

8-hour ozone budgets are available: the build/no-build and baseline year tests. In general, EPA believes the 1-hour ozone budgets may be an appropriate test like the build/no-build test, because the 1-hour ozone VOC and NO<sub>x</sub> budgets that an area has represent a reduction in emissions that is consistent with the applicable SIP for that standard. Although the 8-hour ozone standard is more stringent than the 1-hour ozone standard, many 1-hour ozone budgets have in fact served to reduce emissions over time. For example, the Clean Air Act requires that transportation plans and TIPs reduce emissions in the higher classifications of ozone and CO areas before a SIP for a given pollutant and standard is developed. We believe that the budget test using 1-hour ozone budgets may meet this requirement at least as well as the build/no-build test.

EPA also believes that the 1-hour ozone budgets may be comparable to the baseline year test for conformity under the 8-hour ozone standard. The baseline year test could actually be thought of as a type of budget test before 8-hour ozone budgets are established: emissions in the year 2002 become the ceiling on emissions, a defacto budget. The budgets in 1-hour ozone SIPs are at least as good as the 2002 baseline year test if areas are meeting them when they are designated for the 8-hour ozone standard. In the case where 2002 emissions are higher than established 1-hour ozone budgets, the budget test would actually be a more conservative test. However, in the case where 2002 emissions are lower than the 1-hour ozone budgets, the budgets should still be a valid test since they provide for attainment of the 1-hour ozone standard. In other words, consistency with the 1-hour budgets would have resulted in a certain level of emissions at the time areas were designated for the 8-hour ozone standard. An area's designation as a nonattainment area for the 8-hour ozone standard would be based on its air quality monitoring data for the years 2001–2003. Therefore, EPA does not anticipate that many areas will have 2002 emissions significantly lower than 1-hour budgets since areas would not have likely put control measures in place by 2002 that would result in lower emissions for that year. We believe that consistency with the 1-hour ozone budgets would assure an emissions level that is in line with the baseline year test, since the baseline year is 2002.

However, EPA does not believe that 8-hour ozone areas that have 1-hour ozone budgets must use these budgets for conformity prior to the development of 8-hour ozone budgets. Although an area could conclude through the

consultation process that use of a 1-hour ozone budget would be appropriate, there may be many cases where the 1-hour ozone budget would not provide the best test for conformity to the 8-hour ozone standard. For instance, 1-hour ozone budgets could be for a year different than the year for which 8-hour ozone conformity is being demonstrated. For example, 1-hour budgets could be from a rate-of-progress SIP (e.g., a 15% plan) for a past milestone year, such as 1996, that is no longer relevant to projected emissions in the post-2002 period for the 8-hour ozone standard. In contrast, an area may only have a 1-hour ozone maintenance plan with budgets for a year beyond the 8-hour ozone attainment year. The planning assumptions (such as VMT, vehicle fleet characteristics, speeds) underlying the 1-hour budget may also be significantly out-of-date.

Thus, although it is appropriate to offer areas the opportunity to use 1-hour ozone budgets, EPA believes that they should not be mandated and that the consultation process should be used to select the most appropriate test for a particular area prior to the development of adequate or approved 8-hour ozone SIP budgets. EPA requests comment on this proposal to allow areas to use applicable 1-hour ozone budgets to demonstrate conformity prior to the development of 8-hour ozone budgets, and to use the consultation process to determine whether such budgets should be used.

Finally, today's proposal responds to stakeholder requests that the rule continue to offer more choices to new ozone areas that would qualify for EPA's proposed 8-hour ozone clean data policy. If the proposed 8-hour ozone clean data policy is included in the final 8-hour ozone implementation rule, EPA would also include the proposed conformity options for such areas in the final conformity rule for the new standards. See EPA's previous discussion and rationale for the clean data options in the preamble to the 1996 proposal and 1997 final rules (July 9, 1996, 61 FR 36116, and August 15, 1997, 62 FR 43785, respectively).

## VII. Regional Conformity Tests in PM<sub>2.5</sub> Areas

### A. What Are We Proposing?

EPA proposes that the budget test would be used to complete a regional emissions analysis once a PM<sub>2.5</sub> SIP is submitted with budget(s) that EPA has found adequate or approved. Although the first PM<sub>2.5</sub> SIP may be an attainment demonstration, PM<sub>2.5</sub> nonattainment areas "are free to establish, through the

SIP process, a motor vehicle emissions budget [or budgets] that addresses the new NAAQS in advance of a complete SIP attainment demonstration." That is, a state could submit a motor vehicle emissions budget that does not demonstrate attainment but is consistent with projections and commitments to control measures and achieves some progress towards attainment." (August 15, 1997, 62 FR 43798–43799). Such a SIP would include inventories for all emissions sources. EPA encourages nonattainment areas to develop their PM<sub>2.5</sub> SIPs in consultation with Federal, state, and local air quality and transportation agencies as appropriate.

EPA is proposing that PM<sub>2.5</sub> nonattainment areas meet one of the following interim emissions tests for conformity determinations conducted before adequate or approved PM<sub>2.5</sub> SIP budgets are established:

- The build-no-greater-than-no-build test, or
- The no-greater-than-2002 emissions test.

This proposal would allow PM<sub>2.5</sub> nonattainment areas to choose between the two interim emissions tests, rather than require that only one test or both tests be completed. Conformity would be demonstrated if the transportation system emissions reflecting the proposed plan or TIP (build) were less than or equal to either the emissions from the existing transportation system (no-build) or the level of motor vehicle emissions in 2002. A discussion of the proposed changes to the interim emissions tests can be found in Section IV.

The proposal would require that regional emissions analyses always be completed for directly emitted PM<sub>2.5</sub> from motor vehicle tailpipe, brake wear, and tire wear emissions. Once a SIP is submitted, the budget test would also be completed for any PM<sub>2.5</sub> precursor for which an adequate or approved budget is established. Prior to adequate or approved SIP budgets, an interim emissions test would be completed for each applicable PM<sub>2.5</sub> precursor, as described in Section VIII. Sections IX. and X. describe proposed options for when regional emissions analyses would include direct PM<sub>2.5</sub> emissions from re-entrained road dust and construction-related dust.

The consultation process should be used to determine the models and assumptions for completing any regional emissions analysis, as required by § 93.105(c)(1)(i). See the proposed regulatory text in § 93.109(i) for a general overview of when the budget test and interim emissions tests apply in