

federal implementation plan (FIP). First, we propose to start the clock for this requirement on the effective date of EPA's promulgation of a FIP, to be consistent with the start date of the other SIP triggers of conformity discussed above. Second, EPA proposes to delete the phrase "or adds, deletes, or changes TCMs," for the same reasons that we propose to delete § 93.104(e)(4) as described above. Again, EPA believes that the purpose of this provision will be adequately served by the requirement to show conformity after EPA promulgation of a FIP containing new budgets, or alternatively, the provision would be unnecessary if no budget changes are made.

## IX. Latest Planning Assumptions

### A. What Are We Proposing?

We are proposing to amend § 93.110(a) to change the point in the conformity process when the latest planning assumptions are determined. The proposal would allow conformity determinations to be based on the latest planning assumptions that are available at the time the conformity analysis begins. The current conformity rule requires that the determination rely on the latest assumptions available at the time of DOT's conformity determination for a transportation plan, TIP, or project. EPA and DOT have previously defined the "latest" assumptions as "the most current information that is available to State and local planners (e.g., the MPO or other agency can obtain the information from another agency, the information is appropriate for the current conformity determination, the information is readily transferable for use in the transportation and/or emissions modeling, etc.)."<sup>7</sup>

EPA intends for the start of the regional conformity analysis to be the point at which the MPO begins to model the impact of the proposed transportation plan/TIP on travel and/or emissions. The start of the conformity analysis should be a point after which significant work would be required to incorporate new data. EPA and DOT are asking for comment on how MPOs, State departments of transportation, transit agencies, and air quality agencies would define the "start of the conformity analysis" for transportation plan and TIP conformity determinations in individual areas.

Today's proposal would rely on the interagency consultation process required by § 93.105(c)(1)(i) to determine when a conformity analysis reasonably begins in a given area. Section 93.105(c)(1)(i) already requires the consultation process to be used to decide which planning assumptions and motor vehicle emissions model are available for use by the MPO or other designated agencies responsible for conducting conformity analyses.

Specific interagency consultation procedures are already required in nonattainment and maintenance areas to determine such things as which projects are regionally significant and to evaluate models and methods. During this existing process, the starting date of the conformity analysis should be well documented by the interagency consultation group and established so that there is sufficient time for the MPO to meet transportation planning and conformity requirements, including to complete the modeling analysis, prepare documents, conduct the public participation process and allow the MPO and DOT to complete conformity determinations by any required deadline. New information (e.g., population or fleet data) that becomes available after the start of the conformity analysis would not be required to be incorporated into the current analysis if the analysis is on schedule, although an area could voluntarily include the new information at any time as appropriate.

The interagency consultation process should also be used to determine whether significant delays in completing the conformity analysis would accommodate the inclusion of more recent planning assumptions that become available after the initially designated conformity analysis start date. If, for example, a substantial delay in the conformity process occurs and new planning assumptions become available, EPA believes that such assumptions should not be ignored if the conformity analysis is in its initial stages.

State and local transportation and air quality planners should align the updates of planning assumptions with the start of the conformity analysis whenever possible. The consultation process should continue to be used to determine what are the most recent assumptions available for SIP development, so that they can be incorporated into the conformity process expeditiously. For example, if EPA is expected to find a new SIP budget adequate before the MPO or DOT's conformity determination, conformity to the new SIP budget would be required for the current conformity

determination. In such a case, transportation planners should use the more recent SIP assumptions and consider them at the start of the current conformity analysis, since the more recent assumptions would have been available through the consultation process when the SIP was being developed. State and local air agencies should continue to inform their transportation counterparts of new assumptions as they become available.

The proposal would not change the requirement that DOT's conformity determination of the transportation plan and TIP be based on an analysis that is consistent with the proposed transportation system. For example, if a regionally significant project is significantly changed after the start of the conformity analysis, such a change must be reflected in the conformity analysis for the current determination. Likewise, a significant change in the design concept and scope of an emission reduction program would also have to be reflected before DOT makes its conformity determination.

Today's proposal does not change the requirements of § 93.122(a) which describes when emissions reduction credit can be taken in regional emissions analyses. Section 93.122(a)(2) continues to require that analyses reflect the latest information regarding the implementation of transportation control measures (TCMs) or other control measures in an approved SIP, even if a measure is cancelled or changed after the start of the conformity analysis. In addition, § 93.122(a)(3) continues to require that DOT's conformity determination only be made when regulatory control programs have been assured and will be implemented as described in the SIP. However, today's proposal would allow areas to rely upon the latest existing information as documented at the start of the conformity analysis regarding the effectiveness of SIP control programs that are being implemented as described in the SIP (§ 93.110(e)).

Finally, § 93.122(a)(6) is not amended by today's action. The conformity rule continues to require that the conformity analysis be based on the same ambient temperature and other factors used to establish the SIP's motor vehicle emissions budget.

### B. Why Are We Proposing This Change?

Today's proposal would make the conformity rule more workable for implementers while continuing to meet the basic Clean Air Act requirement that the latest planning assumptions be used in conformity determinations. EPA is

<sup>7</sup> For more information, see Question 2 in the January 18, 2001, EPA and DOT memorandum entitled, "Use of Latest Planning Assumptions in Conformity Determinations." See EPA's conformity web site listed in section I.B.2. of this proposal to download an electronic copy of this guidance document.