

transportation plan or Transportation Improvement Program. Isolated rural areas are distinguished from “donut” areas which are outside the metropolitan planning boundary and inside the nonattainment/maintenance area boundary.

Because isolated rural areas do not have federally required metropolitan transportation plans and Transportation Improvement Programs, a conformity determination need only be done in an isolated rural area when that area has a transportation project or projects that need approval. Therefore, isolated rural areas also have a 1-year grace period before conformity applies under the 8-hour ozone standard, but at the end of that grace period, the area is not required to have made a conformity determination. An isolated rural area would be required to make a conformity determination only at the point when a new transportation project needs approval. This point may occur significantly after the 1-year grace period has ended. (Conformity requirements for isolated rural areas can be found at 40 CFR 93.109(g)).

8. Does Conformity Apply for the 1-Hour Ozone Standard Once the 1-Hour Ozone Standard Is Revoked?

The CAA only requires conformity in areas that are designated nonattainment or maintenance for a standard. Therefore, conformity will not apply for purposes of the 1-hour ozone standard after the 1-hour standard and an area's 1-hour designation are revoked. In other words, existing 1-hour ozone nonattainment and maintenance areas, including those that will not be designated nonattainment for the 8-hour ozone standard, will no longer be required to demonstrate conformity to the 1-hour standard when EPA revokes the standard, 1 year after the effective date of EPA's 8-hour ozone designations. This interpretation that conformity would not apply in 1-hour ozone maintenance areas once the 1-hour standard is revoked is a change from the approach we planned to take in 1997. Since that time, we have reconsidered whether or not conformity should continue to apply in maintenance areas. We have concluded that the better interpretation is that conformity would not apply in 1-hour maintenance areas once the 1-hour ozone standard is revoked because maintenance areas are relieved of the obligation under section 175A of the CAA to have a maintenance plan. Since a maintenance plan is not required, conformity no longer applies in these areas. A detailed discussion of our plans for revoking the 1-hour standard and the

associated 1-hour designations may be found elsewhere in today's proposed rulemaking.

9. What Are EPA's Plans for Amending the Conformity Rule To Address the 8-Hour Ozone Standard?

The conformity rule will need to be amended to address the implementation of both the 8-hour ozone and PM_{2.5} air quality standards. We plan to address both standards in one revision to the rule. We anticipate proposing this revision in 2003 and finalizing the rulemaking prior to EPA's finalization of designations of nonattainment areas in 2004. This schedule would allow areas to be well aware of the conformity requirements that will apply to them prior to the start of the 1-year grace period. The proposal will provide an opportunity for stakeholders to offer comments and ideas for providing flexibilities that would be appropriate for some or all nonattainment areas.

10. What Impact Will the Implementation of the 8-Hour Ozone Standard Have on a State's Transportation Conformity SIP?

Since we are not now proposing to make specific revisions to our Transportation Conformity Regulations in this proposal, States should not need to revise their Transportation Conformity SIPs, unless they need to do so to ensure the regulations apply in the appropriate areas.

11. What Other Parts of This Proposal Could Affect Transportation Conformity Determinations?

We believe that transportation conformity stakeholders would be interested in the proposed Clean Air Development Communities program found in section O, question 9 of this proposal. Section O discusses how we propose to implement the NSR, EPA's program that regulates emissions from stationary sources such as power plants, under the 8-hour ozone standard. In question 9 of section O, we propose two options to recognize the air quality benefits that may result from siting new sources and planning development in a particular manner. Under these two options, the air quality benefit of location decisions would be applied to the stationary source sector. Because the benefits of measures cannot be counted twice, if air quality benefits of location decisions are applied to the stationary source sector, they could not also be credited to the transportation sector in a conformity determination. These options and their implications are discussed in further detail in section O, question 9. We encourage transportation

conformity stakeholders to review that section carefully and submit any comments to us.

N. What Requirements for General Conformity Should Apply to the 8-Hour Ozone Standard?

1. What Is the Purpose of the General Conformity Regulations?

Section 176(c) of the CAA requires that before a Federal entity takes an action, it must make a determination that the proposed action will not interfere with the SIP or the State's ability to attain and maintain the NAAQS. In November 1993, EPA promulgated two sets of regulations to implement section 176(c). One set, known as the Transportation Conformity Regulations (described above) deals with approval and funding of highway and mass transit projects. The other set, known as the general conformity regulations, deals with all other Federal activities. Besides ensuring that Federal actions will not interfere with the SIP, the general conformity program also fosters communications with State/local air quality agencies, allows for public participation in the review of air quality impacts from Federal actions, and allows for air quality review of individual projects. In 1995, Congress limited the application of section 176(c) to nonattainment and maintenance areas only.

2. How Is the General Conformity Program Currently Structured?

Due to the very broad definition of “Federal action” in the statute and the number of Federal agencies subject to the conformity requirement, the number of individual conformity decisions could have been on the order of a thousand or more per day. To avoid creating an unreasonable administrative burden, EPA established *de minimis* emissions levels and exempted certain actions. In addition, the regulations allow Federal agencies to develop their own list of actions which are presumed to conform. For non-exempt actions that increase emissions above the *de minimis* levels, the Federal agency must demonstrate that the action will conform with the SIP or will not cause or contribute to any new violation of any standard in any area; interfere with provisions in the applicable SIP for maintenance of any standard; increase the frequency or severity of any existing violation of any standard; or delay timely attainment of any standard or any required interim emissions reductions or other milestone. We are currently reviewing the general