

conformity determinations made on or after:

(i) 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;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(2) In PM_{2.5} nonattainment areas the interim emissions tests must be satisfied as required by § 93.119 for conformity determinations made if there is no approved 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.

(j) *Areas with limited maintenance plans.* Notwithstanding the other paragraphs of this section, an area is not required to satisfy the regional emissions analysis for § 93.118 and/or § 93.119 for a given pollutant and NAAQS, if the area has an adequate or approved limited maintenance plan for such pollutant and NAAQS. A limited maintenance plan would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth for a NAAQS violation to occur. A conformity determination that meets other applicable criteria in Table 1 of paragraph (b) of this section is still required, including the hot-spot requirements for projects in CO and PM₁₀ areas.

(k) *Areas with insignificant motor vehicle emissions.* Notwithstanding the other paragraphs in this section, an area is not required to satisfy a regional emissions analysis for § 93.118 and/or § 93.119 for a given pollutant/precursor and NAAQS, if EPA finds through the adequacy or approval process that a SIP demonstrates that regional motor vehicle emissions are an insignificant contributor to the air quality problem for that pollutant/precursor and NAAQS. The SIP would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth in that pollutant/precursor for a NAAQS violation to occur. Such a finding would be based on a number of factors, including the percentage of motor vehicle emissions in the context of the total SIP inventory,

the current state of air quality as determined by monitoring data for that NAAQS, the absence of SIP motor vehicle control measures, and historical trends and future projections of the growth of motor vehicle emissions. A conformity determination that meets other applicable criteria in Table 1 of paragraph (b) of this section is still required, including regional emissions analyses for § 93.118 and/or § 93.119 for other pollutants/precursors and NAAQS that apply. Hot-spot requirements for projects in CO and PM₁₀ areas must also be satisfied, unless EPA determines that the SIP demonstrates that hot-spot emissions are also insignificant. If EPA subsequently finds that motor vehicle emissions of a given pollutant/precursor are significant, this paragraph would no longer apply for future conformity determinations for that pollutant/precursor and NAAQS.

(1) * * *

(2) Isolated rural nonattainment and maintenance areas are subject to the budget and/or interim emissions tests as described in paragraphs (c) through (k) of this section, with the following modifications:

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7. Section 93.117 is revised to read as follows:

§ 93.117 Criteria and procedures: Compliance with PM₁₀ and PM_{2.5} control measures.

The FHWA/FTA project must comply with any PM₁₀ and PM_{2.5} control measures in the applicable implementation plan. This criterion is satisfied if the project-level conformity determination contains a written commitment from the project sponsor to include in the final plans, specifications, and estimates for the project those control measures (for the purpose of limiting PM₁₀ and PM_{2.5} emissions from the construction activities and/or normal use and operation associated with the project) that are contained in the applicable implementation plan.

8. In § 93.118, paragraph (a) is amended by revising the reference “§ 93.109(c) through (g)” to read “§ 93.109(c) through (l)”, and paragraph (e)(2) is amended by revising the phrase “emission reduction tests required by § 93.119” to read “interim emissions tests required by § 93.119”.

9. Section 93.119 is amended by:

- a. Revising paragraphs (a) and (b);
- b. Redesignating paragraphs (c), (d), (e), (f), (g) and (h) as paragraphs (d), (f), (g), (h), (i) and (j);
- c. Adding new paragraphs (c) and (e);

d. Revising newly redesignated paragraphs (d) introductory text and (d)(1);

e. Revising newly redesignated paragraph (f)(5), removing the period at the end of newly redesignated paragraph (f)(6) and adding a semicolon in its place, and adding new paragraphs (f)(7) and (f)(8), (f)(9) and (f)(10);

f. Revising newly redesignated paragraph (g);

g. In newly redesignated paragraphs (h) introductory text and (i) introductory text, revising the reference “paragraphs (b) and (c)” to read “paragraphs (b) through (e)”; and,

h. In newly redesignated paragraph (j), revising the reference “paragraphs (b) and (c)” to read “paragraphs (b) through (e)”.

The revisions and additions read as follows:

§ 93.119 Criteria and procedures: Interim emissions in areas without motor vehicle emissions budgets.

(a) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must satisfy the interim emissions test(s) as described in § 93.109(c) through (l). This criterion applies to the net effect of the action (transportation plan, TIP, or project not from a conforming plan and TIP) on motor vehicle emissions from the entire transportation system.

(b) *Ozone areas.* The requirements of this paragraph apply to all 1-hour ozone and 8-hour ozone NAAQS areas, except for certain requirements as indicated. This criterion may be met:

(1) In moderate and above ozone nonattainment areas that are subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; and

(ii) The emissions predicted in the “Action” scenario are lower than:

(A) 1990 emissions by any nonzero amount, in areas for the 1-hour ozone NAAQS as described in § 93.109(c); or

(B) 2002 emissions by any nonzero amount, in areas for the 8-hour ozone NAAQS as described in § 93.109(d) and (e).

(2) In marginal and below ozone nonattainment areas and other ozone