

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. Department of Environmental Quality – Air Pollution Control

ARTICLE 14. CONFORMITY DETERMINATIONS

R18-2-1401. Definitions

Terms used in this Article but not defined in this Article, Article 1 of this Chapter, or A.R.S. § 49-401.01 shall have the meaning given them by the CAA, Titles 23 and 40 U.S.C., 40 C.F.R. § 93.101, other EPA regulations, or other USDOT regulations, in that order of priority. The following definitions and the definitions contained in Article 1 of this Chapter and in A.R.S. § 49-401.01 shall apply to this Article:

1. “ADEQ” means the Arizona Department of Environmental Quality.
2. “ADOT” means the Arizona Department of Transportation.
3. “Air Quality Control Agency” means the county department authorized or designated or air pollution control district established under A.R.S. § 49-473.
- 3 4. “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.
- 4 5. “CAA” means the Clean Air Act, as amended.
5. ~~“Cause or contribute to a new violation” for a project means either of the following:~~
 - 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.~~
 - 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.~~
6. “Certified MPO” means the Metropolitan Planning Organization that has been certified by the governor pursuant to A.R.S. § 49-406 for any ozone, carbon monoxide, or particulate nonattainment or maintenance area as the agency responsible for the development of a nonattainment or maintenance area plan for that area.
7. “COG” means council of governments.
- 6 8. “Consultation” means that one party confers with another identified party, provides access to all appropriate information to that party needed for meaningful input, and, prior to taking any action, considers the views of that party and responds in accordance with the procedures established in R18-2-1405.
9. ~~“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).~~

- ~~10. “Control strategy period” with respect to particulate matter less than 10 microns in diameter (PM10), carbon monoxide (CO), nitrogen dioxide (NO₂), or ozone precursors (volatile organic compounds (VOC) and oxides of nitrogen (NO_x)), means that period of time after EPA approves control strategy implementation plan revisions containing strategies for controlling PM10, NO₂, CO, or ozone, as appropriate. This period ends when the state submits and EPA approves a request under § 107(d) of the CAA for redesignation to an attainment area.~~
9. “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.
10. “Design scope” means the design aspects of a facility 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.
11. “Donut Areas” means geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area that contains any part of a metropolitan area(s). These areas are not isolated rural nonattainment and maintenance areas.
- ~~12.~~ 12. “EPA” means the United States Environmental Protection Agency.
- ~~13.~~ 13. “FHWA” means the Federal Highway Administration of USDOT.
- ~~14.~~ 14. “FHWA or FTA project” means 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.
- ~~15.~~ 15. “FTA” means the Federal Transit Administration of USDOT.
- ~~15. “Forecast period” with respect to a transportation plan means the period covered by the transportation plan pursuant to 23 CFR 450.~~
16. “Highway project” means 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 shall 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.

- c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

~~17. “Horizon year” means a year for which the transportation plan describes the envisioned transportation system in accordance with R18-2-1406.~~

~~18~~ 17. “Hot-spot analysis” means an estimation of likely future localized carbon monoxide (CO), and PM₁₀, or PM_{2.5} 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 shall 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.

18. “Implementing organization” means any organization responsible for implementing the provisions of a SIP.

~~19. “Incomplete data area” means any ozone nonattainment area which EPA has classified, in 40 CFR 81, as an incomplete data area.~~

~~20. “Increase the frequency or severity of a violation” 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 or would otherwise exist during the future period in question, if the project were not implemented.~~

~~21. “ISTEA” means the Intermodal Surface Transportation Efficiency Act of 1991.~~

19. Isolated rural nonattainment and maintenance areas are areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas do not have Federally required metropolitan transportation plans or TIPs and do not have projects that are part of the emissions analysis of any MPO's metropolitan transportation plan or TIP. Projects in such areas are instead included in statewide transportation improvement programs. These areas are not donut areas.

~~22~~ 20. “Local transportation agency” means a city, town, or county.

~~23~~ 21. “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.

~~24~~ 22. “Maintenance plan” means an implementation plan under section 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.~~

~~25~~ 23. “Metropolitan planning organization (MPO)” means ~~the 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~~ the policy board of an organization created as a result of the designation process in 23 U.S.C. § 134(d).

~~26~~ 24. “Milestone” ~~means an emissions level and the date on which it is required to be achieved as described in § has the meaning given in CAA §§ 182(g)(1) and § 189(c) of the CAA for serious and above ozone nonattainment areas and PM10 nonattainment areas, respectively. For all other nonattainment areas, a milestone consists of an emission level and the date on which that level is to be achieved as required by the applicable CAA provision for reasonable further progress towards attainment.~~

~~27~~ 25. “Motor vehicle emissions budget” means that portion of the total allowable emissions defined in the submitted or approved control strategy ~~a revision to the applicable implementation plan~~ revision or maintenance plan (or in an implementation plan revision which was endorsed by the Governor or Director of ADEQ, 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 demonstrating attainment or maintenance demonstrations of the National Ambient Air Quality Standards; for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles use and emissions. ~~The applicable implementation plan for an ozone nonattainment area may also designate a motor vehicle emissions budget for oxides of nitrogen (NOx) for a reasonable further progress milestone year if the applicable implementation plan demonstrates that this NOx 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 area includes a NOx budget if NOx reductions are being substituted for reductions in volatile organic compounds in milestone years required for reasonable further progress.~~

~~28~~ 26. “National ambient air quality standards (NAAQS)” means those standards established pursuant to § 109 of the CAA.

~~29~~ 27. “NEPA” means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

~~30~~ 28. “NEPA process completion” with respect to FHWA or FTA, means the point at which there is a specific action to do any of the following:

- a. Make a formal final determination that a project is categorically excluded.
- b. Make a Finding of No Significant Impact.
- c. Issue a record of decision on a Final Environmental Impact Statement under NEPA.

~~31~~ 29. “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.

~~32.~~ “Not classified area” ~~means any carbon monoxide nonattainment area which EPA has not classified as either moderate or serious.~~

~~33. “Phase II of the interim period” with respect to a pollutant or pollutant precursor means that period of time after December 27, 1993, lasting until the earlier of the following:~~

- ~~1. Submission to EPA of the relevant control strategy implementation plan revisions which have been endorsed by the Governor or the Director of ADEQ and have been subject to a public hearing.~~
- ~~2. The date that the CAA 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 USDOT have received notice of such finding of the state’s failure to submit any such plans.~~

~~34~~ 30. “Project” means a highway project or transit project.

~~35~~ 31. “Recipient of funds designated under 23 U.S.C. or the Federal Transit Act” means any agency at any level of state, county, or city government, including any political subdivision or MPO, that routinely receives 23 U.S.C. or Federal Transit Act funds to construct FHWA or FTA projects, operate FHWA or 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.

~~36~~ 32. “Regional transportation agency” means a regional transit authority established pursuant to A.R.S. Title 28, Chapter 20 or Chapter 24, or a formal association of political subdivisions involved in regional transportation issues.

~~37~~ 33. “Regionally significant transportation 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 and all fixed guideway transit facilities that offer an alternative to regional highway travel.

~~38. “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 CAA § 182(h) as a rural transport area.~~

~~39~~ 34. “Standard” means a national ambient air quality standard.

~~40~~ 35. “Statewide transportation improvement program (STIP)” means a staged, multi-year, intermodal program of transportation projects covering the state, which is consistent with the statewide transportation plan and metropolitan transportation plans, and developed pursuant to 23 CFR 450.

~~41~~ 36. “Statewide transportation plan” means the official intermodal statewide transportation plan that is developed through the statewide planning process for the state, developed pursuant to 23 CFR 450.

~~42~~ 37. “Submarginal area” means any ozone nonattainment area which EPA has classified as submarginal in ~~40 CFR 81.~~

~~43~~ 38. “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.

~~44~~ 39. “Transit project” means an undertaking to implement or modify a transit facility or transit-related 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 shall 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.
- c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

~~45.~~ “Transitional area” means any ozone nonattainment area which EPA has classified as transitional in ~~40 CFR 81.~~

~~46.~~ “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 Director of ADEQ 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 R18-2-1428.

~~47~~ 40. “Transportation control measure (TCM)” means any measure that is specifically identified and committed to in the applicable implementation plan including a substitute or additional TCM that is incorporated into the applicable SIP through the process established in CAA section 176(c)(8) 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 rule.

~~48~~ 41. “Transportation improvement program (TIP)” means a transportation improvement program developed by a metropolitan planning organization under 23 U.S.C. § 134(j) ~~staged, multi-year, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan and developed pursuant to 23 CFR 450.~~

~~49~~ 42. "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 450.

~~50~~ 43. "Transportation project" means a highway project or a transit project.

~~51~~ 44. "USDOT" means the United States Department of Transportation.

~~52~~ 45. ~~"VMT" means the number of vehicle miles traveled.~~ "Written commitment" means a commitment in writing that includes: a description of the action to be taken; a schedule for the completion of the action; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgement that the commitment is an enforceable obligation under the applicable implementation plan.

R18-2-1402. Purpose and Applicability

A. The purpose of this Section is to fulfill the requirement in 40 CFR § 51.390(b) to establish a SIP revision that includes the following provisions of the federal transportation conformity rules: 40 CFR § 93.105, 40 CFR § 93.122(a)(4)(ii), and 40 CFR § 93.125(c). Once this Section is approved by EPA into the Arizona SIP, it has full legal effect. Conformity determinations will be governed by these criteria and procedures as well as any applicable portions of the federal conformity rules that are not addressed by this Section.

~~BA.~~ Except as provided for in 40 CFR §§ 93.102(c) or 93.126 subsection (F) or R18-2-1434, conformity determinations are required for all of the following:

1. The adoption, acceptance, approval, or support of transportation plans and TIPs and associated transportation plan and TIP amendments, developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO, USDOT, or ~~AUSDOT~~.
- ~~2. The adoption, acceptance, approval, or support of TIPs developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO or USDOT.~~
- ~~23.~~ The approval, funding, or implementation of FHWA or FTA projects.

~~CB.~~ Conformity determinations are not required under this Article for individual projects which are not FHWA or FTA projects. However, R18-2-142940 CFR § 93.121 applies to such projects if they are regionally significant.

~~DE.~~ The provisions of this Article shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.

~~ED.~~ The provisions of this Article apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, ~~and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀ and PM_{2.5}).~~

~~EE.~~ The provisions of this Article apply with respect to emissions of the following precursor pollutants:

1. Volatile organic compounds and nitrogen oxides in ozone areas (~~unless the Administrator determines under § 182(f) of the CAA that additional reductions of NO_x would not contribute to attainment~~).
2. Nitrogen oxides in nitrogen dioxide areas.

3. Volatile organic compounds and/or nitrogen oxides in PM10 areas if, nitrogen oxides, and PM10 in PM10 areas if either of the following apply:
- a. The EPA Regional Administrator or ADEQ Director has made a finding that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM10 nonattainment problem and has so notified the MPO where one exists, ADOT, and USDOT, or
During the interim period, the EPA Regional Administrator or the Director of ADEQ has made a finding (including a finding in an applicable implementation plan or a submitted implementation plan revision) that transportation-related precursor emissions within the nonattainment area are a significant contributor to the PM10 nonattainment problem and has so notified ADOT or the MPO where one exists and USDOT.
 - b. the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy
During the transitional, control strategy, and maintenance periods, the applicable implementation plan or implementation plan submission establishes a budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy.

4. Nitrogen oxides in PM2.5 areas, unless:

- a. Both the EPA Regional Administrator and ADEQ Director have made a finding that transportation-related emissions of nitrogen oxides within the PM2.5 nonattainment area are not a significant contributor to the PM2.5 nonattainment problem and have so notified the MPO where one exists, ADOT, and USDOT, or
- b. the applicable implementation plan (or implementation plan submission) does not establish an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy.

5. Volatile organic compounds, sulfur dioxide, and/or ammonia in PM2.5 areas if:

- a. The EPA Regional Administrator or ADEQ Director has made a finding that transportation-related emissions of any of these precursors within the PM2.5 nonattainment area are a significant contributor to the PM2.5 nonattainment problem and has so notified the MPO where one exists, ADOT, and USDOT, or
- b. the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

GF. The provisions of this Article apply to PM2.5 nonattainment and maintenance areas with respect to PM2.5 from re-entrained road dust if the EPA Regional Administrator or ADEQ Director has made a finding that re-entrained road dust emissions within the area are a significant contributor to the PM2.5 nonattainment problem and has so notified the MPO where one exists, ADOT, and USDOT, or if the applicable implementation plan (or implementation plan submission) includes re-entrained road dust in the approved (or

~~adequate) budget as part of the reasonable further progress, attainment or maintenance strategy. Re-entrained road dust emissions are produced by travel on paved and unpaved roads (including emissions from anti-skid and deicing materials) Projects subject to this Article for which the NEPA process and a conformity determination have been completed by FHWA or FTA may proceed toward implementation without further conformity determinations if one of the following major steps has occurred within the most recent three-year period: NEPA process completion; formal start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications, and estimates. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding, final design, right-of-way acquisition, construction, or any combination of these phases.~~

~~HG. The provisions of this Article apply to maintenance areas through the last year of a maintenance area's approved CAA section 175A(b) maintenance plan, unless the applicable implementation plan specifies that the provisions of this Article shall apply for more than 20 years. A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if no major steps to advance the project have occurred within the most recent three-year period.~~

R18-2-1403. Priority Commitments for Regional Emissions Analysis

~~The MPO, or ADOT where no MPO is designated, will not include emissions reduction credits from control measures that are not included in the transportation plan or TIP and that do not require a regulatory action in order to be implemented in the regional emissions analysis used in the conformity determination unless the MPO, ADOT where no MPO is designated, FHWA, or FTA, obtain written commitments as defined in R18-2-1401, from the appropriate entities to implement such control measures. The appropriate entities must provide such written commitments to the MPO, ADOT where no MPO is designated, FHWA, or FTA, before a conformity determination can be made and must fulfill such written commitments.~~

~~When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.~~

R18-2-1404. Frequency of Conformity Determinations Commitments for Transportation Project-Level Related Mitigation and Control Measures

A. ~~The project sponsor or operator must provide the MPO, or ADOT where no MPO is designated, the FHWA or FTA, written commitments, as defined in R18-2-1401, to implement any project-level mitigation or control measures, which are identified as conditions for NEPA process completion for local carbon monoxide, PM₁₀, or PM_{2.5} impacts, in the construction or operation of the project. The project sponsor or operator must fulfill such written commitments to implement those project-level mitigation or control measures. Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA or FTA projects shall be made according to the requirements of this Section and the applicable implementation plan.~~

- ~~B. Prior to making a conformity determination, the designated MPO, or ADOT where no MPO is designated, or FHWA or FTA must also obtain written commitments for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP, and are included in the project design concept and scope which is used in the regional emissions analysis. Each new transportation plan shall be found to conform before the transportation plan is approved by the MPO or accepted by USDOT.~~
- ~~C. Written commitments must be obtained before such mitigation or control measures are used in a project-level hot-spot conformity analysis for a project-level determination. All transportation plan revisions shall be found to conform before the transportation plan revisions are approved by the MPO or accepted by USDOT, unless the revision merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification provisions contained in R18-2-1405. The conformity determination shall be based on the transportation plan and the revision taken as a whole.~~
- ~~D. An existing conformity determination shall lapse unless conformity of existing transportation plans is redetermined:~~
- ~~1. By May 25, 1995, unless previously redetermined consistent with 40 CFR 51, subpart T.~~
 - ~~2. Within 18 months after EPA approval of an implementation plan revision which either:

 - ~~a. Establishes or revises a transportation-related emissions budget (as required by CAA §§ 175A(a), 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); or~~
 - ~~b. Adds, deletes, or changes TCMS.~~~~
 - ~~3. Within 18 months after EPA promulgation of an implementation plan which establishes or revises a transportation-related emissions budget or adds, deletes, or changes TCMS.~~
- ~~E. In any case, conformity determinations shall be made no less frequently than every three years, or the existing conformity determination will lapse.~~
- ~~F. A new TIP shall be found to conform before the TIP is approved by the MPO or accepted by USDOT.~~
- ~~G. A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by USDOT, unless the amendment merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification procedures under R18-2-1405.~~
- ~~H. After an MPO adopts a new or revised transportation plan, TIP conformity shall be redetermined by the MPO and USDOT within six months from the date of adoption of the plan, unless the new or revised plan merely adds or deletes exempt projects listed in R18-2-1434. Otherwise, the existing conformity determination for the TIP shall lapse.~~
- ~~I. In any case, TIP conformity determinations shall be made no less frequently than every three years or the existing TIP conformity determination shall lapse.~~
- ~~J. FHWA or FTA projects shall be found to conform before they are adopted, accepted, approved, or funded. Conformity shall be redetermined for any FHWA or FTA project if none of the following major steps has occurred within the most recent three-year period:~~

1. ~~NEPA process completion,~~
2. ~~Start of final design,~~
3. ~~Acquisition of a significant portion of the right-of-way,~~
4. ~~Approval of the plans, specifications, and estimates.~~

R18-2-1405. Consultation Procedures

A. Purpose. This section includes procedures for transportation conformity-related interagency consultation (Federal, State, and local), public consultation, and resolution of conflicts. Notwithstanding this section, each entity listed in subsection (B) below shall follow federal and state law regarding the execution of conformity determinations, and associated public process applicable to each entity's respective responsibilities.

B. Consultation Groups.

1. Group 1 consists of the following:

- a. The MPO.
- b. Local transportation agencies and regional transportation agencies.
- c. Air Quality Control Agencies, where present.
- d. ADEQ.
- e. ADOT.
- f. USDOT, including FHWA and FTA.
- g. EPA, and
- h. Any other organization responsible for implementing provisions of a SIP.

2. Group 2 consists of the following:

- a. The MPO
- b. Local transportation agencies and regional transportation agencies.
- c. Air Quality Control Agencies where present.
- d. ADEQ.
- e. ADOT.
- f. USDOT, and
- g. EPA.

3. Group 3 consists of the following:

- a. The MPO
- b. Local transportation agencies, regional transportation agencies, and COGs
- c. Air Quality Control Agencies, where present.
- d. ADEQ.

e. ADOT.

f. USDOT, and

g. EPA.

C. Responsibilities and Consultation Procedures.

1. Notification: Each lead agency in an interagency consultation process must confer with all other agencies identified in subsection (B) as applicable and must give reasonable notice to such other agencies before making conformity determinations.
2. Lead agency designations and projects requiring consultation: For all projects within the jurisdiction of an MPO, such MPO shall be the lead agency in all consultation procedures. For producing and tracking TCMs within an area that has no MPO, ADEQ shall be the lead agency and fulfill all responsibilities associated with the consultation process. Each agency is responsible for participating in the consultation process associated with the transportation conformity project or document being produced or amended (the regional transportation plan, TIP, SIP, and conformity determinations). All transportation conformity projects, the appropriate lead agencies, the required consultation procedures, and all affiliated specific roles and responsibilities are listed in subsections (C)(4) and (C)(5).
3. General roles and responsibilities for each agency are below, through section (C)(3).
 - a. ADEQ is responsible for the following:
 - i. Ambient air monitoring and reporting.
 - ii. SIP development and submittal, including for those areas with no certified MPO.
 - iii. Pollutant forecasting.
 - iv. Compliance and enforcement.
 - v. Vehicle permitting and inspection programs.
 - vi. Developing air quality rules and plans.
 - vii. Developing and monitoring TCMs and Motor Vehicle Emission Budgets, including for those areas with no certified MPO, in coordination with ADOT.
 - viii. Producing and tracking TCMs in areas without a certified MPO.
 - b. ADOT is responsible for the following:
 - i. Developing the State Transportation Improvement Plan.
 - ii. Preparing and approving appropriate environmental documents.
 - iii. Developing Statewide Long Range Transportation Improvement Plans.
 - iv. Statewide travel demand modeling and forecasting, and producing and analyzing traffic data for projection development.
 - v. Coordinating regional and transit emissions analysis where no MPO exists.
 - vi. Developing the transportation portion of the SIP for those areas with no certified MPO.

- c. Certified MPOs are responsible for the following:
 - i. Developing the Regional Transportation Plan.
 - ii. Developing the Transportation Improvement Program.
 - iii. SIP development and submittal.
 - iv. Transportation studies and reports.
 - v. GIS mapping and data development and analysis.
 - vi. Regional air quality analysis and modeling.
 - vii. Producing and tracking TCMs.
 - d. MPOs, when not certified pursuant to A.R.S. § 49-406, are responsible for the following:
 - i. Developing the Regional Transportation Plan.
 - ii. Developing the Transportation Improvement Program.
 - iii. Transportation studies and reports.
 - iv. GIS mapping and data development and analysis.
4. Specific roles and responsibilities for the lead agencies as well as the necessary activities associated with those projects are detailed below. The lead agency of such projects shall follow the interagency consultation processes listed in subsection (C)(4)(b).
- a. Agency Responsibilities
 - i. SIPs. For areas with a certified MPO such certified MPO shall be the lead agency and shall ensure adequacy of consultation for development of SIP revisions, including the responsibilities and affiliated consultation groups listed below
 - 1. Motor Vehicle Emission Budget.
 - a. Lead agency shall ensure adequacy of consultation by including Group 1 listed in subsection (B)(1) in its consultation procedure.
 - 2. List of TCMs
 - a. The MPO, to ensure adequacy of consultation, will include Group 1 listed in subsection (B)(1) in its consultation procedures.
 - ii. SIPs. For areas with no certified MPO, ADEQ shall be the lead agency and shall ensure adequacy of consultation for development of SIP revisions, including the responsibilities and affiliated consultation groups listed below, and in subsection (C)(3).
 - 1. Motor Vehicle Emission Budget.
 - a. Lead agency will ensure adequacy of consultation by including Group 1 listed in subsection (B)(1) in its consultation procedure.

2. List of TCMs
 - a. ADEO, to ensure adequacy of consultation, will include Group 1 listed in subsection (B)(1) in its consultation procedures.
- iii. Regional Transportation Plans and Transportation Improvement Programs. For areas with an MPO, the MPO shall be the lead agency, and shall ensure adequacy of consultation for Regional Transportation Plans and Transportation Improvement Programs, including the responsibilities below and in subsection (C)(3). For areas with no MPO, ADOT shall be the lead agency and take up all responsibilities associated with the consultation process excluding the production of and tracking of TCM's which will be the responsibility of ADEO in an area where no MPO is designated. ADOT shall ensure adequacy of consultation for Regional Transportation Plans and Non-Statewide Transportation Improvement Programs, including the responsibilities below.
 1. Regional emissions analysis. For determining which minor arterials and other transportation projects should be considered "regionally significant" for the purpose of a regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 2. For evaluating whether projects otherwise exempted from conformity determinations should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 3. For determining whether past obstacles to implementation of TCMs that are behind the schedule and are established in the applicable implementation plan have been identified and are being overcome; determining whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority for approval or funding for TCMs; and determining whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs and other

- emission reduction measures, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
4. For amending a transportation plan or transportation improvement program to merely add or delete exempt projects listed in 40 CFR § 93.126 or 40 CFR § 93.127, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 5. For evaluating events that trigger new conformity determinations in addition to those SIP-related events in 40 CFR § 93.104, the lead agency shall ensure adequacy of consultation by including Group 3 in subsection (B)(3).
 6. For analyzing emissions for transportation activities which cross the borders of MPOs, nonattainment areas, or air basins, the lead agency shall ensure adequacy of consultation by including Group 3 in subsection (B)(3).
 7. For ensuring that plans for construction of regionally significant projects which are not FHWA or FTA projects (including projects for which alternative locations, design concepts and scope, or the no build option are still being considered), including all those by recipients of funds designated under Title 23 of the U.S.C. or the Federal Transit Act are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are also immediately disclosed to the MPO, the lead agency shall ensure adequacy of consultation by including Group 3 in subsection (B)(3).
 8. For designing, scheduling, and funding research and data collection efforts and regional transportation model development, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 9. For assuming the location and design concept and scope of projects whose sponsor have not yet decided these features in sufficient detail to perform the regional emissions analysis according to requirements established by 40 CFR § 93.122.
- b. For those responsibilities in subsection (C)(4)(a), the lead agency shall follow the consultation procedures below:
- i. Prepare a consultation meeting schedule or a process for providing adequate notice of subsequent meetings. Consultation meetings may take place in person, or

- through telephonic or electronic means. The schedule of meetings shall be frequent enough to address all significant issues in a timely fashion.
- ii. The lead agency shall establish an agenda for each meeting and shall include in such agenda any issue or item upon request of any member of the required consultation group.
 - iii. The lead agency shall begin the consultation process early enough for the required consultation group to adequately review and provide meaningful input on draft transportation plans, TIPs, and conformity determinations, including supporting documents.
 - iv. Provide either a hard copy or a digital copy of draft documents to all members of consultation group including the decision process and schedule.
 - v. Respond to requests for information related to the draft documents. All responses shall be delivered electronically.
 - vi. Ensure consultation on any changes to the draft documents prior to a decision.
 - vii. Respond to the views expressed in relevant comments received during the consultation process in writing within fourteen calendar days of receipt prior to taking any final action, and make known that only substantive comments considered appropriate and relevant will be considered when taking final action. All responses shall be delivered electronically.
 - viii. Provide notification when final documents and supporting information are available and distribute such final documentation to consulting agencies within 7 working days of the completion of documents.
5. Specific roles and responsibilities for ADOT working on transportation conformity projects, as well as the necessary activities associated with those projects, are detailed below. ADOT shall follow the interagency consultation procedures listed in subsection (C)(5)(b). Long Range Statewide Transportation Plans and Statewide Transportation Improvement Programs shall utilize ADOT as the lead agency, including in donut areas, and shall ensure adequacy of consultation, including the responsibilities listed below and in subsection (C)(3).
- a. Agency Responsibilities.
 - i. Hot spot analysis. For evaluating and choosing a model or models and associated methods and assumptions to be used in hot-spot analysis and regional emissions analyses, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 - ii. For determining which minor arterials and other transportation projects should be considered “regionally significant” for the purpose of a regional emissions analysis (in addition to those functional alternatives to regional highway travel), and which

- projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
- iii. For evaluating whether projects otherwise exempted from conformity determinations should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 - iv. For determining whether past obstacles to implementation of TCMs that are behind the schedule and are established in the applicable implementation plan have been identified and are being overcome; determining whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority for approval or funding for TCMs; and determining whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs and other emission reduction measures, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 - v. For amending a transportation plan or transportation improvement program to merely add or delete exempt projects listed in 40 CFR § 93.126 or 40 CFR § 93.127, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 - vi. For choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas, as required by 40 CFR § 93.109(g)(2)(iii), the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
 - vii. For evaluating events that trigger new conformity determinations in addition to those SIP-related events in 40 CFR § 93.104, the lead agency shall ensure adequacy of consultation by including Group 3 in subsection (B)(3).
 - 1. For analyzing emissions for transportation activities which cross the borders of MPOs, nonattainment areas, or air basins, the lead agency shall ensure adequacy of consultation by including Group 3 in subsection (B)(3).
 - viii. For ensuring that plans for construction of regionally significant projects which are not FHWA or FTA projects (including projects for which alternative locations, design concepts and scope, or the no build option are still being considered), including all those by recipients of funds designated under Title 23 of the U.S.C. or the Federal Transit Act are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are also immediately disclosed to the MPO, the lead agency shall ensure adequacy of consultation by including Group 3 in subsection (B)(3).

- ix. For designing, scheduling, and funding research and data collection efforts and regional transportation model development, the lead agency shall ensure adequacy of consultation by including Group 2 in subsection (B)(2).
- b. For those responsibilities in subsection (C)(5)(a), the lead agency shall follow the below consultation procedures:
 - i. Prepare a consultation meeting schedule or a process for providing adequate notice of subsequent meetings. The schedule of meetings shall be frequent enough to address all significant issues in a timely fashion. The lead agency shall establish an agenda for each meeting and shall include in such agenda any issue or item upon request of any member of the consultation group.
 - ii. The lead agency shall begin the consultation process early enough for the required consultation group to adequately review and provide meaningful input on draft transportation plans, TIPs, and conformity determinations, including supporting documents.
 - iii. Provide a digital copy of all documentation related to the development of the project, to all members of consultation group including the decision process and schedule.
 - iv. Respond to requests for information related to consultation. All responses shall be delivered electronically via email.
 - v. Schedule consultation meetings as needed or as requested and establish agendas for such meetings as needed.
 - vi. Ensure notification of project developments, and amendments of any significance at any point during the development phase. To ensure transparency, lead agencies shall notify via email within 3 working days of the development or amendment all agencies involved of such changes.
 - vii. Request input throughout the development phase from consultation group allowing informal question and answers on draft documents or proposed decision.
 - viii. The lead agency shall respond substantively to the views expressed in each comment received during the consultation process in writing within 7 calendar days of receipt prior to taking any final action, and shall make known that all comments received shall be considered when taking final action. All responses shall be delivered electronically.
 - ix. Provide notification when final documents and supporting information are available and distribute such final documentation within 7 working days to consulting agencies.
 - x. Upon request from any of the assigned consultation agencies, except federal entities, provide for formal question and answer sessions within 3 working days of request.

not to the head or staff of ADEQ, a local air quality agency, ADOT, transportation commission or board, or an MPO.

~~A.—Consultation procedures as described in this Section shall be undertaken by all of the following entities and shall include the public and affected local and regional transportation agencies in preparing for and making conformity determinations and in developing applicable implementation plans:~~

- ~~1.—An MPO where one exists.~~
- ~~2.—The Arizona Department of Transportation (ADOT).~~
- ~~3.—The United States Department of Transportation (USDOT).~~
- ~~4.—The Arizona Department of Environmental Quality (ADEQ).~~
- ~~5.—The county air pollution control agency established pursuant to A.R.S. Title 49 where one exists.~~
- ~~6.—The United States Environmental Protection Agency (EPA).~~

~~B.—The following elements shall be used to implement the consultation processes under subsection (M), with the exception of subsection (M)(8), and under subsection (N), with the exception of subsections (N)(2) and (N)(3), and shall include all affected agencies and interested members of the public, and may be conducted at separate times or in combination:~~

- ~~1.—Providing to the affected agencies and interested members of the public information describing the upcoming decision process;~~
- ~~2.—Distributing or providing access to draft documents;~~
- ~~3.—Providing an opportunity for informal question and answer on the draft document or proposed decision;~~
- ~~4.—Providing an opportunity for formal written comment;~~
- ~~5.—Writing and distributing both a response to comments and the final document or decision.~~

~~C.—An MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, and any local transportation agency shall undertake a consultation process in accordance with this Section with each other, with the local or regional offices of EPA, FHWA and FTA, with affected regional transportation agencies, and with the public on the development of the following as described in subsections (D) through (G):~~

- ~~1.—The implementation plan, including the emission budget and list of TCMs in the applicable implementation plan;~~
- ~~2.—The unified planning work program under 23 CFR § 450.314;~~
- ~~3.—The transportation plan and TIP;~~
- ~~4.—The statewide transportation plan and STIP;~~
- ~~5.—Any revisions to the preceding documents;~~
- ~~6.—All transportation conformity determinations.~~

~~D.—ADEQ, or the MPO in a county having a population greater than 250,000 persons, shall be the lead agency responsible for preparing an implementation plan, the associated emission budgets, and the list of TCMs in the plan. The lead agency shall also be responsible for assuring the adequacy of the consultation process. The~~

~~concurrence of ADEQ on each implementation plan is required before ADEQ adopts the plan and transmits it to EPA for inclusion in the state implementation plan pursuant to A.R.S. § 49-406.~~

~~E.—ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the transportation plan and the TIP. The MPO shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the unified planning work program under 23 CFR 450.314.~~

~~F.—ADOT shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the statewide transportation plan and the STIP.~~

~~G.—ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to determinations of transportation conformity, except that the entity authorized to adopt or approve a project shall be the lead agency responsible for project-level conformity determinations for projects outside of the transportation plan or TIP and shall assure the adequacy of the consultation process.~~

~~H.—Each lead agency described in subsections (D) through (G) shall:~~

- ~~1.—Confer with all other agencies having an interest in the document or decision to be developed;~~
- ~~2.—Provide access to all information needed for meaningful input;~~
- ~~3.—Solicit early and continuing input from those agencies;~~
- ~~4.—Conduct the public consultation process described in subsection (P);~~
- ~~5.—Assure policy-level contact with agencies;~~
- ~~6.—With the exception of notifications pursuant to subsection (M)(8), prior to taking any action required pursuant to subsections (D) through (G), consider the views of each agency and the public and respond to significant comments in a timely, substantive written manner prior to taking any final action and assure that such views and written response are made part of the record of any action.~~

~~I.—FHWA and FTA shall be responsible for assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings, after consulting with other agencies as provided in this Section. FHWA and FTA shall also be responsible for providing guidance on conformity and the transportation planning process to agencies in consultation. FHWA and FTA may rely on the consultation process initiated by ADOT or the MPO where one exists and shall not be required to duplicate that process.~~

~~J.—EPA shall be responsible for reviewing and approving updated motor vehicle emissions factors and providing guidance on conformity criteria and procedures to agencies in consultation.~~

~~K.—Each lead agency subject to a consultation process under this Section, including any federal agency, shall provide or notice the availability of each final document that is the product of the consultation process, together with all supporting information, to each other agency and members of the public that have participated in the~~

consultation process within 15 days of adopting or approving the document or making the determination. An agency may supply a checklist of available supporting information, which other participating agencies or the public may use to request all or part of the supporting information, in lieu of generally distributing all supporting information.

~~L.—A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the conformity consultation purpose is identified in the public notice for the meeting.~~

~~M.—A consultation process involving an MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public shall be undertaken for the following:~~

~~1.—Evaluating and choosing each model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles traveled (VMT) forecasting. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~

~~2.—Determining whether the responsible agency identified in R18-2-1433 has demonstrated that the requirements of R18-2-1416, R18-2-1418 and R18-2-1419 are satisfied without a particular mitigation or control measure. The consultation process pursuant to this subsection shall be initiated by the responsible agency.~~

~~3.—Making a determination, as required by R18-2-1429(C)(2), whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not included in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for making a determination, as required by R18-2-1429(C)(2), whether a project that is outside of a TIP is included in the regional emissions analysis, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.~~

~~4.—Determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered “regionally significant” for the purposes of regional emissions analysis and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered “regionally significant” for the purposes of regional emissions analysis.~~

- ~~5. Evaluating whether exempt projects as described in R18-2-1434 and R18-2-1435 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~
 - ~~6. Making a determination, as required by R18-2-1413, whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or to substitute TCMs or other emission reduction measures. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~
 - ~~7. Identifying, as required by R18-2-1431, projects located at sites in PM10 nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM10 hot-spot analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~
 - ~~8. Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in R18-2-1434. Notice shall be provided by the MPO and need not be provided prior to final action. Notice shall be provided by ADOT for revisions and amendments affecting the state transportation plan and the state TIP. The public involvement process described in subsection (P) is not required for the purposes of this subsection.~~
 - ~~9. Project-level conformity determinations pursuant to R18-2-1416. The consultation process pursuant to this subsection shall be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act.~~
- ~~N. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, appropriate political subdivisions, regional transportation agencies, if any, and the public shall be undertaken for the following:~~
- ~~1. Evaluating events which will trigger new conformity determinations in addition to those triggering events established in R18-2-1404 and including any changes in planning assumptions that may trigger a new conformity determination. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~
 - ~~2. Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas or air basins. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists. The public involvement process described in subsection (P) is not required for the purposes of this subsection.~~
 - ~~3. Where the metropolitan planning area does not include the entire nonattainment or maintenance area, a consultation process involving the MPO and ADOT for cooperative planning and analysis for purposes of~~

determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area. The consultation process pursuant to this subsection shall be initiated by ADOT. The public involvement process described in subsection (P) is not required for the purposes of this subsection.

4. ~~The design, schedule, and funding of research and data collection efforts and regional transportation model development. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~

5. ~~Determining that a conforming project approved with mitigation no longer requires mitigation. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~

Ø. ~~The following consultation processes involve recipients of funds designated under 23 U.S.C. or the Federal Transit Act:~~

1. ~~A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act and any agency created under state law that sponsors or approves transportation projects shall be undertaken to assure that plans for construction of regionally significant projects which are not FHWA or FTA projects, including projects for which alternative locations, design concept or scope, or the no-build option are still being considered, are disclosed as soon as practicable to ADOT or the MPO where one exists, so as to assure that any significant changes to the design concept or scope of those plans are disclosed as soon as practicable. The political subdivision having authority to adopt or approve a regionally significant transportation project, and any agency that becomes aware of any such project through applications for approval, permitting, funding, or otherwise shall disclose such project to ADOT or the MPO if one exists as soon as practicable. To help assure timely disclosure, the political subdivision having authority to adopt or approve any potential regionally significant transportation project shall disclose to ADOT or the MPO on a schedule prescribed by ADOT or the MPO, whichever is appropriate, each project for which alternatives have been identified through the NEPA process and, in particular, any preferred alternative that may be a regionally significant project. The consultation process shall include assuming the location, design concept, and scope of the project, where the sponsor has not yet decided these features, in sufficient detail to allow ADOT or the MPO to perform a regional emissions analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~

2. ~~A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act, any agency created under state law that sponsors or approves transportation projects, and the public shall be undertaken for the development of procedures as described in R18-2-1429. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.~~

P. ~~Public involvement processes shall be conducted according to the requirements of this subsection.~~

1. ~~ADOT or the MPO, where one exists, when making conformity determinations on transportation plans, programs, and projects shall establish and continuously implement 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, that meets the following minimum requirements:
- a.—Includes a process that provides complete information, timely public notice, full public access to key decisions and supports early and continuing involvement of the public in developing plans and TIPs.
 - b.—Requires a minimum public comment period of 45 days before the public involvement process is initially adopted or revised.
 - c.—Provides timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs, and projects, including but not limited to central city and other local jurisdiction concerns.
 - d.—Provides reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the federal-aid highway and transit programs are being considered.
 - e.—Requires adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans and TIPs and approval of changes in plans and TIPs. In nonattainment areas classified as serious and above, the comment period shall be at least 30 days for the plan, TIP, and major amendments. Public notice shall include mailing of notice to a list of all persons who have requested notice of actions covered by this Article.
 - f.—Demonstrates explicit consideration and response to public input received during the planning and program development processes.
 - g.—Seeks out and considers the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households.
 - h.—When significant written and oral comments are received on a draft transportation plan or TIP, including the financial plan, as a result of the public involvement process or the consultation process required by this Section, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP.
 - i.—If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and it raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available.
 - j.—ADOT or the MPO where one exists shall specifically address in writing all public comments that known plans for a regionally significant transportation 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.
 - k.—Public involvement processes shall be periodically reviewed by ADOT or the MPO in terms of their effectiveness in assuring that the process provides full and open access to all.

- l.—These procedures will be reviewed by the FHWA and the FTA during certification reviews for TMAs, and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes.
 - m.—Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and to reduce redundancies and costs.
- 2.—Local and regional transportation agencies when making conformity determinations on regionally significant transportation projects shall establish and implement a public involvement process which meets, at a minimum, the following requirements:
- a.—Provides to the affected agencies and interested members of the public information describing the upcoming decision process.
 - b.—Distributes or provides access to draft documents and all information needed for meaningful input.
 - e.—Solicits early and continuing input from interested agencies and the public.
 - d.—Provides an opportunity for informal question and answer on the draft document or proposed decision.
 - e.—Provides an opportunity for formal written comment.
 - f.—Provides for writing and distributing both a response to comments and the final document or decision. The response to comments shall consider the views of each agency and the public. The response to comments shall be made in a timely, substantive written manner prior to taking any final action and shall be made part of the record of any action.
- Q.—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 directors of the involved agencies. In the first instance, such entities shall make every effort to resolve any differences, including personal meetings between the directors of such entities or their policy-level representatives, to the extent possible. Within 14 calendar days after ADOT or the MPO has notified ADEQ of its decision, ADEQ may appeal a proposed determination of conformity, or other policy decision under this Article, to the Governor. ADEQ must provide notice of any appeal under this subsection to ADOT or the MPO. If ADEQ does not appeal to the Governor within 14 days, ADOT or the MPO may proceed with the final determination or decision. If ADEQ appeals to the Governor, the final conformity determination or policy decision shall have the concurrence of the Governor. The Governor may delegate to another official or agency within the state the role of hearing any appeal under this subsection and of deciding whether to concur in the determination or decision but may not delegate these functions to the director or staff of ADEQ, to any local air quality agency, to ADOT, to any state transportation commission or board, to an MPO, or to any agency that has responsibility for any of these functions.
- R.—The following procedures shall govern the consultation process regarding regionally significant transportation projects as defined in R18-2-1401(37):
- 1.—By September 1, 1995, ADOT or the MPO where one exists shall develop and make available, for each nonattainment or maintenance area, consistent with A.R.S. § 49-408(A), the following:

- a.—~~A map of the highway or transit facilities in the nonattainment or maintenance area that serve regional transportation needs.~~
 - b.—~~Guidance on which undertakings to implement or modify a highway facility are not transportation projects as defined in this Article, because they are not of sufficient length to address environmental matters on a broad scope.~~
 - e.—~~Guidance on which types of transportation projects are normally included in the regional transportation model.~~
- 2.—~~The map and guidance described in subsection (R)(1) shall be produced only after consultation with ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, and the public. The map developed pursuant to subsection (R)(1) shall be updated prior to the commencement of the next TIP or STIP development cycle, unless no changes have occurred. The guidance developed pursuant to subsection (R)(3) shall be revised as necessary to reflect changes in the regional transportation model.~~
- 3.—~~ADOT or the MPO where one exists shall develop and initiate the consultation process described in subsection (H) for a proposed list of transportation projects to be considered regionally significant. The consultation process shall include the MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public. The list shall include information supporting the proposed classification.~~
- 4.—~~In determining whether a facility serves regional transportation needs, ADOT or the MPO where one exists shall consider at a minimum whether the facility:~~
- a.—~~Would be classified as a principal arterial based on average daily traffic or other factors, if not for limitations that the USDOT places on the percentage of streets that can be so classified.~~
 - b.—~~For all other roadways, whether the facility:~~
 - i.—~~Serves regional mobility needs, as opposed to local access.~~
 - ii.—~~Carries regional traffic from one principal arterial to another.~~
 - iii.—~~Is a modification that expands a facility such that it would serve regional transportation needs.~~
- 5.—~~For the purposes of this Article, a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region, does not serve regional transportation needs.~~
- 6.—~~None of the following attributes, by itself, shall require a transportation project to be included in the modeling of a metropolitan area's transportation network:~~
- a.—~~The connection of a facility that does not serve regional transportation needs to a facility that does serve regional transportation needs.~~
 - b.—~~The addition or modification of a lane other than a through lane.~~
- S.—~~An agency having a role or responsibility under this Section may delegate that role or responsibility to another entity pursuant to the applicable state law but shall notify all other parties to the consultation process of this fact~~

when the delegation occurs and shall also provide to the other parties the name, address, and telephone number of one or more contact persons representing the entity that is accepting the delegated role or responsibility.

~~T. The provisions of this Section apply only to TIP and STIP planning cycles beginning with the cycles next following the effective date of this Section. The provisions of 40 CFR 51, Subpart T, continue to apply to all TIP and STIP planning cycles in progress at the time of the effective date of this Section. The provisions of this Section apply to consultation on projects and TIP amendments as of the effective date of this Section.~~

R18-2-1406. Content of Transportation Plans General Conformity for Federal Actions

The following subparts of 40 CFR 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans, and all accompanying appendices, adopted as of April 5, 2010, and no future editions, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans (75 FR 17,278, April 5, 2010).

~~A. For transportation plans adopted after January 1, 1995, in serious, severe, or extreme ozone nonattainment areas and in serious carbon monoxide nonattainment areas, the following shall apply:~~

- ~~1. The transportation plan shall specifically describe the transportation system envisioned for certain future years which shall be called horizon years.~~
- ~~2. The agency or organization developing the transportation plan, after consultation pursuant to R18-2-1405, may choose any years to be horizon years, subject to the following restrictions:
 - ~~a. Horizon years may be no more than 10 years apart.~~
 - ~~b. The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model.~~
 - ~~c. If the attainment year is in the time span of the transportation plan, the attainment year shall be a horizon year.~~
 - ~~d. The last horizon year shall be the last year of the transportation plan's forecast period.~~~~
- ~~3. For these horizon years all of the following apply:
 - ~~a. The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land-use forecasts, in accordance with implementation plan provisions and R18-2-1405.~~
 - ~~b. The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to~~~~

allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies sufficiently to allow modeling of their transit ridership. The description of additions and modifications to the transportation network shall also be sufficiently specific to show that there is a reasonable relationship between expected land use and the envisioned transportation system.

e.—Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.

B.—Ozone or CO nonattainment areas which are reclassified from moderate to serious shall meet the requirements of subsection (A) within two years from the date of reclassification.

C.—Transportation plans for other areas shall meet the requirements of subsection (A) at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans shall describe the transportation system envisioned for the future specifically enough to allow determination of conformity according to the criteria and procedures of R18-2-1409 through R18-2-1427.

D.—The requirements of this Section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

R18-2-1407.—Relationship of Transportation Plan and TIP Conformity with the NEPA Process

The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project shall meet the criteria in R18-2-1409 through R18-2-1427 for projects not from a TIP before NEPA process completion.

R18-2-1408.—Fiscal Constraints for Transportation Plans and TIPs

Transportation plans and TIPs shall demonstrate that they are fiscally constrained consistent with USDOT's metropolitan planning regulations at 23 CFR 450 in order to be found in conformity.

R18-2-1409.—Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General

A.—In order to be found to conform, each transportation plan, program, and FHWA or FTA project shall satisfy the applicable criteria and procedures in R18-2-1410 through R18-2-1427 as listed in Table 1 of this Section and shall 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 or FTA projects), the time period in which the conformity determination is made, and the relevant pollutant.

B.—The following table indicates the criteria and procedures in R18-2-1410 through R18-2-1427 which apply for each action in each time period:

Table 1. Conformity Criteria

DURING ALL PERIODS

Action	Criteria
Transportation Plan	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(B)
TIP	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(C)
Project (from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1414, R18-2-1415, R18-2-1416, R18-2-1417
Project (not from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(D), R18-2-1414, R18-2-1416, R18-2-1417

PHASE II OF THE INTERIM PERIOD

Action	Criteria
Transportation Plan	R18-2-1422, R18-2-1425
TIP	R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421
Project (not from a conforming plan and TIP)	R18-2-1421, R18-2-1424, R18-2-1427

TRANSITIONAL PERIOD

Action	Criteria
Transportation Plan	R18-2-1418, R18-2-1422, R18-2-1425
TIP	R18-2-1419, R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421
Project (not from a conforming plan and TIP)	R18-2-1420, R18-2-1421, R18-2-1424, R18-2-1427

CONTROL STRATEGY AND MAINTENANCE PERIODS

Action	Criteria
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Transportation Plan	R18-2-1418
TIP	R18-2-1419
Project (from a conforming plan and TIP)	No additional criteria
Project (not from a conforming plan and TIP)	R18-2-1420

- R18-2-1410. _____ The conformity determination must be based on the latest planning assumptions.
- R18-2-1411. _____ The conformity determination must be based on the latest emission estimation model available.
- R18-2-1412. _____ The MPO must make the conformity determination according to the consultation procedures of this rule and the implementation plan revision required by 40 CFR 51.396.
- R18-2-1413. _____ The transportation plan, TIP, or FHWA or FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.
- R18-2-1414. _____ There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.
- R18-2-1415. _____ The project must come from a conforming transportation plan and program.
- R18-2-1416. _____ The FHWA or 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.
- R18-2-1417. _____ The FHWA or FTA project must comply with PM10 control measures in the applicable implementation plan.
- R18-2-1418. _____ The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1419. _____ The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.
- R18-2-1420. _____ 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.
- R18-2-1421. _____ The FHWA or 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).
- R18-2-1422. _____ The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.
- R18-2-1423. _____ The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.

~~R18-2-1424. The project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.~~

~~R18-2-1425. The transportation plan must contribute to emission reductions or must not increase emissions in PM10 and NO2 nonattainment areas.~~

~~R18-2-1426. The TIP must contribute to emission reductions or must not increase emissions in PM10 and NO2 nonattainment areas.~~

~~R18-2-1427. 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.~~

~~R18-2-1410. Criteria and Procedures: Latest Planning Assumptions~~

~~A. During all periods the conformity determination, with respect to all other applicable criteria in R18-2-1411 through R18-2-1427, shall be based upon the most recent complete planning assumptions in force at the time of the conformity determination. The conformity determination shall satisfy the requirements of subsections (B) through (F).~~

~~B. Assumptions, including 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 shall be derived from the estimates of current and future population, employment, travel, and congestion most recently used by ADOT or the MPO where one exists. Population estimates shall be consistent with the estimates developed by the Arizona Department of Economic Security pursuant to A.R.S. § 41-1954(A). The conformity determination shall also be based on the latest assumptions about current and future background concentrations.~~

~~C. The conformity determination for each transportation plan and TIP shall discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.~~

~~D. The conformity determination shall include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.~~

~~E. The conformity determination shall use the latest existing information regarding the effectiveness of the TCMs which have already been implemented.~~

~~F. Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by R18-2-1405.~~

~~R18-2-1411. Criteria and Procedures: Latest Emissions Model~~

~~A. 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 shall be approved by EPA before they are used in the conformity analysis:

- B. ~~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, or during any grace period announced in such notice, 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.~~

R18-2-1412. — Criteria and Procedures: Consultation

~~All conformity determinations shall be made according to the consultation procedures in R18-2-1405. This criterion applies during all periods. Until the implementation plan revision required by 40 CFR 51.396 is approved by EPA, the conformity determination shall be made according to the procedures in R18-2-1405. 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.~~

R18-2-1413. — Criteria and Procedures: Timely Implementation of TCMs

- A. ~~During all periods the transportation plan, TIP, or FHWA, or FTA project which is not from a conforming plan and TIP shall provide for the timely implementation of TCMs from the applicable implementation plan.~~

- B. ~~For transportation plans, this criterion is satisfied if the following two conditions are met:~~

- 1. ~~The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under 23 U.S.C. or the Federal Transit Act, consistent with schedules included in the applicable implementation plan.~~
- 2. ~~Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.~~

- C. ~~For TIPs, this criterion is satisfied if all of the following conditions are met:~~

- 1. ~~An examination of the specific steps and funding source needed to fully implement each TCM indicates that TCMs which are eligible for funding under 23 U.S.C. or the Federal Transit Act are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and USDOT have determined that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area. Maximum priority to approval or funding of TCMs includes demonstrations with respect to funding acceleration, commitment of staff or other agency resources, diligent efforts to seek approvals, and similar actions.~~

2. ~~If federal funding intended for TCMs in the applicable implementation plan has previously been programmed but is reallocated to projects in the TIP other than TCMs, (or if there are no other TCMs in the TIP, to projects in the TIP other than projects which are eligible for federal funding under ISTEA's Congestion Mitigation and Air Quality Improvement Program), and the TCMs are behind the schedule in the implementation plan, the TIP cannot be found to conform.~~
3. ~~Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.~~

D. ~~For FHWA or 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.~~

~~R18-2-1414. — Criteria and Procedures: Currently Conforming Transportation Plan and TIP~~

~~During all periods there shall be a currently conforming transportation plan and currently conforming TIP at the time of project approval. This criterion is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and USDOT according to the 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 USDOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of R18-2-1404.~~

~~R18-2-1415. — Criteria and Procedures: Projects from a Plan and TIP~~

- A. ~~During all periods the project shall come from a conforming transportation plan and program. Otherwise, the project shall satisfy all criteria in Table 1 of R18-2-1409 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 subsection (B) and from a conforming program if it meets the requirements of subsection (C).~~
- B. ~~A project is considered to be from a conforming transportation plan if one of the following conditions applies:~~
 1. ~~For projects which are required to be identified in the transportation plan in order to satisfy R18-2-1406, 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.~~
 2. ~~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 other projects specifically included in the transportation plan.~~
- C. ~~A project is considered to be from a conforming program if all of the following conditions are met:~~
 1. ~~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 from those which were described in the TIP, or in a manner which would significantly impact use of the facility.

2. 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 shall be obtained from the project sponsor or operator as required by R18-2-1433 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.

R18-2-1416. — Criteria and Procedures: Localized CO and PM10 Violations (Hot Spots)

- A. During all periods any FHWA or FTA project shall not cause or contribute to any new localized CO or PM10 violations or increase the frequency or severity of any existing CO or PM10 violations in CO and PM10 nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project.
- B. The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.
- C. For projects which are not of the type identified by R18-2-1431(A) or R18-2-1431(D), 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 shall be performed according to the requirements of R18-2-1431(B).

R18-2-1417. — Criteria and Procedures: Compliance with PM10 Control Measures

During all periods any FHWA or FTA project shall comply with PM10 control measures in the applicable implementation plan. This condition is satisfied if control measures (for the purpose of limiting PM10 emissions from the construction activities 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.

R18-2-1418. — Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan)

- A. The transportation plan shall be consistent with the motor vehicle emissions budget 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 R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met.
- B. A regional emissions analysis shall be performed as follows:
 1. The regional analysis shall estimate emissions of any of the following pollutants and pollutant precursors for which the area is in nonattainment or maintenance and for which the applicable implementation plan or implementation plan submission establishes an emissions budget:
 - a. VOC as an ozone precursor.
 - b. NO_x as an ozone precursor, unless the Administrator determines that additional reductions of NO_x would not contribute to attainment.
 - c. CO.

- d. ~~PM10 (and its precursors VOC or NO_x if the applicable implementation plan or implementation plan submission identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM10 nonattainment problem or establishes a budget for such emissions);~~
 - e. ~~NO_x (in NO₂ nonattainment or maintenance areas);~~
2. ~~The regional emissions analysis shall estimate emissions from the entire transportation system, including all regionally significant transportation projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.~~
 3. ~~The emissions analysis methodology shall meet the requirements of R18-2-1430.~~
 4. ~~For areas with a transportation plan that meets the content requirements of R18-2-1406(A), the emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation.~~
 5. ~~For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), the emissions analysis shall be performed for all of the following:~~
 - a. ~~The last year of the plan's forecast period.~~
 - b. ~~The attainment year, if the attainment year is in the time span of the transportation plan.~~
 - c. ~~Any other years in the time span of the transportation plan such that there is not a gap of more than 10 years between analysis years. Emissions in milestone years which are between these analysis years may be determined by interpolation.~~
- C. ~~The regional emissions analysis shall demonstrate that for each of the applicable pollutants or pollutant precursors in subsection (B)(1) the emissions are less than or equal to the motor vehicle emissions budget as established in the applicable implementation plan or implementation plan submission as follows:~~
1. ~~If the applicable implementation plan or implementation plan submission establishes emissions budgets for milestone years, emissions in each milestone year are less than or equal to the motor vehicle emissions budget established for that year.~~
 2. ~~For nonattainment areas, emissions in the attainment year are less than or equal to the motor vehicle emissions budget established in the applicable implementation plan or implementation plan submission for that year.~~
 3. ~~For nonattainment areas, emissions in each analysis or horizon year after the attainment year are less than or equal to the motor vehicle emissions budget established by the applicable implementation plan or implementation plan submission for the attainment year. If emissions budgets are established for years after the attainment year, emissions in each analysis year or horizon year shall be less than or equal to the motor vehicle emissions budget for that year, if any, or the motor vehicle emissions budget for the most recent budget year prior to the analysis year or horizon year.~~

4. ~~For maintenance areas, emissions in each analysis or horizon year are less than or equal to the motor vehicle emissions budget established by the maintenance plan for that year, if any, or the emissions budget for the most recent budget year prior to the analysis or horizon year.~~

R18-2-1419. — Criteria and Procedures: Motor Vehicle Emissions Budget (TIP)

- A. ~~The TIP shall be consistent with the motor vehicle emissions budgets 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 R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met.~~
- B. ~~For areas with a conforming transportation plan that fully meets the content requirements of R18-2-1406(A), this criterion may be satisfied without additional regional emissions analysis if:~~
 1. ~~Each program year of the TIP is consistent with the federal funding which may be reasonably expected for that year, and required state or local matching funds and funds for state or local funding-only projects are consistent with the revenue sources expected over the same period; and~~
 2. ~~The TIP is consistent with the conforming transportation plan such that the regional emissions analysis already performed for the plan applies to the TIP also. This requires a demonstration that:~~
 - a. ~~The TIP contains all projects which shall be started in the TIP's time-frame in order to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;~~
 - b. ~~All TIP projects which are regionally significant are part of the specific highway or transit system envisioned in the transportation plan's horizon years; and~~
 - e. ~~The design concept and scope of each regionally significant transportation project in the TIP is not significantly different from that described in the transportation plan.~~
 3. ~~If the requirements in subsections (B)(1) and (B)(2) are not met, then either:~~
 - a. ~~The TIP may be modified to meet those requirements; or~~
 - b. ~~The transportation plan shall be revised so that the requirements in subsections (B)(1) and (B)(2) are met. Once the revised plan has been found to conform, this criterion is met for the TIP with no additional analysis except a demonstration that the TIP meets the requirements of subsections (B)(1) and (B)(2).~~
- C. ~~For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall meet all of the following requirements:~~
 1. ~~The regional emissions analysis shall estimate emissions from the entire transportation system, including all projects contained in the proposed TIP, the transportation plan, and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.~~
 2. ~~The analysis methodology shall meet the requirements of R18-2-1430(C).~~

3. ~~The regional emissions analysis shall satisfy the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).~~

R18-2-1420. — Criteria and Procedures: Motor Vehicle Emissions Budget (Project Not from a Plan and TIP)

- A. ~~The project which is not from a conforming transportation plan and a conforming TIP shall be consistent with the motor vehicle emissions budget 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 R18-2-1436. It is satisfied if emissions from the implementation of the project, when considered with the emissions from the projects in the conforming transportation plan and TIP and all other regionally significant transportation projects expected in the area, do not exceed the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission.~~
- B. ~~For areas with a conforming transportation plan that meets the content requirements of R18-2-1406(A):~~
 1. ~~This criterion may be satisfied without additional regional analysis if the project is included in the conforming transportation plan, even if it is not specifically included in the latest conforming TIP. This requires a demonstration that all of the following apply:~~
 - a. ~~Allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years.~~
 - b. ~~The project is not regionally significant or is part of the specific highway or transit system envisioned in the transportation plan's horizon years.~~
 - e. ~~The design concept and scope of the project is not significantly different from that described in the transportation plan.~~
 2. ~~If the requirements in subsection (B)(1) are not met, a regional emissions analysis shall be performed as follows:~~
 - a. ~~The analysis methodology shall meet the requirements of R18-2-1430.~~
 - b. ~~The analysis shall estimate emissions from the transportation system, including the proposed project and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan. The analysis shall include emissions from all previously approved projects which were not from a transportation plan and TIP.~~
 - e. ~~The regional emissions analysis shall meet the requirements of R18-2-1418(B)(1), R18-2-1418(B)(4) and R18-2-1418(C).~~
- C. ~~For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall be performed for the project together with the conforming TIP and all other regionally significant transportation projects expected in the nonattainment or maintenance area. This criterion may be satisfied if all of the following apply:~~
 1. ~~The analysis methodology meets the requirements of R18-2-1430(C).~~

2. ~~The analysis estimates emissions from the transportation system, including the proposed project, and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.~~
3. ~~The regional emissions analysis satisfies the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).~~

~~R18-2-1421. — Criteria and Procedures: Localized CO Violations (Hot Spots) in the Interim and Transitional Periods~~

- A. ~~Each FHWA or FTA project shall eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criterion applies during the interim and transitional periods only. This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project.~~
- B. ~~The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.~~
- C. ~~For projects which are not of the type identified by R18-2-1431(A), this criterion may be satisfied if consideration of local factors clearly demonstrates that existing CO violations will be eliminated or reduced in severity and number. Otherwise, a quantitative demonstration shall be performed according to the requirements of R18-2-1431(B).~~

~~R18-2-1422. — Criteria and Procedures: Interim and Transitional Period Reductions in Ozone and CO Areas (Transportation Plan)~~

- A. ~~A transportation plan shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).~~
- B. ~~Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 years apart. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment 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.~~
- C. ~~Define the Baseline scenario for each of the analysis years to be the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:~~
 1. ~~All in-place regionally significant highway and transit facilities, services and activities.~~
 2. ~~All ongoing travel demand management or transportation system management activities.~~

- ~~3.—Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming transportation plan or TIP; or have completed the NEPA process. For the first conformity determination on the transportation plan after November 24, 1993, a project may not be included in the Baseline scenario and shall be included in the Action scenario as described in subsection (D), if one of the following major steps has not occurred within the most recent three-year period:
 - ~~a.—NEPA process completion;~~
 - ~~b.—Start of final design;~~
 - ~~c.—Acquisition of a significant portion of the right-of-way;~~
 - ~~d.—Approval of the plans, specifications and estimates.~~~~
- ~~D.—Define the Action scenario for each of the analysis years as the transportation system that will result in that year from the implementation of the proposed transportation plan, TIPs adopted under it, and other expected regionally significant transportation projects in the nonattainment area. The Action scenario will include all of the following except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
 - ~~1.—All facilities, services, and activities in the Baseline scenario;~~
 - ~~2.—Completion of all TCMs and regionally significant transportation projects, including facilities, services, and activities, specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, 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 identified in the applicable implementation plan;~~
 - ~~3.—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 or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;~~
 - ~~4.—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 or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective;~~
 - ~~5.—Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;~~
 - ~~6.—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.~~~~

- E.—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 NO_x 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 shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between the analysis years may be determined by interpolation.
- F.—This criterion is met if the regional VOC and NO_x emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and if this can reasonably be expected to be true in the periods between the first milestone year and the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

R18-2-1423.—Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP)

- A.—A TIP shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).
- B.—Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The analysis years shall be no more than 10 years apart. 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.
- C.—Define the Baseline scenario as the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
- 1.—All in-place regionally significant highway and transit facilities, services, and activities.
 - 2.—All ongoing travel demand management or transportation system management activities.
 - 3.—Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition, except for hardship acquisition and protective buying, come from the first three 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 in the Baseline scenario if one of the following major steps has not occurred within the most recent three-year period:
 - a.—NEPA process completion.

- b. ~~Start of final design.~~
 - e. ~~Acquisition of a significant portion of the right-of-way.~~
 - d. ~~Approval of the plans, specifications, and estimates. Such a project shall be included in the Action scenario, as described in subsection (D).~~
- ~~D. Define the Action scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant transportation projects in the nonattainment area in the time frame of the transportation plan. It will include all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:~~
- 1. ~~All facilities, services, and activities in the Baseline scenario;~~
 - 2. ~~Completion of all TCMs and regionally significant transportation 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;~~
 - 3. ~~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 or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;~~
 - 4. ~~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 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;~~
 - 5. ~~Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;~~
 - 6. ~~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.~~
- ~~E. 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 NO_x 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 shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between analysis years may be determined by interpolation.~~
- ~~F. This criterion is met if the regional VOC and NO_x emissions in ozone nonattainment areas and CO emissions in CO nonattainment areas predicted in the Action scenario are less than the emissions predicted from the Baseline~~

scenario in each analysis year, and if this can reasonably be expected to be true in the period between the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

R18-2-1424.—Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project Not from a Plan and TIP)

A transportation project shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. This criterion is satisfied if a regional emissions analysis is performed which meets the requirements of R18-2-1422 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 plan or TIP, the Baseline scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

R18-2-1425.—Criteria and Procedures: Interim Period Reductions for PM10 and NO2 Areas (Transportation Plan)

A.—A transportation plan shall contribute to emission reductions or shall 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 emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if the requirements of either subsections (B) or (C) are met.

B.—Demonstrate that implementation of the plan and all other regionally significant transportation projects expected in the nonattainment area will contribute to reductions in emissions of PM10 in a PM10 nonattainment area, and of each transportation-related precursor of PM10 in PM10 nonattainment areas if the EPA Regional Administrator or the Director of ADEQ 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 USDOT, and of NOx in an NO2 nonattainment area, by performing a regional emissions analysis as follows:

- 1.—Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 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.
- 2.—Define for each of the analysis years the Baseline scenario, as defined in R18-2-1422(C), and the Action scenario, as defined in R18-2-1422(D).
- 3.—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 between the two scenarios in

regional PM10 emissions in a PM10 nonattainment area (and transportation-related precursors of PM10 in PM10 nonattainment areas if the EPA Regional Administrator or the Director of ADEQ 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 ADOT, the MPO where one exists and USDOT) and in NO_x emissions in an NO₂ nonattainment area. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. The analysis shall address the periods between the analysis years and the periods between 1990, the first milestone year if any, and the first of the analysis years. Emissions in milestone years which are between the analysis years may be determined by interpolation.

4. Demonstrate that the regional PM10 emissions and PM10 precursor emissions, where applicable, (for PM10 nonattainment areas) and NO_x emissions (for NO₂ nonattainment areas) predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and that this can reasonably be expected to be true in the periods between the first milestone year (if any) and the analysis years.

C. Demonstrate that when the projects in the transportation plan and all other regionally significant transportation projects expected in the nonattainment 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 Administrator or the Director of ADEQ 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 USDOT) and of NO_x in an NO₂ nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as follows:

1. Determine the baseline regional emissions of PM10 and PM10 precursors, where applicable (for PM10 nonattainment areas) and NO_x (for NO₂ nonattainment areas) from highway and transit sources. Baseline emissions are those estimated to have occurred during calendar year 1990, unless the control strategy implementation plan for that area includes a baseline emissions inventory for a different year.
2. Estimate the emissions of the applicable pollutant or pollutants from the entire transportation system, including projects in the transportation plan and TIP and all other regionally significant transportation projects in the nonattainment area, according to the requirements of R18-2-1430. Emissions shall be estimated for analysis years which are no more than 10 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.
3. Demonstrate that for each analysis year the emissions estimated in subsection (C)(2) 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.

R18-2-1426. — Criteria and Procedures: Interim Period Reductions for PM10 and NO2 Areas (TIP)

- A. ~~A TIP shall contribute to emission reductions or shall 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 emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if the requirements of either subsection (B) or subsection (C) are met.~~
- B. ~~Demonstrate that implementation of the plan and TIP and all other regionally significant transportation 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 ADEQ 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 USDOT) and of NOx in an NO2 nonattainment area, by performing a regional emissions analysis as follows:~~
1. ~~Determine the analysis years for which emissions are to be estimated, according to the requirements of R18-2-1425(B)(1).~~
 2. ~~Define for each of the analysis years the Baseline scenario, as defined in R18-2-1423(C), and the Action scenario, as defined in R18-2-1423(D).~~
 3. ~~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 R18-2-1425(B)(3), and make the demonstration required by R18-2-1425(B)(4).~~
- C. ~~Demonstrate that when the projects in the transportation plan and TIP and all other regionally significant transportation 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 Administrator or the Director of ADEQ 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 USDOT) and of NOx in an NO2 nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as required by R18-2-1425(C).~~

R18-2-1427. — Criteria and Procedures: Interim Period Reductions for PM10 and NO2 Areas (Project Not from a Plan and TIP)

~~A transportation project which is not from a conforming transportation plan and TIP shall contribute to emission reductions or shall not increase emissions in PM10 and NO2 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 R18-2-1425 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 R18-2-1425(B) is used to demonstrate satisfaction of this criterion, the Baseline~~

scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

R18-2-1428.—Transition from the Interim Period to the Control Strategy Period

A.—For areas which submit a control strategy implementation plan revision after November 24, 1993:

- 1.—~~The transportation plan and TIP shall be demonstrated to conform according to transitional period criteria and procedures by one year from the date the CAA 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.~~
 - a.—~~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 subsection (A)(1) and such transportation plans and TIPs are consistent with the motor vehicle emissions budget in the applicable implementation plan or any previously submitted control strategy implementation plan revision.~~
 - b.—~~Beginning 90 days after submission of the control strategy implementation plan revision, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.~~
- 2.—~~If EPA disapproves the submitted control strategy implementation plan revision and so notifies the state, the MPO where one exists, and USDOT, which initiates the sanction process under CAA §§ 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 project 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.~~
- 3.—~~Notwithstanding subsection (A)(2), if EPA disapproves 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 CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for 12 months following the date of disapproval. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of disapproval unless another control strategy implementation plan revision is submitted to EPA and found to be complete.~~

B.—For areas which have not submitted a control strategy implementation plan revision:

- 1.—~~For areas whose CAA deadline for submission of the control strategy implementation plan revision is after November 24, 1993, and EPA has notified the state, the MPO where one exists, and USDOT of the state's~~

~~failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m) all of the following shall apply:~~

~~a.—No new transportation plans or TIPs may be found to conform beginning 120 days after the CAA deadline.~~

~~b.—The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.~~

~~2.—For areas whose CAA deadline for submission of the control strategy implementation plan was before November 24, 1993, and EPA has made a finding of failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:~~

~~a.—No new transportation plans or TIPs may be found to conform beginning March 24, 1994.~~

~~b.—The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.~~

~~C.—For areas which have not submitted a complete control strategy implementation plan revision:~~

~~1.—For areas where EPA notifies the state, the MPO where one exists, and USDOT after November 24, 1993, that the control strategy implementation plan revision submitted by the state is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:~~

~~a.—No new transportation plans or TIPs may be found to conform beginning 120 days after EPA's incompleteness finding.~~

~~b.—The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.~~

~~c.—Notwithstanding subsections (C)(1)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.~~

~~2.—For areas where EPA has determined before November 24, 1993, that the control strategy implementation plan revision is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:~~

~~a.—No new transportation plans or TIPs may be found to conform beginning March 24, 1994.~~

~~b.—The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.~~

~~e.—Notwithstanding subsections (C)(2)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.~~

~~D.—For areas which submitted a control strategy implementation plan before November 24, 1993:~~

- ~~1.—The transportation plan and TIP shall have been 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. From and after February 22, 1994, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.~~
- ~~2.—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.~~
- ~~3.—Notwithstanding subsection (D)(2), 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 CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply until November 25, 1994. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.~~

~~E.—If the currently conforming transportation plan and TIP have not been demonstrated to conform according to transitional period criteria and procedures, the requirements of subsections (E)(1) and (2) shall be met:~~

- ~~1.—Before a FHWA or 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, ADEQ shall be consulted on how the emissions which the existing transportation plan and TIP's conformity determination estimates for the Action scenario, as required by R18-2-1422 through R18-2-1427, compare to the motor vehicle emissions budget in the implementation plan submission or the projected motor vehicle emissions budget in the implementation plan under development.~~
- ~~2.—In the event of unresolved disputes on such project-level conformity determinations, ADEQ may escalate the issue to the governor consistent with the procedure in R18-2-1405, which applies for ADEQ comments on a conformity determination.~~

F.—Redetermination of conformity of the existing transportation plan and TIP according to the transitional period criteria and procedures:

1.—The redetermination of the conformity of the existing transportation plan and TIP according to transitional period criteria and procedures (as required by subsections (A)(1) and (D)(1)) does not require new emissions analysis and does not have to satisfy the requirements of R18-2-1410 and R18-2-1411 if all of the following are met:

a.—The control strategy implementation plan revision submitted to EPA uses the MPO's modeling of the existing transportation plan and TIP for its projections of motor vehicle emissions.

b.—The control strategy implementation plan does not include any transportation projects which are not included in the transportation plan and TIP.

2.—A redetermination of conformity as described in subsection (F)(1) is not considered a conformity determination for the purposes of R18-2-1404(E) or R18-2-1404(I) regarding the maximum intervals between conformity determinations. Conformity shall be determined according to all the applicable criteria and procedures of R18-2-1409 within three years of the last determination which did not rely on subsection (F)(1).

G.—Ozone nonattainment areas:

1.—The requirements of subsection (B)(1) apply if a serious or above ozone nonattainment area has not submitted the implementation plan revisions which CAA §§ 182(c)(2)(A) and 182(c)(2)(B) require to be submitted to EPA November 15, 1994, even if the area has submitted the implementation plan revision which CAA § 182(b)(1) requires to be submitted to EPA November 15, 1993.

2.—The requirements of subsection (B)(1) apply if a moderate ozone nonattainment area which is using photochemical dispersion modeling to demonstrate the “specific annual reductions as necessary to attain”² required by CAA § 182(b)(1), and which has permission from EPA to delay submission of such demonstration until November 15, 1994, does not submit such demonstration by that date. The requirements of subsection (B)(1) apply in this case even if the area has submitted the 15% emission reduction demonstration required by CAA § 182(b)(1).

3.—The requirements of subsection (A) apply when the implementation plan revisions required by CAA §§ 182(c)(2)(A) and 182(c)(2)(B) are submitted.

H.—Nonattainment areas which are not required to demonstrate reasonable further progress and attainment. If an area listed in R18-2-1436 submits a control strategy implementation plan revision, the requirements of subsections (A) and (E) apply. Because the areas listed in R18-2-1436 are not required to demonstrate reasonable further progress and attainment and therefore have no CAA deadline, the provisions of subsection (B) do not apply to these areas at any time.

I.—If a control strategy implementation plan revision is not submitted to EPA but a maintenance plan required by CAA § 175A is submitted to EPA, the requirements of subsection (A) or (D) apply, with the maintenance plan submission treated as a “control strategy implementation plan revision” for the purposes of those requirements.

~~J.—This Section does not become effective until June 1, 1996.~~

~~R18-2-1429.—Requirements for Adoption or Approval of Projects by Recipients of Funds Designated under 23 U.S.C. or the Federal Transit Act~~

~~A.—This Section shall not apply to any of the following:~~

- ~~1.—A transportation project that is a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region.~~
- ~~2.—An exempt project listed in R18-2-1434.~~

~~B.—No recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act shall adopt or approve a transportation project, regardless of funding source, without first determining whether the transportation project is regionally significant. In making this determination, the recipient shall not take any action that is inconsistent with the procedures developed by ADOT or the MPO pursuant to R18-2-1405(R).~~

~~C.—No recipient of federal funds designated under 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 both of the following apply:~~

- ~~1.—There is a currently conforming transportation plan and TIP consistent with the requirements of R18-2-1414.~~
- ~~2.—The requirements of one of the following are met:
 - ~~a.—The project comes from a conforming plan and program consistent with the requirements of R18-2-1415.~~
 - ~~b.—The project is included in the regional emissions analysis supporting the currently conforming TIP's 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.~~
 - ~~c.—During the control strategy or maintenance period, the project is consistent with the motor vehicle emissions budget in the applicable implementation plan consistent with the requirements of R18-2-1420.~~
 - ~~d.—During Phase II of the interim period, the project contributes to emissions reductions or does not increase emissions consistent with the requirements of R18-2-1424 (in ozone and CO nonattainment areas) or R18-2-1427 (in PM10 and NO2 nonattainment areas).~~
 - ~~e.—During the transitional period, the project satisfies the requirements of both subsections (1)(2)(c) and (d).~~~~

~~D.—Pursuant to the consultation process established in R18-2-1405(O), ADOT or the MPO where one exists shall, not later than September 1, 1995, develop and make available the procedures to be used by any recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act to comply with subsections (B) and (C).~~

These procedures may be revised periodically, as needed, using the same consultation process. At a minimum, such procedures shall provide for the following:

1. ~~The minimum information required by the recipient to make determinations in compliance with subsections (B) and (C);~~
 2. ~~The time frames for action to be taken by the recipient;~~
 3. ~~For transportation projects determined to be regionally significant, the documentation necessary to demonstrate that the requirements of 23 CFR 450.324(c), (g), and (h) have been met.~~
- E. ~~After a transportation project is adopted or approved, no subsequent act defined as adoption or approval under this Section or under procedures developed to implement this Section shall be subject to subsection (B) or (C), unless project's design concept or scope have changed significantly since the project was first adopted or approved.~~
- F. ~~A regionally significant transportation project found to be in conformity, either as a result of a TIP or a separate project analysis, shall retain such conformity finding, irrespective of subsequent analysis, unless the project fails to meet the conditions of its approval or undergoes a significant change in scope. In any event, a conformity determination shall lapse after three years in the absence of a redetermination; except that a project undergoing NEPA approval shall retain its conformity determination, unless none of the following major steps has occurred within the most recent three-year period:~~
1. ~~NEPA process completion;~~
 2. ~~Start of final design;~~
 3. ~~Acquisition of a significant portion of the right-of-way;~~
 4. ~~Approval of the plans, specifications, and estimates.~~

R18-2-1430. — Procedures for Determining Regional Transportation-related Emissions

- A. ~~The following are general requirements for determining regional transportation-related emissions:~~
1. ~~The regional emissions analysis for the transportation plan, TIP, or project not from a conforming plan and TIP shall include all regionally significant transportation projects expected in the nonattainment or maintenance area, including FHWA or FTA projects proposed in the transportation plan and TIP and all other regionally significant transportation projects which are disclosed to ADOT or the MPO as required by R18-2-1405. Projects which are not regionally significant are not required to be explicitly modeled, but VMT from such projects shall be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.~~
 2. ~~The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date until such time as implementation has been assured. If the TCM has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.~~

3. ~~Emissions reduction credit from projects, programs, or activities which require a regulation in order to be implemented may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction. Adopted regulations are required for demand management strategies for reducing emissions which are not specifically identified in the applicable implementation plan, and for control programs which are external to the transportation system itself, such as tailpipe or evaporative emission standards, limits on gasoline volatility, inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel. A regulatory program may also be considered to be adopted if an opt-in to a federally enforced program has been approved by EPA, if EPA has promulgated the program (if the control program is a federal responsibility, such as tailpipe standards), or if the CAA requires the program without need for individual state action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.~~
 4. ~~Notwithstanding subsection (A)(3), during the transitional period, control measures or programs which are committed to in an implementation plan submission as described in R18-2-1418 through R18-2-1420, but which has not received final EPA action in the form of a finding of incompleteness, approval, or disapproval, may be assumed for emission reduction credit for the purpose of demonstrating that the requirements of R18-2-1418 through R18-2-1420 are satisfied.~~
 5. ~~A regional emissions analysis for the purpose of satisfying the requirements of R18-2-1422 through R18-2-1424 may account for the programs in subsection (A)(4), but the same assumptions about these programs shall be used for both the Baseline and Action scenarios.~~
 6. ~~Ambient temperatures shall be consistent with those used to establish the emissions budget in the applicable implementation plan. Factors other than temperatures, for example the fraction of travel in a hot stabilized engine mode, may be modified after interagency consultation according to R18-2-1405 if the newer estimates incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.~~
- B. ~~For serious, severe, and extreme ozone nonattainment areas and serious carbon monoxide areas after January 1, 1995, estimates of regional transportation-related emissions used to support conformity determinations shall be made according to procedures which meet the requirements in subsections (B)(1) through (5).~~
1. ~~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 shall be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess all of the following attributes:
 - a. ~~The modeling methods and the functional relationships used in the model shall in all respects be in accordance with acceptable professional practice and reasonable for purposes of emission estimation.~~
 - b. ~~The network-based model shall 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 shall be based on the best available information and appropriate to the validation base year.~~~~

- e.—For peak-hour or peak-period traffic assignments, a capacity-sensitive assignment methodology shall be used.
 - d.—Zone-to-zone travel times used to distribute trips between origin and destination pairs shall 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.
 - e.—Free-flow speeds on network links shall be based on empirical observations.
 - f.—Peak and off-peak travel demand and travel times shall be provided.
 - g.—Trip distribution and mode choice shall 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.
 - h.—The model shall 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.
 - i.—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.
 - j.—A dependence of regional economic and population growth on the accessibility of destinations via the transportation system is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available.
 - k.—Consideration of emissions increases from construction-related congestion is not specifically required.
- 2.—Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled shall be considered the primary measure of vehicle miles traveled within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. A factor or factors shall be developed to reconcile and calibrate the network-based model estimates of vehicle miles traveled in the base year of its validation to the HPMS estimates for the same period, and these factors shall be applied to model estimates of future vehicle miles traveled. In this factoring process, consideration will be given to differences in the facility coverage of the HPMS and the modeled network description. Departure from these procedures is permitted with the concurrence of USDOT and EPA.
 - 3.—Reasonable methods shall be used to estimate nonattainment area vehicle travel on off-network roadways within the urban transportation planning area and on roadways outside the urban transportation planning area.
 - 4.—Reasonable methods in accordance with good practice shall be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network model.

- ~~C. For areas which are not serious, severe, or extreme ozone nonattainment areas or serious carbon monoxide areas, or before January 1, 1995:~~
- ~~1. Procedures which satisfy some or all of the requirements of subsection (A) shall be used in all areas not subject to subsection (A) in which those procedures have been the previous practice of the MPO.~~
 - ~~2. Regional emissions may be estimated by methods which do not explicitly or comprehensively account for the influence of land use and transportation infrastructure on vehicle miles traveled and traffic speeds and congestion. Such methods shall account for VMT growth by extrapolating historical VMT or projecting future VMT by considering growth in population and historical growth trends for vehicle miles travelled per person. These methods shall also consider future economic activity, transit alternatives, and transportation system policies.~~
- ~~D. This subsection 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):~~
- ~~1. Conformity demonstrations for projects in these areas may satisfy the requirements of R18-2-1420, R18-2-1424, and R18-2-1427 with one regional emissions analysis which includes all the regionally significant transportation projects in the nonattainment or maintenance area or portion thereof.~~
 - ~~2. The requirements of R18-2-1420 shall be satisfied according to the procedures in R18-2-1420(C), with references to the "transportation plan" taken to mean the statewide transportation plan.~~
 - ~~3. The requirements of R18-2-1424 and R18-2-1427 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.~~
 - ~~4. The requirement of R18-2-1429(A)(2) shall be satisfied if all of the following are met:~~
 - ~~a. 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 R18-2-1420, R18-2-1424 or R18-2-1427 (as modified by subsections (D)(2) and (D)(3)), as appropriate for the time period and pollutant.~~
 - ~~b. 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.~~
- ~~E. For areas in which the implementation plan does not identify construction-related fugitive PM10 as a contributor to the nonattainment problem, the fugitive PM10 emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.~~

~~F.—In PM10 nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM10 as a contributor to the nonattainment problem, the regional PM10 emissions analysis shall consider construction-related fugitive PM10 and shall account for the level of construction activity, the fugitive PM10 control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.~~

~~R18-2-1431.—Procedures for Determining Localized CO and PM10 Concentrations (Hot-spot Analysis)~~

~~A.—In the following cases, CO hot-spot analyses shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51 Appendix W (“Guideline on Air Quality Models (Revised)” (1988), supplement (A) (1987) and supplement (B) (1993), EPA publication no. 450/2-78-027R, incorporated by reference and on file with the Department and with the Secretary of State), unless, after the interagency consultation process described in R18-2-1405 and with the approval of the EPA Regional Administrator, these models, data bases, and other requirements are determined to be inappropriate:~~

- ~~1.—For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of current violation or possible current violation;~~
- ~~2.—For those intersections at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new project in the vicinity;~~
- ~~3.—For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the highest traffic volumes;~~
- ~~4.—For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the worst Level-of-Service;~~
- ~~5.—Where use of the “Guideline” models is practicable and reasonable given the potential for violations.~~

~~B.—In cases other than those described in subsection (A), other quantitative methods may be used if they represent reasonable and common professional practice.~~

~~C.—CO hot-spot analyses shall include the entire project and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration may be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors.~~

~~D.—PM10 hot-spot analysis shall be performed for projects which are located at sites at which violations have been verified by monitoring, and at sites which have essentially identical vehicle and roadway emission and dispersion characteristics (including sites near one at which a violation has been monitored). The projects which require PM10 hot-spot analysis shall be determined through the interagency consultation process required in R18-2-1405. In PM10 nonattainment and maintenance areas, new or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location require hot-spot analysis. USDOT may choose to make a categorical conformity determination on bus and rail terminals or~~

transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels. The requirements of this subsection for quantitative hot-spot analysis will not take effect until EPA releases modeling guidance on this subject and announces in the Federal Register that these requirements are in effect.

- E. Hot-spot analysis assumptions shall be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.
- F. PM10 or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are enforceable written commitments from the project sponsor or operator to the implementation of such measures, as required by R18-2-1433(A).
- G. CO and PM10 hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

R18-2-1432. Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan or Implementation Plan Submission

- A. In interpreting an applicable implementation plan or implementation plan submission with respect to its motor vehicle emissions budget, ADOT or the MPO where one exists and USDOT may not infer additions to the budget that are not explicitly intended by the implementation plan or submission. Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to ADOT or the MPO and USDOT in the emission budget for conformity purposes, ADOT or the MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans or submissions which demonstrate that after implementation of control measures in the implementation plan any of the following apply:
 - 1. Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone.
 - 2. Emissions from all sources will result in achieving attainment prior to the attainment deadline or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment.
 - 3. Emissions will be lower than needed to provide for continued maintenance.
- B. If an applicable implementation plan submitted before November 24, 1993, demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that "safety margin," the state may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the governor and has been subject to a public hearing, may be used for the purposes of transportation conformity before it is approved by EPA.

- C. ~~A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan or implementation plan submission allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, without a SIP revision or a SIP which establishes mechanisms for such trades.~~
- D. ~~If the applicable implementation plan or implementation plan submission estimates future emissions by geographic subarea of the nonattainment area, ADOT or the MPO where one exists and USDOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan or implementation plan submission explicitly indicates an intent to create such subarea budgets for the purposes of conformity.~~
- E. ~~If a nonattainment area includes more than one MPO, the SIP may establish motor vehicle emissions budgets for each MPO. Otherwise, the MPOs shall collectively make a conformity determination for the entire nonattainment area.~~

~~R18-2-1433.—Enforceability of Design Concept and Scope and Project-level Mitigation and Control Measures~~

- A. ~~Prior to determining that a transportation project is in conformity, ADOT, the MPO where one exists, other recipient of funds designated under 23 U.S.C. or the Federal Transit Act, FHWA, or FTA shall obtain from the project sponsor or operator enforceable written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM10 or CO impacts. Before making conformity determinations enforceable written commitments shall also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and scope which is used in the regional emissions analysis required by R18-2-1418 through R18-2-1420 and R18-2-1422 through R18-2-1424 or used in the project-level hot-spot analysis required by R18-2-1416 and R18-2-1421.~~
- B. ~~Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations shall provide enforceable written commitments and comply with the obligations of such commitments.~~
- C. ~~Enforceable written commitments to mitigation or control measures shall be obtained prior to a positive conformity determination, and that project sponsors shall comply with such commitments.~~
- D. ~~During the control strategy and maintenance periods, if ADOT, 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 R18-2-1416, R18-2-1418, and R18-2-1419 are satisfied without the mitigation or control measure and so notifies the agencies involved in the interagency consultation process required under R18-2-1405. ADOT or the MPO where one exists and USDOT shall confirm that the transportation plan and TIP still satisfy the requirements of R18-2-1418 and R18-2-1419 and that the project still satisfies the~~

requirements of R18-2-1416, and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid.

R18-2-1434.—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 ADOT or the MPO where one exists in consultation with other agencies pursuant to R18-2-1405, 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 shall ensure that exempt projects do not interfere with TCM implementation.

Table 2.—Exempt Projects

Exempt Projects

SAFETY

- 1.—Railroad or highway crossing.
- 2.—Hazard elimination program.
- 3.—Safer non-federal-aid system roads.
- 4.—Shoulder improvements.
- 5.—Increasing sight distance.
- 6.—Safety improvement program.
- 7.—Traffic control devices and operating assistance other than signalization projects.
- 8.—Railroad or highway crossing warning devices.
- 9.—Guardrails, median barriers, crash cushions.
- 10.—Pavement resurfacing or rehabilitation.
- 11.—Pavement marking demonstration.
- 12.—Emergency relief (23 U.S.C. 125).
- 13.—Fencing.
- 14.—Skid treatments.
- 15.—Safety roadside rest areas.
- 16.—Adding medians.
- 17.—Truck climbing lanes outside the urbanized area.
- 18.—Lighting improvements.
- 19.—Widening narrow pavements or reconstructing bridges (no additional travel lanes).
- 20.—Emergency truck pullovers.

MASS TRANSIT

- 1.—Operating assistance to transit agencies.

2. ~~Purchase of support vehicles.~~
3. ~~Rehabilitation of transit vehicles. (In PM10 nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)~~
4. ~~Purchase of office, shop, and operating equipment for existing facilities.~~
5. ~~Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.).~~
6. ~~Construction or renovation of power, signal, and communications systems.~~
7. ~~Construction of small passenger shelters and information kiosks.~~
8. ~~Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).~~
9. ~~Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.~~
10. ~~Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet. (In PM10 nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)~~
11. ~~Construction of new bus or rail storage or maintenance facilities categorically excluded in 23 CFR 771.~~

~~AIR QUALITY~~

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

~~OTHER~~

1. ~~Specific activities which do not involve or lead directly to construction, such as:
 - a. ~~Planning and technical studies.~~
 - b. ~~Grants for training and research programs.~~
 - c. ~~Planning activities conducted pursuant to Titles 23 and 49 U.S.C.~~
 - d. ~~Federal-aid systems revisions.~~~~
2. ~~Engineering to assess social, economic and environmental effects of the proposed action or alternatives to that action.~~
3. ~~Noise attenuation.~~
4. ~~Advance land acquisitions (23 CFR 712 or 23 CFR 771).~~
5. ~~Acquisition of scenic easements.~~
6. ~~Plantings, landscaping, etc.~~
7. ~~Sign removal.~~
8. ~~Directional and informational signs.~~
9. ~~Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).~~
10. ~~Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.~~

~~R18-2-1435.—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 shall be considered to determine if a 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 pursuant to R18-2-1405, 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~~

~~Projects Exempt From Regional Emissions Analyses~~

- ~~1.—Intersection channelization projects.~~
- ~~2.—Intersection signalization projects at individual intersections.~~
- ~~3.—Interchange reconfiguration projects.~~
- ~~4.—Changes in vertical and horizontal alignment.~~
- ~~5.—Truck size and weight inspection stations.~~
- ~~6.—Bus terminals and transfer points.~~

~~R18-2-1436.—Special Provisions for Nonattainment Areas Which are Not Required to Demonstrate Reasonable Further Progress and Attainment~~

~~A.—This Section applies in the following areas:~~

- ~~1.—Rural transport ozone nonattainment areas;~~
- ~~2.—Marginal ozone areas;~~
- ~~3.—Submarginal ozone areas;~~
- ~~4.—Transitional ozone areas;~~
- ~~5.—Incomplete data ozone areas;~~
- ~~6.—Moderate CO areas with a design value of 12.7 ppm or less;~~
- ~~7.—Not classified CO areas.~~

~~B.—The criteria and procedures in R18-2-1422 through R18-2-1424 will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in lieu of the procedures in R18-2-1418 through R18-2-1420, except as otherwise provided in subsection (C).~~

~~C.—The state or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the state shall submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in R18-2-1418 through R18-2-1420 apply in lieu of the procedures in R18-2-1422 through R18-2-1424.~~

R18-2-1437. Reserved

R18-2-1438. — General Conformity for Federal Actions

The following subparts of 40 CFR 93, ~~Determining Conformity of Federal Actions to State or Federal Implementation Plans, and all accompanying appendices, adopted as of July 1, 1994, and no future editions, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.~~

— ~~Subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans (58 FR 63253, November 30, 1993)~~