

reasons discussed in the preceding paragraphs: (1) MOBILE6 is the best model currently available and has been officially released; (2) EPA believes it is unlikely a new model will become available within the time period before the severe area SIPs are due; and (3) because the release date of any successor model cannot be forecast at this time, EPA cannot delay the submittal date indefinitely.

*Comment #2:* One commenter agreed with EPA that the July 2, 2002, Court ruling vacated approval of the commitment to revise the transportation conformity budgets within one year of the official release of MOBILE6. This commenter urged EPA to set the date by which the area must set transportation conformity budgets using MOBILE6 to coincide with the date by which the severe area plan elements must be submitted.

*Response #2:* In the November 13, 2002, notice of proposed rulemaking, we discussed the MOBILE6 release to interpret and reiterate application of our guidance affiliated with the January 29, 2002, official release of the MOBILE6 emission factor model to the SIP revisions that would become due if the Washington area was reclassified to severe. Given the time that has now elapsed since the release of the MOBILE6, EPA believes that application of our policy and guidance related to the release of the MOBILE6 model means that MOBILE6 is the only proper model to be used for any motor vehicle emissions budgets submitted to fulfill the severe area requirements.<sup>5</sup>

EPA did not propose action on any SIP revision or on any enforceable commitment in the November 13, 2002, notice of proposed rulemaking for this action. Any action EPA takes on the SIP revisions formerly covered by the now vacated January 3, 2001, final rule will be the subject of separate rulemaking action(s). EPA will establish in a forthcoming notice of proposed rulemaking in the **Federal Register** a separate public comment period on these SIP revisions. EPA anticipates it would not set any different date for submittal of the budgets than the date for submittal of the ROP and attainment demonstration SIP revisions.

### G. Need for Mid-Course Review

#### Summary of Public Comments Received

One commenter agreed with EPA that the July 2, 2002, Court ruling vacated

approval of the commitment to perform a mid-course review (MCR). The commenter contended that the schedule for submittal of the severe area SIP might well negate the need for a MCR and asked EPA to specify whether the severe area SIP needs to include a MCR.

#### EPA's Response

EPA disagrees that the schedule set in this final rule fully negates the need for a commitment to a MCR.

Our 1996 modeling guidance recognizes a need to perform a MCR review as a means for addressing uncertainty in the modeling results.<sup>6</sup> Because of the uncertainty in long term projections, EPA believes a viable attainment demonstration that relies on WOE needs to contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed.

On March 28, 2002, EPA issued further guidance on the performance of the MCR.<sup>7</sup> In this memorandum covered the overall MCR process and timing, including the potential consequences of findings that progress toward attainment is, or is not, being made; guidance for situations where failure to make progress is due to transport; and a special schedule for other (e.g., moderate or serious) ozone nonattainment areas with attainment dates of 2004 or earlier. This memorandum revised some of the earlier policy related to areas in the east significantly affected by transport. Originally we required the Washington area to provide an enforceable commitment to perform the MCR following the 2003 ozone season and to submit the results to EPA by the end of the review year (i.e., December 31, 2003). We chose the end of calendar year 2003 because at the time we had thought that an analysis in 2003 would be most robust since some or all of the regional NO<sub>x</sub> emission reductions should be achieved by that date.

In our January 2002, guidance we noted that if a State's implementation plan relies on regional control measures, for a MCR to be useful, a substantial portion of these measures need to have

been implemented prior to the most recent ozone season in the nonattainment area for which the MCR is being performed. For example, if NO<sub>x</sub> SIP call measures are implemented by the spring of 2004, and those measures are an important part of the strategy for meeting the NAAQS in a particular nonattainment area, the MCR should include data from the Summer of 2004.<sup>8</sup> EPA has already concluded that the Washington area is significantly affected by transport and issued the NO<sub>x</sub> SIP call to prohibit specified amounts of emissions of one of the main precursors of ground-level ozone, NO<sub>x</sub>, to reduce ozone transport across State boundaries in the eastern half of the United States. See 63 FR 57356, October 27, 1998).

While the District, Maryland and Virginia may be able to perform some aspects of the MCR before submission of the severe area SIP, they will not be able to incorporate 2004 air quality data into the analysis. The 2004 air quality data should be the first to reflect control of NO<sub>x</sub> throughout the entire eastern half of the United States. EPA believes that the appropriate submission date for the MCR for the Washington area is no later than December 31, 2004, in order to include air quality data that reflects at least one full season of regional NO<sub>x</sub> controls. Given that the schedule set in this final rule requires submission of the severe area SIP before December 31, 2004, EPA believes that the Washington area needs to revise its commitment to perform a MCR as part of its severe area SIP. The revised commitment would not have to provide an administrative review of additional measures adopted after reclassification to severe, but would have to address other aspects of a MCR.

### H. Guidance on Offsetting Growth in Emissions Due to Growth in Vehicle Miles Traveled (VMT)

#### Summary of Public Comments Received

One commenter asked for clarification regarding a statement made regarding the enforceable transportation control strategies requirement of section 182(d)(1). The text at issue in the proposal was found in item number four in section XII of the proposed rule (67 FR at 68810) which was entitled "What would a Reclassification Mean for the Washington Area?", November 13, 2002). The commenter noted a discrepancy between the description in the notice of proposed rulemaking and the language found in the statute. The commenter stated that section 182(d)(1) of the CAA requires a State to submit a

<sup>5</sup> The applicable guidance and policy can be found in the January 18, 2002, joint memorandum from John S. Seitz and Margo Tsigoris Oge entitled "Policy Guidance for the Use of MOBILE6 in SIP Development and Transportation Conformity."

<sup>6</sup> See "Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS", EPA-454/B-95-007, June 1996.

<sup>7</sup> See "Mid-Course Review Guidance for the 1-Hour Ozone Nonattainment Areas that Rely on Weight-of-Evidence for Attainment Demonstration," from Lydia N. Wegman, Director, Air Quality Strategies & Standards Division, OAQPS and J. David Mobley, Acting Director, Emissions, Monitoring and Analysis Division, OAQPS, dated March 28, 2002, and see "Recommended Approach For Performing Mid-course Review of SIP's To Meet The 1-hour NAAQS For Ozone," January 2002.

<sup>8</sup> *Ibid.*