

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[FRL-7579-8]

RIN 2060-AL73

Transportation Conformity Rule Amendments for the New 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Today we (EPA) are proposing to amend the transportation conformity rule to include criteria and procedures for the new 8-hour ozone and fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS or "standards"). Transportation conformity is required under Clean Air Act section 176(c) to ensure that federally supported highway and transit project activities are consistent with ("conform to") the purpose of a State air quality implementation plan (SIP). We are conducting this rulemaking to revise the conformity regulation in the context of EPA's broader strategies for implementing the new ozone and PM_{2.5} standards.

The proposal provides guidance for when conformity will first apply in areas that are designated nonattainment for the 8-hour ozone and PM_{2.5} standards. This portion of the proposal discusses the implementation of the statutory one-year conformity grace period and proposed revocation of the 1-hour ozone standard, although EPA is not seeking comment through today's proposal on the revocation options themselves. Today's proposal also describes when transportation conformity applies in areas that have approved 8-hour ozone Early Action Compacts (EACs).

The proposal also describes the general requirements for conducting conformity determinations for the new standards, such as the conformity test(s) that would apply before and after adequate or approved SIP motor vehicle emissions budgets are established. In addition, this rulemaking proposes to amend the conformity regulations to specifically include PM_{2.5} as a criteria pollutant subject to transportation conformity and outlines the specific conformity requirements that would apply in newly designated PM_{2.5} nonattainment areas. In particular, the proposal includes options for when

conformity would apply for various PM_{2.5} precursors and fugitive dust, as well as options for PM_{2.5} hot-spot requirements for project-level conformity determinations. EPA seeks comments and suggestions for future guidance on adjusting fugitive dust emissions for PM_{2.5} conformity analyses.

In addition to issues related to the new ozone and PM_{2.5} standards, EPA is proposing a few miscellaneous rule revisions to clarify the existing regulation and improve implementation.

The Department of Transportation (DOT) is EPA's Federal partner in implementing the transportation conformity regulation. We have consulted with DOT on the development of this rulemaking and DOT concurs with this proposal. EPA has also met with transportation and environmental organizations to discuss this rulemaking and the proposal reflects the comments that we received through these stakeholder discussions.

DATES: Written comments on this proposal must be received on or before December 22, 2003. EPA will conduct one public hearing on this proposal beginning at 9:30 a.m. on Thursday, December 4, 2003, in Washington, DC. As described in Section XVI. of this proposal, the hearing will continue throughout the day until all testimony has been presented or 5 p.m., whichever is earlier.

ADDRESSES: Comments may be submitted by mail to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OAR-2003-0049. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions for submission as provided in section I.C. of the

SUPPLEMENTARY INFORMATION section.

The public hearing will be held in Washington, DC, at the Washington Marriott Hotel at 1221 22nd St., NW., Washington, DC 20037, (202) 872-1500.

FOR FURTHER INFORMATION CONTACT: Meg Patulski, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, patulski.meg@epa.gov, (734) 214-4842; or, Rudy Kapichak, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, kapichak.rudolph@epa.gov, (734) 214-4574.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

- I. General Information
 - A. Regulated Entities
 - B. How Can I Get Copies of This Document?
 - C. How and to Whom Do I Submit Comments?
 - D. How Should I Submit CBI to the Agency?
 - E. What Should I Consider as I Prepare My Comments for EPA?
- II. Background on the Transportation Conformity Rule
 - A. What Is Transportation Conformity?
 - B. Why Is EPA Conducting This Rulemaking?
 - C. Does This Proposal Include the Entire Transportation Conformity Regulation?
- III. Conformity Grace Period and Revocation of the 1-Hour Ozone Standard
 - A. When Will Conformity Apply for the 8-Hour Ozone and PM_{2.5} Standards?
 - B. When Does Conformity Stop Applying for the 1-Hour Ozone Standard?
 - C. When and for What Ozone Standard Does Conformity Apply in Areas With an Early Action Compact for the 8-Hour Ozone Standard?
- IV. General Changes in Interim Emissions Tests
 - A. Background
 - B. Baseline Year Test for 8-Hour Ozone and PM_{2.5} Areas
 - C. Build/No-Build Test for Existing and New Nonattainment Areas
 - D. Test Options for Ozone and CO Nonattainment Areas of Higher Classifications
- V. Regional Conformity Tests in 8-Hour Ozone Areas That Do Not Have 1-Hour Ozone SIPs
 - A. What Are We Proposing?
 - B. Why Are We Proposing These Options?
- VI. Regional Conformity Tests in 8-Hour Ozone Areas That Have 1-Hour Ozone SIPs
 - A. What Are We Proposing?
 - B. Why Are We Proposing These Options?
- VII. Regional Conformity Tests in PM_{2.5} Areas
 - A. What Are We Proposing?
 - B. Why Are We Proposing These Options?
- VIII. Consideration of Direct PM_{2.5} and PM_{2.5} Precursors in Regional Emissions Analyses
 - A. What Are We Proposing?
 - B. Why Are We Proposing These Options?
- IX. Re-Entrained Road Dust in PM_{2.5} Regional Emissions Analyses
 - A. Background
 - B. What Are We Proposing?
 - C. Why Are We Proposing These Options?
 - D. Request for Comment on Estimating Road Dust Emissions
- X. Construction-Related Fugitive Dust in PM_{2.5} Regional Emissions Analyses
 - A. Background
 - B. What Are We Proposing?
 - C. Why Are We Proposing This Option?
 - D. Implementation and Request for Additional Information
- XI. Compliance With PM_{2.5} SIP Control Measures