

**Transportation Conformity Rule Amendments for the New 8-hour Ozone and
PM_{2.5} National Ambient Air Quality Standards and
Miscellaneous Revisions for Existing Areas**

Summary of the November 5, 2003, Published Proposed Rulemaking

Note: This document provides a summary of the various proposals included in EPA's November 5, 2003, published notice of proposed rulemaking that addresses transportation conformity under the new 8-hour ozone and PM_{2.5} air quality standards. The summary descriptions correspond with the individual preamble sections included in the proposal.

Section III: Conformity Grace Period and Revocation of the 1-hour Ozone Standard

This section discusses the statutory 1-year grace period before conformity is required after the effective date of 8-hour ozone and PM_{2.5} nonattainment designations, and how this grace period would apply in metropolitan, "donut," and isolated rural areas. This section also discusses the conformity impacts of EPA's June 2, 2003, proposal (68 FR 32819) to revoke the 1-hour ozone standard in whole, or in part, one year after the effective date of 8-hour ozone nonattainment designations. Conformity would no longer be required in either 1-hour nonattainment or 1-hour maintenance areas, once the standard is revoked. This section also discusses when conformity would apply, or not apply, in areas with Early Action Compacts. Finally, this section proposes only minor changes to the transportation conformity rule, since primarily discusses issues that are already in statute, or are proposed under other rulemakings or guidance.

Section IV: General Changes in the Interim Emissions Tests

This section proposes to amend the rule as follows:

- ▶ change the conformity rule's references for "emission reduction tests" to be "interim emissions tests;"
- ▶ establish 2002 as the baseline year interim emissions tests for the 8-hour ozone and PM_{2.5} standards (i.e., for the "no-greater-than-2002" and "less-than-2002" interim emissions tests);
- ▶ allow certain areas to utilize a "build-no-greater-than-no-build" test instead of the current "build-less-than-no-build" test, and would not require regional emissions analyses in future years where the transportation projects and assumptions in the build and no-build scenarios are the same; and
- ▶ propose three options for changing the interim emissions test requirements in higher classified ozone and CO areas as follows:
 - 1) complete both the build-less-than-no-build and less-than-baseline year tests;
 - 2) complete either the build-less-than-no-build or less-than-baseline year test; or
 - 3) require that only one of these tests be met and eliminate the remaining test as an option altogether.

Section V: Regional Conformity Tests in 8-hour Ozone Areas That Do Not Have 1-hour Ozone SIPs

This section proposes to amend the rule as follows:

- ▶ Once an 8-hour ozone area has adequate or approved 8-hour SIP budgets in place, those budgets would be used to demonstrate conformity.
- ▶ Prior to adequate or approved budgets:
 - marginal and below 8-hour ozone areas and areas designated under Clean Air Act subpart 1 could do either the build-no-greater-than-no-build test or the no-greater-than-2002 test.
 - EPA is requesting comment on three proposed options for moderate and above 8-hour ozone areas, as described above in the summary for Section IV.
- EPA also proposes options for 8-hour ozone areas that qualify for EPA's proposed clean data policy for the 8-hour ozone standard. See the conformity proposal for further details.

Section VI.: Regional Conformity Tests in 8-hour Ozone Areas That Have 1-hour Ozone SIPs

This section proposes to amend the rule as follows:

- ▶ Once an 8-hour area has adequate or approved 8-hour SIP budgets in place, those budgets would be used to demonstrate conformity.
- ▶ Prior to adequate or approved budgets, all 8-hour ozone areas covered by this section are able to select one test option from among a menu of test options for completing the regional emissions analysis requirement, rather than be required to complete a specific test. The proposal discusses several options depending upon the manner in which the 8-hour ozone nonattainment boundary interacts with the existing 1-hour ozone boundary.
- ▶ The proposed options for conformity prior to 8-hour ozone SIP budgets are as follows:
 - 1) Where 8-hour and 1-hour ozone boundaries are the same, conformity would be demonstrated with either:
 - the interim emissions tests; or
 - the budget test using the 1-hour ozone SIP budget.
 - 2) Where the 8-hour ozone boundary is smaller than the 1-hour ozone boundary, conformity would be demonstrated with either:
 - the interim emissions tests for the 8-hour area;
 - the budget test using the 1-hour ozone budget against the entire 1-hour area; or
 - the budget test using a portion of the 1-hour ozone budget for the 8-hour ozone area. The consultation process would be used to determine whether the budget test as described is appropriate and if so, how it should be implemented. EPA requests comments on when using a portion of the 1-hour budget is appropriate and how this could be done in practice.
 - 3) Where the 8-hour ozone boundary is larger than the 1-hour ozone boundary, conformity would be demonstrated with either:
 - ▶ the interim emissions tests for the entire 8-hour area; or
 - ▶ the budget test using the 1-hour ozone budget against the 1-hour area, plus the interim emissions tests for the remainder of the 8-hour area.

- 4) Where portions of the 8-hour and 1-hour ozone boundaries overlap, conformity would be demonstrated with either:
- ▶ the interim emissions tests for the entire 8-hour area; or
 - ▶ the budget test using a portion of the 1-hour budget for the portion of the 1-hour area that is overlapped by the 8-hour area, plus the interim emissions tests for the remainder of the 8-hour area. The consultation process would be used to determine whether the budget test for this scenario is appropriate and if so, how it should be implemented.
- ▶ See EPA's outreach document entitled, "Boundary Scenarios for 8-hour Ozone Nonattainment Areas Previously Designated as Nonattainment or Maintenance for the 1-hour Ozone Standard" on EPA's website for illustrations of the four hypothetical boundary scenarios described in the proposal and this summary.
- ▶ EPA also proposes options for 8-hour ozone areas that qualify for EPA's proposed clean data policy for the 8-hour ozone standard. See the conformity proposal for further details.

Section VII: Regional Conformity Tests in PM_{2.5} Areas

This section proposes to amend the rule as follows:

- ▶ Once a PM_{2.5} area has adequate or approved PM_{2.5} budgets in place, those budgets would be used to demonstrate conformity.
- ▶ Prior to adequate or approved budgets, PM_{2.5} areas could do either the build-no-greater-than-no-build test or the no-greater-than-2002 test for direct PM_{2.5} and the relevant PM_{2.5} precursors that apply in a given area.

Section VIII: Consideration of Direct PM_{2.5} and PM_{2.5} Precursors in Regional Emissions Analyses

This section proposes to amend the rule as follows:

- ▶ Directly emitted PM_{2.5} from motor vehicle tailpipe, brake wear, and tire wear emissions would be considered in all conformity analyses.
- ▶ NO_x, VOCs, SO_x, and NH₃ are identified as transportation-related precursors of PM_{2.5}.
- ▶ Conformity would be demonstrated for a precursor if a SIP establishes an adequate or approved budget for that precursor.
- ▶ Prior to adequate or approved budgets, EPA proposes two options for comment:
 - 1) conformity would be demonstrated for NO_x and VOCs unless EPA or the State air agency finds them not to be significant; or
 - 2) conformity would only be required for NO_x and VOCs if EPA or the State air agency finds them to be significant.
- ▶ Under both precursor options, conformity would only be required for SO_x and NH₃ if EPA or the State air agency finds them to be significant.

Section IX: Re-entrained Road Dust in PM_{2.5} Regional Emissions Analyses

This section proposes to amend the rule as follows:

- ▶ Conformity analyses would include re-entrained road dust if a SIP establishes an adequate or approved PM_{2.5} budget that includes re-entrained road dust.

- ▶ Prior to adequate or approved budgets, EPA proposes two options for comment:
 - 1) conformity would only be demonstrated for re-entrained road dust if EPA or the State air agency finds it to be significant. EPA also offers a modification to this option that would require PM_{2.5} areas that are also PM₁₀ areas to include PM_{2.5} re-entrained road dust in their analyses, if road dust is currently included in PM₁₀ conformity analysis.
 - 2) conformity analyses for all areas would include re-entrained road dust unless EPA or the State air agency finds them not to be significant.

Comment is also solicited on the method of estimating road dust.

Section X: Construction-Related Fugitive Dust in PM_{2.5} Regional Emissions Analyses

This section proposes to amend the rule as follows:

- ▶ Conformity would be demonstrated for construction-related fugitive dust if a SIP establishes an adequate or approved PM_{2.5} budget that includes construction-related fugitive dust. EPA proposes to only include construction-related fugitive dust in PM_{2.5} conformity analysis if EPA or the State air agency finds it to be significant.

Section XI: Compliance with PM_{2.5} SIP Control Measures

This section proposes to amend the rule as follows:

- ▶ FHWA and FTA projects in PM_{2.5} nonattainment and maintenance areas would be required to comply with the PM_{2.5} SIP's control measures, when such measures exist. The proposal is similar to the current requirement for PM₁₀ areas.

EPA also requests information regarding how this requirement has been implemented in PM₁₀ areas.

Section XII: PM_{2.5} Hot-spot Analyses

EPA proposes two options for this issue:

- 1) PM_{2.5} hot-spot analysis would not be required in PM_{2.5} areas; or
- 2) PM_{2.5} hot-spot analysis would be required, but only in the types of locations identified in PM_{2.5} SIPs.

EPA also requests information on the existence of transportation-related PM_{2.5} hot-spots, and location types that might be identified in SIPs.

Section XIII: PM₁₀ Hot-spot Analyses

This section proposes four options for comment regarding the current requirement for hot-spot analyses in PM₁₀ areas:

- 1) retain the requirement to do hot-spot analyses for all projects in PM₁₀;
- 2) limit analyses to areas where the PM₁₀ SIP identifies motorized vehicle emissions as a localized problem;
- 3) limit analyses to certain locations or certain types of projects; and
- 4) eliminate the requirement to perform PM₁₀ hot-spot analyses altogether.

EPA invites suggestions of additional options for the current PM₁₀ hot-spot requirement.

EPA requests information on the implementation of the PM₁₀ hot-spot requirement and other aspects of this issue. Please see the proposal for further details.

Section XIV: Miscellaneous Revisions for New and Existing Areas

EPA is also proposing several miscellaneous revisions that would:

- ▶ Revise current definitions for "control strategy implementation plan revision" and "milestone," and add a new definition for "limited maintenance plan."
- ▶ Incorporate existing policies for how conformity requirements are applied in areas with insignificant motor vehicle emissions and areas with limited maintenance plans.
- ▶ Include a 2-year grace period before transportation network modeling and transportation plan content requirements would apply in certain ozone and CO areas that are bumped-up to higher classifications or where the urbanized population increases over 200,000.
- ▶ Clarify when the budget test must be satisfied for an adequate or approved SIP budget, according to the March 2, 1999, court decision. This proposal would expand on EPA's June 30, 2003 proposal (68 FR 38974) on this particular issue.
- ▶ Clarify other provisions of the conformity regulation to improve implementation.