<u>Chapter 8</u> Nonattainment Area Regulations

CHAPTER 8

(a) ____Chapter 8 establishes regulations specific to areas not attaining the National Ambient Air Quality Standards. Section 2 applies exclusively to Sweetwater County, Wyoming particulate matter regulations. Section 3 applies to general federal actions, excluding those covered under Section 4, within any federally designated nonattainment area of the state. Section 4 applies to specific transportation projects within any federally designated nonattainment area of the state. Section 5 establishes requirements for the submittal of emission inventories from facilities or sources located in an ozone nonattainment area(s) pursuant to the requirements of the Clean Air Act, Section 182. Section 6 establishes requirements for all PAD and single-well oil and gas production facilities or sources, and all compressor stations, located in the Upper Green River Basin (UGRB) ozone nonattainment area that were existing as of January 1, 2014. Sections 7 through 9 are reserved. Section 10 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. Sweetwater County pParticulate mMatter rRegulations.

- (a) Notwithstanding other provisions in these regulations concerning the emission of particulate matter or required fugitive dust control measures, the requirements and emission limitations set forth in Chapter 8, Section 2(b) and (c) for the specific sources and activities enumerated are applicable. Sources and/or activities which cause particulate matter to be emitted into the air and which are not addressed in this section are subject to the requirements of other sections.
 - (b) Point Source Particulate Matter Emission Rate Allowables:

The following tables specify the maximum allowable particulate matter emission rate for each of the listed sources. The emission of particulate matter is measured as specified in Chapter 3, Section 2(h)(iv) of these regulations.

(i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

Table (i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

Source Description	Allowable Emission Rate (lb/hr)
#1 Boiler	3.00
#2 Boiler	3.00
#3 Boiler	N.A.
#4 Boiler	7.50
#5 Boiler	8.62
#6 Boiler	7.50
ES-1	30.6

Source Description	Allowable Emission Rate (lb/hr)
2ES-1	27.3
3ES-1	29.2
3ES-2	34.5
4SC-2	51.6
4SC-3	5.2
4SC-4	52.6
4ES-201	23.1
Phase II Dryer-Cooler	12.0

	Allowable Emission Rate
Source Description	<u>lb/hr</u>
#1 Boiler	3.00
#2 Boiler	3.00
#3 Boiler	N.A.
#4 Boiler	7.50
(i) Stauffer Chemical Compa	ny of Wyoming, Green River Soda Ash Plant
(Continued).	
#5 Boiler	8.62
#6 Boiler	7.50
ES-1	30.6
2ES-1	27.3
3ES-1	29.2
	Allowable Emission Rate
Source Description	<u>lb/hr</u>
3ES-2	34.5
4SC-2	51.6
4SC-3	5.2
4SC-4	
4ES-201	
Phase II Dryer-Cooler	12.0

(ii) ____Allied Chemical Corporation, Green River Works

Table (ii) Allied Chemical Corporation, Green River Works.

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Crusher Building	GR-I-A	3.0
Prod. Loading	GR-I-B(1)	3.0
Prod. Loading	GR-I-B(2)	3.0
Source Description	Company ID	Allowable Emission Rate (lb/hr)
Calciner #1	GR-I-C	20.0
Calciner #2	GR-I-D	25.0

Calciner #3	GR-I-E	20.0
Dryer #1	GR-I-F	4.0
Dryer #2	GR-I-G	4.0
Dryer #3	GR-I-H	4.0
Housekeeping (North)	GR-I-J(1)	2.0
Housekeeping (South)	GR-I-J(2)	2.0
Product Cooler	GR-I-K	2.0
Coal Handling Tunnel	CH-1	1.7
Coal Handling Gallery	CH-2	1.0
Ore Bin Gallery	GR-II-A	3.0
Product Storage	GR-II-B	4.0
Calciner #4	GR-II-C	20.0
Calciner #5	GR-II-D	20.0
Dissolver #1	GR-II-E-1	3.0
Dissolver #2	GR-II-E-2	3.0
Dryer #4	GR-II-F	4.0
Dryer #5	GR-II-G	4.0
Dryer #6	GR-II-H	4.0
Housekeeping	GR-II-J	10.0
Product Cooler	GR-II-K	3.0
Lime Storage	GR-II-O	0.1
Reclaim Ore System	RO-1	1.4
Crusher	GR-III-A	3.0
Ore Conveyor	GR-III-B	1.0
Ore Gallery	GR-III-C	1.0
Calciner #1	GR-III-D	37.9
Calciner #2	GR-III-E	37.9
Dissolver #1 (East)	GR-III-F	2.0
Dissolver #2 (West)	GR-III-G	2.0
Filter Aid	GR-III-H	NIL
Dryer #1	GR-III-K	1.5
Dryer #2	GR-III-L	1.5
Dryer #3	GR-III-M	1.5
Dryer #4	GR-III-N	1.5
Dryer #5	GR-III-P	1.5
Dryer Vent	GR-III-R	2.0
Prod. Cooler #1	GR-III-S	1.0
Prod. Cooler #2	GR-III-T	1.0
Housekeeping #1	GR-III-U	3.0
Housekeeping #2	GR-III-V	3.0
Crusher	A-305	2.0
Crusher	A-309	2.0

Source Description	Company ID	Allowable Emission Rate (lb/hr)
"C" Boiler	GR-II-L	50.0
"D" Boiler	GR-III-W	80.0

Source Description	_	Allowable Emission Rate
Source Description		<u>10/111</u>
Crusher Building	GR-I-A	3.0
Prod. Loading		
Prod. Loading	()	
Calciner #1		
Calciner #2	GR-I-D	25.0
Calciner #3	GR-I-E	20.0
Dryer #1	GR-I-F	4.0
——————————————————————————————————————	GR-I-G	4.0
——————————————————————————————————————	GR-I-H	4.0
Housekeeping (North)		
Housekeeping (South)		
Product Cooler		
Coal Handling Tunnel	CH-1	1.7
Coal Handling Gallery	CH-2	1.0
Ore Bin Gallery	GR-II-A	3.0
Product Storage	GR-II-B	4.0
Calciner #4	GR-II-C	20.0
Calciner #5		
Dissolver #1	GR-II-E-1	3.0
Dissolver #2	GR-II-E-2	3.0
— Dryer #4	GR-II-F	4.0
——————————————————————————————————————	GR-II-G	4.0
(ii) Allied Chemic	cal Corporation, Gree	en River Works (Continued)
Dryer #6	GR-II-H	4.0
Housekeeping	GR-II-J	10.0
Product Cooler	GR-II-K	3.0
Lime Storage	GR-II-O	0.1
Reclaim Ore System	RO-1	1.4
		Allowable Emission Rate
Source Description		<u>lb/hr</u>
Crusher	GR-III-A	3.0
Ore Conveyor	GR-III-B	1.0
Ore Gallery	GR-III-C	1.0
Calciner #1	GR-III-D	37.9
Calciner #2	GR-III-E	37.9
Dissolver #1 (East)	GR-III-F	2.0

Dissolver #2 (West)	GR-III-G	2.0
Filter Aid	GR-III-H	NIL
Dryer #1	GR-III-K	1.5
Dryer #2	GR-III-L	1.5
Dryer #3	GR-III-M	1.5
Dryer #4	GR-III-N	1.5
——————————————————————————————————————	GR-III-P	1.5
— Dryer Vent	GR-III-R	2.0
Prod. Cooler #1	GR-III-S	1.0
Prod. Cooler #2	GR-III-T	1.0
Housekeeping #1	GR-III-U	3.0
Housekeeping #2	GR-III-V	3.0
- Crusher	A-305	2.0
Crusher	A-309	2.0 2.0
"C" Boiler	GR-II-L	50.0
"D" Boiler	GR-III-W	80.0
D Done	OK-III- W	00.0

(iii) ___ FMC Corporation, Green River

Table (iii) FMC Corporation, Green River.

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Crusher	PA-4; PA-5	2.5
Dissolver	PA-6	1.0
Dissolver	PA-7	1.0
Dissolver	PA-8	1.0
Dissolver	PA-9	1.0
Sesqui Dryer	RA-1	10.0
Dust Collector	RA-2	2.0
Calciner	RA-13	8.0
Calciner	RA-14	4.0
Calciner	RA-15	4.0
Calciner	RA-16	4.0
Calciner Scrubber	RA-22	35.0
Calciner Scrubber	RA-23	35.0
Calciner Scrubber	RA-24	45.0
Fluid Bed Calciner	RA-25	26.5
Dust Collector	RA-27	3.0
Dust Collector	RA-33	3.0
Phosphorus Furnace	PP-12	15.0
Spray Dryer	PP-21	28.0
Dust Collector	PP-24	4.0
Calciner	PP-25	15.0
Dust Collector	PP-26	2.0
Dust Collector	PP-27	2.0
Trona Calciner	NA-2	3.0

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Dust Collection	NA-3	10.0
Cooler	NA-5	6.0
Dust Collection	Mono 2	2.6
Dust Collection	Mono 3	1.3
Dust Collection	Mono 4	2.0
Calciner	Mono 5	53.0
Dryer	Mono 6	20.0
Dust Collection	Mono 7	2.0
Dust Collection	Mono 8	1.9
Dust Collection	NS-2	0.5
Calciner	NS-3	41.0
Crusher	NS-4	1.0
Dissolver	NS-5	2.7
Dryer	NS-6	20.0
Coal Dust Collection	NS-7	0.5
Coal Dust Collection	NS-8	0.5
Coal Dust Collection	NS-9	0.5
Gas/Oil Boiler	PH-1	8.4
Gas/Oil Boiler	PH-2	4.2
Gas/Oil Boiler	PH-3	8.4
Gas/Oil Boiler	Mono I	7.5
Coal Boiler	NS-1A	45.0
Coal Boiler	NS-1B	45.0

G B : 1:		Allowable Emission
Source Description		<u>lb/hr</u>
Crusher	PA-4; PA-5	2.5
Dissolver	PA-6	1.0
Dissolver	PA-7	1.0
Dissolver	PA-8	1.0
Dissolver	PA-9	1.0
Sesqui Dryer	RA-1	10.0
Sesqui Dryer Dust Collector	RA-1 RA-2	10.0 2.0
Dust Collector		2.0
Dust Collector	RA-2	2.0
Dust Collector (iii) FMC Corp	RA-2 poration, Green River (Conti	2.0 nued)
Dust Collector (iii) FMC Corp	RA-2 poration, Green River (Conti	2.0 nued)
Dust Collector (iii) FMC Corp Calciner Calciner	RA-2 poration, Green River (Conti RA-13 RA-14	2.0 nued) 8.0 4.0

Calciner Scrubber	RA-23	35.0
Calciner Scrubber	RA-24	45.0
Fluid Bed Calciner	RA-25	26.5
— Dust Collector	RA-27	3.0
— Dust Collector	RA-33	3.0
Phosphorus Furnace	PP-12	15.0
Spray Dryer	PP-21	28.0
— Dust Collector	PP-24	4.0
Calciner	PP-25	15.0
- Dust Collector	PP-26	2.0
	PP-27	2.0
Trona Calciner	NA-2	3.0
— Dust Collection	NA-3	10.0
Cooler	NA-5	6.0
	Mono 2	2.6
	Mono 3	1.3
	Mono 4	2.0
Calciner	Mono 5	53.0
— Dryer	Mono 6	20.0
——————————————————————————————————————	Mono 7	2.0
	Mono 8	1.9
	NS-2	0.5
Calciner	NS-3	41.0
Crusher	NS-4	1.0
- Dissolver	NS-5	2.7
Dryer	NS-6	20.0
Coal Dust Collection	NS-7	0.5
Coal Dust Collection	NS-8	0.5
Coal Dust Collection	NS-9	0.5
Gas/Oil Boiler	PH-1	8.4
Gas/Oil Boiler	PH-2	4.2
Gas/Oil Boiler	PH-3	8.4
Gas/Oil Boiler	Mono I	
Coal Boiler	NS-1A	45.0
Coal Boiler	NS-1B	45.0

(iv)___Church and Dwight Company

Table (iv) Church and Dwight Company

Table (iv) Church and Dwight Com	pany	
Source Description	Company ID	Allowable Emission Rate (lb/hr)
Soda Ash Unloading	SA	3.0
Throwing Box Scrubber	ТВ	2.0
Jeffrey Dryer Scrubber	JD	3.0
#1 Process Dryer	1PD	2.0
#2 Process Dryer	2PD	5.0
#3 Process Dryer	3PD	2.0

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Source Description	Company ID	Allowable Emission Rate (lb/hr)
#1 House Dust System	1HDS	2.0
#2 House Dust System	2HDS	2.0
#3 House Dust System	3HDS	2.0

		Allowable Emission Rate
Source Description		<u>lb/hr</u>
Soda Ash Unloading	SA	3.0
——— Throwing Box Scrubber—	TB	2.0
Jeffrey Dryer Scrubber	— JD	3.0
#1 Process Dryer	1PD	2.0
#2 Process Dryer	2PD	<u>5.0</u>
#3 Process Dryer	3PD	2.0
#1 House Dust System	1HDS	2.0
#2 House Dust System	2HDS	2.0
#3 House Dust System	3HDS	2.0

(c) ___Fugitive Dust Controls. The following subparagraphs specify fugitive dust control measures required for the delineated activities and sources and the schedules for completion of such measures. If, at any time, the Administrator is satisfied that the applicable suspended particulate matter standards have been attained and will be maintained, uncompleted programs may be completed at the option of the owner of the facility if failure to complete the same will not in the opinion of the Administrator adversely affect such attainment status.

(i) Allied Chemical, Green River

<u>Unpaved Roads</u> – Pave all roads in facility area that encounter frequent traffic and maintain such roads in a clean condition through the use of a vacuum sweeper as required. Complete: November 30, 1980.

<u>Distressed Area</u> – Reclaim the distressed area outside the east fence or apply suitable soil binders. Complete: December 1, 1981.

<u>Coal Stockpile</u> – The active coal stockpile is to be enclosed or a dust suppression system installed and used during periods of activity. Complete: December 31, 1982.

<u>Equipment Movement</u> – Equipment movement around the periphery of the trona stockpile should be further reduced. Complete: June 1, 1979.

(ii)____FMC Corporation

<u>Stockpile</u> – Installation and effective operation of the following abatement program elements is required to control excessive fugitive emissions from the coal handling facilities.

(A) Dust collectors with pick-ups at the transfer points.

(B) <u> </u>	A dust suppression spray system	to apply wetting agents to coal
being unloaded, transferred, re	eclaimed, crushed and handled.	

- (C)___Rapid unloading railroad cars.
- (D) Use of counter weighted hood-type doors on the coal stacker.

Ore Stockpile – Install variable height booms so that the free fall distance of the ore is held to a minimum and install shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom. Complete: Sesqui Areas – January 1, 1981; Mono Areas – April 1, 1981.

<u>Loadout Facilities</u> – The mono loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot top or hatch top rail cars. The resultant dust generated due to displacement shall be aspirated to adequate dust collectors. The above requirements also apply to any truck bulk product loadout facilities. Complete: July 1, 1982.

<u>Unpaved Roads</u> – All unpaved roads that encounter frequent traffic in the facility area shall be paved and maintained in a clean condition through the use of a vacuum sweeper as required. Infrequently traveled roads are to be treated with oil or other suitable dust suppressants. Complete: October 1, 1980.

Overflow Chutes – Overflow or spillover chutes which discharge in the open, are to be eliminated or emptied into closed containers. Chutes for housekeeping purposes are to be eliminated and replaced with a vacuum dust system that utilizes a dust collector. Complete: October 1, 1980.

(iii) Stauffer Chemical, Green River

Ore Stockpile – Install and utilize a variable height boom so that the free fall distance of the ore is held to a minimum. A shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom is to be installed and utilized. Complete: July 1981.

Product Loadout – Rail loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot and portal top rail cars. The resultant dust generated due to displacement should be aspirated to adequate dust collectors. The above requirements will also apply to any truck bulk product loadout facilities. Maintenance or redesigning of existing baghouse collectors will also be necessary at these facilities. Complete: September 1982.

<u>Product Handling and Storage</u> – Product silo vents are to be equipped with dust collectors. Proper maintenance and/or redesign of existing dust collectors is also required in this area. Complete: September 1982.

<u>Crusher Area</u> – The removing of accumulated dust from crusher building by sweeping or

dumping the material outside the building is to be eliminated. Housekeeping chores in this area as well as other areas are to be accomplished by the use of a vacuum system and dust collector. Existing baghouse collectors are to be properly maintained and if necessary other control measures installed and utilized at all transfer points in and around the crusher area. Complete: September 1982.

Overflow Chutes – Overflow or spillover chutes which discharge in the open are to be eliminated or emptied into closed containers. Complete: March 1979.

<u>Unpaved Roads</u> – All roads within the facility area that encounter frequent traffic are to be paved and maintained in a clean condition through the use of a vacuum sweeper as required. All other less frequently used roads are to be treated with oil or other suitable dust suppressants. Complete: September 1982.

<u>Distressed Areas</u> – Distressed areas to the south of the facility which contain distressed product piles and tailing pond dredgings are to be reclaimed and treated with dust suppressants. Complete: September 1979.

Section 3. Conformity of <u>gG</u>eneral <u>fF</u>ederal <u>aA</u>ctions to <u>sS</u>tate <u>iI</u>mplementation <u>P</u>plans.

(a)Prohibition.
(i)No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.
(ii) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this section before the action is taken.

(iii)___[Reserved]

- (iv)___Notwithstanding any provision of this section, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the National Environmental Policy Act (NEPA), or the CAA.
- (v)___If an action would result in emissions originating in more than one nonattainment or maintenance area, the conformity must be evaluated for each area separately.
- (b) Definitions. Terms used but not defined in this section shall have the meaning given them by the CAA and EPA's regulations (40 CFR Chapter I), in that order of priority.
- "Affected Federal land manager" means the Federal agency or the Federal official charged with direct responsibility for management of an area designated Class I under the CAA

(42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

"Applicability analysis" is the process of determining if your Federal action must be supported by a conformity determination.

"Applicable implementation plan or applicable SIP" means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110(k) of the CAA, or promulgated under section 110(c) of the CAA (Federal implementation plan), or a plan promulgated or approved pursuant to section 301(d) of the CAA (Tribal implementation plan or TIP) and which implements the relevant requirements of the CAA.

"Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model or photochemical grid model to determine the effects of emissions on air quality, for example, an assessment using EPA's community multi-scale air quality (CMAQ) modeling system.

"CAA" means the Clean Air Act, as amended.

"Cause or contribute to a new violation" means a Federal action that:

- (i)___Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken; or
- (ii) ____Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

"Caused by", as used in the terms "direct emissions" and "indirect emissions," means emissions that would not otherwise occur in the absence of the Federal action.

"Confidential business information (CBI)" means information that has been determined by a Federal agency, in accordance with its applicable regulations, to be a trade secret, or commercial or financial information obtained from a person and privileged or confidential and is exempt from required disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

"Conformity determination" is the evaluation (made after an applicability analysis is completed) that a Federal action conforms to the applicable implementation plan and meets the requirements of this section.

"Conformity evaluation" is the entire process from the applicability analysis through the conformity determination that is used to demonstrate that the Federal action conforms to the requirements of this section.

"Continuing program responsibility" means a Federal agency has responsibility for

emissions caused by:

- (i)____Actions it takes itself; or
- (ii)___Actions of non-Federal entities that the Federal agency, in exercising its normal programs and authorities, approves, funds, licenses or permits, provided the agency can impose conditions on any portion of the action that could affect the emissions.
- "Continuous program to implement" means that the Federal agency has started the action identified in the plan and does not stop the actions for more than an 18-month period, unless it can demonstrate that such a stoppage was included in the original plan.
- "Criteria pollutant or standard" means any pollutant for which there is established a NAAQS at 40 CFR Ppart 50.
- "Direct emissions" means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and originate in a nonattainment or maintenance area and occur at the same time and place as the action and are reasonably foreseeable.
- "Emergency" means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this section, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts and military mobilizations.
- "Emissions budgets" are those portions of the applicable SIP's projected emission inventories that describe the levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, and/or maintenance for any criteria pollutant or its precursors.
- "Emission inventory" means a listing of information on the location, type of source, type and quantity of pollutant emitted as well as other parameters of the emissions.
- "Emissions offsets", for purposes of Subsection (h), are emissions reductions which are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable at both the State and Federal levels, and permanent within the timeframe specified by the program.
 - "EPA" means the U.S. Environmental Protection Agency.
- "Federal action" means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the Federal action is a permit, license, or other approval for some

aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase or the non-Federal undertaking that requires the Federal permit, license, or approval.

"Federal agency" means, for purposes of this section, a Federal department, agency, or instrumentality of the Federal government.

"Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

"Indirect emissions" means those emissions of a criteria pollutant or its precursors:

(i) ____ That are caused or initiated by the Federal action and originate in the same nonattainment or maintenance area but occur at a different time or place as the action;
(ii) ___ That are reasonably foreseeable;
(iii) ___ That the Federal agency can practically control; and
(iv) ___ For which the Federal agency has continuing program responsibility.

For the purposes of this definition, even if a Federal licensing, rulemaking or other approving action is a required initial step for a subsequent activity that causes emissions, such initial steps do not mean that a Federal agency can practically control any resulting emissions.

"Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadways on a Federal facility, which uses an air quality dispersion model (e.g., Industrial Source Complex Model or Emission and Dispersion Model System) to determine the effects of emissions on air quality.

"Maintenance area" means an area that was designated as nonattainment and has been re-designated in 40 CFR part 81 to attainment, meeting the provisions of section 107(d)(3)(E) of the CAA and has a maintenance plan approved under section 175A of the CAA.

"Maintenance plan" means a revision to the applicable SIP, meeting the requirements of section 175A of the CAA.

"Metropolitan Planning Organization (MPO)" means the policy board of an organization created as a result of the designation process in 23 U.S.C. 134(d).

"Milestone" has the meaning given in sections 182(g)(1) and 189(c)(1) of the CAA.

"Mitigation measure" means any method of reducing emissions of the pollutant or its precursor taken at the location of the Federal action and used to reduce the impact of the

emissions of that pollutant caused by the action.

- "National ambient air quality standards (NAAQS)" are those standards established pursuant to section 109 of the CAA and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone, particulate matter (PM₁₀ and PM_{2.5}), and sulfur dioxide (SO₂).
- "NEPA" is the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).
- "Nonattainment area (NAA)" means an area designated as nonattainment under section 107 of the CAA and described in 40 CFR Ppart 81.

"Precursors of a criteria pollutant" are:

- (i) For ozone, nitrogen oxides (NO_x) , unless an area is exempted from NO_x requirements under section 182(f) of the CAA, and volatile organic compounds (VOC).
- (ii) For PM_{10} , those pollutants described in the PM_{10} nonattainment area applicable SIP as significant contributors to the PM_{10} levels.

(iii) For PM_{2.5}:

- (A)___Sulfur dioxide (SO₂) in all $PM_{2.5}$ nonattainment and maintenance areas,
- (B)___Nitrogen oxides in all PM_{2.5} nonattainment and maintenance areas unless both the State and EPA determine that it is not a significant precursor, and
- (C)___Volatile organic compounds (VOC) and ammonia (NH₃) only in PM_{2.5} nonattainment or maintenance areas where either the State or EPA determines that they are significant precursors.
- "Reasonably foreseeable emissions" are projected future direct and indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.
- "Regional water and/or wastewater projects" include construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.
- "Restricted information" is information that is privileged or that is otherwise protected from disclosure pursuant to applicable statutes, Executive Orders, or regulations. Such information includes, but is not limited to: Classified national security information, protected critical infrastructure information, sensitive security information, and proprietary business

information.

"Take or start the Federal action" means the date that the Federal agency signs or approves the permit, license, grant or contract or otherwise physically begins the Federal action that requires a conformity evaluation under this section.

"Total of direct and indirect emissions" means the sum of direct and indirect emissions increases and decreases caused by the Federal action; i.e., the "net" emissions considering all direct and indirect emissions. The portion of emissions which are exempt or presumed to conform under Subsections (c)(iii), (iv), (v), or (vi) are not included in the "total of direct and indirect emissions." The "total of direct and indirect emissions" includes emissions of criteria pollutants and emissions of precursors of criteria pollutants.

(c)___Applicability.

(i) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of Chapter 8, Section 4, in lieu of the procedures set forth in this section.

(ii) ____For Federal actions not covered by paragraph (i) of this subsection, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (ii)(A) or (B) of this subsection.

(A)___For purposes of paragraph (ii) of this subsection, the following rates apply in nonattainment areas (NAAs):

Criteria Pollutant	Tons/Year
Ozone (VOCs or NO _x):	
Serious NAAs	50
Severe NAAs	25
Extreme NAAs	<u>10</u>
Other ozone NAAs outside an	100
ozone transport region:	
Other ozone NAAs inside an	
ozone transport region:	
VOC	50
$\underline{NO_x}$	<u>100</u>
Carbon monoxide:	
<u>All NAAs</u>	100
SO_2 or NO_2 :	
<u>All NAAs</u>	<u>100</u>

PM_{10} :	
Moderate NAAs	100
Serious NAAs	<u>70</u>
<u>PM_{2.5}:</u>	
<u>Direct emissions</u>	100
<u>SO₂</u>	100
NO _x (unless determined not to be significant precursors)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb:	
<u>All NAAs</u>	<u>25</u>

	Tons/Year
Ozone (VOCs or NO _*):	
Serious NAAs	50
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs outside an	
ozone transport region	100
Other ozone NAAs inside an	
ozone transport region:	
VOC	50
NO _*	100
Carbon monoxide:	
All NAAs	100
SO₂ or NO₂:	
All NAAs	100
<u>PM₁0</u> :	
Moderate NAAs	100
Serious NAAs	70
PM _{2.5} :	
Direct emissions	100
SO ₂	100
NO _x (unless determined not to be	
	100
to be significant precursors)	100
Pb:	
All NAAs	25

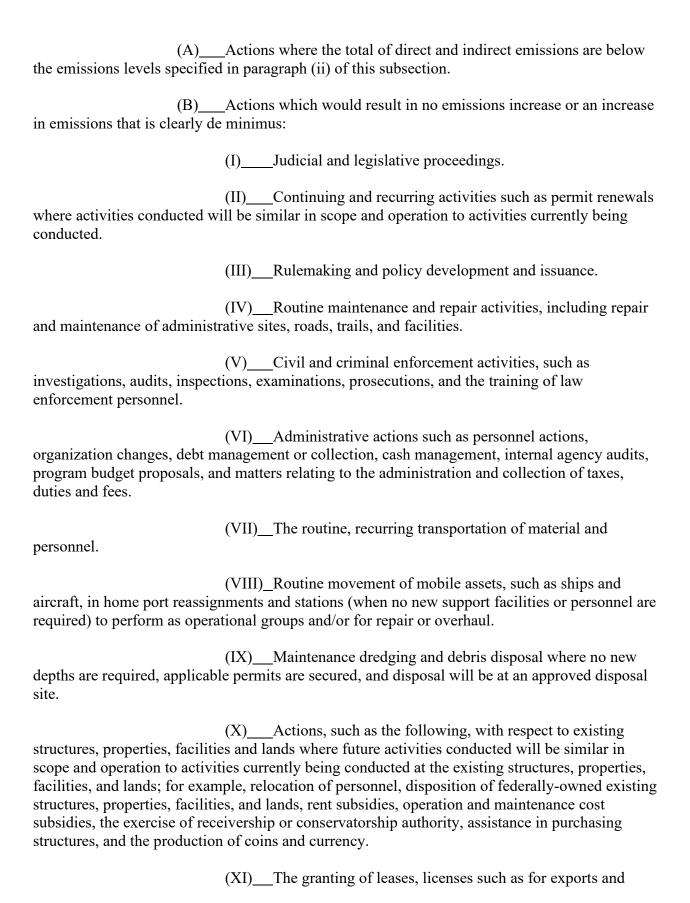
(B)___For purposes of paragraph (ii) of this subsection, the following

rates apply in maintenance areas:

Criteria Pollutant	Tons/Year
Ozone (NO _x , SO ₂ or NO ₂):	
All Maintenance Areas	100
Ozone (VOCs)	
Maintenance areas inside an ozone	<u>50</u>
transport region	
Maintenance areas outside an	100
ozone transport region	
Carbon monoxide:	
All maintenance areas	100
PM ₁₀ :	
All maintenance areas	100
PM _{2.5} :	
Direct emissions	100
SO_2	100
NO _x (unless determined not to be	100
VOC or ammonia (if determined to	100
Pb:	
All maintenance areas	25

1 III mamichance areas	20
	Tons/Year
Ozone (NO _x , SO ₂ -or NO ₂):	
All Maintenance Areas	100
Ozone (VOCs):	
Maintenance areas inside an	
ozone transport region	50
Maintenance areas outside an	
ozone transport region	100
Carbon monoxide:	
All maintenance areas	100
<u>PM₁0</u> :	
All maintenance areas	100
PM _{2.5} :	
Direct emissions	100
SO ₂	100
NO _x (unless determined not to be	
significant precursors)	100
VOC or ammonia (if determined	
to be significant precursors)	100
Pb:	
All maintenance areas	25

(iii) ____ The requirements of this section shall not apply to the following Federal actions:



trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted.

(XII) Planning, studies, and provision of technical assistance.

(XIII)_Routine operation of facilities, mobile assets and

equipment.

(XIV)_Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer.

(XV)_The designation of empowerment zones, enterprise communities, or viticultural areas.

(XVI)_Actions by any of the Federal banking agencies or the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.

(XVII) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank necessary to effect monetary or exchange rate policy.

(XVIII)_____Actions that implement a foreign affairs function of the United States.

(XIX)_Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

(XX)_Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.

(XXI)_Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.

(XXII) Air traffic control activities and adopting approach, departure, and enroute procedures for aircraft operations above the mixing height specified in the applicable SIP. Where the applicable SIP does not specify a mixing height, the Federal agency can use the 3,000 feet above ground level as a default mixing height, unless the agency

(C) Actions where the emissions are not reasonably foreseeable, such as the following: (I) ____Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level. (II) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy. (D) Actions which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan. (iv) Notwithstanding the other requirements of this section, a conformity determination is not required for the following Federal actions (or portion thereof): (A) The portion of an action that includes major or minor new or modified stationary sources that require a permit under the new source review (NSR) program (Section 110(a)(2)(C) and section 173 of the CAA) or the prevention of significant deterioration (PSD) program (Title I, part C of the CAA); (B) Actions in response to emergencies which are typically commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of paragraph (v) of this subsection; (C) Research, investigations, studies, demonstrations, or training (other than those exempted under paragraph (iii)(B) of this subsection), where no environmental detriment is incurred and/or, the particular action furthers air quality research, as determined by the State agency primarily responsible for the applicable SIP; (D) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions); (E) Direct emissions from remedial and removal actions carried out under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA. (v) Federal actions which are part of a continuing response to an emergency or disaster under paragraph (iv)(B) of this subsection and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under paragraph

demonstrates that use of a different mixing height is appropriate because the change in emissions

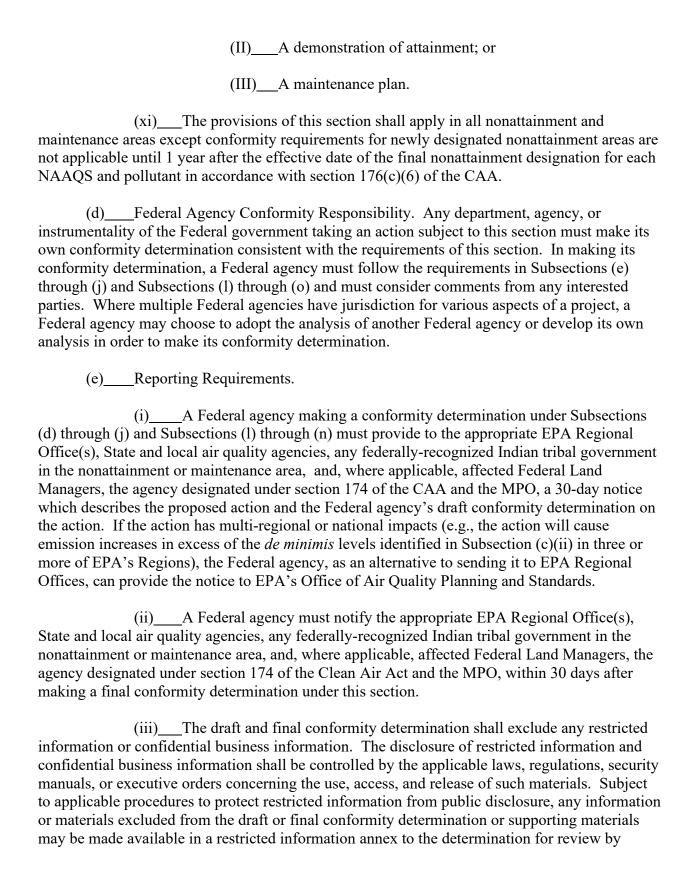
at and above that height caused by the Federal action is de minimis.

(iv)(B) of this subsection are exempt from the requirements of this section only if:
(A)The Federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or
(B)For actions which are to be taken after those actions covered by paragraph $(v)(A)$ of this subsection, the Federal agency makes a new determination as provided in paragraph $(v)(A)$ of this subsection and:
(I)Provides a draft copy of the written determinations required to affected EPA Regional office(s), the affected State(s) and/or air pollution control agencies, and any Federal recognized Indian tribal government in the nonattainment or maintenance area. Those organizations must be allowed 15 days from the beginning of the extension period to comment on the draft determination; and
(II)Within 30 days after making the determination, publish a notice of the determination by placing a prominent advertisement in a daily newspaper of general circulation in the area affected by the action.
(C)If additional actions are necessary in response to an emergency or disaster under paragraph (iv)(B) of this subsection beyond the specified time period in paragraph (v)(B) of this subsection, a Federal agency can make a new written determination as described in (v)(B) of this subsection for as many 6-month periods as needed, but in no case shall this exemption extend beyond three 6-month periods except where an agency:
(I)Provides information to EPA and the State stating that the conditions that gave rise to the emergency exemption continue to exist and how such conditions effectively prevent the agency from conducting a conformity evaluation.
(vi)Notwithstanding other requirements of this section, actions specified by individual Federal agencies that have met the criteria set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection and the procedures set forth in paragraph (viii) of this subsection are "presumed to conform", except as provided in paragraph (x) of this subsection. Actions specified by individual Federal agencies as "presumed to conform" may not be used in combination with one another when the total direct and indirect emissions from the combination of actions would equal or exceed any of the rates specified in paragraphs (ii)(A) or (ii)(B) of this subsection.
(vii)The Federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection:
(A)The Federal agency must clearly demonstrate using methods

activities which would be presumed to conform would not: (I) ____ Cause or contribute to any new violation of any standard in any area; (II) Interfere with provisions in the applicable SIP for maintenance of any standard; (III) Increase the frequency or severity of any existing violation of any standard in any area; or (IV) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of: (1.) A demonstration of reasonable further progress; (2.) __A demonstration of attainment; (3.) A maintenance plan; or (B) The Federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in paragraph (ii) of this subsection, based, for example, on similar actions taken over recent years. (C) The Federal agency must clearly demonstrate that the emissions from the type or category of actions and the amount of emissions from the action are included in the applicable SIP and the State, local, or tribal air quality agencies responsible for the SIP(s) provide written concurrence that the emissions from the actions along with all other expected emissions in the area will not exceed the emission budget in the SIP. (viii) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection, the following procedures must also be complied with to presume that activities will conform: (A) The Federal agency must identify through publication in the Federal Register its list of proposed activities that are "presumed to conform" and the basis for the presumptions. The notice must clearly identify the type and size of the action that would be "presumed to conform" and provide criteria for determining if the type and size of action qualifies it for the presumption; (B) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under §174 of the CAA and the MPO and provide at least 30 days for the public to comment on the list

consistent with this section that the total of direct and indirect emissions from the type of

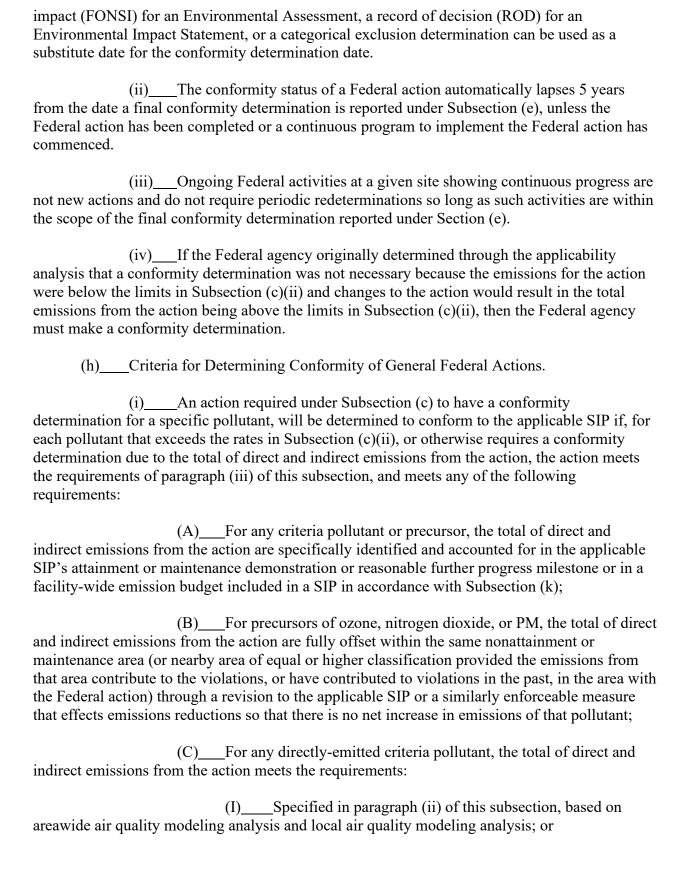
of proposed activities "presumed to conform". If the "presumed to conform" action has regional or national application (e.g., the action will cause emission increases in excess of the <i>de minimis</i> levels identified in paragraph (ii) of this subsection in more than one of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can send the draft conformity determination to U.S. EPA, Office of Air Quality Planning and Standards;
(C)The Federal Agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and
(D)The Federal agency must publish the final list of such activities in the <u>Federal Register</u> .
(ix) Emissions from the following actions are "presumed to conform":
(A)Actions at installations with facility-wide emission budgets meeting the requirements in Subsection (k) provided that the State has included the emission budget in the EPA-approved SIP and the emissions from the action along with all other emissions from the installation will not exceed the facility-wide emission budget.
(B)Prescribed fires conducted in accordance with a smoke management program (SMP) which meets the requirements of EPA's Interim Air Quality Policy on Wildland and Prescribed Fires or an equivalent replacement EPA policy.
(C)Emissions for actions that the State identifies in the EPA-approved SIP as "presumed to conform".
(x) Even though an action would otherwise be "presumed to conform" under paragraphs (vi) or (ix) of this subsection, an action shall not be "presumed to conform" and the requirements of Subsection (a), 40 CFR 93.151, Subsections (d) through (j) and Subsections (l) through (n) shall apply to the action if EPA or a third party shows that the action would:
(A) Cause or contribute to any new violation of any standard in any area;
(B)Interfere with provisions in the applicable SIP for maintenance of any standard;
(C)Increase the frequency or severity of any existing violation of any standard in any area; or
(D)Delay timely attainment of any standard or any required interim emissions reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:
(I) A demonstration of reasonable further progress:

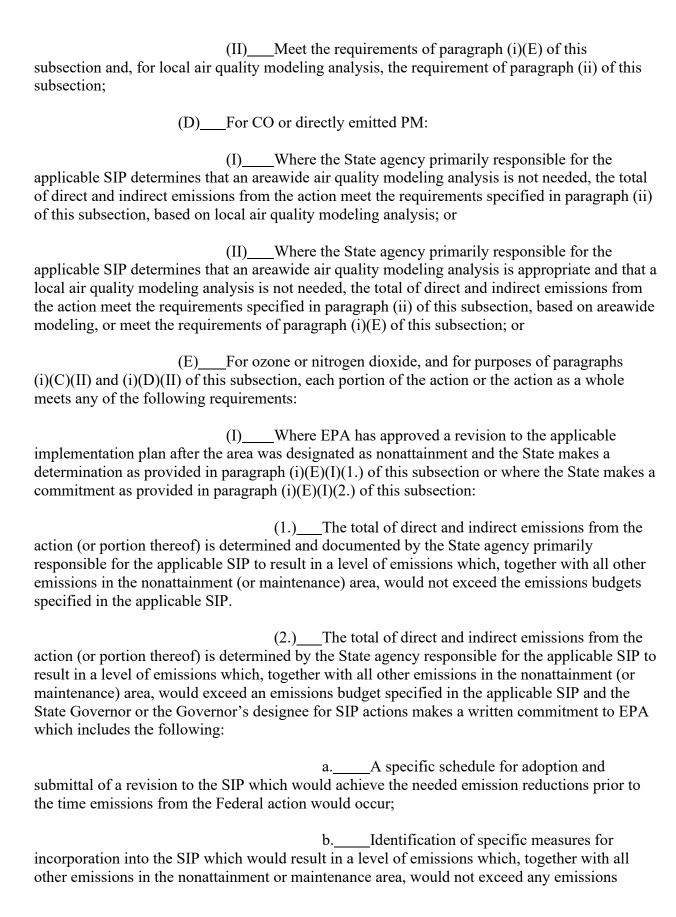


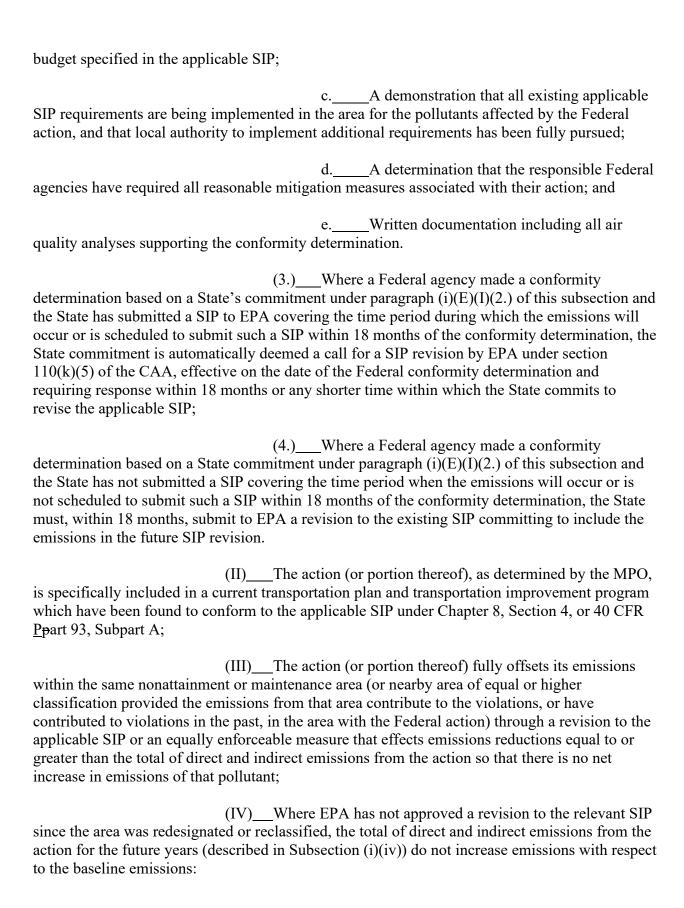
information. (f)____Public Participation. (i) Upon request by any person regarding a specific Federal action, a Federal agency must make available, subject to the limitation in paragraph (v) of this section, for review its draft conformity determination under Subsection (d) with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination. (ii) A Federal agency must make public its draft conformity determination under Subsection (d) by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the de minimis levels identified in Subsection (c)(ii) in three or more of EPA's Regions), the Federal agency, as an alternative to publishing separate notices, can publish a notice in the Federal Register. (iii) A Federal agency must document its response to all the comments received on its draft conformity determination under Subsection (d) and make the comments and responses available, subject to the limitation in paragraph (v) of this subsection, upon request by any person regarding a specific Federal action, within 30 days of the final conformity determination. (iv) A Federal agency must make public its final conformity determination under Subsection (d) for a federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination. If the action would have multi-regional or national impacts, the Federal agency, as an alternative, can publish the notice in the Federal Register. (v) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations or executive orders concerning the release of such materials. (g) Reevaluation of Conformity. (i) Once a conformity determination is completed by a Federal agency, that determination is not required to be reevaluated if the agency has maintained a continuous program to implement the action; the determination has not lapsed as specified in paragraph (ii) of this subsection; or any modification to the action does not result in an increase in emissions above the levels specified in Subsection (c)(ii). If a conformity determination is not required for

Federal and State representatives who have received appropriate clearances to review the

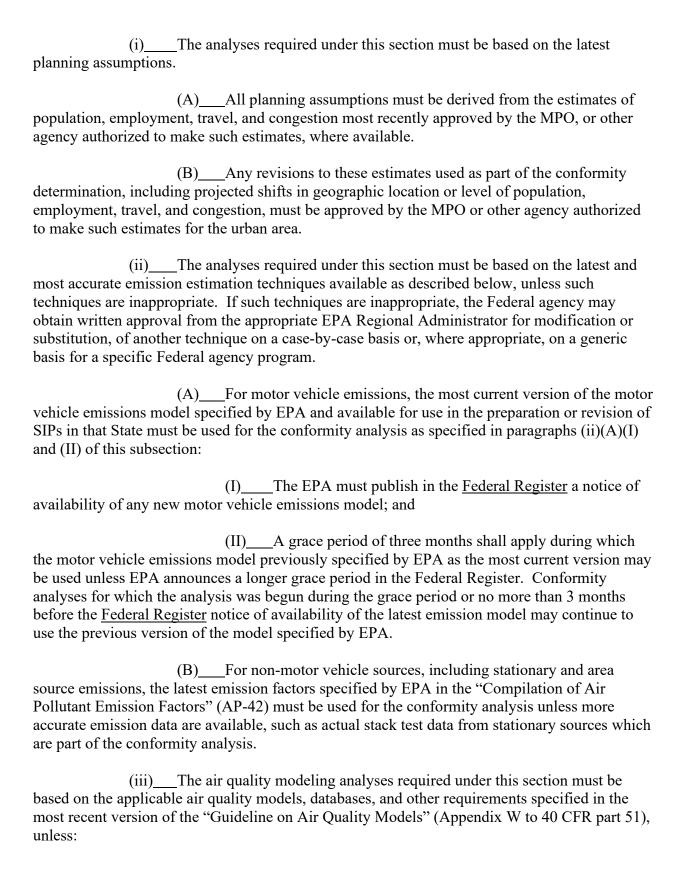
the action at the time the NEPA analysis is completed, the date of the finding of no significant

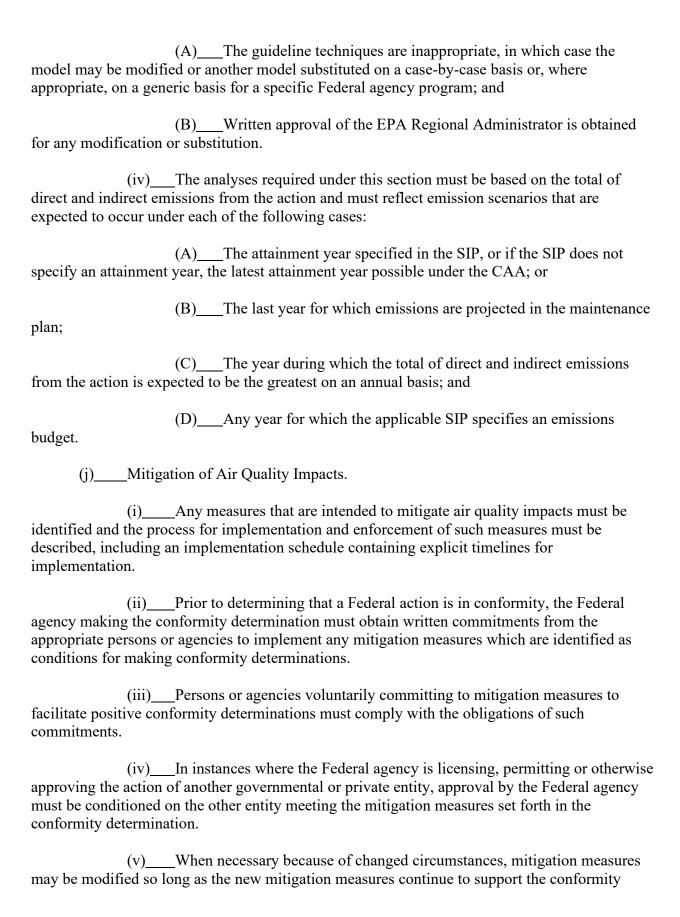






levels that occurred in the geo	(1.) The baseline emissions reflect the historical activity ographic area affected by the proposed Federal action during:
complete emission inventory or	aThe most current calendar year with a available before an area is designated unless EPA sets another year
	bThe emission budget in the applicable SIP;
PM ₁₀ applicable SIP;	cThe year of the baseline inventory in the
	(2.) The baseline emissions are the total of direct and for the future years (described in Subsection (i)(iv)) using the bed in paragraph (i)(E)(IV)(1.) of this subsection) and appropriate e years; or
wastewater projects, such pro are in the applicable SIP.	(V)Where the action involves regional water and/or jects are sized to meet only the needs of population projections that
(ii)The are	eawide and/or local air quality modeling analyses must:
(A)	Meet the requirements in Subsection (i); and
(B)	Show that the action does not:
any area; or	(I)Cause or contribute to any new violation of any standard in
of any standard in any area.	(II)Increase the frequency or severity of any existing violation
subject to this section may no direct and indirect emissions requirements and milestones of the reasonable further prog	hstanding any other requirements of this subsection, an action to be determined to conform to the applicable SIP unless the total of from the action is in compliance or consistent with all relevant contained in the applicable SIP, such as elements identified as part ress schedules, assumptions specified in the attainment or prohibitions, numerical emission limits, and work practice
	alyses required under this subsection must be completed, and any ssary for a finding of conformity must be identified before the s made.
(i)Procedures for	Conformity Determinations of General Federal Actions.

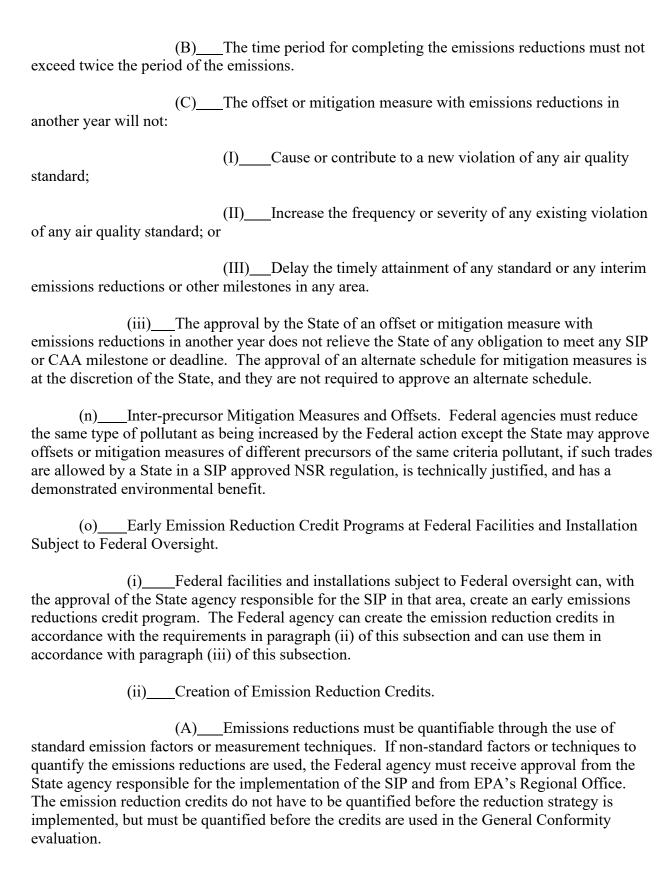


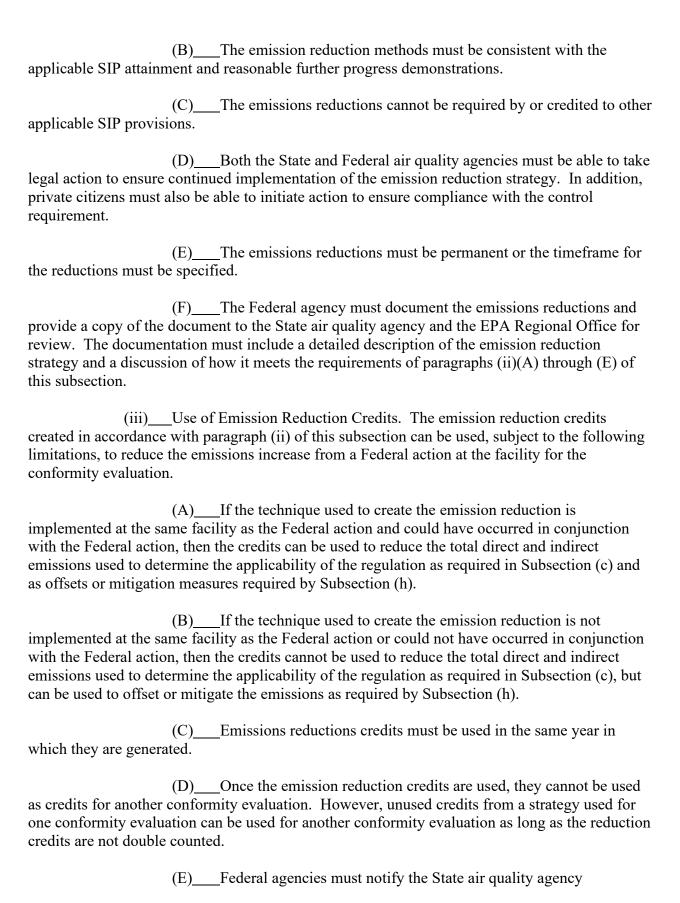


requirements of Subsection (e) and the public participation requirements of Subsection (f). (vi) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and that such commitments must be fulfilled. (vii) After a State revises its SIP and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both State and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination. (k) Conformity Evaluation for Federal Installations With Facility-Wide Emission Budgets. (i) The State or local agency responsible for implementing and enforcing the SIP can in cooperation with Federal agencies or third parties authorized by the agency that operate installations subject to Federal oversight develop and adopt a facility-wide emission budget to be used for demonstrating conformity under Subsection (h)(i)(A). The facility-wide budget must meet the following criteria: (A) Be for a set time period; (B) Cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance; (C) Include specific quantities allowed to be emitted on an annual or seasonal basis; (D)___The emissions from the facility along with all other emissions in the area will not exceed the emission budget for the area; (E) Include specific measures to ensure compliance with the budget, such as periodic reporting requirements or compliance demonstration, when the Federal agency is taking an action that would otherwise require a conformity determination; (F) Be submitted to EPA as a SIP revision; (G)___The SIP revision must be approved by EPA. The facility-wide budget developed and adopted in accordance with paragraph (i) of this subsection can be revised by following the requirements in paragraph (i) of this subsection. (iii) Total direct and indirect emissions from Federal actions in conjunction with all other emissions subject to General Conformity from the facility that do not exceed the

determination. Any proposed change in the mitigation measures is subject to the reporting

facility budget adopted pursuant to paragraph (i) of this subsection are "presumed to conform" to the SIP and do not require a conformity analysis.
(iv)If the total direct and indirect emissions from the Federal actions in conjunction with the other emissions subject to General Conformity from the facility exceed the budget adopted pursuant to paragraph (i) of this subsection, the action must be evaluated for conformity. A Federal agency can use the compliance with the facility-wide emissions budget as part of the demonstration of conformity, i.e., the agency would have to mitigate or offset the emissions that exceed the emission budget.
(v)If the SIP for the area includes a category for construction emissions, the negotiated budget can exempt construction emissions from further conformity analysis.
(l) Emissions Beyond the Time Period Covered by the SIP. If a Federal action would result in total direct and indirect emissions above the applicable thresholds which would be emitted beyond the time period covered by the SIP, the Federal agency can:
(i)Demonstrate conformity with the last emission budget in the SIP; or
(ii)Request the State to adopt an emissions budget for the action for inclusion in the SIP. The State must submit a SIP revision to EPA within 18 months either including the emissions in the existing SIP or establishing an enforceable commitment to include the emissions in future SIP revisions based on the latest planning assumptions at the time of the SIP revision. No such commitment by a State shall restrict a State's ability to require RACT, RACM or any other control measures within the State's authority to ensure timely attainment of the NAAQS.
(m)Timing of Offsets and Mitigation Measures.
(i)The emissions reductions from an offset or mitigation measure used to demonstrate conformity must occur during the same calendar year as the emission increases from the action except, as provided in paragraph (ii) of this subsection.
(ii)The State may approve emissions reductions in other years provided:
(A)The reductions are greater than the emission increases by the following ratios:
(I)Extreme nonattainment areas 1.5:1
(II)Severe nonattainment areas 1.3:1
(III)Serious nonattainment areas 1.2:1
(IV)Moderate nonattainment areas 1.15:1
(V)All other areas 1.1:1





responsible for the implementation of the SIP and EPA Regional Office when the emission reduction credits are being used.

Section 4.___Transportation <u>eConformity</u>.

- (a) Definitions. Terms used but not defined in this subpart shall have the meaning given them by the CAA, titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other DOT regulations, in that order of priority.
- "Applicable implementation plan" is defined in §302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under §110, or promulgated under §110(c), or promulgated or approved pursuant to regulations promulgated under §301(d) and which implements the relevant requirements of the CAA.

"CAA" means the Clean Air Act, as amended.

"Cause or contribute to a new violation" for a project means:

- (A)___To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented, or
- (B)____To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.
- "Control strategy implementation plan revision" is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (CAA §§182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§192(a) and 192(b), for nitrogen dioxide).
- "Control strategy period" with respect to particulate matter less than 10 microns in diameter (PM_{10}), carbon monoxide (CO), nitrogen dioxide (NO_2), and/or ozone precursors (volatile organic compounds and oxides of nitrogen), means that period of time after EPA approves control strategy implementation plan revisions containing strategies for controlling PM_{10} , NO_2 , CO, and/or ozone, as appropriate. This period ends when a State submits and EPA approves a request under §107(d) of the CAA for redesignation to an attainment area.
- "Design concept" means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed-traffic rail transit, exclusive busway, etc.
- "Design scope" means the design aspects which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access

control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.

- "Division" means the Air Quality Division of the Department of Environmental Quality.
- "DOT" means the United States Department of Transportation.
- "EPA" means the Environmental Protection Agency.
- "FHWA" means the Federal Highway Administration of DOT.
- "FHWA/FTA project" for the purpose of this subpart, is any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the Federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.
 - "FTA" means the Federal Transit Administration of DOT.
- "Forecast period" with respect to a transportation plan is the period covered by the transportation plan pursuant to 23 CFR Ppart 450.
- "Highway project" is an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to:
- (A)___Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
- (B)___Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and
- (C)___Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.
- "Horizon year" is a year for which the transportation plan describes the envisioned transportation system according to Chapter 8, Section 4(f).
- "Hot-spot analysis" is an estimation of likely future localized CO and PM₁₀ pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Pollutant concentrations to be estimated should be based on the total emissions burden which may result from the implementation of a single, specific project, summed together with future background concentrations (which can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors) expected in the area.

The total concentration must be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality.

"Incomplete data area" means any ozone nonattainment area which EPA has classified, in 40 CFR Ppart 81, as an incomplete data area.

"Increase the frequency or severity" means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

"ISTEA" means the Intermodal Surface Transportation Efficiency Act of 1991.

"Maintenance area" means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under §175A of the CAA, as amended.

"Maintenance period" with respect to a pollutant or pollutant precursor means that period of time beginning when a State submits and EPA approves a request under §107(d) of the CAA for redesignation to an attainment area, and lasting for 20 years, unless the applicable implementation plan specifies that the maintenance period shall last for more than 20 years.

"Metropolitan planning organization (MPO)" is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607. It is the forum for cooperative transportation decision-making.

"Milestone" has the meaning given in §182(g)(1) and §189(c) of the CAA. A milestone consists of an emissions level and the date on which it is required to be achieved.

"Motor vehicle emissions budget" is that portion of the total allowable emissions defined in a revision to the applicable implementation plan (or in an implementation plan revision which was endorsed by the Governor or his or her designee, subject to a public hearing, and submitted to EPA, but not yet approved by EPA) for a certain date for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles. The applicable implementation plan for an ozone nonattainment area may also designate a motor vehicle emissions budget for oxides of nitrogen (NO_x) for a reasonable further progress milestone year if the applicable implementation plan demonstrates that this NO_x budget will be achieved with measures in the implementation plan (as an implementation plan must do for VOC milestone requirements). The applicable implementation plan for an ozone nonattainment are includes a NO_x budget if NO_x reductions are being substituted for reductions

in volatile organic compounds in milestone years required for reasonable further progress.

- "National ambient air quality standards (NAAQS)" are those standards established pursuant to §109 of the CAA.
- "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).
- "NEPA process completion", for the purposes of this subpart, with respect to FHWA or FTA, means the point at which there is a specific action to make a determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA.
- "Nonattainment area" means any geographic region of the United States which has been designated as nonattainment under §107 of the CAA for any pollutant for which a national ambient air quality standard exists.
- "Not classified area" means any carbon monoxide nonattainment area which EPA has not classified as either moderate or serious.
- "Phase II of the interim period" with respect to a pollutant or pollutant precursor, means that period of time after the effective date of this rule, lasting until the earlier of the following:
- (A)___Submission to EPA of the relevant control strategy implementation plan revisions which have been endorsed by the Governor (or his or her designee) and have been subject to a public hearing, or
- (B) ____ The date that the Clean Air Act requires relevant control strategy implementation plans to be submitted to EPA, provided EPA has made a finding of the State's failure to submit any such plans and the State, MPO, and DOT have received notice of such finding of the State's failure to submit any such plans. The precise end of Phase II of the interim period is defined in Chapter 8, Section 4(bb).
 - "Project" means a highway project or transit project.
- "Recipient of funds designated under Title 23 U.S.C. or the Federal Transit Act" means any agency at any level of State, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Act funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.
- "Regionally significant project" means a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned

developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways, all fixed guideway transit facilities that offer an alternative to regional highway travel and any project that the Division identifies as having the potential to affect air quality on a regional basis, after consultation in accordance with Chapter 8, Section 4(e).

"Rural transport ozone nonattainment area" means an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area, or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census) and is classified under Clean Air Act §182(h) as a rural transport area.

"Standard" means a national ambient air quality standard.

"Submarginal area" means any ozone nonattainment area which EPA has classified as submarginal in 40 CFR Ppart 81.

"Title 23 U.S.C." means Title 23 of the United States Code.

"*Transit*" is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.

"Transit project" is an undertaking to implement or modify a transit facility or transitrelated program, purchase transit vehicles or equipment, or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it must be defined inclusively enough to:

- (A)___Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
- (B)___Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and
- (C)___Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

"Transitional area" means any ozone nonattainment area which EPA has classified as transitional in 40 CFR part 81.

"Transitional period" with respect to a pollutant or pollutant precursor means that period of time which begins after submission to EPA of the relevant control strategy implementation plan which has been endorsed by the Governor (or his or her designee) and has been subject to a public hearing. The transitional period lasts until EPA takes final approval or disapproval action

on the control strategy implementation plan submission or finds it to be incomplete. The precise beginning and end of the transitional period is defined in Chapter 8, Section 4(bb).

"Transportation control measure (TCM)" is any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in §108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this subpart.

"Transportation improvement program (TIP)" means a staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan, and developed pursuant to 23 CFR Ppart 450.

"Transportation plan" means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR Ppart 450.

"Transportation project" is a highway project or a transit project.

"WYDOT" means the Wyoming Department of Transportation.

(b)___Applicability.

(i)___Action Applicability.

(A)__Except as provided for in paragraph (iii) of this section or Chapter 8, Section 4(hh), conformity determinations are required for:

(I)___The adoption, acceptance, approval or support of transportation plans developed pursuant to 23 CFR Ppart 450 or 49 CFR Ppart 613 by an MPO or DOT;

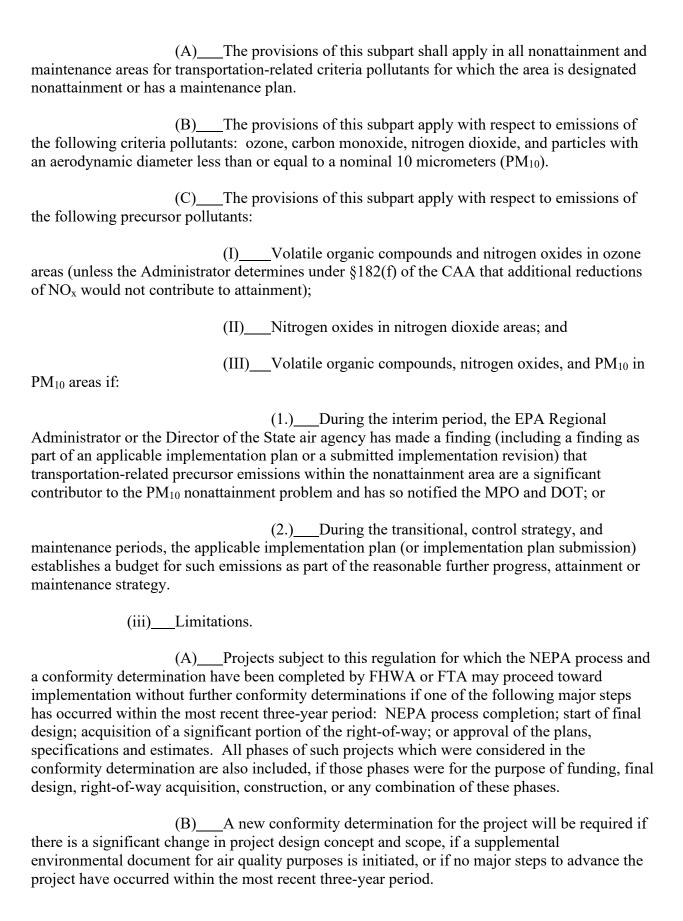
(II)__The adoption, acceptance, approval or support of TIPs developed pursuant to 23 CFR Ppart 450 or 49 CFR Ppart 613 by an MPO or DOT; and

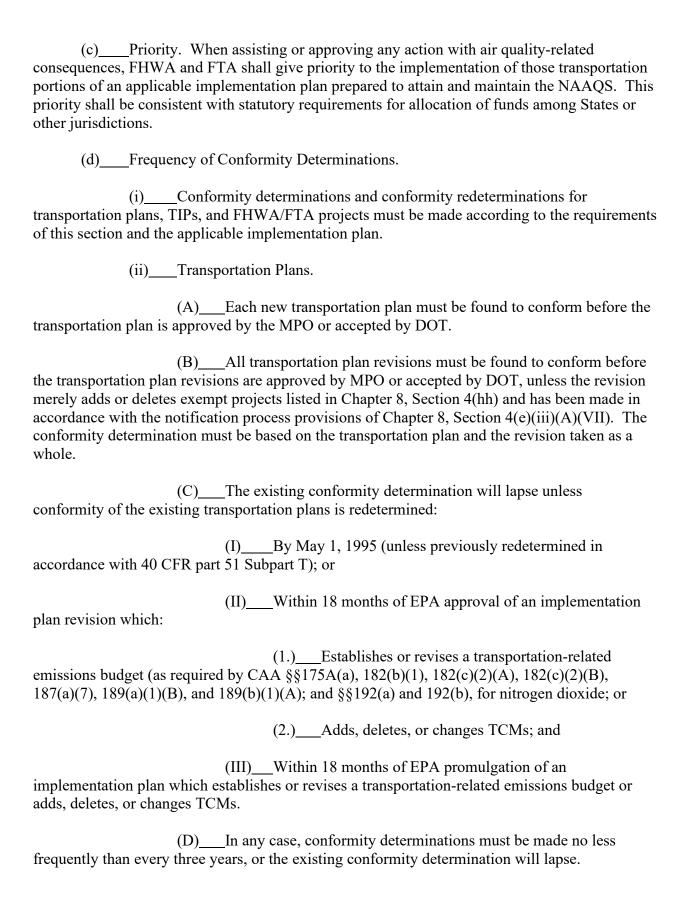
(III)__The approval, funding, or implementation of FHWA/FTA projects.

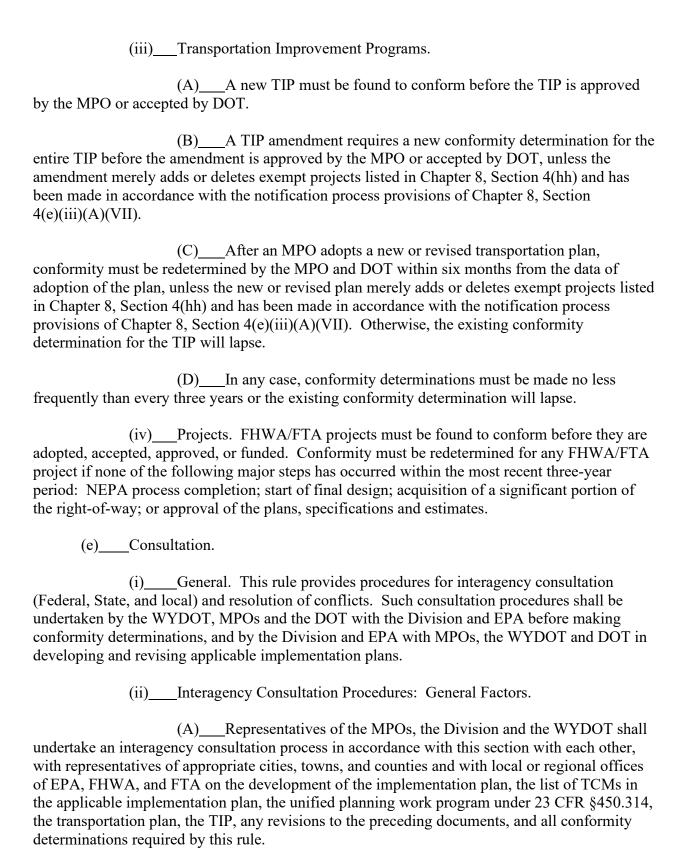
(B)__Conformity determinations are not required under this rule for individual projects which are not FHWA/FTA projects. However, Chapter 8, Section 4(cc)

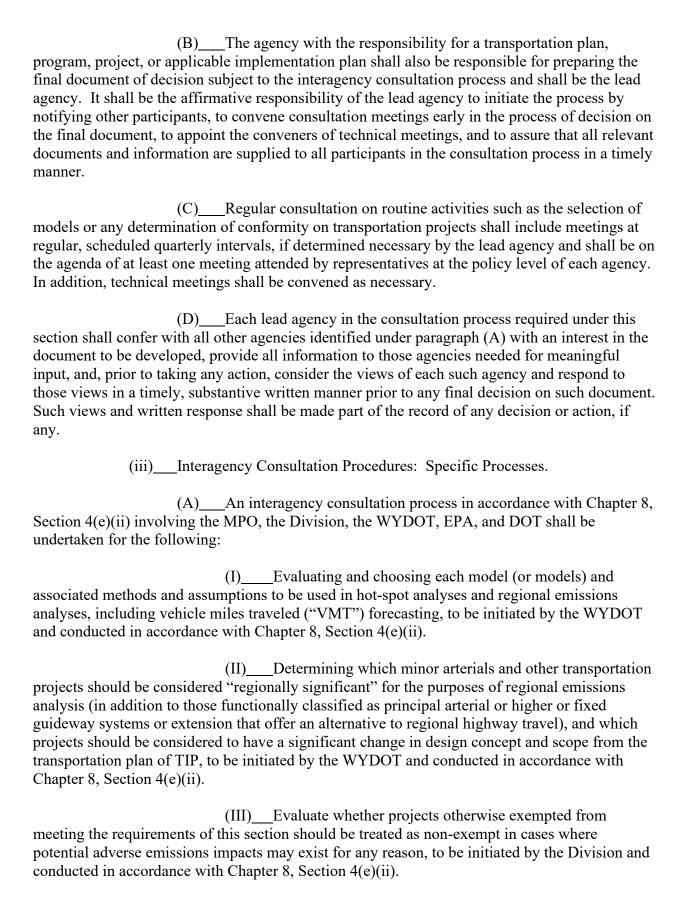
applies to such projects if they are regionally significant.

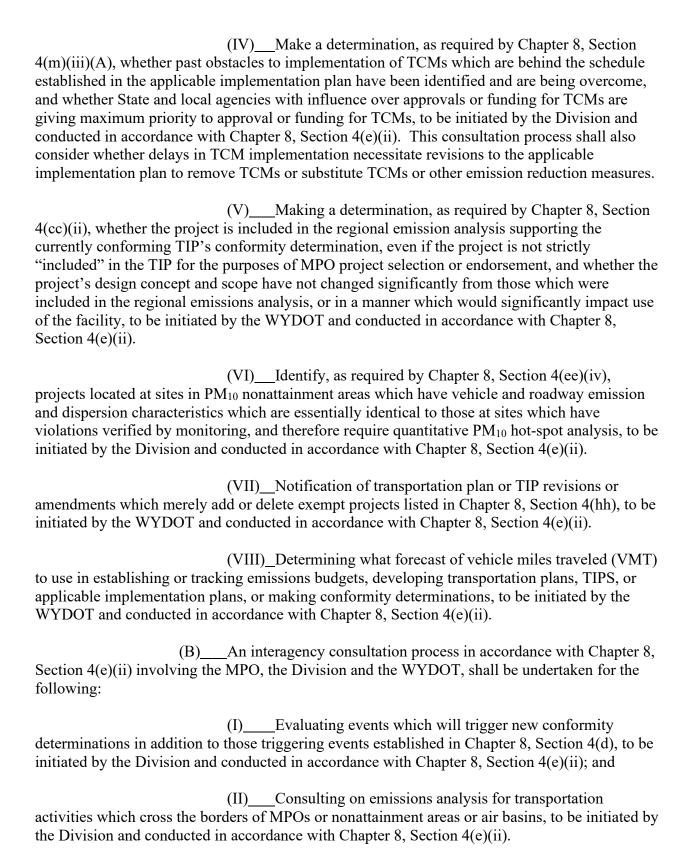
(ii) Geographic Applicability.

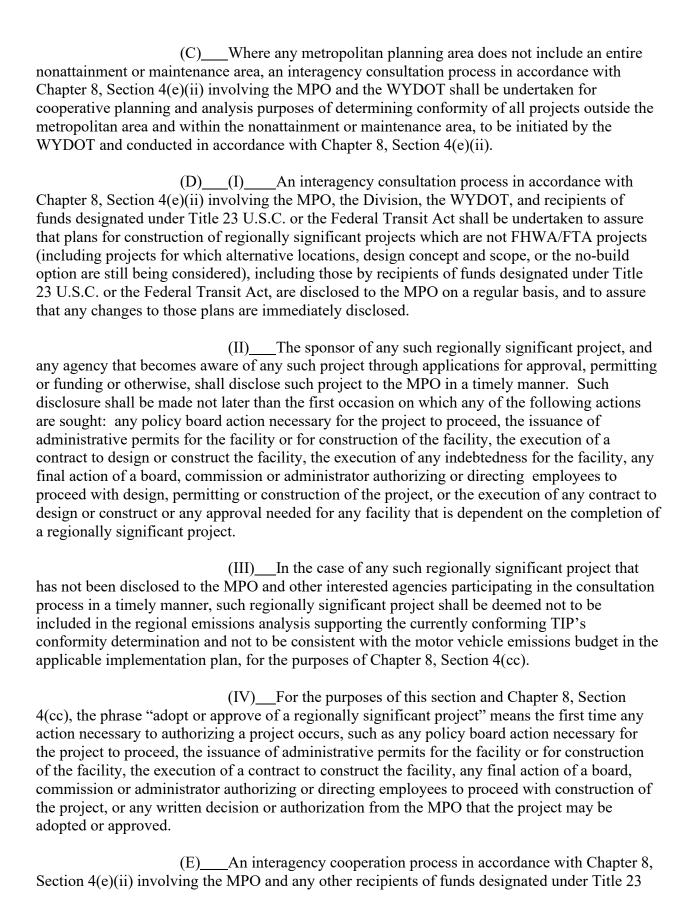












concept and scope of projects which are disclosed to the MPO under Chapter 8, Section 4(e)(iii)(E) of this section but whose sponsors have not yet decided these features, in sufficient detail to perform the regional emissions analysis according to the requirements of Chapter 8, Section 4(dd), to be initiated by the MPO and conducted in accordance with Chapter 8, Section 4(e)(ii). (F) An interagency consultation process in accordance with Chapter 8, Section 4(e)(ii) involving any MPO, the Division and the WYDOT shall be undertaken for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys), to be initiated by the MPO and conducted in accordance with Chapter 8, Section 4(e)(ii). (iv) Resolving Conflicts. (A) Any conflict among State agencies or between State agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the heads of the involved agencies. In the first instance, such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible. (B) The Division has 14 calendar days to appeal a proposed determination of conformity to the Governor after the WYDOT or MPO has notified the Division of the resolution of all comments on such proposed determination of conformity or policy decision. Such 14-day period shall commence when the MPO or the WYDOT has confirmed receipt by the Administrator of the Division of the resolution of the comments of the Division. (C) The final conformity decision must have the concurrence of the Governor if the Division appeals a conformity decision. If there is no appeal by the Division, the MPO or the WYDOT may proceed with the final conformity determination. (D) The Division must provide notice of any appeal under Chapter 8, Section 4(e)(iv)(B) to the WYDOT and MPO. (E) The Governor may delegate his/her role in the appeal process to anyone except the head or staff of the Division, the WYDOT, the Wyoming Environmental Quality Council, the Wyoming Transportation Commission or an MPO. (v) Public Participation. (A) Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of 23 CFR Part 450, including §§450.316(b)(1), 450.322(c), and 450.324(c) as in

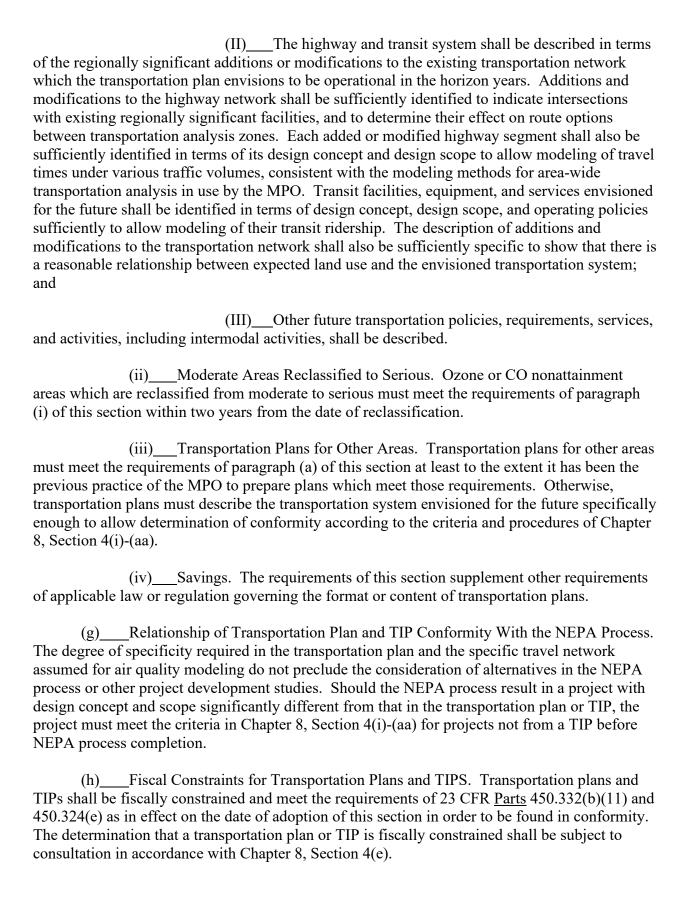
U.S.C. or the Federal Transit Act shall be undertaken for assuming the location and design

in writing in all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determination for projects to the extent otherwise required by law. (B) The opportunity for public involvement provided under this subsection shall include access to information, emissions data, analyses, models and modeling assumptions used to perform a conformity determination, and the obligation of any such agency to consider and respond to significant comments. (C) No transportation plan, TIP, or project may be found to conform unless the determination of conformity has been subject to a public involvement process in accordance with this subsection, without regard to whether the DOT has certified any process under 23 CFR Ppart 450. (f) Content of Transportation Plans. (i) Transportation Plans Adopted After January 1, 1995 in Serious, Severe, or Extreme Ozone Nonattainment Areas and in Serious Carbon Monoxide Nonattainment Areas. The transportation plan must specifically describe the transportation system envisioned for certain future years which shall be called horizon years. (A) The agency or organization developing the transportation plan, after consultation in accordance with Chapter 8, Section 4(e), may choose any years to be horizon years, subject to the following restrictions: (I) Horizon years may be no more than 10 years apart. (II) The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model. (III) If the attainment year is in the time span of the transportation plan, the attainment year must be a horizon year. (IV)___The last horizon year must be the last year of the transportation plan's forecast period. (B) For these horizon years: (I) The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including

effect on the date of adoption of this rule. In addition, any such agency must specifically address

land use forecasts, in accordance with implementation plan provisions and Chapter 8, Section

4(e).



(i)___Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General.

(i)___In order to be found to conform, each transportation plan, program, and FHWA/FTA project must satisfy the applicable criteria and procedures in Chapter 8, Section 4(j)-(aa) as listed in Table 1 in paragraph (ii) of this section, and must comply with all applicable conformity requirements of implementation plans and of court orders for the area which pertain specifically to conformity determination requirements. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPs, and FHWA/FTA projects), the time period in which the conformity determination is made, and the relevant pollutant.

(ii)___The following table indicates the criteria and procedures in Chapter 8, Section 4(j)-(aa) which apply for each action in each time period.

Table 1. Conformity Criteria

DURING ALL PERIODS

Action	Criteria
Transportation Plan	j,k,l,m(ii).
TIP	j,k,l,m(iii).
Project (From a conforming plan and TIP)	j,k,l,n,o,p,q
Project (Not from a conforming plan and TIP)	j,k,l,m(iv),n,p,q

Table 1. Conformity Criteria (continued)

PHASE II OF THE INTERIM PERIOD

Action	Criteria

Transportation Plan	v,y
TIP	w,z
Project (From a conforming plan and TIP)	u
Project (Not from a conforming plan and TIP)	u,x,aa

TRANSITIONAL PERIOD

Action	Criteria
Transportation Plan	r,v,y
TIP	s,w,z
Project (From a conforming plan and TIP)	u
Project (Not from a conforming plan and TIP)	t,u,x,aa

CONTROL STRATEGY AND MAINTENANCE PERIODS

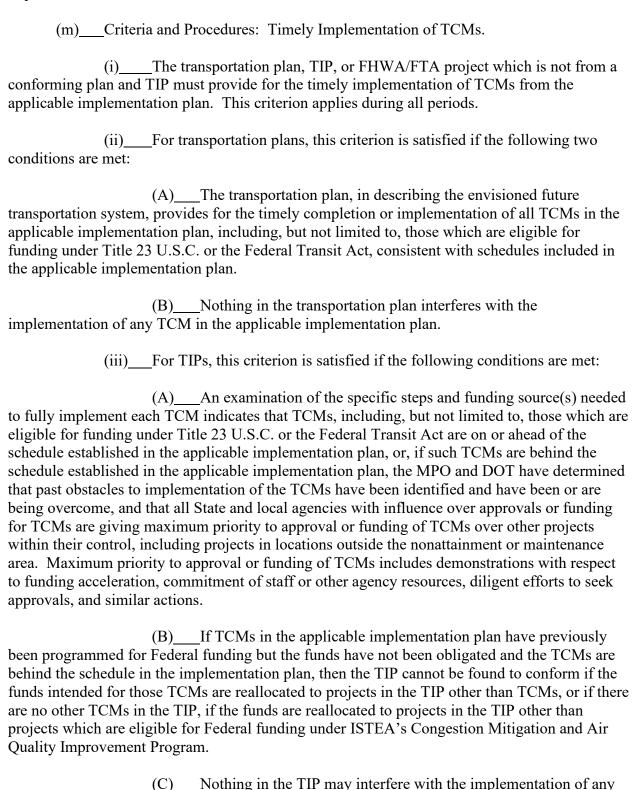
Action	Criteria
Transportation Plan	r
TIP	S
Project (From a conforming plan and TIP)	No additional criteria
Project (Not from a conforming plan and TIP)	t

- (j) The conformity determination must be based on the latest planning assumptions.
- (k) The conformity determination must be based on the latest emission estimation model available.
- (l) The MPO must make the conformity determination according to the consultation procedures of this rule and the implementation plan revision required by 40 CFR part 51, Subpart T.
- (m) The transportation plan, TIP, or FHWA/FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.
- (n) There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.
- (o) The project must come from a conforming transportation plan and program.
- (p) 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.

- (q) The FHWA/FTA project must comply with PM₁₀ control measures in the applicable implementation plan.
- (r) The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- (s) The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- (t) The project which is not from a conforming transportation plan and conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- (u) The 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).
- (v) The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.
- (w) The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
- (x) The project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
- (y) The transportation plan must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas.
- (z) The TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.
- (aa) The project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.
 - (j) ____ Criteria and Procedures: Latest Planning Assumptions.
- (i) ____During all periods the conformity determination, with respect to all other applicable criteria in Chapter 8, Sections 4(k)-(aa), must be based upon the most recent planning assumptions in force at the time of the conformity determination. This criterion applies during all periods. The conformity determination must satisfy the requirements of paragraphs (ii) through (vi) of this section.
- (ii) ____Assumptions (including, but not limited to, vehicle miles traveled per capita or per household, trip generation per household, vehicle occupancy, household size, vehicle fleet mix, vehicle ownership, and the geographic distribution of population growth) must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. The conformity determination must also be based on the latest assumptions about current and future background concentrations. Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the area, after consultation with the Division.
 - (iii) The conformity determination for each transportation plan and TIP must

discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination. (iv) The conformity determination must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time. (v) The conformity determination must use the latest existing information regarding the effectiveness of the TCMs which have already been implemented. (vi) Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by Chapter 8, Section 4(e). (k) Criteria and Procedures: Latest Emissions Model. (i) During all periods the conformity determination shall be based on the latest emission estimation model available. This criterion is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that State or area is used for the conformity analysis. Where EMFAC is the motor vehicle emissions model used in preparing or revising the applicable implementation plan, new versions must be approved by EPA before they are used in the conformity analysis. (ii) EPA will consult with DOT to establish a grace period following the specification of any new model. (A) The grace period will be no less than three months and no more than 24 months after notice of availability is published in the Federal Register. (B) The length of the grace period will depend on the degree of change in the model and the scope of re-planning likely to be necessary by MPOs in order to assure conformity. If the grace period will be longer than three months, EPA will announce the appropriate grace period in the Federal Register. (iii) Conformity analyses for which the emissions analysis was begun during the grace period or before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model for transportation plans and TIPs. The previous model may also be used for projects if the analysis was begun during the grace period or before the Federal Register notice of availability, provided no more than three years have passed since the draft environmental document was issued. (1) ____ Criteria and Procedures: Consultation. All conformity determinations shall be made according to the consultation procedures in Chapter 8, Section 4(e), and according to the public involvement procedures established by the MPO in compliance with 23 CFR pPart 450. This criterion applies during all periods. Until the implementation plan revision required by 40 CFR pPart 51, Ssubpart T is approved by EPA, the conformity determination must be made according to the procedures in 40 CFR Part 51.402(a)(2) and 40 Part CFR 51.402(e). Once the

implementation plan revision has been approved by EPA, this criterion is satisfied if the conformity determination is made consistent with the implementation plan's consultation requirements.



TCM in the applicable implementation plan. (iv) For FHWA/FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan. (n) Criteria and Procedures: Currently Conforming Transportation Plan and TIP. There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval. This criterion applies during all periods. It is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and DOT according to the criteria and procedures of this subpart. Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by DOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of Chapter 8, Section 4(d). (o) Criteria and Procedures: Projects From a Plan and TIP. (i) The project must come from a conforming plan and program. This criterion applies during all periods. If this criterion is not satisfied, the project must satisfy all criteria in Table 1 for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of paragraph (ii) of this section and from a conforming program if it meets the requirements of paragraph (iii) of this section. (ii) A project is considered to be from a conforming transportation plan if one of the following conditions applies: (A)___For projects which are required to be identified in the transportation plan in order to satisfy §51.404, the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility; or (B) For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with

conditions are met:

(A)___The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions and have not changed significantly

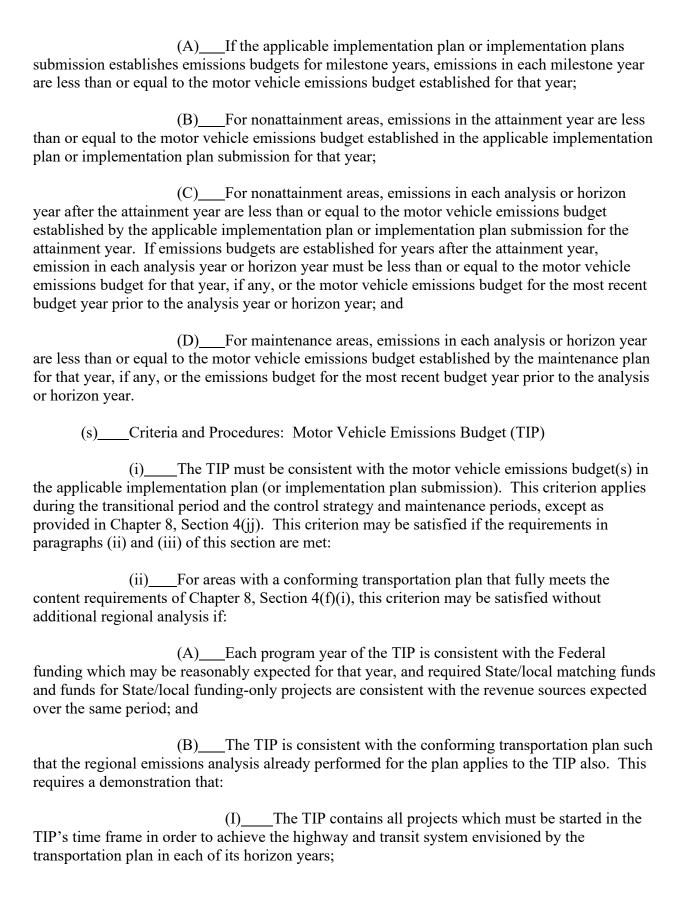
(iii) A project is considered to be from a conforming program if the following

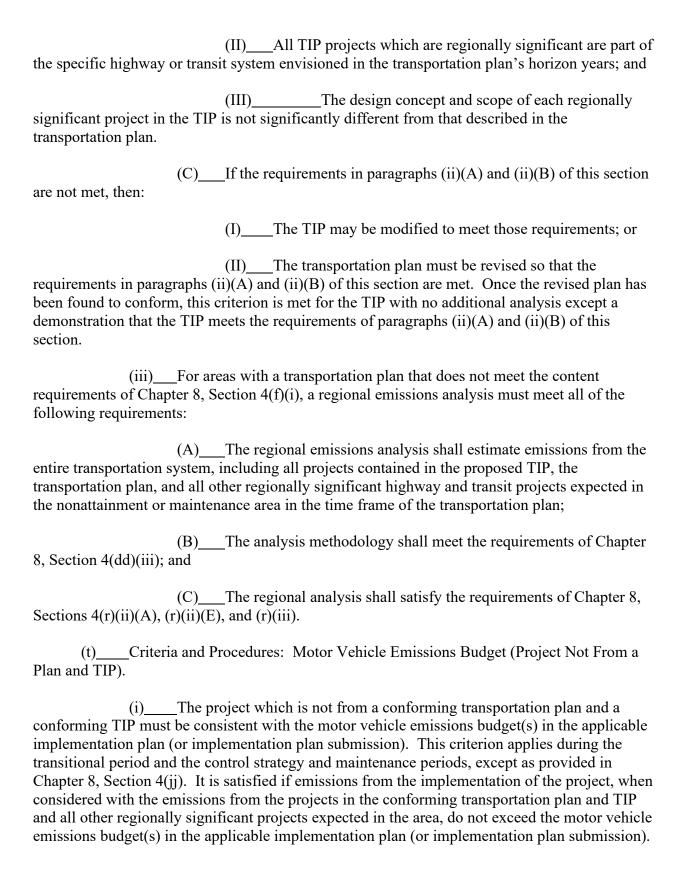
other projects specifically included in the transportation plan.

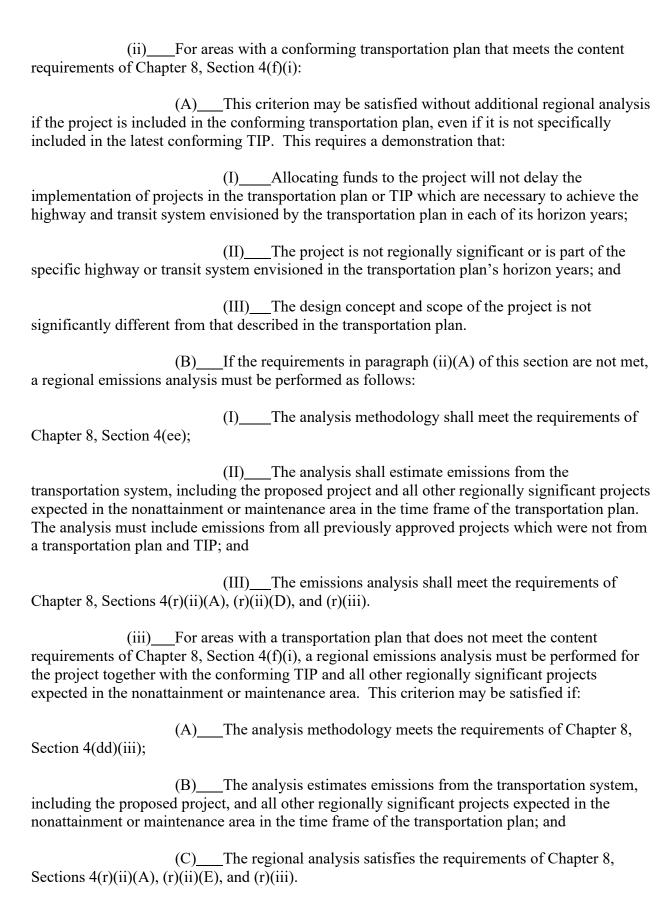
use of the facility; and (B) If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, enforceable written commitments to implement such measures must be obtained from the project sponsor and/or operator as required by Chapter 8, Section 4(gg)(i) in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project. (p) Criteria and Procedures: Localized CO and PM₁₀ Violations (Hotspots). (i) 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 applies during all periods. 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. (ii) The demonstration must be performed according to the requirements of Chapter 8, Sections 4(e) and (ee). (iii) For projects which are not of the type identified by Chapter 8, Section 4(ee)(i) or Chapter 8, Section 4(ee)(iv), this criterion may be satisfied if consideration of local factors clearly demonstrates that no local violations presently exist and no new local violations will be created as a result of the project. Otherwise, in CO nonattainment and maintenance areas, a quantitative demonstration must be performed according to the requirements of Chapter 8, Section 4(ee)(ii). (q) 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 applies during all periods. It is satisfied if control measures (for the purpose of limiting PM₁₀ emissions from the construction activities and/or normal use and operation associated with the project) contained in the applicable implementation plan are included in the final plans, specifications, and estimates for the project. (r) Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan). (i) The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in Chapter 8, Section 4(jj). This criterion may be satisfied if the requirements in paragraphs (ii) and (iii) of this section are met:

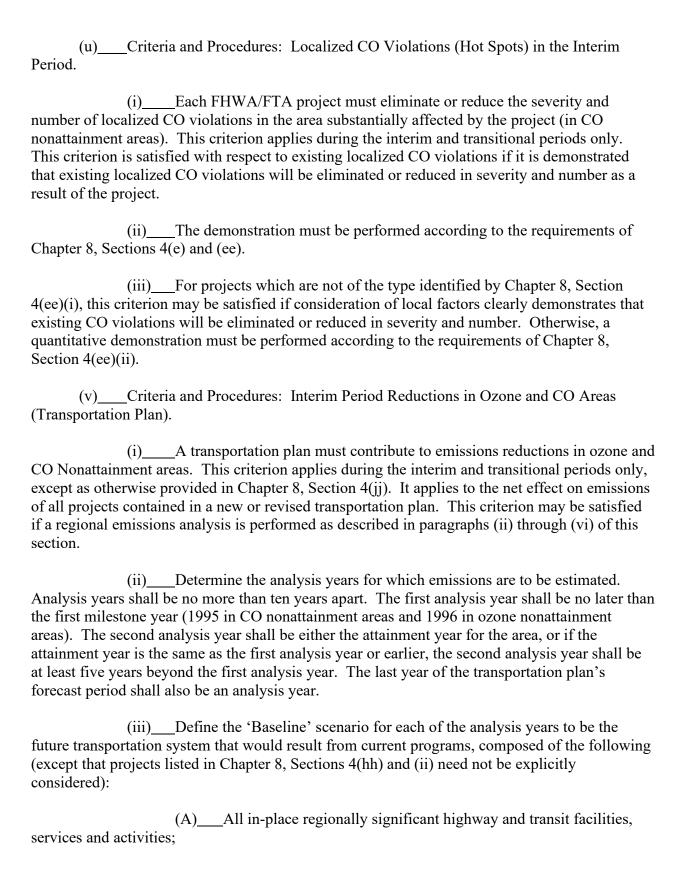
from those which were described in the TIP, or in a manner which would significantly impact

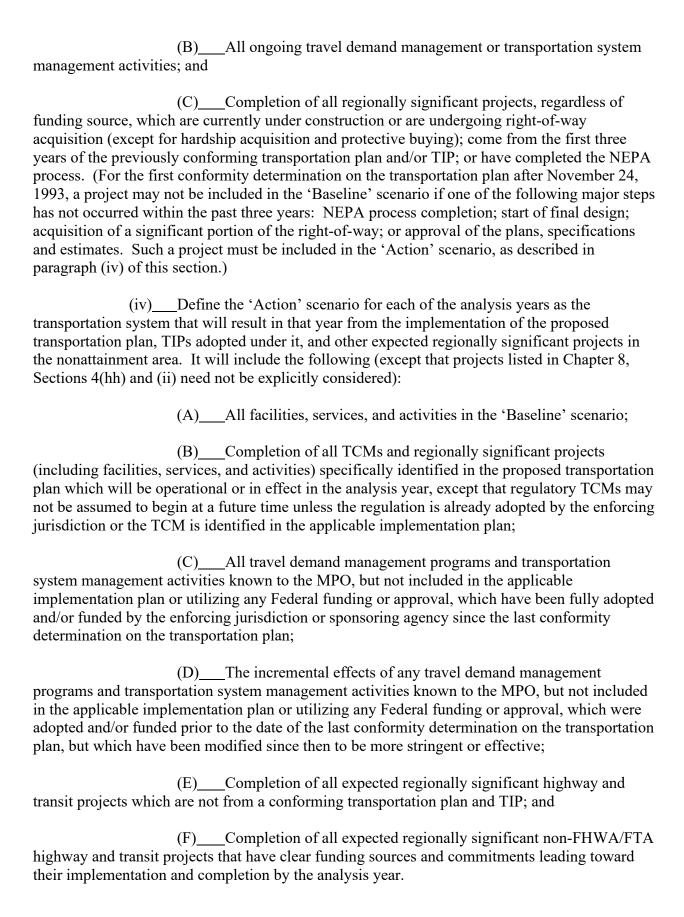
(ii) A regional emissions analysis shall be performed as follows:

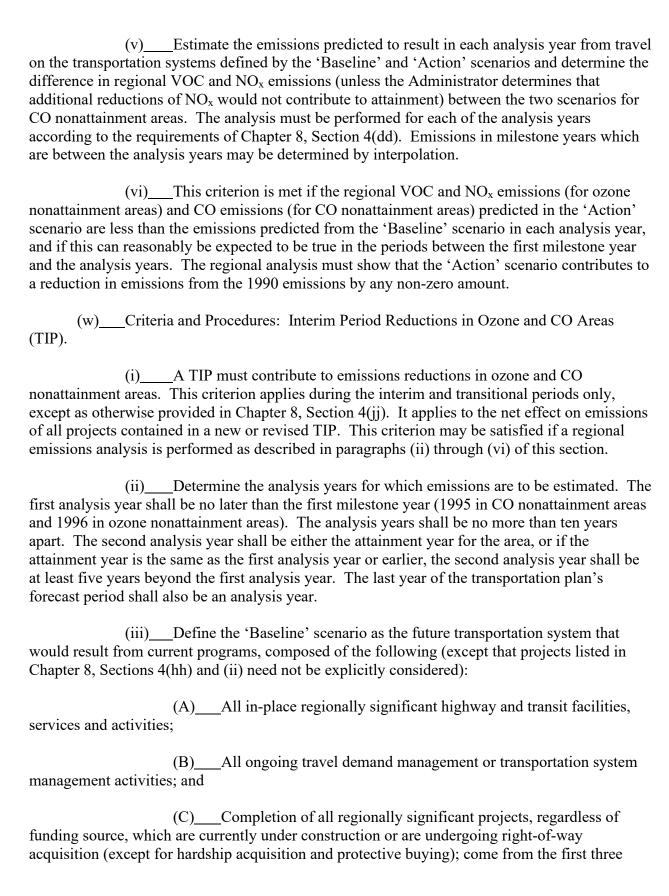








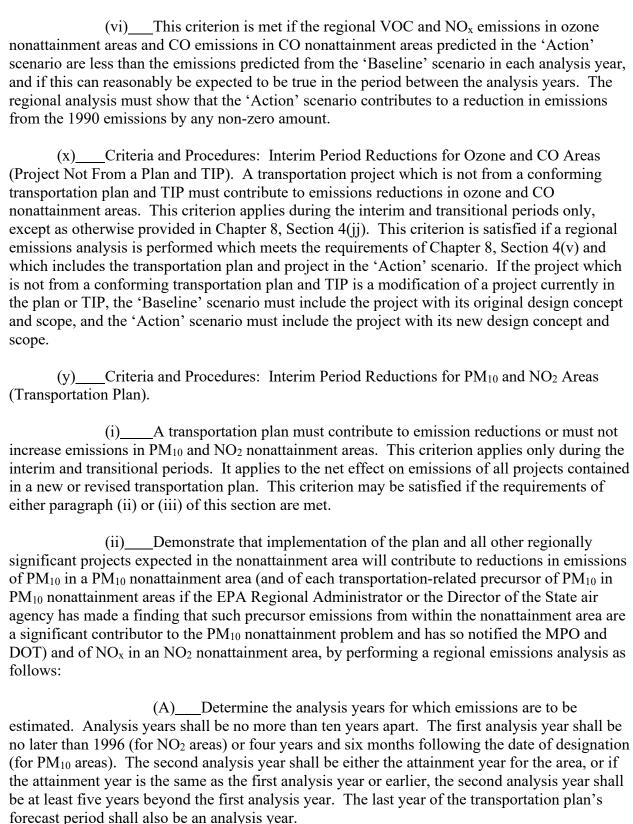


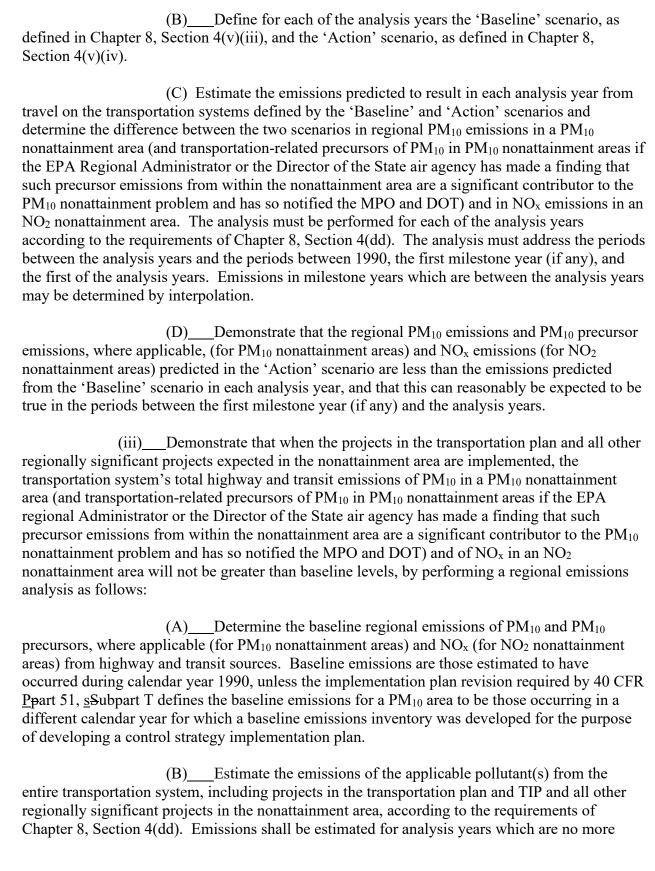


in the 'Baseline' scenario if one of the following major steps has not occurred within the past three years: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates. Such a project must be included in the 'Action' scenario, as described in paragraph (d) of this section.) Define the 'Action' scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant projects in the nonattainment area in the time frame of the transportation plan. It will include the following (except that projects listed in Chapter 8, Sections 4(hh) and (ii) need not be explicitly considered): (A) ___All facilities, services, and activities in the 'Baseline' scenario; (B) Completion of all TCMs and regionally significant projects (including facilities, services, and activities) included in the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is contained in the applicable implementation plan; (C) All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP; (D) The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective; (E) Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and (F) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year. (v) ____Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios, and determine the difference in regional VOC and NOx emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis must be performed for each of the analysis years according to the requirements of Chapter 8, Section 4(dd). Emissions in milestone years which are between

years of the previously conforming TIP; or have completed the NEPA process. (For the first conformity determination on the TIP after (November 24, 1993), a project may not be included

analysis years may be determined by interpolation.





(C) Demonstrate that for each analysis year the emissions estimated in paragraph (iii)(B) of this section are no greater than baseline emissions of PM₁₀ and PM₁₀ precursors, where applicable (for PM₁₀ nonattainment areas) or NO_x (for NO₂ nonattainment areas) from highway and transit sources. (z) ____ Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (TIP). (i) A TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emission of all projects contained in a new or revised TIP. This criterion may be satisfied if the requirements of either paragraph (ii) or paragraph (iii) of this section are met. (ii) Demonstrate that implementation of the plan and TIP and all other regionally significant projects expected in the nonattainment area will contribute to reductions in emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and DOT) and of NO_x in an NO₂ nonattainment area, by performing a regional emissions analysis as follows: (A) Determine the analysis years for which emissions are to be estimated, according to the requirements of Chapter 8, Section 4(y)(ii)(A). (B) Define for each of the analysis years the 'Baseline' scenario, as defined in Chapter 8, Section 4(w)(iii), and the 'Action' scenario, as defined in Chapter 8, Section 4(w)(iv). (C) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios as required by Chapter 8, Section 4(y)(ii)(C), and make the demonstration required by Chapter 8, Section 4(y)(ii)(D). (iii) Demonstrate that when the projects in the transportation plan and TIP and all other regionally significant projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional

than ten years apart. The first analysis year shall be no later than 1996 (for NO₂ areas) or four years and six months following the date of designation (for PM₁₀ areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis

year.

Administrator or the Director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT) and of NO_x in an NO_2 nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as required by Chapter 8, Sections 4(y)(iii)(A)-(C).

(aa) ___Criteria and Procedures: Interim Period Reductions for PM_{10} and NO_2 Areas (Project Not From a Plan and TIP). A transportation project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas. This criterion applies during the interim and transitional periods only. This criterion is met if a regional emissions analysis is performed which meets the requirements of Chapter 8, Section 4(y) and which includes the transportation plan and project in the 'Action' scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the transportation plan or TIP, and Chapter 8, Section 4(y)(ii) is used to demonstrate satisfaction of this criterion, the 'Baseline' scenario must include the project with its original design concept and scope, and the 'Action' scenario must include the project with its new design concept and scope.

(bb)___Transition From the Interim Period to the Control Strategy Period.

(i)___Areas Which Submit a Control Strategy Implementation Plan Revision After November 24, 1993.

(A)___The transportation plan and TIP must be demonstrated to conform according to transitional period criteria and procedures by one year from the date the Clean Air Act requires submission of such control strategy implementation plan revision. Otherwise, the conformity status of the transportation plan and TIP will lapse, and no new project-level conformity determinations may be made.

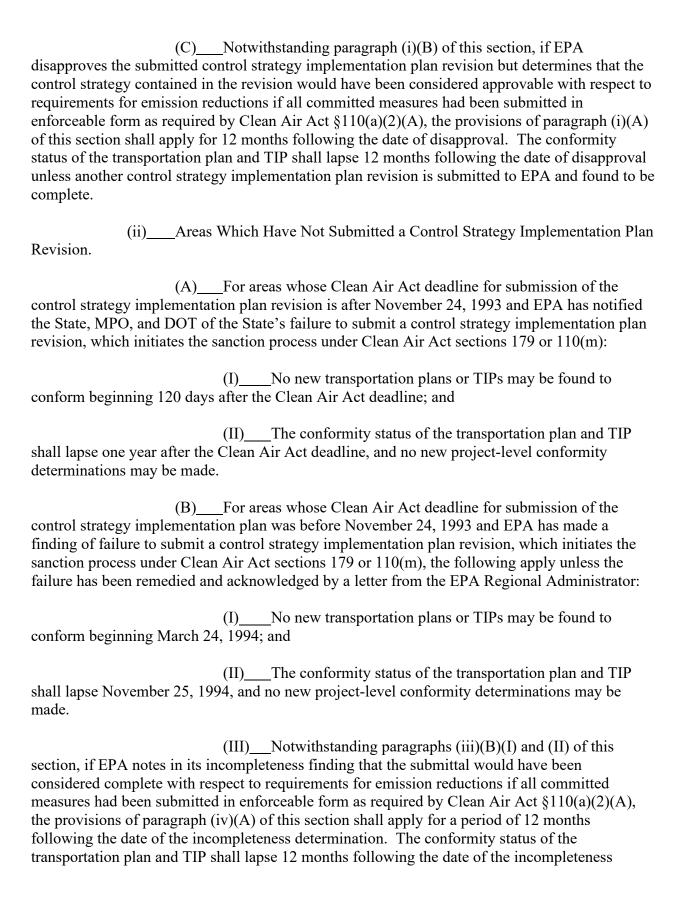
(I)___The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures for 90 days following submission of the control strategy implementation plan revision, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in paragraph (i)(A) of this section.

(II)___Beginning 90 days after submission of the control strategy

(B)___If EPA disapproves the submitted control strategy implementation plan revision and so notifies the State, MPO, and DOT, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse 120 days after EPA's disapproval, and no new project-level conformity determinations may be made. No new transportation plan, TIP, or project6 may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.

implementation plan revision, new transportation plans and TIPs shall demonstrate conformity

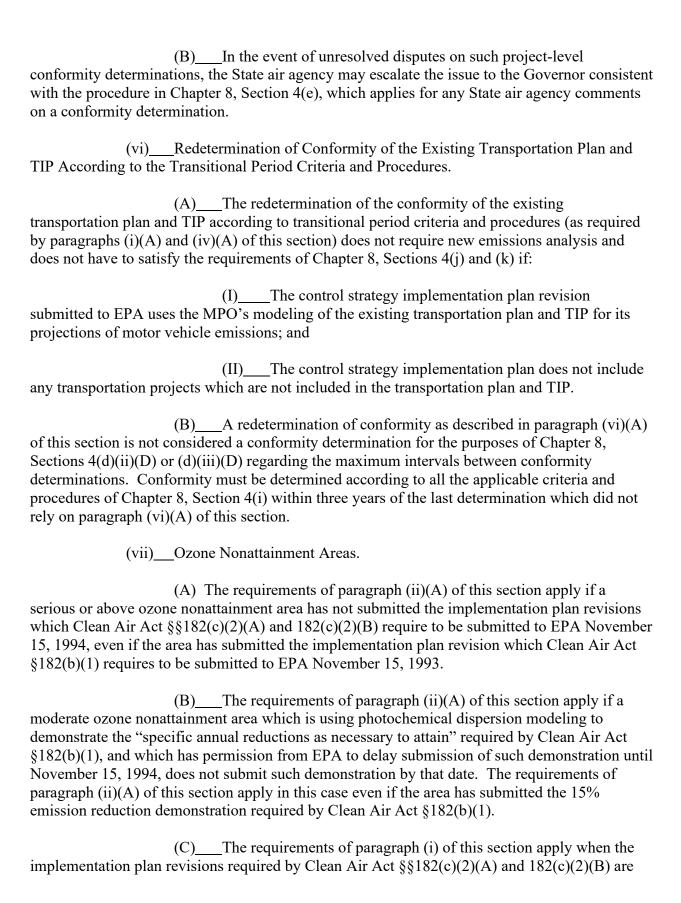
according to transitional period criteria and procedures.



and found to be complete. (iv) ___Areas Which Submitted a Control Strategy Implementation Plan Before November 24, 1993. (A) The transportation plan and TIP must be demonstrated to conform according to transitional period criteria and procedures by November 25, 1994. Otherwise, their conformity status will lapse, and no new project-level conformity determinations may be made. (I) ____ The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures until February 22, 1994, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in paragraph (iv)(A) of this section. (II) Beginning February 22, 1994, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures. (B) If EPA has disapproved the most recent control strategy implementation plan submission, the conformity status of the transportation plan and TIP shall lapse March 24, 1994, and no new project-level conformity determinations may be made. No new transportation plans, TIPs, or projects may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures. (C) Notwithstanding paragraph (iv)(B) of this section, if EPA has disapproved the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (iv)(A) of this section shall apply for 12 months following November 24, 1993. The conformity status of the transportation plan and TIP shall lapse 12 months following November 24, 1993 unless another control strategy implementation plan revision is submitted to EPA and found to be complete. (v) Projects. If the currently conforming transportation plan and TIP have not been demonstrated to conform according to transitional period criteria and procedures, the requirements of paragraphs (v)(A) and (B) of this section must be met. (A) Before a FHWA/FTA project which is regionally significant and increases single-occupant vehicle capacity (a new general purpose highway on a new location or adding general purpose lanes) may be found to conform, the State air agency must be consulted on how the emissions which the existing transportation plan and TIPs conformity determination estimates for the 'Action' scenario (as required by Chapter 8, Sections 4(v)-(aa)) compare to the motor vehicle emissions budget in the implementation plan submission or the projected motor

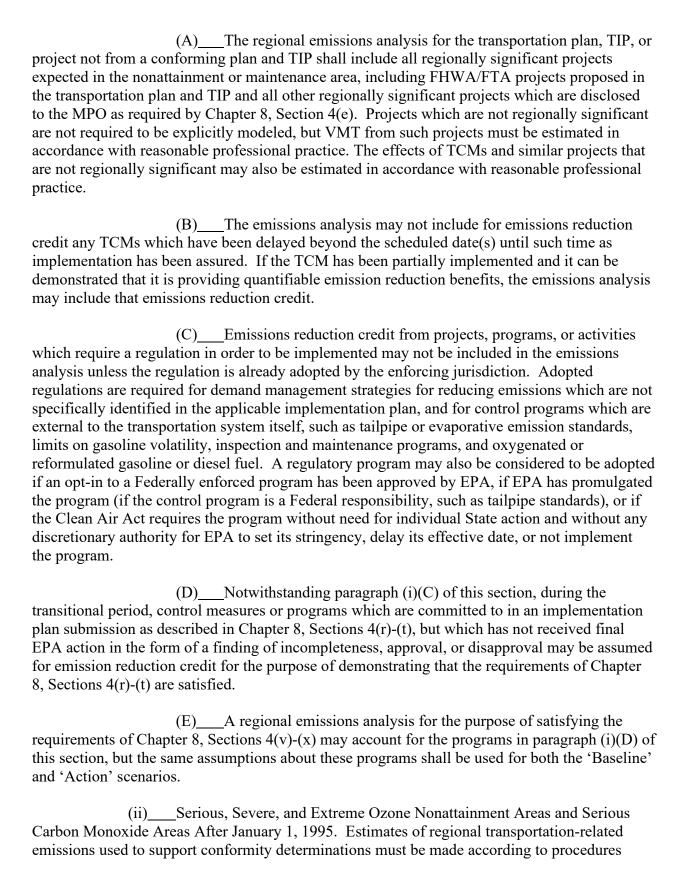
determination unless another control strategy implementation plan revision is submitted to EPA

vehicle emissions budget in the implementation plan under development.



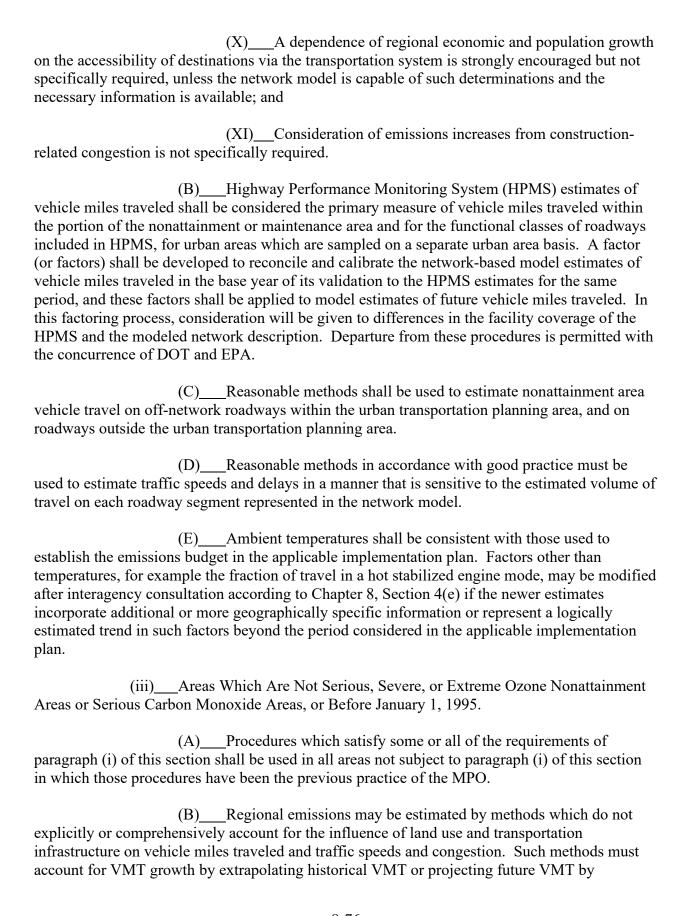
submitted.

(viii)Nonattainment Areas Which Are Not Required to Demonstrate Reasonable Further Progress and Attainment. If an area listed in Chapter 8, Section 4(jj) submits a control strategy implementation plan revision, the requirements of paragraphs (i) and (v) of this section apply. Because the areas listed in Chapter 8, Section 4(jj) are not required to demonstrate reasonable further progress and attainment and therefore have no Clean Air Act deadline, the provisions of paragraph (ii) of this section do not apply to these areas at any time.
(ix) Maintenance Plans. If a control strategy implementation plan revision is not submitted to EPA but a maintenance plan required by Clean Air Act §175 is submitted to EPA, the requirements of paragraphs (i) or (iv) of this section apply, with the maintenance plan submission treated as a "control strategy implementation plan revision" for the purposes of those requirements.
(cc)Requirements for Adoption or Approval of Projects By Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Act. No recipient of Federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless there is a currently conforming transportation plan and TIP consistent with the requirements of Chapter 8, Section 4(n) and the requirements of one of the following paragraphs (i) through (v) are met:
(i)The project comes from a conforming plan and program consistent with the requirements of Chapter 8, Section 4(o);
(ii) The project is included in the regional emissions analysis supporting the currently conforming TIPs conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility;
(iii)During the control strategy or maintenance period, the project is consistent with the motor vehicle emissions budget(s) in the applicable implementation plan consistent with the requirements of Chapter 8, Section 4(t);
(iv)During Phase II of the interim period, the project contributes to emissions reductions or does not increase emissions consistent with the requirements of Chapter 8, Section 4(x) (in ozone and CO nonattainment areas) or Chapter 8, Section 4(aa) (in PM ₁₀ and NO ₂ nonattainment areas); or
(v)During the transitional period, the project satisfies the requirements of both paragraphs (iii) and (iv) of this section.
(dd)Procedures for Determining Regional Transportation-Related Emissions.
(i)General Requirements.



(A) A network-based transportation demand model or models relating travel demand and transportation system performance to land-use patterns, population demographics, employment, transportation infrastructure, and transportation policies must be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess the following attributes: (I) The modeling methods and the functional relationships used in the model(s) shall in all respects be in accordance with acceptable professional practice, and reasonable for purposes of emission estimation; (II) The network-based model(s) must be validated against ground counts for a base year that is not more than 10 years prior to the date of the conformity determination. Land use, population, and other inputs must be based on the best available information and appropriate to the validation base year; (III) For peak-hour or peak-period traffic assignments, a capacity sensitive assignment methodology must be used; (IV) Zone-to-zone travel times used to distribute trips between origin and destination pairs must be in reasonable agreement with the travel times which result from the process of assignment of trips to network links. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits; (V)___Free-flow speeds on network links shall be based on empirical observations; (VI) Peak and off-peak travel demand and travel times must be provided; (VII) Trip distribution and mode choice must be sensitive to pricing, where pricing is a significant factor, if the network model is capable of such determinations and the necessary information is available; (VIII) The model(s) must utilize and document a logical correspondence between the assumed scenario of land development and use and the future transportation system for which emissions are being estimated. Reliance on a formal land-use model is not specifically required but is encouraged; (IX) A dependence of trip generation on the accessibility of destinations via the transportation system (including pricing) is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available;

which meet the requirements in paragraphs (ii)(A) through (E) of this section.

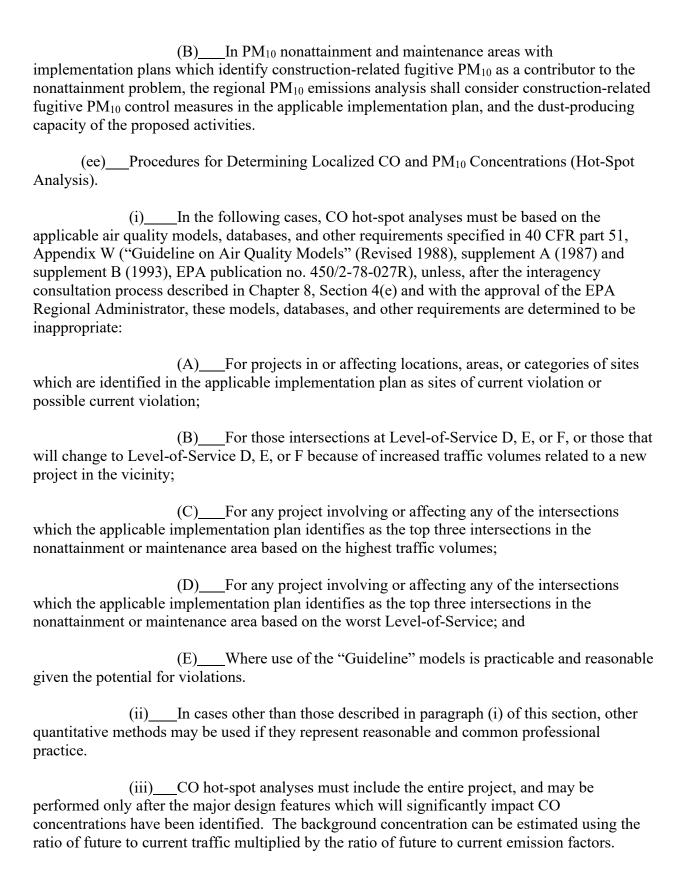


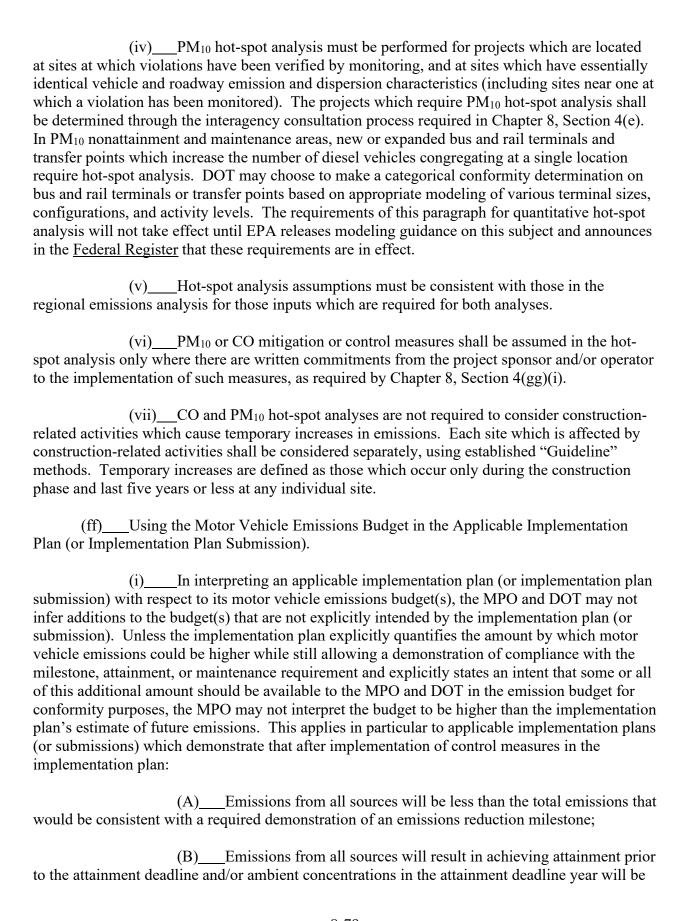
person. These methods must also consider future economic activity, transit alternatives, and transportation system policies. (iv) Projects Not From a Conforming Plan and TIP in Isolated Rural Nonattainment and Maintenance Areas. This paragraph applies to any nonattainment or maintenance area or any portion thereof which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP (because the nonattainment or maintenance area or portion thereof does not contain a metropolitan planning area or portion of a metropolitan planning area and is not part of a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area which is or contains a nonattainment or maintenance area). (A) Conformity demonstrations for projects in these areas may satisfy the requirements of Chapter 8, Section 4(t)(x) (aa) with one regional emissions analysis which includes all the regionally significant projects in the nonattainment or maintenance area (or portion thereof). (B) The requirements of Chapter 8, Section 4(t) shall be satisfied according to the procedures in Chapter 8, Section 4(t)(iii), with references to the "transportation plan" taken to mean the statewide transportation plan. (C) The requirements of Chapter 8, Sections 4(x) and (aa) which reference "transportation plan" or "TIP" shall be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the nonattainment or maintenance area (or portion thereof). (D) The requirement of Chapter 8, Section 4(cc)(ii) shall be satisfied if: (I) ____ The project is included in the regional emissions analysis which includes all regionally significant highway and transportation projects in the nonattainment or maintenance area (or portion thereof) and supports the most recent conformity determination made according to the requirements of Chapter 8, Sections 4(t)(x) or (aa) (as modified by paragraphs (iv)(B) and (iv)(C) of this section), as appropriate for the time period and pollutant; and (II) The project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. (v) PM₁₀ From Construction-Related Fugitive Dust. (A) For areas in which the implementation plan does not identify

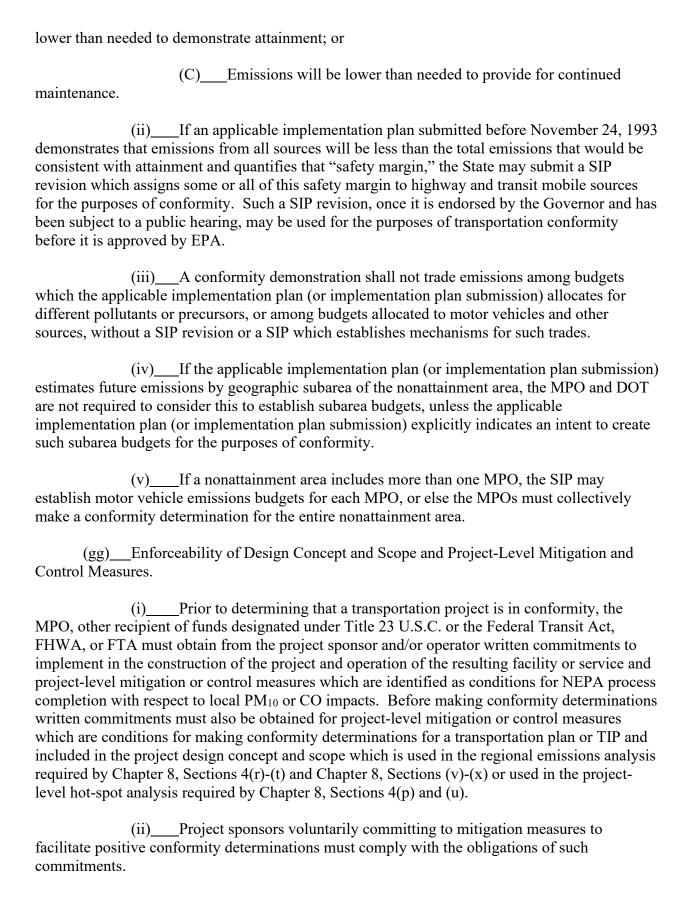
considering growth in population and historical growth trends for vehicle miles traveled per

construction-related fugitive PM_{10} as a contributor to the nonattainment problem, the fugitive PM_{10} emissions associated with highway and transit project construction are not required to be

considered in the regional emissions analysis.







- (iii)___The implementation plan revision required in 40 CFR part 51, Subpart T shall provide that written commitments to mitigation measures must be obtained prior to a positive conformity determination, and that project sponsors must comply with such commitments.
- (iv) ____During the control strategy and maintenance periods, if the MPO or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the requirements of Chapter 8, Sections 4(p), (r), and (s) are satisfied without the mitigation or control measure, and so notifies the agencies involved in the interagency consultation process required under Chapter 8, Section 4(e). The MPO and DOT must confirm that the transportation plan and TIP still satisfy the requirements of Chapter 8, Sections 4(r) and (s) and that the project still satisfies the requirements of Chapter 8, Section 4(p), and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid.
- (hh) Exempt Projects. Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 are exempt from the requirement that a conformity determination be made. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 is not exempt if the MPO in consultation with other agencies (see Chapter 8, Section 4(e)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs must ensure that exempt projects do not interfere with TCM implementation.

Table 2. – Exempt Projects

SAFETY

Railroad/highway crossing Hazard elimination program Safer non-Federal-aid system roads Shoulder improvements Increasing sight distance Safety improvement program Traffic control devices and operating assistance other than signalization projects Railroad/highway crossing warning devices Guardrails, median barriers, crash cushions Pavement resurfacing and/or rehabilitation Pavement marking demonstration Emergency relief (23 U.S.C. 125) Fencing Skid treatments Safety roadside rest areas Adding medians

Truck climbing lanes outside the urbanized area Lighting improvements Widening narrow pavements or reconstructing bridges (no additional travel lanes)

Emergency truck pullovers

MASS TRANSIT

Operating assistance to transit agencies

Purchase of support vehicles

Rehabilitation of transit vehicles¹

Purchase of office, shop, and operating equipment for existing facilities

Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.)

Construction of renovation of power, signal, and communications systems

Construction of small passenger shelters and information kiosks

Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures)

Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet¹

Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR 771

AIR QUALITY

Continuation of ride-sharing and van-pooling promotion activities at current levels Bicycle and pedestrian facilities

OTHER

Specific activities which do not involve or lead directly to construction, such as:

Planning and technical studies

Grants for training and research programs

Planning activities conducted pursuant to Titles 23 and 49 U.S.C.

Federal-aid systems revisions

Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action

Noise attenuation

Advance land acquisitions (23 CFR 712 or 23 CFR 771)

Acquisition of scenic easements

Plantings, landscaping, etc.

Sign removal

Directional and informational signs

Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities)

Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects

involving substantial functional, locational or capacity changes

¹In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.

(ii) Projects Exempt From Regional Emissions Analyses. Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO or PM₁₀ concentrations must be considered to determine hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO in consultation with other agencies (see Chapter 8, Section 4(e)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason.

Table 3. – Projects Exempt From Regional Emissions Analyses

Intersection channelization projects
Intersection signalization projects at individual intersections
Interchange reconfiguration projects
Changes in vertical and horizontal alignment
Truck size and weight inspection stations
Bus terminals and transfer points

(jj)___Special Provisions for Nonattainment Areas Which Are Not Required to Demonstrate Reasonable Further Progress and Attainment.

(i)___Application. This section applies in the following areas:

(A)___Rural transport ozone nonattainment areas;

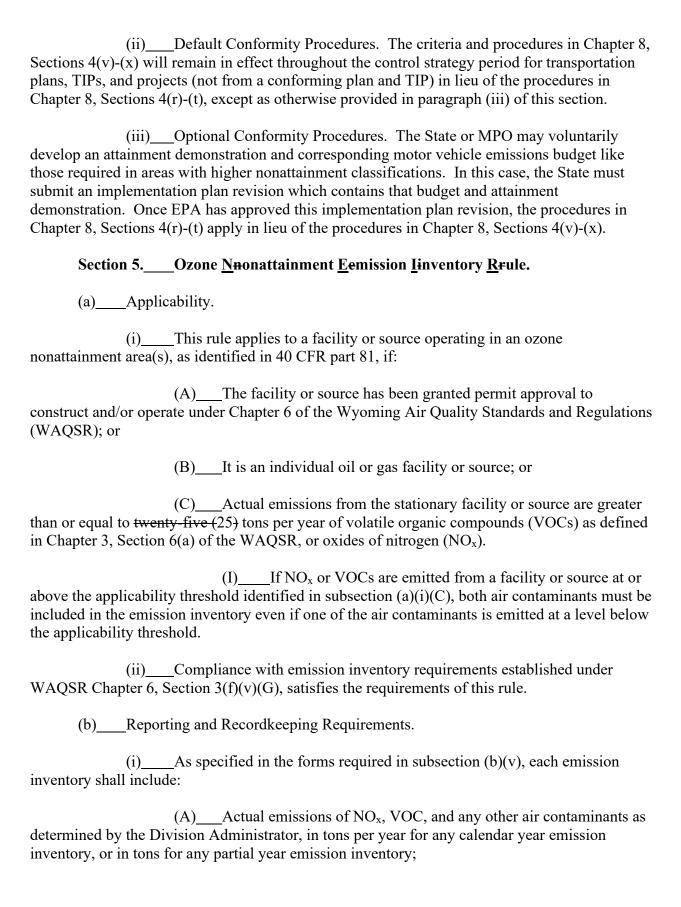
(B)___Marginal ozone areas;

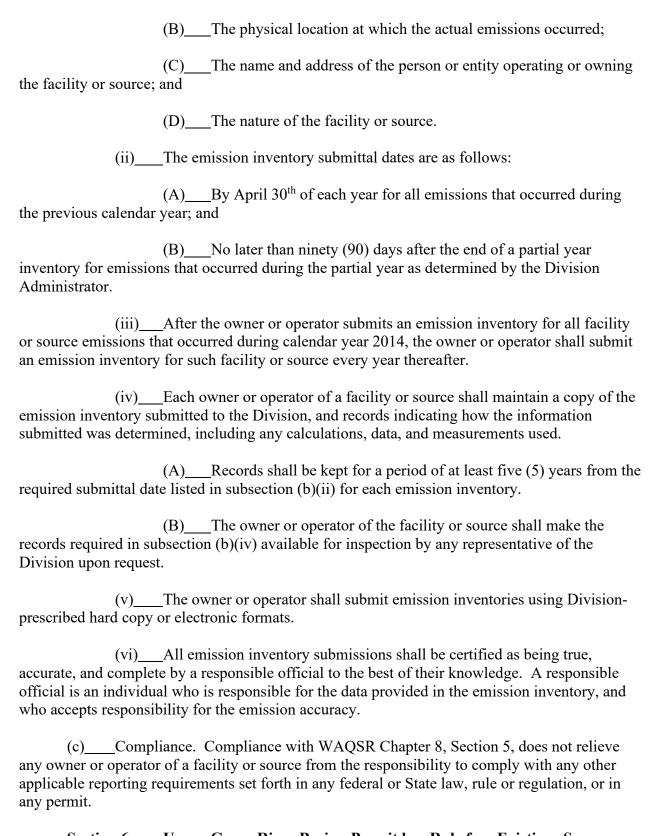
(C)___Submarginal ozone areas;

(D)___Transitional ozone areas;

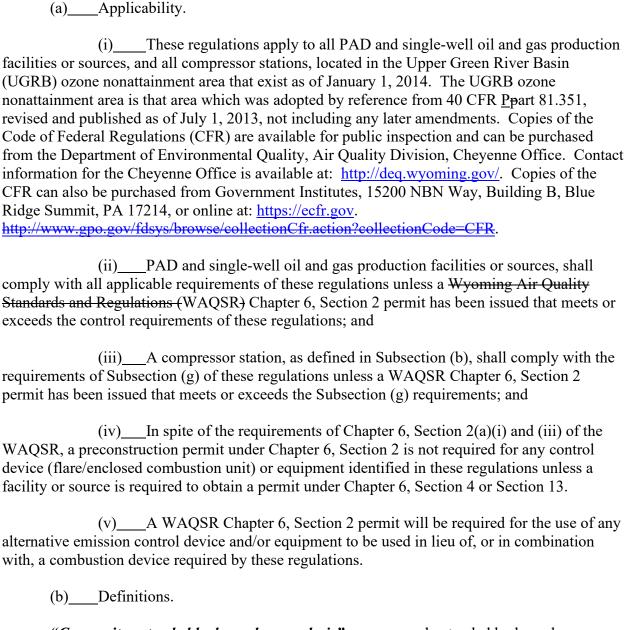
(E)___Incomplete data ozone areas;

(F)___Moderate CO areas with a design value of 12.7 ppm or less; and (G) Not classified CO areas.





Section 6.____Upper Green River Basin pPermit by rRule for eExisting sSources



"Composite extended hydrocarbon analysis" are averaged extended hydrocarbon compositions based on samples from at least five wells producing from the same formation and under similar conditions (\pm 25 psig).

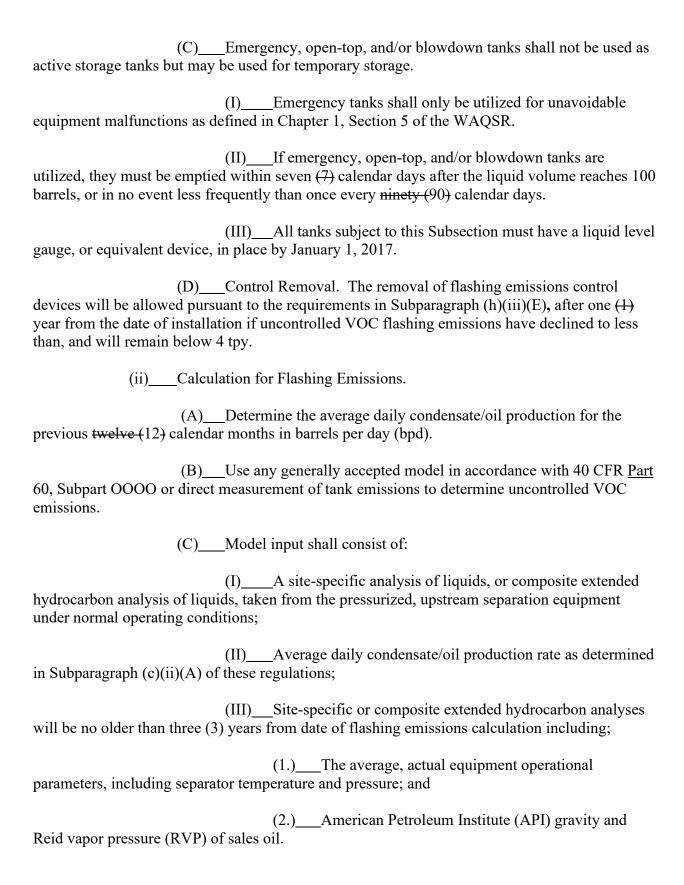
"Compressor station" means any permanent combination of one or more compressors that move natural gas at increased pressure from fields, in transmission pipelines, or into storage.

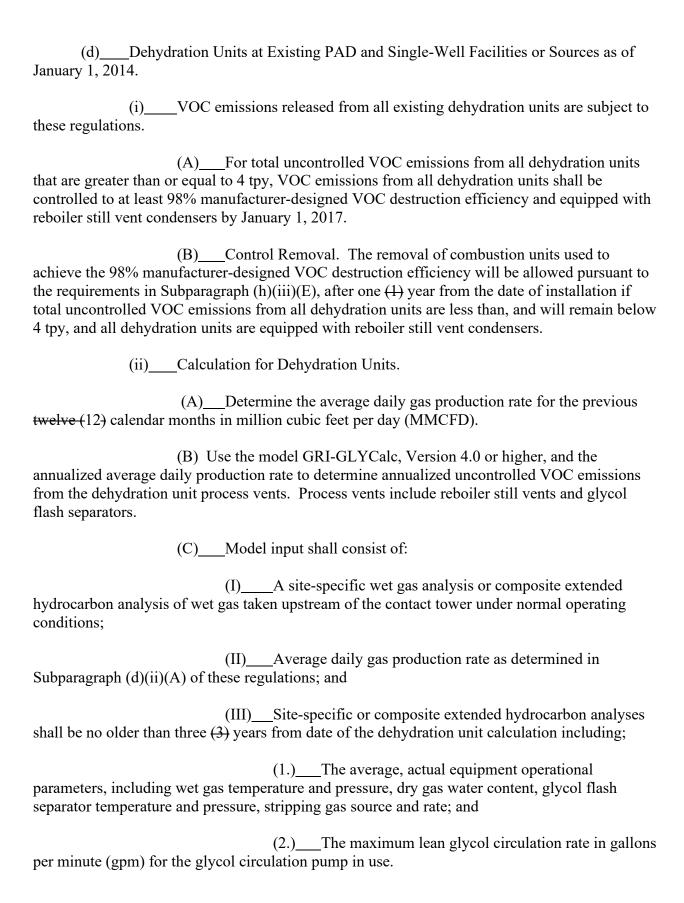
"Dehydration unit" means a system that uses glycol to absorb water from produced gas before it is introduced into gas sales or collection lines.

"Extended hydrocarbon analysis" means a gas chromatograph analysis performed on pressurized hydrocarbon liquid (oil/condensate) and gas samples, and shall include speciated

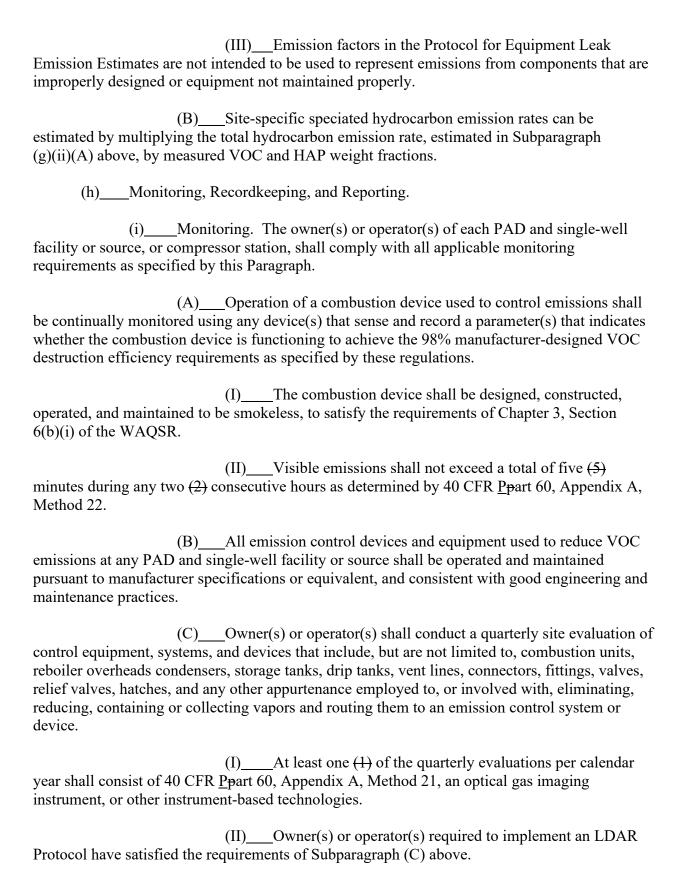
hydrocarbons from methane (C1) through decane (C10), and the following Hazardous Air Pollutants (HAP): benzene, toluene, ethyl-benzene, xylenes (BTEX), n-hexane, and 2-2-4-trimethylpentane.

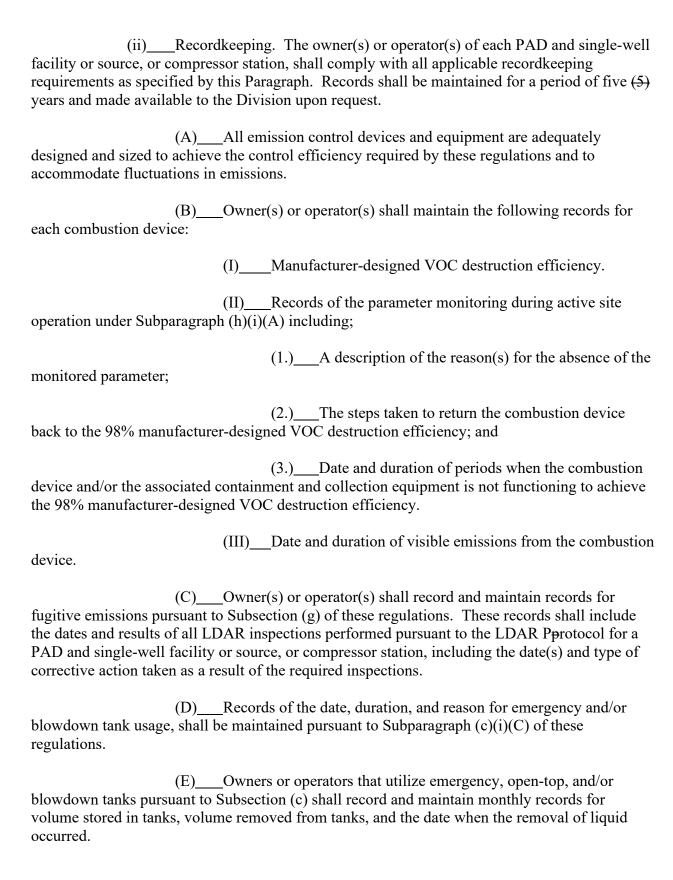
- *"Facility components"* consist of flanges, connectors (other than flanges), open-ended lines, pumps, valves and "other" components listed in Table 2-4 from EPA-453/R-95-017 at the site grouped by stream (gas, light oil, heavy oil, water/oil). Table 2-4 from EPA-453/R-95-017 is available online at: http://deq.wyoming.gov/aqd/ or http://deq.wyoming.gov/aqd/ or http://www3.epa.gov/ttnchie1/efdocs/equiplks.pdf.
- "Flashing emissions" means VOC emissions, including HAP components, that occur when gases are released from produced liquids (oil, condensate, produced water, or a mixture thereof) that are exposed to temperature increases or pressure drops as they are transferred from pressurized vessels to lower pressure separation vessels or to atmospheric storage tanks.
- "Optical gas imaging instrument" means an instrument that makes visible, emissions that may otherwise be invisible to the naked eye.
- "PAD facility" means a location where more than one well and/or associated production equipment are located, where some or all production equipment is shared by more than one well or where well streams from more than one well are routed through individual production trains at the same location.
- "Separation vessels" means all gun barrels, production and test separators, production and test treaters, water knockouts, gas boots, flash separators, and drip pots.
- "Single-well facility" means a facility where production equipment is associated with only one well.
- "Storage tanks" means any tanks that contain oil, condensate, produced water, or some mixture thereof.
- (c)____Flashing Emissions at Existing PAD and Single-Well Facilities or Sources as of January 1, 2014.
- (i)____VOC emissions from all existing storage tanks and all existing separation vessels are subject to these regulations.
- (A)___For total uncontrolled VOC emissions from flashing that are greater than or equal to 4 tons per year (tpy), flashing emissions from all produced oil, condensate, water tanks, and separation vessels shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency by January 1, 2017.
- (B) Storage tanks that are on site for use during emergency or upset conditions are not subject to the control requirements in this Subsection.

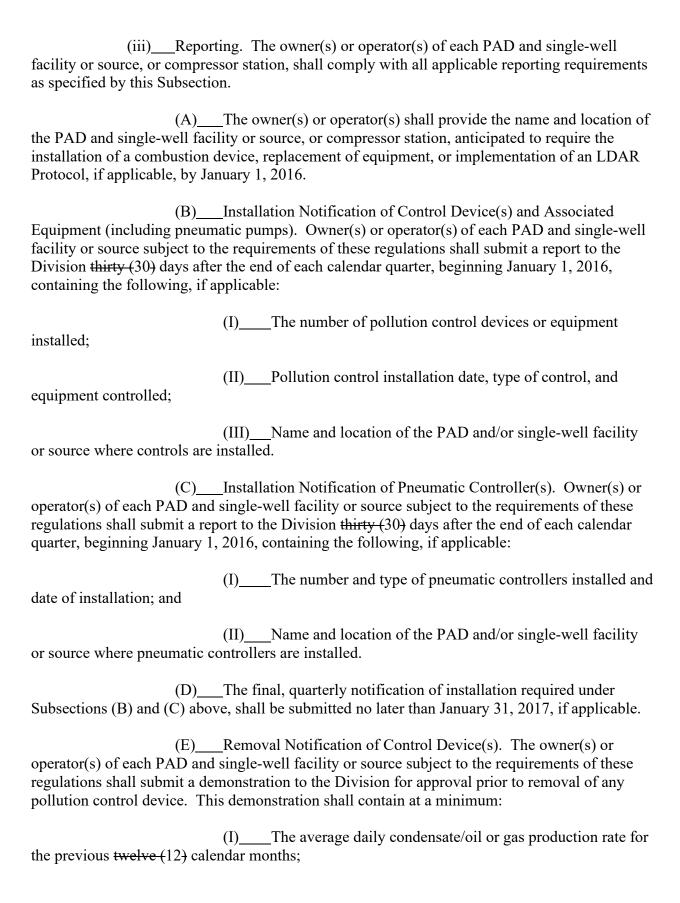


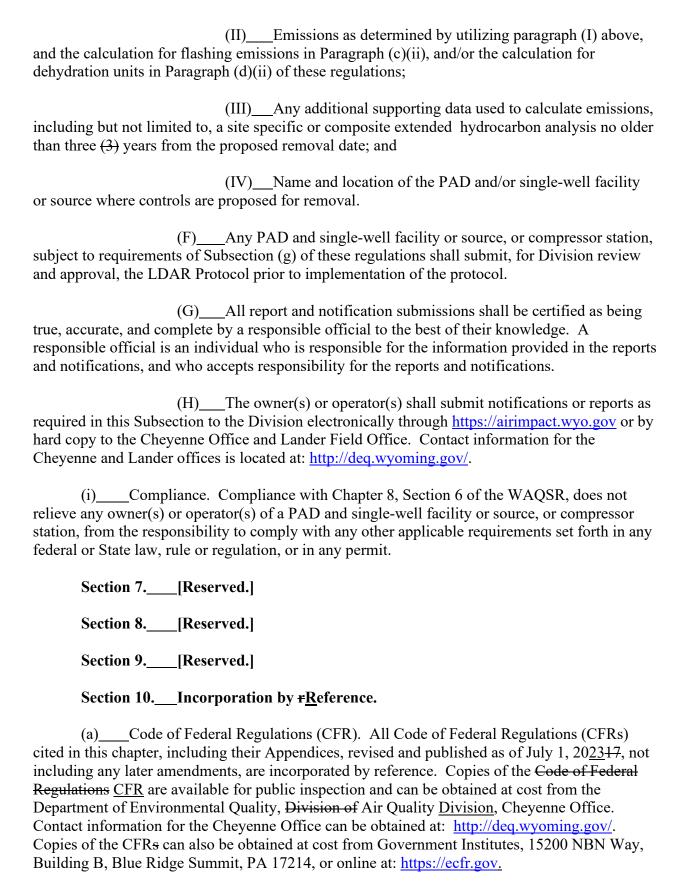


(e) Existing Pneumatic Pumps at PAD and Single-Well Facilities or Sources as of January 1, 2014. VOC emissions associated with the discharge streams of all natural gasoperated pneumatic pumps shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency, or the pump discharge streams shall be routed into a sales line, collection line, fuel supply line, other closed loop system, or replaced with solar, electric, or air driven pumps by January 1, 2017.
(f) Existing Pneumatic Controllers at PAD and Single-Well Facilities or Sources as of January 1, 2014. Natural gas-operated pneumatic controllers shall be low (less than 6 standard cubic feet per hour (scfh)) or zero bleed controllers or the controller discharge streams shall be routed into a sales line, collection line, fuel supply line, or other closed loop system by January 1, 2017.
(g)Fugitive Emissions.
(i)For PAD and single-well facilities or sources, and compressor stations, in existence prior to January 1, 2014, with fugitive emissions greater than or equal to 4 tpy of VOCs, including HAP components, operators shall develop and implement a Leak Detection and Repair (LDAR) Protocol by January 1, 2017.
(A)The LDAR Protocol inspection monitoring schedule shall be no less frequent than quarterly; and
(B)Shall include a leak repair schedule; and
(C)Each quarterly inspection shall consist of some combination of 40 CFR <u>pP</u> art 60, Appendix A, Method 21, an optical gas imaging instrument, other instrument-based technologies, or audio-visual-olfactory (AVO) inspections.
(D)An LDAR Protocol consisting of only AVO inspections will not satisfy the requirements of this Subsection.
(ii)Calculation for Fugitive Emissions.
(A)Fugitive emissions shall be estimated using Table 2-4 from EPA-453/R-95-017, Protocol for Equipment Leak Emission Estimates, and the owner(s) or operator(s) facility component count.
(I)PAD and single-well facility or source component counts shall be determined by actual field count, or a representative component count from the same geographical area, taken from no less than one hundred (100) wells located at a PAD or single-well facility.
(II)Compressor station component counts shall be determined by actual field count.









http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.