

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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RULE PROJECT NO. 2005-002-114-NR

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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)
- J. Mobile Source Strategies (No change)

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LIST OF APPENDICES

APPENDIX#	APPENDIX NAME
A	Texas Commission on Environmental Quality (commission) rules, Title 30 Texas Administrative Code Chapter 114 , Control of Air Pollution From Motor Vehicles, revised (new)
B	<i>Federal Register</i> Volume 69, Number 126, July 1, 2004 , Rules and Regulations, U.S. Environmental Protection Agency, 40 CFR Part 93, Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM _{2.5} National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes (new)
C	The Federal Clean Air Act Amendments of 1990 §176(c) transportation conformity (no change)
D	For the official list and boundaries of nonattainment areas, see 40 Code of Federal Regulations Part 81 and pertinent <i>Federal Register</i> (FR) notices.
E	<i>Federal Register</i> 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	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](#)) EPA revisions to the federal conformity rule through July 1, 2004 except for 40 Code of Federal Regulations (CFR) §93.105, consultation. The revision provides transportation conformity regulations for the new 8-hour ozone and PM_{2.5} air quality standards, incorporates existing federal guidance consistent with a 1999 U.S. Court of Appeals decision, and streamlines and improves EPA's existing transportation conformity rule ([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.

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 original rule was published by EPA November 24, 1993. The Texas SIP revision, which incorporated conformity requirements, was adopted October 19, 1994 and approved by EPA November 8, 1995. EPA has amended the federal transportation conformity rule six times: August 7, 1995; November 14, 1995; August 15, 1997; April 10, 2000; August 6, 2002; and July 1, 2004. The Texas Commission on Environmental Quality (commission) previously incorporated the federal changes up to and including the 2002 amendment. With the adoption of this SIP revision, the commission has updated its rule to incorporate federal amendments through July 1, 2004.

1.2 PUBLIC COMMENT INFORMATION

The commission held a public hearing at the following time and location:
December 21, 2004, at 10:00 a.m. in Austin at the Texas Commission on Environmental Quality, Building F, Room 2210, 12100 Park 35 Circle.

A question and answer session was held 30 minutes prior to the hearing. The public comment period closed at 5:00 p.m. on January 3, 2005. No public comments were received in writing or at the public hearing.

1.3 SOCIAL AND ECONOMIC CONSIDERATIONS

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), particles with an aerodynamic diameter of less than or equal to ten micrometers (PM₁₀), and particles with an aerodynamic diameter of less than or equal to 2.5 micrometers (PM_{2.5}). Except for carbon monoxide and PM_{2.5}, 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 and/or NO_x in PM₁₀ areas. For the official list and boundaries of nonattainment areas, see 40 Code of Federal Regulations Part 81 and pertinent Federal Register notices ([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 July 1, 2004, EPA finalized several changes to its transportation conformity rule. This rule will incorporate the following changes to the state's transportation conformity rule.

The amendment to §114.260(a) incorporates the acronym USC for the term United States Code.

The amendments to §114.260(b) includes an incorporation of the phrase “particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM_{2.5}).” This phrase refers to the new national ambient air quality standard (NAAQS) for fine particles adopted by the EPA. The other amendment to §114.260(b) specifies that the section is only applicable to the precursors of ozone, nitrogen dioxide, and PM₁₀. This distinction is made because EPA is not finalizing requirements for addressing PM_{2.5} precursors in transportation conformity at this time.

Administrative and grammatical changes are adopted throughout the section to bring the existing rule language into agreement with guidance provided in the *Texas Legislative Council Drafting Manual*, October 2002.

The amendments to §114.260(c) update the date through which the Transportation Conformity Rules are amended, i.e., from August 6, 2002, to July 1, 2004, and incorporate by reference the federal amendments, except for §93.105, Consultation. The federal requirements in §93.105 are addressed in the state rule in §114.260(d).

The amendment to §114.260(d)(1)(A)(vi) removes the words, “formerly §9,” as this old citation is now more commonly referred to as FTA §5307.

The amendment to §114.260(d)(1)(A)(vii) removes the words “TCEQ or”. The amendment deletes the language to be consistent with current agency style and format.

The amendment to §114.260(d)(1)(A)(viii) substitutes the reference to “FCAA, §105,” with a reference to “42 USC, §7405” because FCAA, §105 has been codified into the USC.

The amendment to §114.260(d)(1)(B)(ix) removes the words, “formerly §9,” as this old citation is now more commonly referred to as FTA §5307.

The amendment to §114.260(d)(1)(B)(x) substitutes the reference to “FCAA, §105,” with a reference to “42 USC, §7405” because FCAA, §105 has been codified into the USC.

The amendment to §114.260(d)(2)(A)(i) replaces, “Strategic Assessment” Division director, with “Air Quality Planning and Implementation” Division director because the division has been renamed.

The amendment to §114.260(d)(2)(A)(viii) corrects the spelling of “emissions”.

The amendments to §114.260(d)(2)(C) replaces the phrase, “Title 23 United States Code,” with “23 USC,” and changes “Federal Transit Laws,” to, “federal transit laws” to be consistent with current agency style and format.

The amendment to §114.260(d)(4)(B) replaces “TCEQ” with “commission’s” to be consistent with current agency style and format.

The adopted amendments to §114.260(d)(4)(C) and (6) correct the capitalization of the term “governor” and adds a catchline to bring the existing rule language into agreement with *Texas Register* requirements and guidance provided in the *Texas Legislative Council Drafting Manual*, October 2002.

APPENDIX A

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

APPENDIX B

Federal Register Volume 69, Number 126, [July 1, 2004](#), Rules and Regulations, U.S. Environmental Protection Agency, 40 CFR Part 93, Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes.

APPENDIX C

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

APPENDIX D

For the official list and boundaries of nonattainment areas, see [40 Code of Federal Regulations Part 81](#) and pertinent *Federal Register* notices.

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

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