

DOT determined conformity of the transportation plan. We propose to remove the six-month conformity requirement for TIPs because we believe this requirement is not necessary for ensuring air quality goals given other existing transportation planning and conformity requirements, as described below. When we initially proposed this requirement, we anticipated that updating the TIP to match a revised plan would not otherwise occur. In the initial January 1993 transportation conformity proposal, we stated, "EPA's proposal allows a reasonable interval of six months after a plan is amended or a new plan is adopted during which the TIP could be revised and a new conformity determination made by the MPO and DOT" (58 FR 3775). Also, in the proposal to the 1997 conformity rule, we stated that "this requirement should be retained because of ISTEA's (and hence conformity's) expectation that the TIP will flow from, and be consistent with, the transportation plan" (July 9, 1996; 61 FR 36129).

However, EPA now believes that § 93.104(c)(4) is unnecessary given other requirements and actual experience in implementing conformity. The TIP must already be consistent with the plan according to 23 U.S.C. 134(h)(3)(C), so plans and TIPs should always include the same projects for years that are covered by both planning documents. This statutory provision is also found in DOT's metropolitan planning regulations at 23 CFR 450.324(f)(2). Because of this requirement, in practice areas typically revise and determine conformity of the plan and TIP at the same time. In addition, since the TIP is a subset of the plan, the regional emissions analysis for the plan includes all of the projects in the TIP. Therefore, the air quality impacts of the TIP are essentially assured when conformity of the plan is demonstrated.

Furthermore, the current conformity rule contains other frequency requirements under § 93.104 that ensure that new federally-funded or approved transportation activities are consistent with clean air goals before they are funded or approved. Such requirements include the requirement to determine conformity of new or revised plans, TIPs, and projects before they can be adopted, and the requirement to determine conformity of transportation plans and TIPs at least every three years. As a result of these existing transportation planning and conformity requirements, we believe that today's proposal to eliminate the specific provision that requires conformity of the TIP to be determined within six months of determining conformity of the plan

would work to simplify the existing conformity rule without compromising its benefits.

B. Streamlining the 18-Month SIP Triggers for New Conformity Determinations

EPA is also proposing to make several rule revisions to streamline § 93.104(e), which requires new conformity determinations to be made within 18 months of certain SIP actions, or "triggers." EPA believes that some of the current SIP triggers for conformity can be eliminated altogether, and some of them can be simplified to improve implementation of the conformity program without any adverse consequences in assuring that transportation activities conform to air quality plans.

Specifically, we propose to eliminate § 93.104(e)(1). This provision required all nonattainment and maintenance areas to determine conformity within 18 months of November 24, 1993, which was the date that EPA initially promulgated the conformity rule (58 FR 62188). At this point, this requirement is no longer relevant for any area and we propose to remove it from the rule for clarity.

EPA is not proposing any changes to § 93.104(e)(2), as this section was recently updated in a final rule published August 6, 2002 (67 FR 50808). The August 2002 rule realigned the 18-month conformity requirement for initial SIP submissions by requiring a conformity determination within 18 months of the effective date of EPA's adequacy finding on the motor vehicle emissions budgets in an initial SIP submission.

EPA proposes two changes to § 93.104(e)(3), the requirement to determine conformity within 18 months of EPA's approval of a SIP that establishes or revises a motor vehicle emissions budget. First, we propose that this 18-month clock would begin on the effective date of EPA's approval of the SIP. This proposed clarification will resolve an ambiguity in the current rule as to whether this 18-month clock begins on the date that the **Federal Register** publishes the approval notice or the effective date of that notice. This proposed change would also make § 93.104(e)(3) consistent with § 93.104(e)(2), which requires that conformity be determined within 18 months of the effective date of EPA's adequacy finding. Likewise, this change would be consistent with our proposed revision to § 93.120, which would require the consequences of a SIP disapproval to apply upon the effective date of EPA's disapproval. (See section

V. "Conformity Consequences of SIP Disapprovals" for the discussion of EPA's proposed change to § 93.120.) Having all of these requirements apply as of the effective date of the relevant EPA action would provide consistency, avoid confusion and thus benefit planners in implementing these specific requirements.

The second change we propose to § 93.104(e)(3) is to require a conformity determination within 18 months of EPA's approval of a SIP that affects a budget only when a conformity determination has not already been made using the budgets from the newly-approved SIP. That is, if an area determined conformity using adequate budgets from a submitted SIP, and those budgets had not changed when EPA subsequently approved the submitted SIP, then the area would not have to redetermine conformity within 18 months of EPA's approval of the SIP. EPA believes that if the approved budgets have already been used in a conformity determination, there is no added environmental benefit in requiring another conformity determination to be made within 18 months of EPA's approval of a SIP that contains these same budgets. EPA notes that budgets are unchanged if they are for the same pollutant or precursor, the same quantity of emissions, and the same year.

EPA also proposes to eliminate § 93.104(e)(4), which requires a conformity determination to be made within 18 months of EPA's approval of a SIP that adds, deletes, or changes a TCM. EPA believes that this requirement is redundant with the requirements in §§ 93.104(e)(2) and (3), and therefore, is unnecessary. That is, if a SIP adds, deletes, or changes a TCM and that addition, deletion, or change affects a budget in a SIP, then a new conformity determination would be triggered by either an adequacy finding on the budget in the submitted SIP (if it is an initial SIP) under § 93.104(e)(2), or EPA's approval of the SIP (if the budget has not already been used in a conformity determination) under § 93.104(e)(3). If the addition, deletion, or change to a TCM did not affect any applicable budget, then EPA concludes that a new conformity determination would not be needed, since such a SIP revision would not result in any new air quality information (*i.e.*, a new budget) necessary to include in the transportation planning and conformity processes.

Finally, EPA proposes two changes to § 93.104(e)(5), which requires a new conformity determination within 18 months of EPA's promulgation of a