

Reference Document

Proposed Transportation Conformity Rule Restructuring Amendments Compared to Existing Conformity Rule

This comparison table is intended to assist readers in understanding how the conformity rule would be amended if all the proposals in the “Transportation Conformity Rule Restructuring Amendments” proposed rule (Docket # EPA-HQ-OAR-2009-0128) are finalized. Sections of the conformity rule that would be amended are included in the table below. The proposed rule would not amend other sections of the transportation conformity rule. Readers should refer to EPA’s conformity regulations at 40 CFR Part 93 for current regulatory requirements, and to the proposed rule for the revisions EPA has proposed to make to the existing regulations.

Topic	Existing Section	Description of Existing Provision	Proposed Section	Purpose of Proposed Amendment
Definitions	93.101	Under “NAAQS,” existing paragraphs (1) through (6) identify specific NAAQS: “1-hour ozone NAAQS”, “8-hour ozone NAAQS”, “24-hour PM2.5 NAAQS”, “1997 PM2.5 NAAQS”, “2006 PM2.5 NAAQS”, and “Annual PM10 NAAQS”	93.101	Would remove the definitions for specific NAAQS and would apply to any ozone, CO, NO ₂ , PM _{2.5} or PM ₁₀ NAAQS
	93.101	“Clean data” definition	93.101	Would update definition, no substantive change
Consultation	93.105(c)(1)(vi)	Interagency consultation procedures: Specific processes	93.105(c)(1)(vi)	Would renumber sections; no other changes would be made
Conformity Tests: Ozone	93.109(c)	1-hour ozone areas	N/A	Would delete an existing section that is no longer applicable. The 1-hour ozone NAAQS has been revoked
	93.109(d)(1)	Use of 8-hour ozone budgets, once adequate or approved	93.109(c)(1)	Would address all NAAQS
	93.109(d)(2)	Use of interim emissions test(s) when no ozone budgets	93.109(c)(3)	
	93.109(d)(3)	Use of interim emissions test(s) for NO _x when no NO _x budget	93.109(c)(4)	
	93.109(d)(4)	Tests for areas not required to submit a SIP for ozone areas	93.109(c)(1), (c)(2), (c)(3)	

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	93.109 (d)(5)	Clean data option for moderate and above ozone areas	93.109(c)(5)	Would expand clean data flexibility to any NAAQS for which EPA has clean data regulations or policies
	93.109(e)(1)	Use of 8-hour ozone budgets, once adequate or approved	93.109(c)(1)	
	93.109(e)(2)	Use of 1-hour ozone budgets before area has 8-hour ozone budgets	93.109(c)(2)	
	93.109(e)(3)	Use of interim emissions test(s) when no ozone budgets	93.109(c)(3)	
	93.109(e)(4)	Clean data option for moderate and above ozone areas	93.109(c)(5)	
Conformity Tests: CO	93.109(f)(1)	FHWA/FTA projects in CO areas requiring a hot-spot analysis	93.109(d)(1)	Would include hot-spot conformity test requirements for CO, PM2.5 and PM10 areas
	93.109(f)(2)	Use of CO budgets, once approved or adequate	93.109(c)(1)	Would address all NAAQS
	93.109(f)(3)	Use of interim emissions tests when no CO budget	93.109(c)(3)	
	--	Use of adequate or approved CO budget of another CO NAAQS	93.109(c)(2)	
	93.109(f)(4)	Regional conformity tests in CO nonattainment areas that don't have a maintenance plan and not required to submit an attainment demonstration	93.109(c)(1), (c)(2), (c)(3)	
Conformity Tests: PM10	93.109(g)(1)	FHWA/FTA projects in PM10 areas requiring a hot-spot analysis	93.109(d)(1)	Would include hot-spot conformity test requirements for CO, PM2.5 and PM10 areas
	93.109(g)(2)	Use of PM10 budgets, once approved or adequate	93.109(c)(1)	Would address all NAAQS
	93.109(g)(3)	Use of adequate or approved PM10 budget of another PM10 NAAQS	93.109(c)(2)	

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	93.109(g)(4)(i)	Use of interim emissions tests when the area has no PM10 budget	93.109(c)(3)	
	93.109(g)(4)(ii)	Use of interim emissions tests if the submitted PM10 SIP is a demonstration of impracticability under CAA 189(a)(1)(B)(ii) and does not demonstrate attainment	93.109(c)(6)	Would include hot-spot conformity test requirements for CO, PM2.5 and PM10 areas
Conformity Tests: NO2	93.109(h)(1)	Use of NO2 budgets, once approved or adequate	93.109(c)(1)	Would address all NAAQS
	--	Use of adequate or approved NO2 budget of another NO2 NAAQS	93.109(c)(2)	
	93.109(h)(2)	Use of interim emissions tests when area has no NO2 budget	93.109(c)(3)	
Conformity Tests: PM2.5	93.109(i)(1)	FHWA/FTA projects in 1997 PM2.5 areas requiring a hot-spot analysis	93.109(d)(1)	Would include hot-spot conformity test requirements for CO, PM2.5 and PM10 areas
	93.109(i)(2)	Use of 1997 PM2.5 budgets, once approved or adequate	93.109(c)(1)	
	93.109(i)(3)	Use of interim emissions tests when area has no PM2.5 budget	93.109(c)(3)	
	93.109(j)(1);	FHWA/FTA projects in 2006 PM2.5 requiring a hot-spot analysis	93.109(d)(1)	Would include hot-spot conformity test requirements for CO, PM2.5 and PM10 areas
	93.109(j)(2);	Use of 2006 PM2.5 budgets, once approved or adequate	93.109(c)(1)	
	93.109(j)(3)	Use of interim emissions test	93.109(c)(3)	
	93.109(k)(1)	FHWA/FTA projects in 2006 PM2.5 requiring a hot-spot analysis	93.109(d)(1)	Would include hot-spot conformity test requirements for CO, PM2.5 and PM10 areas
	93.109(k)(2)	Use of 2006 PM2.5 budgets, once approved or adequate	93.109(c)(1)	
	93.109(k)(3)	Use of 1997 PM2.5 budgets / interim emission test	93.109(c)(3)	
Conformity	93.109(l)	areas with limited maintenance plans	93.109(e)	Would renumber sections; no other

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tests in ...	93.109(m)	areas with insignificant motor vehicle emissions	93.109(f)	changes would be made
	93.109(n)	isolated rural nonattainment and maintenance areas	93.109(g)	
Hot-spot tests in...	93.116(b)	CO areas without an approved attainment or maintenance plan	93.116(b)	Would update references; no other changes would be made
Budget test	93.118(b)	Requires consistency with budgets for: <ul style="list-style-type: none"> ■ budget years ■ attainment year ■ last year of transportation plan/conformity determination ■ intermediate years, no more than 10 years apart 	93.118(b) (Same as existing)	Would require consistency with budgets for: <ul style="list-style-type: none"> ■ budget years, and ■ each year that a regional emissions analysis is done per proposed §93.118(d)
	93.118(d)	Requires regional emissions analysis for: <ul style="list-style-type: none"> ■ attainment year ■ last year of transportation plan/conformity determination ■ intermediate years, no more than 10 years apart 	93.118(d) (Same as existing)	In addition to current requirements, if the area's attainment year has passed, or has not been established, the first analysis year would be no more than five years beyond the year in which conformity determination is being made.
Interim Emissions Tests	93.119(b)	ozone areas	93.119(b)	Would remove specific baseline years and move the definition for "baseline year" to proposed 93.119(e)
	93.119(c)	CO areas	93.119(c)	
	93.119(d)	PM10 and NO2 areas	93.119(d)	
	93.119(e)	PM2.5 areas	93.119(d)	
				Would combine existing 93.119(d) and (e) into (d).
				Would remove specific baseline years and move the definition for "baseline year" to proposed 93.119(e)
Baseline Year for baseline	93.119(b)(1)(ii)(A)	1-hour ozone areas	N/A	Would delete existing section. The 1-hour ozone NAAQS has been

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year test in ...	93.119(b)(2)(ii)(A)			revoked
	93.119(b)(1)(ii)(B)	moderate and above 1997 8-hour ozone areas	93.119(b) 93.119(e)(3)	Would remove specific baseline years and move the definition for "baseline year" to proposed 93.119(e)
	93.119(b)(2)	marginal and below ozone areas not subject to RFP requirements	93.119(b) 93.119(e)(3)	
	Not applicable	any future ozone areas	93.119(b) 93.119(e)(4)	Future baseline years would be defined as proposed in 93.119(e)(4), which is based on existing regulatory text in 93.119(e)(2)(B)
	93.119(c)(1)(ii)	1990 moderate CO areas with a design value greater than 12.7ppm	93.119(c)(1)(ii); 93.119(e)(1)	Would remove specific baseline years and move the definition for "baseline year" to proposed 93.119(e)
	93.119(c)(2)(ii)	1990 moderate CO areas with a design value less than 12.7ppm and not classified CO areas	93.119(c)(2)(ii); 93.119(e)(1)	
	Not applicable	any future CO areas	93.119(c) 93.119(e)(4)	Future baseline years would be defined as proposed in 93.119(e)(4), which is based on existing regulatory text in 93.119(e)(2)(B)
	93.119(d)(2)	1990 PM10 areas	93.119(d)(2) 93.119(e)(2)	Would remove specific baseline years and move the definition for "baseline year" to proposed 93.119(e)
	Not applicable	any future PM10 areas	93.119(d)(2) 93.119(e)(4)	Future baseline years would be defined as proposed in 93.119(e)(4), which is based on existing regulatory text in 93.119(e)(2)(B)
	93.119(d)(2)	1990 NO2 areas	93.119(d)(2) 93.119(e)(1)	Would remove specific baseline years and move the definition for

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				"baseline year" to proposed 93.119(e)
	Not applicable	any future NO2 areas	93.119(d)(2) 93.119(e)(4)	Future baseline years would be defined as proposed in 93.119(e)(4), which is based on existing regulatory text in 93.119(e)(2)(B)
	93.119(e)(2) (A)	1997 PM2.5 areas	93.119(d)(2) 93.119(e)(3)	Would remove specific baseline years and move the definition for "baseline year" to proposed 93.119(e)
	93.119(e)(2) (B)	2006 PM2.5 areas and any future PM2.5 areas	93.119(d)(2) 93.119(e)(4)	Future baseline years would be defined as proposed in 93.119(e)(4), which is based on existing regulatory text in 93.119(e)(2)(B)
Non-federal projects in...	93.121(b)	isolated rural nonattainment and maintenance areas	93.121(b)	Would update references; no other changes would be made
	93.121(c)	areas with limited maintenance plans and areas with insignificant motor vehicle emissions	93.121(c)	Would update references; no other changes would be made