x RACT to 25 ton per year sources. In addition, the SIP must require Virginia to extend VOC RACT to 25 ton per year sources, like Maryland.

Response: EPA agrees that full approval of the Washington area SIP to meet the severe area requirements is precluded in the absence of RACT regulations incorporating the severe area RACT thresholds mandated by the CAA in section 182(d). However, as explained in previous responses, EPA believes conditional approval based upon a commitment to submit these regulations by April 17, 2004 is permissible.

11. List of Control Measures

Comment 1: We received comments claiming that the States have failed to submit lists of potential control measures by December 31, 1999 as required by EPA's December 16, 1999 notice of proposed rulemaking. The comments assert that the States submitted commitments to adopt additional control measures if needed, but did not provide lists from which those measures would be chosen and further state that because the States have failed to meet a condition that EPA itself set as a prerequisite for plan approval EPA must disapprove the Washington area SIP.

Response 1: The list of control measures to which these comments refer has to be viewed in context of the entire

December 16, 1999 notice of proposed rulemaking (64 FR 70460). The proposed rulemaking was published at a time when the attainment plan contained no motor vehicle emissions budget for 2005. The list of potential measures was to have been those potential measures needed to allow an adequacy finding under the transportation conformity rule on the requisite 2005 budgets in the event the attainment plan was not supported by fully adopted measures. EPA is now conditionally approving the motor vehicle emissions budgets rather than making an adequacy determination. EPA does not believe a list of potential control measures is necessary here because EPA is conditionally approving the SIPs based upon the States committing to complete all necessary modeling and RACM analyses and to adopt and submit by April 2004 any additional measures necessary to demonstrate attainment.

We also incorporate by reference our responses to the comments on these issues found in response 1 of section II.S of our final rule published January 3, 2001, see 66 FR at 620–621, as supplemented by the response to comment found in this final rule.

12. Phase II NO_x Limits Are RACM

Comment: We received a comment asserting that the Phase II NO_x limits agreed to by OTC are also clearly RACM.

Response: As a factual matter, with respect to the OTC MOU Phase II NO_x limits in the Washington nonattainment area, Maryland and the District have adopted programs to implement the Phase II NO_x reduction in the OTC memorandum of understanding. EPA has approved these programs into Maryland's and the District's SIPs. Virginia was not a signatory to the OTC MOU. However, in permits approved into the Virginia SIP, Virginia has imposed beyond RACT requirements on two large point sources of NO_x in the Virginia portion of the Washington area, see 65 FR 78100 (December 14, 2000). These permits impose limits of 0.15 pounds of NO_x per million BTU heat input on these two sources. Such limits go beyond the OTC Phase II limits. EPA acknowledges the States must identify which RACM have already been adopted and adopt any which, if any, still remains as the States have committed to do so by April 2004. RACM is discussed in response to other comments.

³⁶ See "Technical Guidance on the Use of MOBILE6 for Emission Inventory Preparation," U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Transportation and Air Quality, January 2002.

³⁷ *Id.*

³⁸ See Chapter 2, User's Guide to MOBILE5 (Mobile Source Emission Factor Model) EPA-AA-TEB-94-01, September 1996.