

controlling emissions and reducing ambient levels of pollutants to satisfy certain Clean Air Act requirements for reasonable further progress and attainment. The conformity regulation lists these Clean Air Act requirements as: Sections 182(b)(1), 182(c)(2)(A), and 182(c)(2)(B) for ozone areas; section 187(a)(7) for CO areas; sections 189(a)(1)(B) and 189(b)(1)(A) for PM<sub>10</sub> areas; and sections 192(a) and 192(b) for NO<sub>2</sub> areas.

EPA has determined, however, that the current list of Clean Air Act provisions in § 93.101 is incomplete, as the list does not include all the provisions of the Act that require a control strategy SIP revision for the purposes of demonstrating reasonable further progress or attainment. For example, the current rule definition does not include Clean Air Act section 172(c) that includes the general plan provisions that any attainment or reasonable further progress SIP revision must satisfy. In addition, the conformity rule's definition does not address SIP revisions submitted under Clean Air Act sections 187(g) or 189(d). These provisions of the Act require serious CO and PM<sub>10</sub> areas, respectively, to submit SIP revisions that would reduce emissions by 5% per year until attainment of the relevant standard is ultimately achieved ("5% plans"), if these areas initially fail to attain on time.

In implementing the conformity regulation, EPA has always interpreted the definition of a control strategy SIP revision to consist of any SIP that is established for the purposes of attainment or progress towards attainment, including those SIPs submitted to satisfy Clean Air Act sections 172(c), 187(g) or 189(d). Therefore, in today's rulemaking we are simply clarifying that any implementation plan revisions that are submitted to fulfill these additional Clean Air Act requirements are considered control strategy SIPs for conformity purposes. We are also clarifying that any SIP that is established to demonstrate reasonable further progress and/or attainment should be considered a control strategy SIP. This definition would include any progress or attainment SIP that is submitted for existing and future criteria pollutants and standards that are subject to the conformity regulation.

Similarly, EPA is expanding the current definition of milestone in § 93.101 to more adequately reflect EPA's original intent and implementation of this term. The current conformity rule defines milestone as having the meaning given

in sections 182(g)(1) and 189(c) of the Clean Air Act. The rule also states that a milestone consists of an emissions level and the date on which it is required to be achieved.

EPA has historically interpreted the conformity rule's definition of milestone to mean any year for which the Clean Air Act requires a demonstration of reasonable further progress towards attainment. Our interpretation covers all nonattainment areas, including all classifications of ozone areas, that are required to submit reasonable further progress SIPs and motor vehicle emission budgets. In reevaluating the current milestone definition, however, EPA has concluded that the current rule could be misinterpreted to mean that only serious and above ozone areas and PM<sub>10</sub> areas would need to consider budgets established for milestone years required by Clean Air Act sections 182(g)(1) and 189(c), respectively. This interpretation could lead to confusion over how certain reasonable further progress SIPs should apply for conformity purposes. For example, the current milestone definition does not specifically address reasonable further progress SIP and budget years established by moderate ozone areas per Clean Air Act section 182(b)(1). As a result, the rule could be considered unclear about how moderate ozone areas should consider these particular SIPs in conformity. To address this ambiguity in the rule, we are proposing to expand our current definition of milestone so that it will include any year for which a motor vehicle emissions budget has been established to satisfy Clean Air Act requirements for demonstrating reasonable further progress. This definition would include all years in the applicable SIP for which emission targets showing progress towards attainment are established in any nonattainment area.

EPA believes that neither of these proposed clarifications would have a practical impact on the current conformity process. The Clean Air Act and conformity rule require transportation activities to conform to the applicable SIP and motor vehicle emissions budgets prior to receiving funding and approval. Therefore, any adequate or approved budgets, including those that demonstrate reasonable further progress, that are available at the time a conformity determination is made must be included in that determination.

Furthermore, it is EPA's understanding that conformity practitioners have historically been implementing the current rule's definitions as described above. For

example, PM<sub>10</sub> areas that have submitted 5% plans to satisfy Clean Air Act section 189(d) have used the motor vehicle emissions budgets established in these SIPs for conformity purposes and should continue to do so. Likewise, moderate ozone areas with reasonable further progress SIPs and budgets have historically used these budgets in conformity determinations. Therefore, the proposed clarifications to the rule's definitions for control strategy SIP revision and milestone should not impose any new requirements on nonattainment and maintenance areas; these rule revisions would simply clarify our original intent and current implementation of the existing conformity rule.

#### *B. Areas With Insignificant Motor Vehicle Emissions*

EPA is proposing two changes to incorporate our existing insignificance policy in the conformity rule. First, we are proposing to add § 93.109(k) for nonattainment and maintenance areas for which EPA makes a finding that the SIP's motor vehicle emissions for a pollutant or precursor for a given standard are an insignificant contributor to the area's air quality problem. The proposal would waive the regional emissions analysis requirements in §§ 93.118 and 93.119 for an insignificant pollutant or precursor in these areas upon the effective date of EPA's adequacy finding or approval of such a SIP. In addition, this proposal would waive the hot-spot requirements in §§ 93.116 and 93.123 in CO and PM<sub>10</sub> areas, if EPA determines that the SIP demonstrates that hot-spot emissions are also insignificant. The proposed § 93.109(k) would also establish the minimum criteria that are necessary to demonstrate that motor vehicle emissions are insignificant as described below.

Under this proposal and the existing policy, an area with insignificant motor vehicle emissions for a pollutant or precursor for a given standard would still be required to make a conformity determination that satisfies other relevant requirements including: SIP TCM implementation, interagency and public consultation, hot-spot requirements including the use of latest planning assumptions and emissions models in CO and PM<sub>10</sub> areas (if EPA has not made a finding that such emissions are also insignificant), and compliance with SIP control measures in PM<sub>10</sub> and PM<sub>2.5</sub> areas. Areas would also need to satisfy the regional emissions analysis requirements in §§ 93.118 and/or 93.119 for pollutants