

§ 93.116 Criteria and procedures: Localized CO and PM₁₀ violations (hot spots).

(a) This paragraph applies at all times. The FHWA/FTA project must not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project. The demonstration must be performed according to the consultation requirements of § 93.105(c)(1)(i) and the methodology requirements of § 93.123.

(b) This paragraph applies for CO nonattainment areas as described in § 93.109(d)(1). Each FHWA/FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project. The demonstration must be performed according to the consultation requirements of § 93.105(c)(1)(i) and the methodology requirements of § 93.123.

§ 93.117 Criteria and procedures: Compliance with PM₁₀ control measures.

The FHWA/FTA project must comply with PM₁₀ 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 emissions from the construction activities and/or normal use and operation associated with the project) that are contained in the applicable implementation plan.

§ 93.118 Criteria and procedures: Motor vehicle emissions budget.

(a) The transportation plan, TIP, and project not from a conforming trans-

portation plan and TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies as described in § 93.109 (c) through (g). This criterion is satisfied if it is demonstrated that emissions of the pollutants or pollutant precursors described in paragraph (c) of this section are less than or equal to the motor vehicle emissions budget(s) established in the applicable implementation plan or implementation plan submission.

(b) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each year for which the applicable (and/or submitted) implementation plan specifically establishes motor vehicle emissions budget(s), for the last year of the transportation plan's forecast period, and for any intermediate years as necessary so that the years for which consistency is demonstrated are no more than ten years apart, as follows:

(1) Until a maintenance plan is submitted:

(i) Emissions in each year (such as milestone years and the attainment year) for which the control strategy implementation plan revision establishes motor vehicle emissions budget(s) must be less than or equal to that year's motor vehicle emissions budget(s); and

(ii) Emissions in years for which no motor vehicle emissions budget(s) are specifically established must be less than or equal to the motor vehicle emissions budget(s) established for the most recent prior year. For example, emissions in years after the attainment year for which the implementation plan does not establish a budget must be less than or equal to the motor vehicle emissions budget(s) for the attainment year.

(2) When a maintenance plan has been submitted:

(i) Emissions must be less than or equal to the motor vehicle emissions budget(s) established for the last year of the maintenance plan, and for any other years for which the maintenance plan establishes motor vehicle emissions budgets. If the maintenance plan does not establish motor vehicle emissions budgets for any years other than

the last year of the maintenance plan, the demonstration of consistency with the motor vehicle emissions budget(s) must be accompanied by a qualitative finding that there are no factors which would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan. The interagency consultation process required by § 93.105 shall determine what must be considered in order to make such a finding;

(ii) For years after the last year of the maintenance plan, emissions must be less than or equal to the maintenance plan's motor vehicle emissions budget(s) for the last year of the maintenance plan; and

(iii) If an approved control strategy implementation plan has established motor vehicle emissions budgets for years in the timeframe of the transportation plan, emissions in these years must be less than or equal to the control strategy implementation plan's motor vehicle emissions budget(s) for these years.

(c) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each pollutant or pollutant precursor in § 93.102(b) for which the area is in nonattainment or maintenance and for which the applicable implementation plan (or implementation plan submission) establishes a motor vehicle emissions budget.

(d) Consistency with the motor vehicle emissions budget(s) must be demonstrated by including emissions from the entire transportation system, including all regionally significant projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the timeframe of the transportation plan.

(1) Consistency with the motor vehicle emissions budget(s) must be demonstrated with a regional emissions analysis that meets the requirements of §§ 93.122 and 93.105(c)(1)(i).

(2) The regional emissions analysis may be performed for any years in the timeframe of the transportation plan provided they are not more than ten years apart and provided the analysis is performed for the attainment year

(if it is in the timeframe of the transportation plan) and the last year of the plan's forecast period. Emissions in years for which consistency with motor vehicle emissions budgets must be demonstrated, as required in paragraph (b) of this section, may be determined by interpolating between the years for which the regional emissions analysis is performed.

(e) *Motor vehicle emissions budgets in submitted control strategy implementation plan revisions and submitted maintenance plans.* (1) Consistency with the motor vehicle emissions budgets in submitted control strategy implementation plan revisions or maintenance plans must be demonstrated if EPA has declared the motor vehicle emissions budget(s) adequate for transportation conformity purposes, or beginning 45 days after the control strategy implementation plan revision or maintenance plan has been submitted (unless EPA has declared the motor vehicle emissions budget(s) inadequate for transportation conformity purposes). However, submitted implementation plans do not supersede the motor vehicle emissions budgets in approved implementation plans for the period of years addressed by the approved implementation plan.

(2) If EPA has declared an implementation plan submission's motor vehicle emissions budget(s) inadequate for transportation conformity purposes, the inadequate budget(s) shall not be used to satisfy the requirements of this section. Consistency with the previously established motor vehicle emissions budget(s) must be demonstrated. If there are no previous approved implementation plans or implementation plan submissions with motor vehicle emissions budgets, the emission reduction tests required by § 93.119 must be satisfied.

(3) If EPA declares an implementation plan submission's motor vehicle emissions budget(s) inadequate for transportation conformity purposes more than 45 days after its submission to EPA, and conformity of a transportation plan or TIP has already been determined by DOT using the budget(s), the conformity determination will remain valid. Projects included in that transportation plan or TIP could still

satisfy §§93.114 and 93.115, which require a currently conforming transportation plan and TIP to be in place at the time of a project's conformity determination and that projects come from a conforming transportation plan and TIP.

(4) EPA will not find a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan to be adequate for transportation conformity purposes unless the following minimum criteria are satisfied:

(i) The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his or her designee) and was subject to a State public hearing;

(ii) Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among federal, State, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed;

(iii) The motor vehicle emissions budget(s) is clearly identified and precisely quantified;

(iv) The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission);

(v) The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan revision or maintenance plan; and

(vi) Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see §93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled).

(5) Before determining the adequacy of a submitted motor vehicle emissions budget, EPA will review the State's

compilation of public comments and response to comments that are required to be submitted with any implementation plan. EPA will document its consideration of such comments and responses in a letter to the State indicating the adequacy of the submitted motor vehicle emissions budget.

(6) When the motor vehicle emissions budget(s) used to satisfy the requirements of this section are established by an implementation plan submittal that has not yet been approved or disapproved by EPA, the MPO and DOT's conformity determinations will be deemed to be a statement that the MPO and DOT are not aware of any information that would indicate that emissions consistent with the motor vehicle emissions budget will cause or contribute to any new violation of any standard; increase the frequency or severity of any existing violation of any standard; or delay timely attainment of any standard or any required interim emission reductions or other milestones.

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

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

(b) This criterion may be met in moderate and above ozone nonattainment areas that are subject to the reasonable further progress requirements of CAA section 182(b)(1) and in moderate with design value greater than 12.7 ppm and serious CO nonattainment areas if a regional emissions analysis that satisfies the requirements of §93.122 and paragraphs (e) through (h) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (d) of this section:

(1) The emissions predicted in the "Action" scenario are less than the