

REVISIONS TO THE STATE IMPLEMENTATION PLAN (SIP)
FOR THE DEMONSTRATION OF CONFORMITY WITH SIPS
FOR NONATTAINMENT OR MAINTENANCE AREAS
REGARDING THE NATIONAL AMBIENT AIR QUALITY STANDARDS

TRANSPORTATION CONFORMITY SIP FOR
TEXAS NONATTAINMENT AND MAINTENANCE AREAS

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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SECTION VI: CONTROL STRATEGY

- A. Introduction (No change)
- B. Ozone (No change)
- C. Particulate Matter (No change)
- D. Carbon Monoxide (No change)
- E. Lead (No change)
- F. Oxides of Nitrogen (No change)
- G. Sulfur Dioxide (No change)
- H. Conformity with National Ambient Air Quality Standards (Revised)
 - 1. - 2. (No change)
 - 3. Transportation Conformity (Revised)
 - Chapter 1. General
 - Chapter 2. Transportation Conformity Information
 - 4. - 7. (No change)
- I. Site Specific (No change)
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B	Federal Register Volume 67, Number 151, August 6, 2002, Rules and Regulations, U.S. Environmental Protection Agency, 40 CFR Part 93, Transportation Conformity Rule Amendments: Minor Revision of 18-Month Requirement for Initial SIP Submissions and Addition of Grace Period for Newly Designated Nonattainment Areas (new)
C	The Federal Clean Air Act Amendments of 1990 §176(c) transportation conformity (new)
D	Texas Commission on Environmental Quality (commission) rules, Title 30 Texas Administrative Code Chapter 101, General Air Quality Rules, §101.1 Definitions, (52) maintenance areas, and (67) nonattainment areas (new)
E	Federal Register Volume 62, Number 158, August 15, 1997, Rules and Regulations, U.S. Environmental Protection Agency, 40 CFR Parts 51 and 93, Transportation Conformity Rule Amendments: Flexibility and Streamlining (no change)
F	Federal Register Part II, U.S. Department of Transportation, Federal Highway Administration, 23 CFR Part 450, Metropolitan Planning; dated Oct. 28, 1993, Metropolitan Transportation Planning and Programming (no change)

CHAPTER 1: GENERAL

1.1 BACKGROUND

The purpose of this State Implementation Plan (SIP) revision is to incorporate by reference into the state transportation conformity rule ([Appendix A](#)) all EPA revisions to the federal conformity rule through August 6, 2002, the most recent revision would provide state and local governments with additional time in the conformity process ([Appendix B](#)). All conformity determinations made after the effective date of EPA approval of this SIP will be made according to the EPA rule as amended. The commission notes however, that the one-year conformity grace period currently applies as a statutory matter for all newly designated nonattainment areas, since this grace period was required as a matter of law once the FCAA was amended and therefore does not require EPA approval before it is effective.

Section 176(c) of the Federal Clean Air Act Amendments of 1990 (FCAA) ([Appendix C](#)) required each state to submit a SIP revision no later than November 25, 1994, establishing enforceable criteria and procedures for making conformity determinations for metropolitan transportation plans, transportation improvement programs, and projects funded by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) in nonattainment or maintenance areas. The conformity process ensures transportation plans, programs, and projects in nonattainment and maintenance areas do not create new violations of the national ambient air quality standards (NAAQS), do not increase the frequency or severity of NAAQS violations, and do not delay timely attainment of the NAAQS.

The rule was published by EPA November 24, 1993. The Texas SIP revision, which incorporated conformity requirements, was adopted October 19, 1994, was approved by EPA November 8, 1995. EPA has amended the federal transportation conformity rule five times: August 7, 1995; November 14, 1995; August 15, 1997; April 10, 2000; and August 6, 2002. The Texas Commission on Environmental Quality (commission) previously incorporated the federal changes up to and including the 1997 amendment, with the exception of 40 CFR §§93.102(d) and 93.105. The commission is now updating its rule to incorporate the latest federal amendments.

1.2 PUBLIC COMMENT INFORMATION

The commission held public hearings at the following times and locations:

1. February 27, 2003, at 2:00 p.m. in Houston at the City Hall Annex, Council Agenda Briefing Room, 900 Bagby (between McKinney and Walker); and
2. February 28, 2003, at 2:00 p.m. in Austin at the Texas Commission on Environmental Quality, Building F, Room 2210, 12100 Park 35 Circle.

The Houston-Galveston Area Council and the EPA sent comments supporting the rule revisions as written.

1.3 SOCIAL AND ECONOMIC CONSIDERATIONS

The two revisions are considered minor by the U.S. EPA, and one was already a matter of law by statute. Therefore, it is the commission's position that there are no additional social or economic costs associated with this revision.

1.4 FISCAL AND MANPOWER RESOURCES

The state has determined that its fiscal and manpower resources are adequate and will not be adversely affected through implementation of this plan.

CHAPTER 2: TRANSPORTATION CONFORMITY INFORMATION

2.1 OVERVIEW

Transportation conformity is a process where metropolitan planning organizations in nonattainment, and maintenance areas demonstrate that plans, programs, and projects are consistent with the transportation-related elements of a SIP, i.e., motor vehicle emission budgets. (A budget is the level of emissions from cars and trucks that the state has determined is consistent with clean air goals.) Transportation conformity determinations are based on a regional emission analysis that takes into account the appropriate budgets, emissions reduction tests, and time periods. A regional emissions analysis assesses regional transportation-related emissions from existing sources; determines the emission impacts of proposed transportation projects; and demonstrates that emissions from implementing transportation plans, programs, and projects are consistent with the motor vehicle emission budgets established by the SIP.

The provisions of EPA's transportation conformity rule apply to transportation-related pollutants for which an area is designated nonattainment or is subject to a maintenance plan under the NAAQS. The pollutants include ozone, carbon monoxide, nitrogen dioxide (NO₂), and particles with an aerodynamic diameter of less than or equal to ten micrometers (PM₁₀). The rule also applies to the precursors of those pollutants: volatile organic compounds (VOC) and oxides of nitrogen (NO_x) in ozone areas; NO_x in NO₂ areas; and VOC, NO_x and PM₁₀ in PM₁₀ areas. The affected Texas nonattainment and maintenance areas are specified in 30 Texas Administrative Code (TAC) §101.1 ([Appendix D](#)). The FCAA requires states to ensure that criteria and procedures for transportation conformity are enforceable by rule.

2.2 CRITERIA AND PROCEDURES

On August 15, 1997, EPA finalized transportation conformity rule amendments to establish enforceable criteria and procedures for determining that transportation plans, programs, and projects in nonattainment and maintenance areas conform to the SIP. The commission rules, 30 TAC Chapter 114, Control of Air Pollution From Motor Vehicles, were revised accordingly on November 18, 1998, by incorporating by reference the EPA revisions, with the exception of 40 CFR §§93.102(d) and 93.105. ([Appendix E](#)).

2.3 CONSULTATION PROCESS

As part of the criteria and procedures adopted by reference on November 18, 1998, consultation procedures were established pursuant to 40 CFR §93.105 ([Appendix E](#)) of the EPA rule on transportation conformity, amended August 15, 1997. The procedures established a cooperative, interagency consultation process that provides, among other items, for the following:

- a) Identification of affected air quality and transportation agencies in the nonattainment and maintenance areas, and the organizational level of participation;
- b) roles and responsibilities of affected agencies;
- c) activities requiring consultation;
- d) a process for circulating draft and final materials;
- e) a process for responding to comments according to the locally adopted public involvement process pursuant to 23 CFR, Part 450 ([Appendix F](#)); and

f) a conflict resolution process.

2.4 SUMMARY OF CURRENT REVISIONS

On August 6, 2002, EPA finalized two changes to its transportation conformity rule providing state and local governments with additional time in the transportation conformity process ([Appendix B](#)). Accordingly, the commission rules, 30 TAC Chapter 114, Control of Air Pollution From Motor Vehicles ([Appendix A](#)) are revised to incorporate by reference the following two revisions.

The first change incorporates into the conformity rule a minor amendment to the FCAA enacted on October 27, 2000, that gives new nonattainment areas a one-year grace period before conformity applies. Areas designated nonattainment for the first time have a one-year grace period following the effective date of their nonattainment designation before conformity applies. The commission notes however, that the one-year conformity grace period currently applies as a statutory matter for all newly designated nonattainment areas, since this grace period was required as a matter of law once the FCAA was amended and therefore does not require EPA approval before it is effective. The commission is removing the reference in the state rule to 40 CFR §93.102(d) because this reference was originally included in the rule to acknowledge that the grace period at that time had been invalidated by a court challenge. However, the new §93.102(d) is now authorized by congressional action, and the commission is adopting by reference the grace period which it provides.

The second change revises the timing of the conformity requirement. The conformity rule, prior to this revision, required a conformity determination within 18 months of a state submitting an initial SIP, so new air quality requirements are considered expeditiously in the transportation planning process. The revision changes the timing so that conformity is required within 18 months of EPA's finding that motor vehicle emission budgets are adequate for use in the conformity process (approximately three months after an initial SIP is submitted). The revision implements a March 2, 1999 decision by the U.S. Court of Appeals for the D.C. Circuit Court. Compliance with the conformity rule revision begins on the effective date of EPA approval of this transportation conformity SIP, adopted by the commission [April 30, 2003].

APPENDIX A

Texas Commission on Environmental Quality (commission) rules, Title 30 Texas Administrative Code Chapter 114, [Control of Air Pollution From Motor Vehicles](#), revised December 4, 2002, and subsequent amendments.

APPENDIX B

Federal Register Volume 67, Number 151, August 6, 2002, Rules and Regulations, U.S. Environmental Protection Agency, 40 CFR Part 93, [Transportation Conformity Rule Amendments](#): Minor Revision of 18-Month Requirement for Initial SIP Submissions and Addition of Grace Period for Newly Designated Nonattainment Areas.

APPENDIX C

The Federal Clean Air Act Amendments of 1990 [§176\(c\) transportation conformity](#).

APPENDIX D

Texas Commission on Environmental Quality (commission) rules, Title 30 Texas Administrative Code Chapter 101, General Air Quality Rules, [§101.1 Definitions](#) , (52) maintenance areas, and (67) nonattainment areas.

APPENDIX E

Federal Register Volume 62, Number 158, August 15, 1997, Rules and Regulations, U.S. Environmental Protection Agency, 40 CFR Parts 51 and 93, [Transportation Conformity Rule Amendments](#): Flexibility and Streamlining.

APPENDIX F

Federal Register Part II, U. S. Department of Transportation, Federal Highway Administration, 23 CFR Part 450, [Metropolitan Planning](#), October 28, 1993, metropolitan transportation planning and programming.