

Regulatory Announcement

Final Rule to Add PM_{2.5} Precursors to the Transportation Conformity Rule

This final rule is part of EPA's overall strategy for assisting state and local governments in implementing the new ozone and PM_{2.5} national ambient air quality standards. Specifically, this final rule provides new PM_{2.5} nonattainment areas with the requirements for considering PM_{2.5} precursor emissions when making determinations that transportation activities will not interfere with the area's air quality goals. EPA's designations for the new PM_{2.5} standard were effective April 5, 2005, at which point a one-year conformity grace period began. The grace period allows time for the newly designated PM_{2.5} nonattainment areas to prepare their first conformity determinations.

Background

Transportation conformity is a Clean Air Act requirement that ensures that federally supported highway and transit projects are consistent with ("conform to") a state air quality implementation plan (SIP). Conformity ensures that public health is protected by early consideration of transportation decisions in cities with air quality challenges.

On November 5, 2003, EPA published a proposal to address conformity requirements under the new ambient air quality standards (68 FR 62690), including proposals to address PM_{2.5} precursor emissions in conformity. The majority of the provisions from the November 2003

proposal were finalized in our July 1, 2004, final conformity rule. Subsequently, Environmental Defense, the Natural Resources Defense Council, Sierra Club and TRANSDEF filed suit against portions of the July 1, 2004 rule. This suit specifically challenges the omission of PM_{2.5} precursor requirements from that rule.

EPA did not include PM_{2.5} precursor requirements in the July 1, 2004, final rule because, at that time, EPA had not yet proposed a broader PM_{2.5} implementation rule to seek comment on options for addressing PM_{2.5} precursors in the New Source Review program and in other SIP planning activities. However, several facts now lead us to believe it is necessary and appropriate to issue this final rule addressing precursor emissions in transportation conformity determinations:

- EPA's designations for the new PM_{2.5} standard were effective April 5, 2005, at which point a one-year conformity grace period began. It is important that transportation conformity implementers know the requirements during the grace period, as it takes time to prepare a conformity determination. Conformity determinations for the PM_{2.5} standard will be due at the end of the one-year grace period: April 5, 2006.
- This final rule has been developed in coordination with the PM_{2.5} implementation rule proposal that is currently being prepared. This final rule will not prejudice the outcome of the PM_{2.5} implementation rule.

Description of Final Rule

This final rule adds NO_x, VOCs, SO_x, and ammonia to the transportation conformity regulations and specifies when each of these precursors must be considered in conformity determinations in PM_{2.5} nonattainment and maintenance areas, before and after PM_{2.5} SIPs are submitted.

Specifically, once a PM_{2.5} SIP is submitted, a PM_{2.5} precursor must be considered in an area's conformity determinations if the SIP determines that emissions for that precursor are a significant contributor to the area's PM_{2.5} air quality problem.

Prior to the submission of a SIP, NO_x emissions must be considered in PM_{2.5} conformity determinations, unless both the state air agency and the EPA Regional Administrator make a finding that NO_x is *not a*

significant contributor to the PM_{2.5} air quality problem. Conversely, VOC, SOx and ammonia emissions do not have to be considered in conformity, unless either the state air agency or EPA Regional Administrator makes a finding that on-road emissions of any of these precursors *is a significant contributor* to the area's PM_{2.5} air quality issue.

Key Elements of the Final Rule

- This final rule balances the need to protect air quality with the need to conserve the limited resources of state and local transportation and air quality agencies. NOx is the only PM_{2.5} precursor that must be examined in conformity analyses (unless a finding is made), because data indicate that NOx contributes to the air quality problem in most PM_{2.5} nonattainment areas. However, VOC, SOx and ammonia precursor emissions only need to be examined if they are found to be significant for a particular area. EPA believes this final rule is consistent with existing statutory requirements and scientific information that supports the consideration of PM_{2.5} precursor emissions in transportation conformity.
- This final rule provides new PM_{2.5} nonattainment areas with the requirements for considering PM_{2.5} precursor emissions in transportation conformity determinations. Transportation conformity for the PM_{2.5} air quality standard will apply in new nonattainment areas on April 5, 2006 – that is, one year after the effective date of their designation.
- This final rule is consistent with EPA's PM_{2.5} implementation strategy proposal currently being prepared. However, this rule should not be seen as prejudging our decision on the PM_{2.5} implementation rulemaking. While EPA's final decisions on PM_{2.5} precursors must be legally consistent, EPA could take differing positions with respect to various precursors in other programs as appropriate to the programmatic needs, legal requirements and pollution sources relevant to the differing programs.
- EPA has worked closely with the U.S. Department of Transportation in the development of this final rule.

- This rule is based on the November 2003 proposal and the public comments that were received in response to that proposal. EPA consulted with state and local transportation and air quality agencies and interest groups in its initial development of the conformity options for the new standards that were proposed in November 2003.

Health and Environmental Impacts

By providing new PM_{2.5} nonattainment areas with the requirements for considering PM_{2.5} precursor emissions in conformity determinations, EPA believes this final rule will support the Clean Air Act's air quality standards to protect the public and environmental health.

For More Information

You can access the final rule and related documents electronically on EPA's Web site at:

www.epa.gov/otaq/transp/traqconf.htm