

---

# Transportation Conformity Guidance for 2012 PM<sub>2.5</sub> Nonattainment Areas

# Transportation Conformity Guidance for 2012 PM<sub>2.5</sub> Nonattainment Areas

Transportation and Climate Division  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency

## Table of Contents

|   |    |
|---|----|
| Table of Contents .....   | 1  |
| Section 1. Background .....   | 2  |
| 1.1 What is the purpose of this guidance? .....   | 2  |
| 1.2 What is transportation conformity? .....  | 3  |
| 1.3 Who can I contact for more information? .....   | 4  |
| 1.4 Does this guidance create any new requirements? .....   | 4  |
| Section 2. Implementation of the 2012 PM <sub>2.5</sub> NAAQS and Revocation of the 1997 PM <sub>2.5</sub> NAAQS  | 5  |
| 2.1 When will conformity apply for the 2012 PM <sub>2.5</sub> NAAQS? .....  | 5  |
| 2.2 Will EPA revoke the 1997 PM <sub>2.5</sub> NAAQS? .....   | 5  |
| 2.3 How will retention of the 1997 annual PM <sub>2.5</sub> NAAQS as a secondary NAAQS be addressed? .....  | 6  |
| 2.4 Making initial 2012 PM <sub>2.5</sub> conformity determinations .....   | 6  |
| 2.5 What happens if a 2012 PM <sub>2.5</sub> NAAQS nonattainment area with an MPO misses the one-year conformity deadline? .....  | 7  |
| Section 3. Completing Conformity Determinations for the 2012 PM <sub>2.5</sub> NAAQS .....  | 8  |
| 3.1 Overview of requirements of a conformity determination for a transportation plan and TIP for the 2012 PM <sub>2.5</sub> NAAQS .....   | 8  |
| 3.2 For which direct PM <sub>2.5</sub> pollutants and PM <sub>2.5</sub> precursors must conformity be determined in areas designated nonattainment for the 2012 PM <sub>2.5</sub> NAAQS? .... | 9  |
| 3.4 Using budgets from a previous PM <sub>2.5</sub> NAAQS for 2012 PM <sub>2.5</sub> conformity .....   | 10 |
| 3.5 Multi-jurisdictional 2012 PM <sub>2.5</sub> NAAQS areas that have budgets for a previous PM <sub>2.5</sub> NAAQS .....  | 11 |
| 3.6 Using an interim emissions test to determine 2012 PM <sub>2.5</sub> conformity .....  | 12 |
| 3.7 Baseline year for the baseline year test .....  | 12 |
| 3.8 Analysis years for 2012 PM <sub>2.5</sub> conformity .....  | 12 |
| 3.9 Examples for 2012 PM <sub>2.5</sub> conformity determinations .....   | 14 |
| 3.10 Relying on a previous PM <sub>2.5</sub> regional emissions analysis when making a conformity determination for the 2012 PM <sub>2.5</sub> NAAQS .....                                    | 15 |
| Section 4. Emissions Models to Be Used When Implementing the 2012 PM <sub>2.5</sub> NAAQS   | 16 |
| 4.1 What emissions model do I use when completing 2012 PM <sub>2.5</sub> NAAQS conformity determinations? .....   | 16 |

## Section 1. Background

### 1.1 What is the purpose of this guidance?

This document provides guidance for meeting transportation conformity requirements in areas designated nonattainment for the 2012 primary annual PM<sub>2.5</sub> national ambient air quality standards (“2012 PM<sub>2.5</sub> NAAQS”). The 2012 PM<sub>2.5</sub> NAAQS was established at 12.0 micrograms per cubic meter (ug/m<sup>3</sup>). The designated nonattainment areas are as follows:

| State             | Area Name                        | EPA Designated Nonattainment Counties |
|-------------------|----------------------------------|---------------------------------------|
| CA                | Imperial County, CA              | Imperial, CA (p)                      |
|                   |                                  | Fresno, CA                            |
|                   | San Joaquin Valley Air Basin, CA | Kern, CA (p)                          |
|                   |                                  | Kings, CA                             |
|                   |                                  | Madera, CA                            |
|                   |                                  | Merced, CA                            |
|                   |                                  | San Joaquin, CA                       |
|                   |                                  | Stanislaus, CA                        |
|                   |                                  | Tulare, CA                            |
|                   |                                  | Los Angeles-South Coast Air Basin, CA |
|                   | Orange, CA                       |                                       |
|                   | Riverside, CA (p)                |                                       |
|                   | San Bernardino, CA (p)           |                                       |
| Plumas County, CA | Plumas, CA (p)                   |                                       |
| ID                | West Silver Valley, ID           | Shoshone, ID (p)                      |
| OH                | Cleveland, OH                    | Cuyahoga, OH                          |
|                   |                                  | Lorain, OH                            |
| PA                | Delaware County, PA              | Delaware, PA                          |
|                   | Lebanon County, PA               | Lebanon, PA                           |
|                   | Allegheny, PA                    | Allegheny, PA                         |
| 4 states          | 9 areas                          | 13 full counties, 7 partial counties  |

(p) – partial counties

EPA’s final rule designating nonattainment areas for the 2012 PM<sub>2.5</sub> NAAQS was published in the *Federal Register* (see 80 FR 2206) on January 15, 2015 and is effective April 15, 2015. Additional information regarding the designations can be found on EPA’s Greenbook website and 2012 PM<sub>2.5</sub> Initial Designations webpage.<sup>1</sup> This rule established initial air quality designations and classifications for the 2012 PM<sub>2.5</sub> NAAQS for most areas in the United States.<sup>2</sup>

Clean Air Act (CAA) section 176(c)(6) and the conformity regulation at 40 CFR 93.102(d) provide a one-year grace period from the effective date of designations before

<sup>1</sup> <http://www3.epa.gov/airquality/greenbk/kindex.html> and <http://www.epa.gov/airquality/particlepollution/designations/2012standards/state.htm>.

<sup>2</sup> This final rule also classified all nonattainment areas for the 2012 annual PM<sub>2.5</sub> NAAQS as Moderate nonattainment areas as required by Clean Air Act section 188(a).

transportation conformity applies in areas newly designated nonattainment for a specific NAAQS. Transportation conformity for the 2012 PM<sub>2.5</sub> NAAQS applies one year after the effective date of nonattainment designations for this NAAQS (i.e., April 15, 2016). EPA will work with 2012 PM<sub>2.5</sub> NAAQS nonattainment areas to help them meet conformity requirements as they implement this NAAQS. We encourage early consultation to ensure any questions or issues are addressed in a timely manner. EPA contact information is provided in Section 1.3.

Today's guidance is intended to take the information contained in the transportation conformity rule (40 CFR Part 93) and EPA's existing guidance for implementing conformity in multi-jurisdictional areas, and demonstrate how conformity specifically applies in the context of the 2012 PM<sub>2.5</sub> NAAQS. The transportation conformity rule is already structured so that existing conformity requirements will apply for any new or revised NAAQS; the conformity rule, therefore, applies directly and does not need to be updated to reflect the 2012 PM<sub>2.5</sub> NAAQS.<sup>3</sup> In addition, EPA's "Guidance for Transportation Conformity Implementation in Multi-jurisdictional Nonattainment and Maintenance Areas," (EPA420-B-12-046, July 2012, referred to as the "Multi-jurisdictional Guidance") is also applicable to any NAAQS for which conformity applies, including the 2012 PM<sub>2.5</sub> NAAQS.<sup>4</sup> The Multi-jurisdictional Guidance describes how conformity determinations are made on metropolitan transportation plans and transportation improvement programs (TIPs) when a nonattainment or maintenance area involves more than one Metropolitan Planning Organization (MPO<sup>5</sup>), more than one state, or both, and describes what conformity tests apply. Today's guidance should help agencies implementing the 2012 PM<sub>2.5</sub> NAAQS and address the situations specific to this NAAQS most likely to be encountered. The Multi-jurisdictional Guidance and this PM<sub>2.5</sub> guidance are consistent with each other as both are based on the conformity regulations.

The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), EPA's federal partners in implementing the conformity rule, assisted in the development of this guidance and concurred on its content.

## ***1.2 What is transportation conformity?***

Transportation conformity is required under CAA section 176(c) (42 U.S.C. 7506(c)) to ensure that federally funded or approved highway and transit activities are consistent with ("conform to") the purpose of the state air quality implementation plan (SIP).

---

<sup>3</sup> EPA's March 14, 2012 final rule (77 FR 14979; also known as the "Conformity Restructuring Rule") restructured the transportation conformity rule so that existing conformity requirements will apply for any new or revised NAAQS. This was done to reduce the need to amend the rule in the future merely to reference a specific NAAQS and to provide more certainty to transportation planners as conformity provisions could apply generally to any newly designated NAAQS. Therefore, the transportation conformity rule does not need to be updated specifically to include implementation of the 2012 PM<sub>2.5</sub> NAAQS. This guidance refers to the appropriate sections of the current conformity rule.

<sup>4</sup> The Multi-jurisdictional Guidance can be found on EPA's website at: [www.epa.gov/otaq/stateresources/transconf/policy.htm](http://www.epa.gov/otaq/stateresources/transconf/policy.htm).

<sup>5</sup> See 40 CFR 93.101 for the definition of MPO.

Conformity to the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or any interim milestones. EPA's transportation conformity rule (40 CFR Parts 51 and 93) establishes the criteria and procedures for determining whether metropolitan transportation plans, TIPs, and federally supported highway and transit projects conform to the SIP. Transportation conformity applies to designated nonattainment and maintenance areas<sup>6</sup> for transportation-related criteria pollutants: ozone, PM<sub>2.5</sub>, PM<sub>10</sub>, carbon monoxide, and nitrogen dioxide.

### ***1.3 Who can I contact for more information?***

For questions concerning a particular 2012 PM<sub>2.5</sub> NAAQS nonattainment area, please contact the transportation conformity staff person responsible for this area at the appropriate EPA Regional Office. Contact information for EPA Regional Offices can be found on EPA's website at: [www.epa.gov/otaq/stateresources/transconf/contacts.htm](http://www.epa.gov/otaq/stateresources/transconf/contacts.htm).

General questions about this guidance can be directed to EPA's Office of Transportation and Air Quality: Astrid Terry, [terry.astrid@epa.gov](mailto:terry.astrid@epa.gov), (734) 214-4812 or Rudy Kapichak, [kapichak.rudy@epa.gov](mailto:kapichak.rudy@epa.gov), (734) 214-4574.

Additional information regarding the transportation conformity rule and associated guidance can be found on EPA's website at: [www.epa.gov/otaq/stateresources/transconf/index.htm](http://www.epa.gov/otaq/stateresources/transconf/index.htm).

Additional information about the 2012 PM<sub>2.5</sub> nonattainment designations can be found at Area Designations for the 2012 Annual Fine Particle (PM<sub>2.5</sub>) Standard [webpage](#).

### ***1.4 Does this guidance create any new requirements?***

No, this guidance is based on CAA requirements and existing associated regulations and does not create any new requirements. This guidance explains how to implement current transportation conformity requirements in areas that have been designated nonattainment for the 2012 PM<sub>2.5</sub> NAAQS.

The CAA and EPA's regulations at 40 CFR Parts 51 and 93 contain legally binding requirements. This document is not a substitute for those provisions or regulations, nor is it a regulation itself. Thus, it does not impose legally binding requirements on EPA, the U.S. Department of Transportation (DOT), states, or the regulated community, and may not apply to a particular situation based upon the circumstances. This guidance may be revised periodically without public notice.

---

<sup>6</sup> "Maintenance areas" are those areas that were initially designated nonattainment for a criteria pollutant and subsequently redesignated to attainment after 1990. Maintenance areas have SIPs developed under CAA section 175A.

## **Section 2. Implementation of the 2012 PM<sub>2.5</sub> NAAQS and Revocation of the 1997 PM<sub>2.5</sub> NAAQS**

### **2.1 When will conformity apply for the 2012 PM<sub>2.5</sub> NAAQS?**

As noted in Section 1.1, CAA section 176(c)(6) and 40 CFR 93.102(d) provide a one-year grace period from the effective date of PM<sub>2.5</sub> designations before transportation conformity applies in areas newly designated nonattainment for a specific NAAQS. Therefore, transportation conformity for the 2012 PM<sub>2.5</sub> NAAQS does not apply until one year after the effective date of nonattainment designations for this NAAQS. As EPA's final rule designating areas for the 2012 PM<sub>2.5</sub> NAAQS was effective April 15, 2015, conformity for this NAAQS applies beginning on April 15, 2016.<sup>7</sup>

Section 2.4 provides further details for how the one-year grace period applies in newly designated nonattainment areas for the 2012 PM<sub>2.5</sub> NAAQS in both metropolitan areas (areas with an MPO) and isolated rural areas.

### **2.2 Will EPA revoke the 1997 PM<sub>2.5</sub> NAAQS?**

When EPA completed its review of the suite of PM NAAQS in December 2012, EPA established a new primary annual NAAQS of 12.0 ug/m<sup>3</sup> to protect public health. EPA also retained the 1997 secondary annual NAAQS of 15.0 ug/m<sup>3</sup> to protect against certain welfare effects.<sup>8</sup> EPA did not take any action to revoke the 1997 primary annual PM<sub>2.5</sub> NAAQS in the December 2012 PM<sub>2.5</sub> NAAQS rulemaking. Additionally, EPA did not revise either the 1997 24-hour PM<sub>2.5</sub> NAAQS of 65 ug/m<sup>3</sup> or the 2006 24-hour PM<sub>2.5</sub> NAAQS of 35 ug/m<sup>3</sup> in that rulemaking. Those PM<sub>2.5</sub> NAAQS remain in place and transportation conformity requirements continue to apply.

In March 2015, EPA proposed an implementation rule for the 2012 PM<sub>2.5</sub> NAAQS that included proposed options for revoking the 1997 primary annual PM<sub>2.5</sub> NAAQS.<sup>9</sup> At this time EPA has not yet finalized that proposal. Nonattainment and maintenance areas for the 1997 annual PM<sub>2.5</sub> NAAQS should check with their EPA Regional Office for updates on the finalization of that rule. After the PM implementation rule is finalized, EPA will provide additional transportation conformity-related guidance on the transportation conformity webpage

<http://www3.epa.gov/otaq/stateresources/transconf/policy.htm#content>.

Areas should be aware that none of these actions affect designations or transportation conformity requirements for the 1997 24-hour PM<sub>2.5</sub> NAAQS or the 2006 24-hour PM<sub>2.5</sub> NAAQS.

---

<sup>7</sup> See <http://www3.epa.gov/airquality/greenbk/kindex.html> for all related FR notices and latest area designations status.

<sup>8</sup> See 78 FR 3086, January 15, 2013.

<sup>9</sup> See 80 FR15340, March 23, 2015.

### ***2.3 How will retention of the 1997 annual PM<sub>2.5</sub> NAAQS as a secondary NAAQS be addressed?***

As discussed above in Section 2.2, EPA retained the 1997 annual PM<sub>2.5</sub> NAAQS as a secondary NAAQS as part of our review of the PM NAAQS in December 2012. In the near term, this does not result in any changes in transportation conformity requirements for nonattainment and maintenance areas for the 1997 annual PM<sub>2.5</sub> NAAQS since the 1997 primary and secondary annual NAAQS are identical and transportation conformity applies to both primary and secondary NAAQS.<sup>10</sup>

As discussed in Section 2.2 above, in March 2015, EPA proposed an implementation rule for the PM<sub>2.5</sub> NAAQS, and discussed the retention of the secondary NAAQS (include specific FR cite). After the PM implementation rule is finalized, EPA will provide additional transportation conformity-related guidance on the transportation conformity web page, <http://www.epa.gov/otaq/stateresources/transconf/policy.htm>.

### ***2.4 Making initial 2012 PM<sub>2.5</sub> conformity determinations***

#### **Nonattainment Areas with One or More MPO**

An MPO and DOT must make a conformity determination with regard to the 2012 PM<sub>2.5</sub> NAAQS for the metropolitan transportation plan and TIP within one year after the effective date of the initial nonattainment designation for this NAAQS. The MPO and DOT can make such a conformity determination anytime during the one-year grace period, as long as the determination is completed by April 15, 2016. However, if the MPO and/or DOT miss the deadline, the nonattainment area would enter a conformity “lapse.” See Section 2.5 for more information on lapses.

MPOs must continue to meet conformity requirements for any other applicable NAAQS, including any other applicable PM<sub>2.5</sub> NAAQS. Determining conformity for these other NAAQS during the one-year grace period is not necessary unless required by 40 CFR 93.104 (for example, a new transportation plan and/or TIP is adopted). The procedures for the interagency consultation process found in 40 CFR 93.105 or a state’s approved conformity SIP must be used in making conformity determinations for transportation plans and TIPs. See Section 3 for more information on interagency consultation.

Conformity determinations done by an MPO (or MPOs) must also include any donut areas<sup>11</sup> within the 2012 PM<sub>2.5</sub> NAAQS area (40 CFR 93.122(a)(1)). Each newly designated nonattainment area that includes a donut portion must use the interagency process to determine how best to include donut area emissions in the MPO’s regional emissions analysis and transportation plan and TIP conformity determination (40 CFR 93.105(c)(3) or the state’s conformity SIP). For more discussion on how conformity

---

<sup>10</sup> CAA section 176(c)(6).

<sup>11</sup> A donut area is defined in 40 CFR 93.101 as a geographic area outside a metropolitan planning area boundary, but inside a designated nonattainment or maintenance area boundary that includes an MPO.

determinations should be made for donut areas, see the preamble to the July 1, 2004 conformity rule (69 FR 40013) and EPA's Multi-jurisdictional Guidance.

### Isolated Rural Nonattainment and Maintenance Areas

In isolated rural areas,<sup>12</sup> as in other newly designated nonattainment areas, the one-year conformity grace period for the 2012 PM<sub>2.5</sub> NAAQS began on the effective date of an isolated rural area's initial nonattainment designation, April 15, 2015. However, because these areas do not have federally required metropolitan transportation plans and TIPs, they are not subject to the frequency requirements for conformity determinations on transportation plans and TIPs (40 CFR 93.104(b), (c), and (e)). Therefore, such areas are not required to complete a conformity determination by the end of the one-year grace period. Instead, in an isolated rural area, a conformity determination is required for the 2012 PM<sub>2.5</sub> and other applicable NAAQS only when a non-exempt FHWA/FTA project(s) needs funding or approval, based on the conformity requirements for isolated rural areas at 40 CFR 93.109(g).

#### ***2.5 What happens if a 2012 PM<sub>2.5</sub> NAAQS nonattainment area with an MPO misses the one-year conformity deadline?***

If, at the conclusion of the one-year grace period for newly designated areas, the MPO and DOT have not made a transportation plan and TIP conformity determination for the 2012 PM<sub>2.5</sub> NAAQS, the area would be in a conformity lapse. During a conformity lapse, only certain projects can receive additional federal funding or approvals to proceed (i.e., exempt projects, project phases that were approved before the lapse, and transportation control measures (TCMs) in approved SIPs). The practical impact of a conformity lapse will vary on an area-by-area basis. The lapse grace period found in 40 CFR 93.104(b)(3) and (c)(3) does not apply for newly designated nonattainment areas at the end of the one-year conformity grace period.<sup>13</sup>

---

<sup>12</sup> Isolated rural nonattainment and maintenance areas are defined in 40 CFR 93.101 as areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations.

<sup>13</sup> See 73 FR 4423-4424 (January 24, 2008) and the Multi-jurisdictional Guidance for additional details about the lapse grace period.

### **Section 3. Completing Conformity Determinations for the 2012 PM<sub>2.5</sub> NAAQS**

The conformity rule provides several tests for determining whether transportation plans, TIPs, and projects not from a conforming plan or TIP conform, and describes which test or tests are required in specific circumstances (40 CFR 93.109). The budget test (40 CFR 93.118) is used when an area has either adequate or approved budgets for a pollutant in a SIP. Therefore, when a 2012 PM<sub>2.5</sub> NAAQS area has adequate or approved budgets for any PM<sub>2.5</sub> NAAQS, the budget test requirements in 40 CFR 93.118 must be met. When a 2012 PM<sub>2.5</sub> NAAQS area does not have adequate or approved budgets for any PM<sub>2.5</sub> NAAQS, an interim emissions test must be used (40 CFR 93.119). There are also some cases, prior to 2012 PM<sub>2.5</sub> SIP budgets being available, where both the budget test and an interim emissions test are required. How these tests are applied is described in more detail in this section.

Note that, once 2012 PM<sub>2.5</sub> SIP budgets are found adequate or approved, areas must use the budget test with those budgets to determine 2012 PM<sub>2.5</sub> conformity (40 CFR 93.109(c)(1)). This section focuses on how 2012 PM<sub>2.5</sub> areas determine conformity before such 2012 PM<sub>2.5</sub> budgets are available (40 CFR 93.109(c)(2) and (3)).

#### ***3.1 Overview of requirements of a conformity determination for a transportation plan and TIP for the 2012 PM<sub>2.5</sub> NAAQS***

For all areas where transportation conformity applies, including the 2012 PM<sub>2.5</sub> NAAQS areas, Table 1 found in 40 CFR 93.109(b) lists the conformity criteria that apply for transportation plans, TIPs, and projects in 40 CFR 93.110 through 93.119.

A transportation plan or TIP conformity determination must include a regional emissions analysis that meets the requirements of 40 CFR 93.122. This regional emissions analysis must:

- Use latest planning assumptions (40 CFR 93.110);
- Use the latest emissions model (40 CFR 93.111);<sup>14</sup>
- Pass the appropriate conformity test – the budget test and/or the interim emissions test (40 CFR 93.118 and 93.119).

In addition, other requirements must be met and documented in the transportation plan and TIP conformity determination:

- Interagency consultation and public participation (40 CFR 93.112);
- Timely implementation of TCMs in approved SIPs (40 CFR 93.113).

Please refer to the sections of the transportation conformity regulation noted above for additional information that is not covered in this guidance.

---

<sup>14</sup> See Section 4 for more information about which emissions model should be used for regional conformity analyses for the 2012 PM<sub>2.5</sub> NAAQS.

**3.2 For which direct PM<sub>2.5</sub> pollutants and PM<sub>2.5</sub> precursors must conformity be determined in areas designated nonattainment for the 2012 PM<sub>2.5</sub> NAAQS?**

If the newly designated 2012 PM<sub>2.5</sub> nonattainment area doesn't have any PM<sub>2.5</sub> SIP budgets, the area should complete its regional conformity analysis for PM<sub>2.5</sub> and NO<sub>x</sub> emissions. If the area does have budgets for another PM<sub>2.5</sub> NAAQS, the area should complete conformity for the PM<sub>2.5</sub> pollutants addressed by the adequate or approved budgets.

**3.3 Conformity tests for the first conformity determination for the 2012 PM<sub>2.5</sub> NAAQS**

It is not expected that SIP budgets for the 2012 PM<sub>2.5</sub> NAAQS will be available in time for the first conformity determination. Most if not all 2012 PM<sub>2.5</sub> areas will have to rely on the conformity tests in 40 CFR 93.109(c)(2) and (3).

| <b>Are budgets available?</b>  | <b>Use these budgets/tests</b>  |
|--|---|
| If 1997 or 2006 PM <sub>2.5</sub> NAAQS budgets are available, for each analysis year in a conformity determination for the 2012 PM <sub>2.5</sub> NAAQS | Use 1997 or 2006 PM <sub>2.5</sub> budgets that are established for that year or the most recent prior year (see Sections 3.4 and 3.5). |
| If no PM <sub>2.5</sub> budgets are available at all, for each analysis year in a conformity determination for the 2012                                  | Use an interim emissions test, (see Sections 3.6 through 3.7)   |

When using the budget test, consistency with budgets must be demonstrated for each year for which there are adequate or approved PM<sub>2.5</sub> SIP budget(s) (40 CFR 93.118(b)) and for analysis years (40 CFR 93.118(d)(2)). In each of these years, emissions must be less than or equal to the budget(s) established for that year (40 CFR 93.118(b)(1)(i)); when no budget(s) have been established for that year, then emissions must be less than or equal to budget(s) established for the most recent prior year (40 CFR 93.118(b)(1)(ii)). A budget cannot be used for an analysis year if it is established for a year later than the analysis year.

In addition, the interagency consultation process described in 40 CFR 93.105 must be used to determine how conformity applies in a specific area. Additional decisions will need to be made through interagency consultation if the area covers multiple jurisdictions, for example, if the area is covered by more than one MPO.

EPA will work with DOT and state and local transportation and air quality agencies to determine which conformity test(s) applies in each 2012 PM<sub>2.5</sub> NAAQS area for the first determination. See Section 1.3 for EPA contact information.

### 3.4 Using budgets from a previous PM<sub>2.5</sub> NAAQS for 2012 PM<sub>2.5</sub> conformity

In general, if an area does not have adequate or approved SIP budgets for the 2012 PM<sub>2.5</sub> NAAQS, but has budgets for the previous 1997 or 2006 PM<sub>2.5</sub> NAAQS, these budgets must be used in the budget test. Where such budgets do not cover the entire area, the interim emissions test may also have to be used (40 CFR 93.109(c)(2)(iii) and (iv)).

A 2006 court decision established the legal parameters for using existing budgets as the regional conformity test (*Environmental Defense v. EPA*, 467 F.3d 1329 (DC Cir. 2006)). EPA incorporated the court's decision for ozone conformity tests in its January 24, 2008 final rule (73 FR 4424). While the court's decision concerned the 1997 ozone NAAQS, EPA believes the court's holding is relevant for other pollutants and NAAQS for which conformity must be demonstrated. Therefore, EPA incorporated the court's decision regarding conformity tests in its March 24, 2010 final rule (the "PM Amendments" rule, 75 FR 14260). In its "Conformity Restructuring Rule" (77 FR 14979), EPA reorganized 40 CFR 93.109(c) so that the court's decision is incorporated in the regulation for all NAAQS for which conformity applies.

As described in the Conformity Restructuring Rule, there are four generic scenarios for how an area's boundaries for the relevant NAAQS relate to boundaries covered by budgets for another NAAQS of the same pollutant. For purposes of the 2012 PM<sub>2.5</sub> NAAQS areas that have budgets from a previous PM<sub>2.5</sub> NAAQS, the relevant scenarios are:

- Scenario 1: Boundaries for both the 2012 PM<sub>2.5</sub> NAAQS and previous PM<sub>2.5</sub> NAAQS areas are identical.
- Scenario 2: Boundary of the 2012 PM<sub>2.5</sub> area is smaller than and completely within the area designated for the previous PM<sub>2.5</sub> NAAQS.

Some areas designated nonattainment for the 2012 PM<sub>2.5</sub> NAAQS will be "Scenario 1" areas (that is, will have identical boundaries for both the 2012 PM<sub>2.5</sub> NAAQS and a previous PM<sub>2.5</sub> NAAQS). Consistent with the CAA as interpreted in the court decision described above, these areas must demonstrate conformity by meeting the budget test for the 2012 PM<sub>2.5</sub> NAAQS using existing adequate or approved SIP budgets for the previous PM<sub>2.5</sub> NAAQS until adequate or approved budgets for the 2012 PM<sub>2.5</sub> NAAQS are effective (40 CFR 93.109(c)(2)(i)).

There are also a few "Scenario 2" areas, where areas have budgets for a previous PM<sub>2.5</sub> NAAQS that cover an area larger than that designated for the 2012 PM<sub>2.5</sub> NAAQS. In these cases, the interagency consultation process should be used to determine how to apply the budget test in those areas (40 CFR 93.109(c)(2)(ii)). The regulations further describe using interagency consultation to determine budgets for other NAAQS where such portion(s) can reasonably be identified. 40 CFR 93.109(c)(2)(ii)(B) describes if additional emissions reductions are necessary to meet the budget test, the emissions reductions must come from within such nonattainment area.

For all areas, given that there are several factors to consider, such as what previous PM<sub>2.5</sub> NAAQS budgets are available, the geographic area they cover, and the years in which they are established, the interagency consultation process should be used to determine what test or tests will be used for an analysis year and how it should be applied to the area. In addition, Section 3.9 gives some examples of how the various tests might be applied in certain 2012 PM<sub>2.5</sub> NAAQS situations.

### **3.5 *Multi-jurisdictional 2012 PM<sub>2.5</sub> NAAQS areas that have budgets for a previous PM<sub>2.5</sub> NAAQS***

For 2012 PM<sub>2.5</sub> areas that have budgets for a previous PM<sub>2.5</sub> NAAQS but also include more than one MPO, an MPO and a donut area, and/or more than one state, Section 4 of the Multi-jurisdictional Guidance provides detailed guidance for preparing conformity determinations. The most relevant information from the Multi-jurisdictional Guidance has been adapted and included here for the 2012 PM<sub>2.5</sub> NAAQS, but please refer to the Multi-jurisdictional Guidance for further information regarding how a regional emissions analysis could be completed for these areas.

Subarea budgets. Where subarea budgets<sup>15</sup> exist for a previous PM<sub>2.5</sub> NAAQS, these subarea budgets must also be used in the 2012 PM<sub>2.5</sub> conformity determinations (40 CFR 93.109(c)(2) and 93.124(d)). Using the existing budgets will ensure that air quality progress to date is maintained. In general, EPA and DOT believe it is necessary for the first conformity determination in such areas under the 2012 PM<sub>2.5</sub> NAAQS to be performed as follows:

- Each MPO would demonstrate conformity of its transportation plan and TIP to the 2012 PM<sub>2.5</sub> NAAQS using the subarea budgets for the previous PM<sub>2.5</sub> NAAQS.
- All of the MPOs' transportation plan/TIP conformity determinations would then be submitted to DOT.
- DOT will not make its conformity determination on any of the transportation plans or TIPs for the 2012 PM<sub>2.5</sub> NAAQS until every MPO in the area has made a conformity determination for its transportation plan and TIP.

All MPOs within the area must have a conformity determination for the 2012 PM<sub>2.5</sub> NAAQS by the end of the one-year grace period under 40 CFR 93.102(d). If any do not, DOT will be unable to make any conformity determinations for the MPOs within the 2012 PM<sub>2.5</sub> area, and all of the MPOs' transportation plans and TIPs will lapse.<sup>16</sup>

---

<sup>15</sup> Areas may have subarea budgets when there is more than one MPO in a nonattainment area (within one state) per 40 CFR 93.124(d); in this case, each MPO must meet its own subarea budgets. See Part 4 of the Multi-jurisdictional Guidance for more information.

<sup>16</sup> In general, for subsequent conformity determinations, the individual MPOs can make conformity determinations independently as long as all other MPOs in the area have a conforming transportation plan and TIP in place. If one subarea is in a conformity lapse, conformity determinations for new or revised plans and TIPs cannot be made in other subareas until the lapse ends.

### **3.6 Using an interim emissions test to determine 2012 PM<sub>2.5</sub> conformity**

As mentioned in Sections 3.2 and 3.3, some 2012 PM<sub>2.5</sub> NAAQS areas will need to use one of the interim emissions tests (40 CFR 93.119(d)). For example, an interim emissions test must be used if an area does not have adequate or approved budgets for any PM<sub>2.5</sub> NAAQS that it can use for an analysis year. This is expected to be the case for all analysis years of the conformity determination in 2012 PM<sub>2.5</sub> NAAQS areas that are “brand new” to PM<sub>2.5</sub> conformity (that is, have not previously been designated nonattainment for any previous PM<sub>2.5</sub> NAAQS (40 CFR 93.109(c)(3))). The relevant interim emissions tests include the no-greater-than form of the build/no-build test and baseline year test.

### **3.7 Baseline year for the baseline year test**

For any NAAQS promulgated after 1997, the conformity rule at 40 CFR 93.119(e)(4) defines the baseline year for the baseline year test as the most recent year for which EPA’s Air Emissions Reporting Rule requires submission of on-road mobile source emissions inventories as of the effective date of designations.<sup>17</sup> For the 2012 PM<sub>2.5</sub> NAAQS, this year is 2014. Conformity determinations using the baseline year test as an interim emissions test must therefore use 2014 as the baseline year. See [www.epa.gov/otaq/stateresources/transconf/baseline.htm](http://www.epa.gov/otaq/stateresources/transconf/baseline.htm) for more information on baseline years.

Note that the baseline year emissions need to be modeled rather than interpolated, based on the latest planning assumptions, latest emissions model and appropriate methods for estimating travel and speeds as required by 40 CFR 93.110, 93.111, and 93.122. See Section 4.1 for more information about emissions models to be used when implementing the 2012 PM<sub>2.5</sub> NAAQS.

### **3.8 Analysis years for 2012 PM<sub>2.5</sub> conformity**

The years required to be analyzed for 2012 PM<sub>2.5</sub> conformity depends on what test(s) are being used to demonstrate conformity for a particular area.

#### When using the budget test

When using the budget test for the 2012 PM<sub>2.5</sub> NAAQS, 40 CFR 93.122(d)(2) requires the regional emissions analysis to be performed for:

- The attainment year for the 2012 PM<sub>2.5</sub> NAAQS, if it is within the timeframe of the transportation plan and conformity determination,
- The last year of the timeframe of the conformity determination, and
- Intermediate years as necessary, such that analysis years are no more than ten years apart.

---

<sup>17</sup> This change was made in the final Conformity Restructuring Rule (77 FR 14979).

Note that the analysis years chosen must meet 40 CFR 93.118(d)(2) for all NAAQS that apply. During the one-year grace period for newly designated 2012 PM<sub>2.5</sub> areas when the 1997 or 2006 PM<sub>2.5</sub> NAAQS also applies<sup>18</sup>, the 2012 PM<sub>2.5</sub> areas with adequate or approved 1997 or 2006 PM<sub>2.5</sub> SIP budgets can determine conformity for both of these NAAQS at the same time.

In addition, in areas that have budgets for a previous PM<sub>2.5</sub> NAAQS that are established for years in the timeframe of the conformity determination, consistency with those budgets must also be determined (40 CFR 93.118(b)). This consistency can be demonstrated by interpolating between the years for which regional emissions analyses are performed (40 CFR 93.118(d)(2)).<sup>19</sup>

#### When using an interim emissions test

Regardless of whether the area uses the baseline year test or the build/no-build test, the required analysis years when using an interim emissions test, based on 40 CFR 93.119(g)(1), are:

- A year no more than 5 years beyond the year in which the conformity determination is being made;
- The last year of the timeframe of the conformity determination, and
- Intermediate years as necessary, such that analysis years are not more than ten years apart.

#### When using a combination of both the budget test and an interim emissions test

In cases when both the budget test and an interim emissions test are used to demonstrate conformity to the 2012 PM<sub>2.5</sub> NAAQS, the interagency consultation process must be used to determine which analysis years should be selected for regional emissions analyses. This situation may occur either because budgets are not available for some analysis years<sup>20</sup> or because budgets do not cover the entire 2012 PM<sub>2.5</sub> area. The area may choose analysis years that satisfy both the budget and interim emissions test requirements (40 CFR 93.118(d)(2) and 93.119(g)(1)).

The EPA Regional Office is available to discuss what analysis years apply in different situations. See EPA contact information in Section 1.3.

---

<sup>18</sup> If an area has both 1997 and 2006 PM<sub>2.5</sub> NAAQS, the area should consult with their EPA Regional Office.

<sup>19</sup> Interpolating emissions for a particular year is only possible when an analysis has been done for a year earlier and a year later than that year.

<sup>20</sup> There can be limited cases where an area has a budget for another NAAQS of the same pollutant that cannot be used for all analysis years because it is established for a later year. When this occurs, the interim emissions test would be used for analysis years that are earlier than the budget year. For example, suppose there is a 2012 PM<sub>2.5</sub> area that is a Scenario 1 area. This area has 1997 PM<sub>2.5</sub> NAAQS maintenance budgets for the year 2022, and that is the only year for which PM<sub>2.5</sub> budgets exist. In this case, the 2012 PM<sub>2.5</sub> area must use the budget test according to 40 CFR 93.118 for 2022 and later years, and the interim emissions test according to 40 CFR 93.119 for analysis years earlier than 2022.

### 3.9 Examples for 2012 PM<sub>2.5</sub> conformity determinations

Below are two hypothetical examples of how an area would apply the conformity tests. In one example the area has SIP budgets for the 1997 PM<sub>2.5</sub> NAAQS and in the second example the area does not have budgets for any PM<sub>2.5</sub> NAAQS.

#### Example 1

A 1997 PM<sub>2.5</sub> nonattainment area is designated nonattainment for the 2012 PM<sub>2.5</sub> NAAQS and is a Scenario 1 area (i.e., the boundaries of the 1997 PM<sub>2.5</sub> NAAQS and 2012 PM<sub>2.5</sub> NAAQS areas are identical). The attainment date for the 2012 PM<sub>2.5</sub> NAAQS is December 31, 2021. The area has 1997 PM<sub>2.5</sub> budgets from an approved maintenance plan for 2020.

In March 2016, the MPO is making a conformity determination for both the 1997 and 2012 PM<sub>2.5</sub> NAAQS for its transportation plan and TIP. The transportation plan runs through 2040. In addition to needing to analyze 2021 (its attainment year for the 2012 PM<sub>2.5</sub> NAAQS) and 2040 (the last year of the timeframe of the conformity determination). The area analyzes 2020 because it is the budget year from the 1997 maintenance plan and, the area decides to analyze 2030 (an intermediate year so that analysis years are no more than 10 years apart).

This table summarizes how the conformity tests would be done for this example:

| <b>Year</b> | <b>Analysis Required? (40 CFR 93.118(d)(2))</b>        | <b>Test Used</b>                        |
|-------------|--|---|
| 2020        | Yes –budget year for 1997 PM <sub>2.5</sub> NAAQS      | 1997 PM <sub>2.5</sub> budgets for 2020 |
| 2021        | Yes – attainment year for 2012 PM <sub>2.5</sub> NAAQS | 1997 PM <sub>2.5</sub> budgets for 2020 |
| 2030        | Yes – intermediate year                                | 1997 PM <sub>2.5</sub> budgets for 2020 |
| 2040        | Yes – last year of the transportation plan             | 1997 PM <sub>2.5</sub> budgets for 2020 |

#### Example 2

An area is designated nonattainment for the 2012 PM<sub>2.5</sub> NAAQS. This area was not designated nonattainment for any prior PM<sub>2.5</sub> NAAQS and therefore does not have any previous PM<sub>2.5</sub> SIP budgets.

It is March 2016 and this area is making its initial 2012 PM<sub>2.5</sub> conformity determination for its transportation plan and TIP. The transportation plan ends in 2040. In addition to needing to analyze 2040 (the last year of the timeframe of the conformity determination), the area decides to analyze 2020 (a year within five years of the year the conformity determination is being made) and 2030 (an intermediate year so that analysis years are no more than 10 years apart).

This table summarizes how the conformity tests would be done for this example:

| Year | Analysis Required? (40 CFR 93.119(g))   | Test Used   |
|------|---|---|
| 2020 | Yes – a year within five years of the year the conformity determination is being made | The build-no-greater-than-no-build test <i>or</i><br>The no-greater-than-baseline year emissions test |
| 2030 | Yes – intermediate year   | Same selection as above   |
| 2040 | Yes – last year of the transportation plan  | Same selection as above   |

Note that only one of the interim emissions tests is required. The area would select from the two available tests and use the same test for all the analysis years.

### ***3.10 Relying on a previous PM<sub>2.5</sub> regional emissions analysis when making a conformity determination for the 2012 PM<sub>2.5</sub> NAAQS***

A 2012 PM<sub>2.5</sub> NAAQS area can rely upon a regional emissions analysis completed for the 1997 PM<sub>2.5</sub> NAAQS, provided that it meets the requirements in 40 CFR 93.122(g). In particular, the regionally significant projects in the transportation plan/TIP must be consistent with those assumed in the previous regional emissions analysis, and the design concept and scope of each regionally significant project cannot be significantly different from that assumed in the previous regional emissions analysis. In addition, the previous regional emissions analysis must be consistent with the requirements of 40 CFR 93.118 or 93.119, as appropriate. In particular, if the budget test is being performed, the 2012 PM<sub>2.5</sub> attainment year must be included as an analysis year, and the regional emissions analysis must demonstrate conformity to all currently applicable budgets.

If the previous emissions analysis did not analyze the 2012 PM<sub>2.5</sub> NAAQS attainment year, the area would, at a minimum, have to perform a new analysis for the new attainment year. If nothing else has changed for analysis years examined in the last conformity determination and emissions would be exactly the same as what would be generated if a new analysis was performed (i.e., the planned projects, latest planning assumptions, and emissions models have not changed), the modeling for those analysis years would not have to be repeated. In these cases, an area could include the applicable analyses from the previous conformity determination in its new determination.

Note that relying the previous regional emissions analysis may satisfy the 12-month grace period to make a conformity determination for the 2012 PM<sub>2.5</sub> NAAQS; however, it does not reset the 4-year frequency clock in 40 CFR 93.104 required to determine conformity for transportation plans and TIPs.

## **Section 4. Emissions Models to Be Used When Implementing the 2012 PM<sub>2.5</sub> NAAQS**

### ***4.1 What emissions model do I use when completing 2012 PM<sub>2.5</sub> NAAQS conformity determinations?***

The conformity rule requires that conformity determinations must be based on the latest emissions model available (40 CFR 93.111). This requirement can be met through the use of the latest emission model approved by EPA, as explained below.

#### Using MOVES2014 and Subsequent Revisions

In October 7, 2014, EPA announced the release of the latest update of the MOVES2014 (MOtor Vehicle Emissions Simulator) (79 FR 60343). Upon the release of MOVES2014, EPA established a two-year grace period before MOVES was to be used for regional conformity determinations. In November 2015, EPA released MOVES2014a which allows MOVES users to benefit from several improvements to the model. MOVES2014a does not significantly change the criteria pollutant emissions results of MOVES2014 and therefore is not considered a new model for SIP and transportation conformity purposes.

Until October 7, 2016, areas can still use MOVES2010, MOVES2010a, or MOVES2010b for conformity determinations, including conformity determinations for the 2012 PM<sub>2.5</sub> NAAQS. Given that the first conformity determination for this NAAQS is due before the end of the MOVES2014 grace period, these areas can choose either MOVES2014a, MOVES2014, MOVES2010a or MOVES2010b for this first conformity determination.

Areas with budgets for a previous PM<sub>2.5</sub> NAAQS that were prepared using MOBILE or previous versions of MOVES should consider the impacts of needing to use MOVES2014/MOVES2014a for future transportation plan and TIP conformity determinations. Through interagency consultation, these areas can decide whether and when SIPs and budgets can be revised with MOVES2014/MOVES2014a (or transportation plan and TIPs can be revised, as appropriate) prior to the end of the regional conformity grace period.

MOVES2014 (and any subsequent minor updates) will be the latest emission model for new regional conformity analyses for the 2012 PM<sub>2.5</sub> NAAQS areas outside of California that begin after October 7, 2016 (or when EPA finds adequate or approves MOVES2014-based budgets that will be used for conformity for the 2012 PM<sub>2.5</sub> NAAQS, whichever comes first. These budgets could be for the 1997, 2006, or 2012 PM<sub>2.5</sub> NAAQS in an area, as described above in Section 3.3.

For further information on the implementation of the MOVES regional conformity grace period and the use of MOVES for SIP development, see EPA's "Policy Guidance on the Use of MOVES2014 for State Implementation Plan Development, Transportation Conformity, and Other Purposes" (EPA-420-B-14-008, July 2014), available online at: [www.epa.gov/otaq/stateresources/transconf/policy.htm#models](http://www.epa.gov/otaq/stateresources/transconf/policy.htm#models).

Using EMFAC2011

EMFAC2011 is currently the latest approved model for use in transportation conformity analyses in California and should be used for all regional conformity analyses for the 2012 PM<sub>2.5</sub> NAAQS until EPA announces otherwise.