




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
2565 PLYMOUTH ROAD
ANN ARBOR, MICHIGAN 48105-2498

JUL 27 2011

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Transportation Conformity-related Clarifications to Appendix C of the April 6, 2011 Memorandum titled *Regional Consistency for the Administrative Requirements of State Implementation Plan (SIP) Submittals and the Use of "Letter Notices"*

FROM: Leila H. Cook, Manager,

State Measures and Conformity Group
OTAQ

TO: Air Program managers

This memorandum clarifies several points made in Attachment C to Janet McCabe's April 6, 2011 memorandum to the EPA Regional Administrators titled *Regional Consistency for the Administrative Requirements of State Implementation Plan (SIP) Submittals and the Use of "Letter Notices"*. The portions of Attachment C that address Clean Data Determinations and Requests for Redesignations and Maintenance Plans contain several statements related to transportation conformity which would benefit from additional clarification we set forth below. We expect that these clarifications will promote the effort to ensure the consistency and efficiency of the SIP process.

Clean Data Determinations:

In the first paragraph on page 9, listing caveats regarding clean data determinations, conformity is described as a nonattainment area requirement that continues "to apply until the state submits a request for redesignation including the CAA-required maintenance plan and EPA approves them." In order to avoid the implication that conformity does not apply in maintenance areas, EPA is clarifying this statement: conformity requirements continue to apply to an area after EPA has redesignated the area to attainment and approved the associated maintenance plan. See CAA section 176(c)(5).

The following paragraph on page 9 indicates that a state could request to withdraw a submitted but not yet approved attainment and/or reasonable further progress (RFP) SIP after EPA has made a clean data determination for the area. This paragraph further states that "[p]rior to requesting withdrawal, the State should consider the fact that it may want the mobile budgets in

an attainment demonstration or RFP plan approved.” EPA notes that there is another option not referenced in the April 6 memorandum that is currently available to ozone areas with clean data determinations and which EPA has proposed to extend to nonattainment areas for other pollutants such as PM_{2.5} for which we make clean data determinations. (75 FR 49435) If this proposal is finalized, a state would have the option, in conjunction with a clean data rulemaking determination, to submit motor vehicle emissions budgets for the most recent year of clean data for the relevant standard and request that EPA approve these budgets in conjunction with its approval of the clean data determination. If EPA’s proposal is finalized, EPA believes that it would provide another, potentially more streamlined method for areas with clean data to establish motor vehicle emissions budgets. EPA notes that, if it determines that an area has violated the NAAQS, the approval of the budgets would be withdrawn. EPA anticipates taking final action on this proposal later this year.

Requests for Redesignations and Maintenance Plans:

The last paragraph on page 11, describing the SIP submittal requirements for maintenance plans and redesignation requests, states that maintenance plans for areas with approved RFP plans and attainment demonstrations will have to identify motor vehicle emissions budgets. The paragraph goes on to describe that the maintenance plans for other areas will need to include provisions for how conformity will be done after the area is redesignated. Similarly, the following paragraph on the effects of redesignations on page 11 states that conformity requirements will apply in the maintenance area as outlined in the approved maintenance plan. EPA is clarifying that all maintenance plans must contain motor vehicle emissions budgets for at least the last year of the maintenance period unless the area is eligible for a limited maintenance plan or the maintenance plan demonstrates that motor vehicle emissions are not significant contributors to the area’s air pollution problem. Beyond this requirement, we do not expect that maintenance plans for any areas will contain new provisions for how conformity will be done after the redesignation request and maintenance plan are approved. The transportation conformity rule (40 CFR part 93 subpart A) and an area’s approved conformity SIP contain the procedures for determining conformity in both nonattainment and maintenance areas. We do not anticipate that any state will need to revise its conformity SIP for an area solely on the basis that the area has been redesignated to attainment.

Please distribute this memorandum to the appropriate contacts at the state air agencies in your Region and to others in your Regional office as appropriate. If you have any questions or concerns with these clarifications, please contact me or Rudolph Kapichak of my staff at kapichak.rudolph@epa.gov or 734-214-4574.