

apply in ozone and CO areas that are already classified serious or above, but that are currently not required to meet the more rigorous plan and modeling requirements because their urbanized area population is lower than 200,000. If the urbanized area population in such an area increases to over 200,000, EPA believes it is reasonable that such an area would also need additional time to specify its networks and gather additional data to develop a more specific plan and conduct more advanced transportation modeling.

The proposed clarification to the existing § 93.106(b) provision, as well as the proposed § 93.122(c), would also provide flexibility in limited cases where a moderate ozone area is reclassified to severe. For example, when moderate ozone areas with an urbanized population greater than 200,000 fail to attain the standard by either the moderate or serious ozone attainment dates specified in the Clean Air Act, EPA could reclassify these areas to severe. Today's proposal would clarify how the grace period would be implemented in such limited cases. This particular proposal would not be relevant to moderate CO areas, as these areas can only be reclassified to serious if they fail to attain by their specified attainment date. The Clean Air Act does not provide for a severe CO classification.

Finally, we should note that today's proposals would not make any changes to the existing transportation plan content and modeling requirements. The proposal would simply clarify when these requirements begin to apply when circumstances change in certain areas.

E. Minor Clarification to the List of PM₁₀ Precursors

We are proposing minor clarifications to §§ 93.102(b)(2)(iii) and 93.119(f)(5) of the conformity rule. Under the proposed § 93.102(b)(2)(iii), only VOC and NO_x would be identified as PM₁₀ precursors, and PM₁₀ would be deleted from the list of PM₁₀ precursors in this paragraph. We are proposing this clarification because § 93.102(b)(1) already requires that direct PM₁₀ emissions be addressed in conformity analyses in PM₁₀ nonattainment and maintenance areas. Therefore, inclusion of direct PM₁₀ as a PM₁₀ precursor in § 93.102(b)(2)(iii) is duplicative.

The proposed changes to § 93.119(f)(5) would provide consistency with other pollutants and precursors discussed in this paragraph. Neither of these proposals would affect conformity determinations in PM₁₀ nonattainment and maintenance areas.

F. Clarification of Requirements for Non-federal Projects in Isolated Rural Areas

EPA is proposing a minor clarification to § 93.121(b)(1) of the conformity rule that addresses the conformity requirements for non-federal projects in isolated rural nonattainment and maintenance areas. Specifically, the proposal would require a regionally significant non-federal project to be included in the regional emissions analysis of the most recent conformity determination "that reflects" the portion of the statewide transportation plan and STIP which includes projects planned for the isolated rural nonattainment or maintenance area.

Today's proposed revision to § 93.121(b)(1) is intended to clarify that conformity determinations in isolated rural nonattainment and maintenance areas should not be "for" the statewide transportation plan or STIP, as written in the current rule. In the proposal for the original 1993 conformity rule, we explain that "STIPs are not TIPs as the latter term is meant in Clean Air Act section 176(c), and that conformity therefore does not apply to [STIPs] directly" (January 11, 1993, 58 FR 62206). However, isolated rural areas do not develop metropolitan transportation plans and TIPs per DOT's planning regulations. Instead, conformity determinations in isolated rural nonattainment and maintenance areas should include those existing and planned projects that are within the area and that are reflected in the statewide transportation plan and STIP, including regionally significant non-federal projects. This proposed change simply clarifies the conformity requirements for isolated rural nonattainment and maintenance areas and should not have a practical impact on how conformity is demonstrated in these areas.

G. Use of Adequate and Approved Budgets in Conformity

EPA is clarifying in § 93.109 for each criteria pollutant and standard covered by the conformity rule that the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after one of the following:

- The effective date of EPA's finding that a motor vehicle emissions budget in a submitted SIP is adequate,
- The publication date of EPA's approval of such a budget in the **Federal Register**, or
- The effective date of EPA's approval of such a budget in the **Federal Register**, if the approval is completed through direct final rulemaking.

Under this proposal, the budget would be used the first time one of these

three EPA actions occur. In EPA's June 30, 2003 proposal that would implement the March 2, 1999 conformity court decision, we proposed to only require the budget test after the effective date of EPA's finding that a control strategy SIP or maintenance plan submission is adequate. Our June 2003 proposal for § 93.109 was incomplete.

When an area submits an attainment demonstration, rate-of-progress plan or maintenance plan with motor vehicle emissions budgets, EPA will generally review that SIP for adequacy so that the budgets can be used prior to EPA's approval of the SIP. However, there have been limited and unique cases where EPA has not conducted the adequacy review process prior to the approval of the SIP. Rather, EPA may simply approve such SIPs through a separate proposal and final rule or through direct final rulemaking. Today's proposal would simply clarify that in these limited cases the budget test would be required upon the publication date of EPA's final approval of the SIP and motor vehicle emissions budgets in the **Federal Register**, or the effective date of EPA's direct final rulemaking, whichever applies in a given situation.

EPA believes that this proposed clarification would have no practical impact on how the budget test is implemented when new budgets become available for conformity purposes. The Clean Air Act section 176(c) requires that transportation activities conform to the motor vehicle emissions level established in the approved SIP. Therefore, once a SIP is approved, its budgets must be used in conformity under the statute. In addition, since the March 2, 1999 court decision, areas have incorporated new budgets from submitted SIPs into the transportation planning and conformity processes as soon as they are deemed appropriate for conformity—either through EPA's adequacy or approval processes.

We should also note that this clarification to § 93.109 as proposed in the June 30, 2003 conformity proposal, is consistent with the March 1999 court decision and EPA's May 14, 1999 guidance implementing that decision. Under this proposal, submitted SIPs and motor vehicle emissions budgets would be used in conformity determinations only after EPA has formally found such budgets to be consistent with an area's plan for achieving clean air. For more information on EPA's adequacy process and the types of submitted SIPs that EPA will review for adequacy, see EPA's May 14, 1999 guidance implementing the March 1999 court decision and the