

relevant data; and (2) provide a plausible explanation for the rejection of proposed RACMs including why the measures, individually and in combination, would not advance the BPA area's attainment date.

Subsequent to the State's submittal, the EPA issued a memorandum clarifying its position on RACM analyses (memorandum from John S. Seitz and Margo Oge, December 14, 2000, titled "Additional Submission on RACM from States with Severe 1-hour Ozone Nonattainment Area SIPs"). The memorandum clarifies that it is the State's responsibility to perform and submit a RACM analysis for EPA use in determining SIP approval. Even though the State is responsible for developing the new analysis, EPA will only consider as adequate an RACM analysis by the State containing the factors outlined in the Court's December 11, 2002, ruling, when evaluating the use of RACM in the SIP approval process. The RACM analysis will be due on or before the attainment demonstration due date.

Withdrawing approval of the MVEB will result in reverting to the previously approved MVEBs for the purposes of transportation conformity. This would be the 1996 budget which was for VOCs only and did not include a NO_x budget. Therefore, there will be no valid NO_x budget in effect until a new MVEB (for both VOC and NO_x) is submitted and found adequate. In order for transportation projects to proceed in the absence of an adequate NO_x budget, an area must: (1) Pass a "build/no-build" emissions test, meaning that projected future regional emissions from the transportation system after making proposed changes must be lower than the projected emissions from the existing transportation system; and (2) demonstrate that the estimated future emissions will not exceed 1990 levels. See 40 CFR 93.119(b).

XI. How Does the Recent Release of MOBILE6 Interact With Reclassification?

A. What Is the Relationship Between MOBILE6 and the Attainment Year Motor Vehicle Emissions Budgets?

In addition to the fact that the motor vehicle emissions budgets contained in the State's November 12, 1999, and April 25, 2000, submittals are based on the year 2007, which is no longer an allowable attainment date under the decision in *Sierra Club v. EPA*, the current MVEB is not based upon the most recent mobile source emission factors model, MOBILE6.

The motor vehicle emissions budgets submitted to fulfill the SIP revision

requirements, including those of the attainment demonstration, must be prepared using the MOBILE6 emissions factor model. The State should refer to applicable guidance and policy, such as "Policy Guidance for the Use of MOBILE6 in SIP Development and Transportation Conformity" (memorandum from John S. Seitz and Margo Tsirigotis Oge, January 18, 2002) in preparing the budgets. The revised SIP must contain budgets based on MOBILE6 modeling.

B. What Is the Relationship Between MOBILE6 and the Post-1999 Rate-of-Progress Requirement?

The section 182(c)(2)(B) reasonable further progress requirement requires volatile organic compounds (VOC) or nitrogen oxides (NO_x) reductions of 3 percent per year, averaged over a 3-year period, until the attainment date, for serious and above ozone nonattainment areas designated and classified under the 1-hour ozone NAAQS. The EPA refers to these reductions as the rate-of-progress (ROP) requirement.

The January 18 MOBILE6 policy indicates, among other things, that the motor vehicle emissions budgets in the post-1999 rate-of-progress plans will have to be developed using MOBILE6. In this policy we said:

In general, EPA believes that MOBILE6 should be used in SIP development as expeditiously as possible. The Clean Air Act requires that SIP inventories and control measures be based on the most current information and applicable models that are available when a SIP is developed.⁴

Texas has not submitted ROP plans other than the original 15% ROP plan required for the BPA area, since under the Transport Policy the BPA area was not required to meet the post-1996 ROP requirements. The post-1996 until the attainment date ROP plans will need to be based upon MOBILE6.

The post-1996 rate-of-progress requirement flows from section 182(c)(2)(B) which requires serious and above areas to achieve a 3 percent per year reduction in baseline VOC emissions (or some combination of VOC and NO_x reduction from baseline emissions pursuant to section 182(c)(2)(C)) averaged over each consecutive three-year period after November 15, 1996, until the attainment date.⁵ Baseline emissions are the total

amount of actual VOC or NO_x emissions from all anthropogenic sources in the area during the calendar year 1990, excluding emissions that would be eliminated under certain Federal programs and Clean Air Act mandates: phase 2 of the Federal gasoline Reid vapor pressure regulations (Phase 2 RVP) promulgated on June 5, 1990 (see 55 FR 23666); the Federal motor vehicle control program in place as of January 1, 1990 (1990 FMVCP); and certain changes and corrections to motor vehicle inspection and maintenance (I/M) programs and corrections and reasonably available control technology (RACT) that were required under section 182(a)(2).⁶ We have issued guidance that provides detailed information for implementing the rate-of-progress provisions of section 182.⁷ Basically our guidance requires the calculation of a target level of emissions for each rate-of-progress milestone year. The target level for any rate-of-progress milestone year is the 1990 baseline emissions decreased by the amount of baseline emissions that would be reduced by the 1990 FMVCP, the Phase 2 RVP program, and RACT fix-ups⁸ by that year and reduced by the amount of the mandated minimum reductions (15 percent VOC by 1996, and an additional nine (9) percent VOC, or VOC and NO_x, by 1999, an additional 9 percent VOC, or VOC and NO_x, by 2002, and an additional VOC, or VOC and NO_x, by 2005). Under our guidance, the first rate-of-progress milestone year target levels, for example, the 15 percent VOC reduction by 1996, starts with the 1990 base year emissions and then subtracts the effects of the 1990 FMVCP and Phase 2 RVP through 1996 and also subtracts the required 15 percent VOC reduction. The 1999 VOC target level starts with the 1996 target level and subtracts the effects between 1996 and 1999 of the 1990 FMVCP and Phase 2 RVP and subtracts the required 9

through November 15, 2005, the new attainment date.

⁶ These requirements under section 182(a)(2) are known I/M and RACT corrections or I/M and RACT "fix-ups." For further explanation of these see 57 FR at 13503-13504, April 16, 1992.

⁷ This includes: Guidance on the Post-1996 Rate-of-Progress Plan (RPP) and Attainment Demonstration, EPA-452/R-93-015 (Corrected version of February 18, 1994). An electronic copy may be found on EPA's Web site at <http://www.epa.gov/ttn/oarpg/t1pgm.html> (file name: "post96_2.zip").

⁸ The BPA area has no I/M program and so has no I/M fix-ups to consider. A vehicle I/M program would normally be listed as a requirement for a moderate ozone nonattainment area. However, the Federal I/M Flexibility Amendments of 1995 determined that urbanized areas with populations less than 200,000 for 1990 (such as Beaumont/Port Arthur) are not mandated to participate in the I/M program (60 FR 48033, September 18, 1995).

⁴ See Clean Air Act section 172(c)(3) and 40 CFR 51.112(a)(1).

⁵ As a moderate area, BPA was not required to submit a ROP plan for a nine (9) percent reduction for the 3-year period November 15, 1996, through November 15, 1999. However, as a serious or severe area the BPA area is required to submit a ROP plan