

Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Transportation, Volatile organic compounds.

Dated: June 11, 2003.

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Administrator.

For the reasons set out in the preamble, 40 CFR part 93 is proposed to be amended as follows:

PART 93—[AMENDED]

1. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 93.101 is amended by adding, in alphabetical order, the definitions for “Donut areas” and “Isolated rural nonattainment and maintenance areas” to read as follows:

§ 93.101 Definitions.

* * * * *

Donut areas are geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or Clean Air Act section 175(a) maintenance plan area that is dominated by a metropolitan area(s). These areas are not “isolated rural nonattainment or rural maintenance areas”.

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Isolated rural nonattainment and maintenance areas are areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas do not have Federally required metropolitan transportation plans or TIPs and do not have projects that are part of the emissions analysis of any MPO’s metropolitan transportation plan or TIP. Projects in such areas are instead included in statewide transportation improvement programs. These areas are not donut areas.

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3. Section 93.102 is amended by revising paragraph (c) to read as follows:

§ 93.102 Applicability.

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(c) *Limitations.* In order to receive any FHWA/FTA approval or funding actions, including NEPA approvals, for a project phase subject to this subpart, the project must come from a currently conforming transportation plan and TIP.

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4. Section 93.104 is amended by:

- a. Removing paragraph (c)(4);
- b. revising paragraph (d); and
- c. removing paragraph (e)(1) and (e)(4) and redesignating paragraphs (e)(2), (e)(3) and (e)(5) as paragraphs (e)(1),

(e)(2) and (e)(3), respectively, and by revising newly designated paragraphs (e)(2) and (e)(3).

The revisions and additions read as follows:

§ 93.104 Frequency of conformity determinations.

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(d) *Projects.* FHWA/FTA projects must be found to conform before they are adopted, accepted, approved, or funded. Conformity must be redetermined for any FHWA/FTA project if one of the following occurs: A significant change in the project’s design concept and scope; if three years elapse since the most recent major step to advance the project; or initiation of a supplemental environmental document for air quality purposes. Major steps include NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; and, construction (including Federal approval of plans, specifications and estimates).

(e) * * *

(2) The effective date of EPA approval of a control strategy implementation plan revision or maintenance plan which establishes or revises a motor vehicle emissions budget if that budget has not yet been used in a conformity determination prior to approval; and

(3) The effective date of EPA promulgation of an implementation plan which establishes or revises a motor vehicle emissions budget.

5. Section 93.109 is amended by:

- a. Revising paragraphs (c)(1) and (c)(2);
- b. revising paragraphs (d)(2) and (d)(3);
- c. revising paragraph (e)(2) and removing paragraphs (e)(3)(i) and (e)(3)(ii) and redesignating paragraph (e)(3)(iii) as (e)(3)(ii) and adding a new paragraph (e)(3)(i); and
- d. revising paragraphs (f)(1) and (f)(2).

The revisions and additions read as follows:

§ 93.109 Criteria and procedures for determining conformity of transportation plans, programs, and projects: General.

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(c) * * *

(1) In ozone nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after the effective date of EPA’s finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(2) In ozone nonattainment areas that are required to submit a control strategy

implementation plan revision (usually moderate and above areas), the emission reduction tests must be satisfied as required by § 93.119 for conformity determinations made when there is no motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.

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(d) * * *

(2) In CO nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after the effective date of EPA’s finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(3) Except as provided in paragraph (d)(4) of this section, in CO nonattainment areas the emission reduction tests must be satisfied as required by § 93.119 for conformity determinations made when there is no motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.

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(e) * * *

(2) In PM₁₀ nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after the effective date of EPA’s finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(3) * * *

(i) If there is no motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan; or

* * * * *

(f) * * *

(1) In NO₂ nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after the effective date of EPA’s finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes.

(2) In NO₂ nonattainment areas the emission reduction tests must be