

requires regional PM₁₀ emissions analyses to include construction-related PM₁₀ dust if the SIP identifies such emissions as a contributor to the nonattainment problem. If construction-related fugitive PM₁₀ is not identified as a contributor to the air quality problem in the implementation plan, areas are not required to include these emissions in the regional emissions analysis for transportation conformity. The proposal applies the current rule's approach for PM₁₀ areas to PM_{2.5} areas.

In nonattainment and maintenance areas where construction-related fugitive dust is a part of the nonattainment problem, we would allow states to adjust the construction-related fugitive dust SIP inventories and subsequent conformity analyses to resolve any discrepancies between the dust inventories and the amount of dust observed at air quality monitors, as described above. As noted, regional air quality monitors generally indicate much lower fractions of dust in the atmosphere than are predicted based on the emissions inventories. (Desert Research Institute Document 6110.4F, May 2000). As explained above, factors such as larger particle size, low release height, and low thermal buoyancy increase the likelihood that dust particles would quickly settle out of the atmosphere onto the ground or adhere onto other surfaces such as vegetation, structures, etc.

In areas where PM_{2.5} transportation conformity for construction dust is required, we believe that discounting local construction dust inventories is necessary to ensure that the overall impact of road dust is properly estimated, and that decisions about control strategies for dust emissions (including construction dust) and exhaust emissions reflect actual relative impacts on ambient concentrations and attainment. EPA will develop separate guidance for these adjustments to SIP budgets and conformity analyses and this guidance would be available before EPA's final nonattainment designations for the PM_{2.5} standard.

D. Implementation and Request for Additional Information

EPA addressed implementation issues for including construction dust in PM₁₀ conformity analyses in an October 28, 1996 memorandum.¹⁰ Under the

proposal, EPA would apply similar implementation guidance to PM_{2.5} areas.

During the development of the SIP, air quality agencies would ensure that the PM_{2.5} SIP inventory clearly identifies the role (if any) of construction dust in the PM_{2.5} air quality problem. If construction dust is a contributor, dust from highway and transit projects would be included in the PM_{2.5} SIP motor vehicle emissions budget. MPOs and state transportation agencies would work together with local and state air quality agencies to ensure that construction dust emissions are properly analyzed with respect to the transportation plan and TIP for conformity analyses. If the PM_{2.5} SIP identifies construction dust as a significant PM_{2.5} problem, the regional emissions analysis would account for the level of construction activity, the fugitive PM_{2.5} control measures in the SIP (if there are any), and the dust-producing capacity of the proposed construction activities.

XI. Compliance With PM_{2.5} Control Measures

A. What Are We Proposing?

We are proposing that FHWA and FTA projects in PM_{2.5} nonattainment and maintenance areas must comply with the applicable SIP's control measures, when such measures exist. Through this proposal, FHWA/FTA would assure implementation of a required control or mitigation measure by obtaining enforceable written commitments from the project sponsor and/or operator prior to making a project-level conformity determination. This requirement would be satisfied if the project-level conformity determination contains a written commitment from the project sponsor to include the control measures in the final plans, specifications and estimates for the project. This proposal is consistent with a similar requirement for PM₁₀ areas in § 93.117 of the current conformity rule.

We should note, however, that this proposed requirement in § 93.117 is only applicable after a PM_{2.5} nonattainment area has an approved PM_{2.5} SIP, since the requirement is to comply with the measures in the approved SIP. Today's proposal does not affect any separate state or SIP requirements for compliance with control measures.

The purpose of a PM_{2.5} control measure would be to limit the amount of PM_{2.5} emissions from construction activities and/or normal use and operation associated with the project. Examples of control or mitigation

measures that may be approved into a SIP include limitations on fugitive dust during construction or street sweeping. Normal project design elements (dimensions, lane widths, materials, etc.), however, are not considered mitigation or control measures.

EPA requests information from current PM₁₀ nonattainment and maintenance areas on how the current requirement in § 93.117 has been implemented in PM₁₀ areas and what types of measures have been effective in limiting these emissions. Information on how PM₁₀ areas have addressed this requirement and the types of measures that have been implemented could prove valuable to new PM_{2.5} nonattainment areas.

B. Why Are We Proposing This Option?

The purpose of conformity is to ensure that federal actions are consistent with the SIP. If the approved SIP includes control measures for mitigating PM_{2.5} emissions from federal transportation projects, then conformity should ensure that these SIP measures are implemented. We believe that this requirement would help PM_{2.5} areas achieve clean air by ensuring that federal projects comply with control measures that result in air quality improvements as anticipated in the SIP. Although such projects must comply with SIP requirements in any event, documenting compliance in a conformity determination would add an important enforcement tool to aid in SIP compliance.

The interagency consultation process is required to discuss the inclusion of control measures in an area's SIP. Section 93.105(b)(1) of the current conformity rule requires that the interagency consultation process be used in the development of the SIP, particularly when an agency is responsible "for developing, submitting or implementing provisions of an implementation plan." The interagency consultation group may also be a source of recommendations for the most appropriate approach to addressing PM_{2.5} emissions in the SIP.

Section 93.117 of the current conformity rule has an identical requirement for project-level conformity determinations in PM₁₀ nonattainment and maintenance areas. We do not believe that compliance with this requirement has been a burden for PM₁₀ areas. Therefore, we do not anticipate that our proposal in § 93.117 should be a burden on new PM_{2.5} nonattainment areas, as this requirement simply ensures that control measures which the interagency consultation group has

¹⁰ "Transportation Conformity: Regional Analysis of PM₁₀ Emissions from Highway and Transit Project Construction," memorandum from Gay MacGregor, then-director, Regional and State Programs Division, Office of Mobile Sources to EPA Regional Air Division Directors.