

control strategy SIP or maintenance plan that is submitted to revise a previously submitted, but not yet approved, SIP. The next few examples illustrate these principles.

First, an area submits a SIP for a different year and Clean Air Act requirement. The area has an approved attainment demonstration that contains budgets for 2005 and subsequently submits a maintenance plan for the same pollutant that contains budgets for 2015. Though the area already has an approved budget for the year 2005, the maintenance plan addresses a different Clean Air Act requirement and contains budgets for a different year. Therefore in this case, EPA would review the 2015 budgets in the submitted maintenance plan for adequacy.

In a second example, an area submits new budgets for the same year, but for a different Clean Air Act requirement. The area has an approved rate-of-progress (ROP) SIP with budgets for the years 1999, 2002, and 2005 and submits an attainment demonstration with budgets for the year 2005. EPA would review the 2005 attainment budgets for adequacy, because although ROP budgets already exist for the year 2005, the submitted attainment budgets address a different Clean Air Act requirement than the approved ROP budgets. Once the attainment budgets are adequate, both the 2005 ROP budgets and the 2005 attainment budgets must be met for the 2005 analysis year. For analysis years beyond the 2005 attainment year, however, only conformity to the 2005 attainment budgets is required (*i.e.*, conformity to the 2005 ROP budgets is not required in years after the attainment year, once attainment budgets are established).

In a third example, an area submits a revision to a previously submitted SIP, prior to EPA's approval of the first submission. The area submits an attainment demonstration and we find it adequate. Before it is approved however, the State decides that a revision is necessary and submits a revised attainment demonstration to EPA. Because the first attainment demonstration had not been approved, EPA would review the adequacy of the budget from the revised attainment demonstration. If the revised budget is then found to be adequate, the revised budget would replace the previous adequate budget for use in future conformity determinations on the effective date of the new adequacy finding.

One final example concerns an area with "outyear" budgets. EPA allows SIPs to establish budgets for conformity purposes for years beyond the

timeframe that the SIP normally addresses. In this example, an area has an approved attainment demonstration with budgets for its 2005 attainment year. The approved attainment SIP also contains outyear budgets for the year 2015. Subsequently, the area submits a maintenance plan with budgets for the year 2015. Since the maintenance plan addresses a different Clean Air Act provision than the attainment demonstration, EPA would review the 2015 budgets from the submitted maintenance plan for adequacy even though the area already has budgets for the year 2015 in its attainment SIP. If EPA finds the maintenance budgets adequate, then both the 2015 outyear budgets and the 2015 maintenance year budgets must be met for conformity. That is to say, the 2015 outyear budgets from the attainment demonstration would continue to exist and apply for conformity in years 2015 and beyond, unless the State revises the attainment demonstration SIP to remove them. The 2015 outyear budgets would continue to apply for conformity until EPA approved the SIP revision proposing to remove the outyear budgets.

EPA generally will not review the adequacy of a budget from a submitted SIP that revises an existing approved SIP with budgets for the same year and Clean Air Act requirement, because as a matter of law a submitted SIP may not supersede an approved SIP for the same Clean Air Act requirement, year, and pollutant. A budget from such a submitted SIP revision would not apply for conformity until EPA actually approves the revision.

Exceptions to this general rule are SIPs for which EPA specifically limits the duration of its approval of the motor vehicle emissions budgets until replacement budgets have been found adequate. One example where EPA limited the duration of our approval was the recently approved 1-hour ozone attainment demonstrations and maintenance plans that relied on interim MOBILE5-based estimates of Federal Tier 2 standards (65 FR 6698). In the proposed approvals for these SIPs, EPA proposed that because States could not accurately analyze emissions from these standards with the MOBILE5 model, EPA would require States to revise these SIPs with MOBILE6. EPA also proposed that our approval of the MOBILE5-based budgets would be limited such that when the MOBILE5-based budgets are revised using MOBILE6, the MOBILE6 budgets could be used for conformity on the effective date of our adequacy finding. MOBILE6 provides a more accurate estimate of the emission benefits of the Tier 2 vehicle

and fuel standards, and the revised budgets should be used as soon as they are adequate. Therefore, EPA will review the adequacy of the MOBILE6 budgets when these SIPs are submitted since they will become effective once they are found adequate under the terms of our limited approvals of the attainment demonstrations.⁶ A second example of where EPA has limited the duration of our approval is in the case of certain SIPs in the State of California. See 67 FR 69139 for further details on EPA's action that limits our approval of these specific SIPs and allows submitted budgets that have been found adequate to supersede previously approved budgets for conformity.

G. Does EPA Review Adequacy of SIPs That Do Not Establish Specific Budgets?

In addition to SIPs that establish a specific motor vehicle emissions budget for a new year or Clean Air Act requirement, there are other situations when EPA will conduct an adequacy review. In these cases, we will use the same adequacy review process that we use for SIPs that include specific budgets.

First, EPA will review the adequacy of limited maintenance plans. Usually, a maintenance plan contains budgets for the last year of the maintenance plan. If a maintenance plan does not explicitly identify budgets, then EPA has said that the emissions projections for the last year of the maintenance plan serve as the budgets (see the discussion in the preamble to the November 24, 1993, conformity rule at 58 FR 62195). Limited maintenance plans, however, do not include budgets nor even future motor vehicle emissions projections that could be interpreted as budgets. Instead, a limited maintenance plan concludes that the area will continue to maintain regardless of the quantity of emissions from the on-road transportation sector; essentially, the budget is unlimited. For limited maintenance plan submissions, EPA's adequacy review will primarily focus on whether the area qualifies for the applicable limited maintenance policies for ozone, CO, and PM-10 areas. In this case, a finding of adequacy means that the area does in fact meet the criteria for submitting a limited maintenance plan. If so, the area will be considered to automatically meet the budget test for future conformity

⁶ For more information, see EPA's January 18, 2002, memorandum titled, "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity," from John Seitz, Director, Office of Air Quality Planning and Standards, and Margo Tsigotis Oge, Director, Office of Transportation and Air Quality, to EPA Regional Air Division Directors.