

proposing this change for several reasons.

EPA believes that today's proposal is supported by section 176(c)(1) of the Clean Air Act which requires that "[t]he determination of conformity shall be based on the most recent estimates of emissions, and such estimates shall be determined from the most recent population, employment, travel and congestion estimates as determined by the metropolitan planning organization or other agency authorized to make such estimates." However, the Clean Air Act did not explicitly define the point in the conformity process when the "most recent estimates" should be determined. EPA believes that this ambiguity in the Clean Air Act allows for a procedural change in how the latest planning assumptions requirement is implemented.

When EPA originally wrote the conformity rule in 1993, we did not fully envision how the requirement for the use of latest planning assumptions would be implemented in practice. Under the current conformity rule, if an MPO has completed a regional emissions analysis for its plan and TIP conformity determinations, and new information becomes available as late as the day before DOT makes its conformity determination, DOT would not be able to complete its action, as the MPO would have to re-start the conformity process to incorporate the new data. In such a case, significant state and local resources may be required to incorporate new data, and the transportation planning process may be unnecessarily disrupted. EPA does not believe this is appropriate or consistent with the overall intent of the Clean Air Act.

The proposal would also be more consistent with how EPA applies the requirement for the use of the latest motor vehicle emissions model. The current conformity rule provides areas a grace period before a new emissions model must be used in the conformity process. Section 93.111(b) states that EPA, in consultation with DOT, will establish a grace period "no less than three months and no more than 24 months after notice of availability is published in the **Federal Register**." During the grace period, areas can use the previous emissions model for conformity. Section 93.111(c) of the conformity rule allows for the use of a previous emissions model in conformity analyses for a given length of time after a new model has been released. That is, as long as the analysis using the previous model has begun before or during the established grace period for a new version of the model, the analysis

is acceptable. Today's proposal for the use of latest planning assumptions is similar: Areas would use the latest planning assumptions available when they start the analysis, and would be able to complete the analysis even if new assumptions become available prior to completion. EPA's policy for incorporating the latest emissions models into the conformity process was most recently discussed in our January 18, 2002 guidance for the use of MOBILE6 in SIP development and conformity determinations. See EPA's conformity web site listed in section I.B.2. to download an electronic copy of this guidance document.

Finally, due to the iterative nature of the conformity process, new information that becomes available late in the planning process would still be incorporated in the conformity process in a timely manner, as the use of such information would be required in the next conformity determination.

EPA seeks comment on this proposal to incorporate new data into the conformity process and to determine latest planning assumptions at the start of the conformity analysis.

## X. Horizon Years for Hot-Spot Analyses

### A. What Are We Proposing?

EPA is clarifying § 93.116 so that future hot-spot analyses demonstrate that a project's emissions are not expected to worsen air quality during the entire time frame of the transportation plan. The current rule requires localized or "hot-spot" analyses to demonstrate that new projects will not cause or contribute to any new or existing violations in CO and PM-10 nonattainment and maintenance areas. However, the current rule does not specify what time frame should be covered by such analyses.

Today's proposal would clarify that project-level hot-spot analyses in metropolitan nonattainment and maintenance areas must consider the full time frame of an area's transportation plan at the time the analysis is conducted.<sup>8</sup> Alternatively, hot-spot analyses for new projects in isolated rural nonattainment and maintenance areas, as defined in today's proposal, should consider the full time frame of the area's regional emissions analysis since these areas are not required to develop a transportation plan and TIP under DOT's regulation.

<sup>8</sup> Under DOT's current planning regulation, transportation plans in metropolitan nonattainment and maintenance areas need to be updated every three years and cover at least a 20-year planning horizon (23 CFR 450.322(a)).

All areas should use the interagency consultation process to select the specific methods and assumptions for conducting both quantitative and qualitative hot-spot analyses in accordance with § 93.123 of the current rule (§ 93.105(c)(1)(i)).

EPA does not anticipate that today's clarification would significantly change how project-level analyses are being done in practice. To ensure that the requirement for hot-spot analysis is being satisfied for all relevant periods, areas should examine the year(s) within the transportation plan or regional emissions analysis, as appropriate, during which peak emissions from the project are expected and a violation would most likely occur due to the cumulative impacts of the project and background regional emissions in the project area. EPA believes that if areas demonstrate that no hot-spot impacts occur in the years of highest expected emissions, then they will have shown that no adverse impacts will occur in any years within the time frame of the plan (or regional emissions analysis).

Without this clarification, however, we believe that it is difficult for implementers to decide which year(s) to analyze to demonstrate that the conformity requirement for hot-spot analysis is satisfied. For example, some could read our existing requirement to mean that the demonstration regarding local violations must consider only the year of project completion, or alternatively, must consider every single future year.

In practice, many areas have examined trends from their regional emissions analysis and/or other factors to determine the year(s) expected to have the highest emissions. For example, some areas have reviewed trends in the future number of projects, changes in emissions factors and/or the economic and population growth. The specific methodology for selecting the most appropriate analysis year(s) to satisfy the hot-spot requirements for new transportation projects should be decided through interagency consultation.

Today's proposal would not change the procedural requirements for hot-spot analyses outlined in § 93.123, nor the flexibility for areas to decide how best to meet these requirements through interagency consultation. We believe our proposed clarification to § 93.116, in combination with the rule's existing consultation and modeling requirements, is sufficient to ensure that the years of peak emissions within the full term of the transportation plan are appropriately considered in hot-spot analyses for new transportation projects.