

potential interpretation of the rule when it was drafted and does not believe it is appropriate. We believe that this inconsistency must be corrected to ensure that the budget test is performed for the attainment year whenever it is in the time frame of the transportation plan, regardless of whether or not budgets are established for the attainment year.

For example, suppose an ozone area has adequate rate-of-progress budgets for the year 2005, but has not yet established budgets for its 2007 attainment year. Under § 93.118(b) of the current rule, the area would demonstrate conformity to the 2005 budgets for 2005, for the last year of the transportation plan and any other intermediate years. Under today's proposal, the area would also demonstrate conformity for the 2007 attainment year, using the 2005 budgets, to ensure that emissions from motor vehicles are considered in the year in which the area must achieve the national ambient air quality standards. EPA believes analyzing the attainment year (provided it is within the time frame of the transportation plan) for conformity is critical in assuring that areas achieve their air quality goals on time.

EPA does not anticipate that the proposed change would have a practical impact on conformity determinations already underway. PM-10, CO, and ozone areas with lower classifications are not required by the Clean Air Act to submit reasonable further progress SIPs for years prior to the attainment year. Therefore, the case that the proposal addresses should not occur in these areas. For the limited number of affected areas, it is our understanding that conformity implementers are already completing the budget test for the attainment year, since a regional emissions analysis is also required for that year. The proposal would merely clarify that this should be done in all such cases. In addition, the majority of these areas already have adequate or approved budgets for the attainment year, so this would require no change from current practice.

This minor rule revision would not change existing requirements that the budget test only be performed for years that are within the time frame of the transportation plan under review; *i.e.*, retrospective analysis would not be required for years prior to those covered by the transportation plan even if a budget is established for such years. Areas should use the interagency consultation process to determine the appropriate years for which the budget test must be performed.

C. Budget Test Requirements Once a Maintenance Plan Is Submitted

EPA is also making two minor changes to § 93.118(b)(2) to clarify which budgets apply when an area has both control strategy SIP and maintenance plan budgets. EPA has received questions regarding which budgets should be used in a conformity determination after a maintenance plan is submitted and EPA finds the submitted maintenance budgets adequate. While implementing the conformity regulation to date, questions have been raised regarding what budgets apply for analysis years prior to the first future year for which adequate or approved maintenance budgets have been established. EPA is proposing today's clarification to address this confusion regarding the current rule's requirements.

First, EPA is proposing to clarify § 93.118(b)(2)(iii) so that the budget test is completed for a submitted adequate control strategy SIP budget that is established for a year within the time frame of the transportation plan. The current conformity rule only requires areas with submitted maintenance plans to show consistency to approved control strategy SIPs. In contrast, before a maintenance plan is submitted, § 93.118(b)(1)(i) of the current rule requires consistency to be shown to any adequate or approved control strategy SIP budgets that are still relevant.

For example, suppose a nonattainment area submitted an attainment demonstration with budgets for 2007 that EPA has found adequate but not yet approved. The area then submits a maintenance plan with budgets for 2015, which EPA also determines are adequate. Under the current conformity rule, the budget test would be required for the 2015 budgets, but not for the 2007 adequate budgets (since they are not yet approved). Today's proposal would ensure that new transportation plans and TIPs conform to all adequate and approved budgets that are established for the years of the transportation plan.

Second, we are proposing to add § 93.118(b)(2)(iv) to clarify which budget(s) should be used for any analysis years that are selected prior to the last year of the maintenance plan to meet the requirements of § 93.118(d)(2). The current conformity rule does not explicitly cover the situation where an analysis year is selected for a year prior to the last year of the maintenance plan. The proposal would provide consistency between the budget test requirements for both control strategy SIPs and maintenance plans, since the

proposed § 93.118(b)(2) language would mirror language currently in § 93.118(b)(1).

Under the proposal, if an area analyzes a year for which no applicable budgets exist (*e.g.*, an intermediate year between an area's attainment year and the first maintenance budget year), the area should always use the most recent prior adequate or approved budget.

This rationale would also apply in areas that are submitting their second, required 10-year maintenance plan. For example, if an area selects an analysis year between the last year of the first maintenance plan and the first budget year of the second maintenance plan, the budget in the last year of the first maintenance plan would be used to demonstrate consistency for that analysis year.

Neither of these proposed changes would have a practical impact on the conformity process, since it is EPA's understanding that conformity practitioners are already implementing the budget test as described above. Therefore, the proposal should not impose any new requirements; it would simply clarify our current implementation of the existing conformity rule.

D. Relying on a Previous Regional Emissions Analysis

EPA is proposing three changes to § 93.122(e), which describes when an area can rely on a previous regional emissions analysis for a new conformity determination. EPA articulated its intentions regarding when transportation planners could rely on a previous emissions analysis in the preamble to the November 24, 1993 conformity rule. A new regional analysis would not be required "if the MPO and DOT make a finding that the previous analysis is still valid. That is, if the only changes to the TIP involve either projects which are not regionally significant and which were not or could not be modeled in a regional emissions analysis, or changes to project design concept and scope which are not significant, the MPO or DOT could document this and use data from the previous regional emissions analysis to demonstrate satisfaction of the criteria which involve regional analysis" (58 FR 62202).

EPA's first proposed change would allow MPOs to rely on a previous emissions analysis for minor transportation plan revisions. Under the current rule, conformity determinations for minor TIP amendments can rely on a previous emissions analysis if no new regionally significant projects are added and significant changes in existing