

10 CSR 10-5.480 St. Louis Area Transportation Conformity Requirements

(1) Applicability.

(A) This rule applies to the St. Louis ozone and PM_{2.5} nonattainment and carbon monoxide maintenance areas.

(B) This rule meets the requirements for state transportation conformity state implementation plans as provided in section 6011(f)(4) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This regulation addresses and gives full legal effect to the following three (3) requirements of the Federal Transportation Conformity Rule, 40 CFR part 93 subpart A: 1) 40 CFR 93.105, which addresses consultation procedures; 2) 40 CFR 93.122(a)(4)(ii), which states that conformity plans must require written commitments to control measures to be obtained prior to a conformity determination if the control measures are not included in a metropolitan planning organization's transportation plan and transportation improvement program, and that such commitments be fulfilled; and 3) 40 CFR 93.125(c), which states that conformity plans must require written commitments to mitigation measures to be obtained prior to a project-level conformity determination, and that project sponsors comply with such commitments.

(C) The Federal Transportation Conformity Rule (for reference) is located at 40 *Code of Federal Regulations* (CFR) 93.100 through 93.129.

(2) Definitions.

(A) Definitions for key words and phrases used in this rule may be found in subsection 40 CFR 93.101 of 40 CFR 93 Subpart A, promulgated as of July 1, 2006, which is hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(B) Participants in the interagency consultation process must include the following public agencies:

1. City of St. Louis Department of Health Air Pollution Control Program;
2. East-West Gateway Council of Governments;
3. Federal Highway Administration, Illinois Division;

4. Federal Highway Administration, Missouri Division;
 5. Federal Transit Administration, Region 7;
 6. Illinois Department of Transportation;
 7. Illinois Environmental Protection Agency;
 8. Madison County Highway Department;
 9. Madison County Transit District;
 10. Metro (Bi-State Development Agency);
 11. Missouri Department of Natural Resources' Air
Pollution Control Program;
 12. Missouri Department of Transportation
 13. St. Clair County Department of Roads and Bridges;
 14. St. Clair County Transit District;
 15. St. Louis County Department of Health;
 16. St. Louis County Department of Highways;
 17. U.S. Environmental Protection Agency, Region 5;
- and
18. U.S. Environmental Protection Agency, Region 7.

(C) Metropolitan planning organization (MPO)—That organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 5303. It is the forum for cooperative transportation decision-making. The East-West Gateway Council of Governments is the MPO for the St. Louis metropolitan area and the organization responsible for conducting the planning required under section 174 of the CAA.

(D) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Interagency Consultation Procedures (Federal Code Location: 40 CFR 93.105).

1. General. Procedures for interagency consultation (federal, state and local), resolution of conflicts, and public consultation are described in paragraphs (3)(A)1.-(3)(A)6. of this rule. Public consultation procedures meet the requirements for public involvement in 23 CFR part 450.

A. The implementation plan revision required shall include procedures for interagency consultation (federal, state, and local), resolution of conflicts, and public consultation as described in paragraphs (3)(A)1.-(3)(A)6. of this rule. Public consultation procedures will be developed in accordance with the requirements for public involvement in 23 CFR part 450.

B. MPOs and state departments of transportation will provide reasonable opportunity for consultation with state air agencies, local air quality and transportation agencies, Department of Transportation (DOT), and U.S. Environmental Protection Agency (EPA), including consultation on the issues described in subparagraph (3)(A)3.A. of this rule, before making conformity determinations.

2. Interagency consultation procedures—General factors.

A. Representatives of the MPO, state and local air quality planning agencies, state and local transportation agencies shall undertake an interagency consultation process in accordance with this section with each other and with local or regional offices of the EPA, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) on the development of the implementation plan, the list of Transportation Control Measures (TCMs) in the applicable implementation plan, the unified planning work program under 23 CFR section 450.314, the transportation plan, the Transportation Improvement Plan (TIP), and any revisions to the preceding documents and associated conformity determinations.

B. The state air quality agency shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process as required by this section with respect to the development of the applicable implementation plans and control strategy implementation plan revisions and the list of TCMs in the applicable implementation plan. The MPO shall be the

lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process as required by this section with respect to the development of the unified planning work program under 23 CFR section 450.314, the transportation plan, the TIP, and any amendments or revisions thereto. The MPO shall also be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process as required by this section with respect to any determinations of conformity under this rule for which the MPO is responsible.

C. In addition to the lead agencies identified in subparagraph (3)(A)2.B. of this rule, other agencies entitled to participate in any interagency consultation process under this rule include:

(I) The Illinois Department of Transportation, the Missouri Department of Transportation, the Federal Highway Administration, the Federal Transit Administration, the U.S. Environmental Protection Agency, the Illinois Environmental Protection Agency and the Missouri Department of Natural Resources;

(II) Local transportation agencies through the appointment of one (1) representative from local transportation agency interests on the Illinois side of the St. Louis area and the appointment of one (1) representative from local transportation agency interests on the Missouri side of the St. Louis area. The MPO and the Illinois Department of Transportation shall jointly appoint the Illinois representative, and the MPO and Missouri Department of Transportation shall jointly appoint the Missouri representative;

(III) Local air quality agencies through the appointment of one (1) representative from each of the two (2) local air quality agencies. The MPO and the Missouri Department of Natural Resources shall jointly appoint the local air quality agency representatives; and

(IV) Local mass transit agencies through the appointment of one (1) representative from local mass transit agency interests on the Illinois side of the St. Louis area and the appointment of one (1) representative from local mass transit agency interests on the Missouri side of the St. Louis area. The MPO and the Illinois Department of Transportation shall jointly appoint the Illinois representative, and the MPO and Missouri Department of Transportation shall jointly appoint the Missouri representative;

(V) Nothing in this paragraph shall preclude the authority of the lead agency listed in subparagraph (3)(A)2.B. of this rule to involve additional agencies in the consultation process which are directly impacted by any project or action subject to this rule;

(VI) Representatives appointed under parts (3)(A)2.C.(II)-(3)(A)2.C.(V) of this rule shall not come from an agency already represented as a consulting agency under this section.

D. It shall be the responsibility of the appropriate lead agency designated in subparagraph (3)(A)2.B. of this rule to solicit early and continuing input from all other consulting agencies, to provide those agencies with all relevant information needed for meaningful input and, where appropriate, to assure policy-level contact with those agencies. The lead agency shall, at a minimum, provide opportunities for discussion and comment in accordance with the interagency consultation procedures detailed in this section. The lead agency shall consider the views of each other consulting agency prior to making a final decision, shall respond in writing to those views and shall assure that such views and response (or where appropriate a summary thereof) are made part of the record of any decision or action.

E. It shall be the responsibility of each agency listed in subparagraph (3)(A)2.C. of this rule (other than the lead agency designated under subparagraph (3)(A)2.B. of this rule) to confer with the lead agency and the other participants in the consultation process, to review and make relevant comment on all proposed and final documents and decisions in a timely manner and to attend consultation and decision meetings. To the extent requested by the lead agency or other agencies involved, or as required by other provisions of this rule, each agency shall provide timely input on any area of substantive expertise or responsibility (including planning assumptions, modeling, information on status of TCM implementation, and interpretation of regulatory or other requirements), and shall comply with any reasonable request to render such technical assistance to the lead agency as may be needed to support the development of the document or decision.

F. For documents or decisions subject to this rule for which the MPO is the designated lead agency, the MPO shall, through the regular meetings of its board of directors and committees, be the primary forum for discussion at the policy level. The MPO shall ensure that all consulting agencies are provided with opportunity to participate throughout the decision-making process including the early planning stages. The MPO

shall modify or supplement its normal schedule of meetings, if needed, to provide adequate opportunity for discussion of the matters subject to this rule.

G. It shall be the responsibility of the lead agency designated under subparagraph (3)(A)2.B. of this rule to initiate the consultation process by notifying other consulting agencies of the following:

(I) The decision(s) or document(s) for which consultation is being undertaken; and

(II) The proposed planning or programming process for the development of the decision(s) or document(s). The proposed planning or programming process shall include at a minimum:

(a) The roles and responsibilities of each agency at each stage in the planning process, including technical as well as policy aspects;

(b) The organizational level of regular consultation;

(c) The proposed schedule of, or process for convening, consultation meetings, including the process and assignment of responsibilities for selecting a chairperson and setting meeting agendas;

(d) The process for circulating or otherwise making available all relevant materials in a timely fashion at each stage in the consultation process, and in particular for circulating or otherwise making available drafts of proposed documents or decisions before formal adoption or publication;

(e) The process and assignment of responsibility for maintaining an adequate record of the consultation process; and

(f) The process for responding to the significant comments of involved agencies;

(III) The consultation planning and programming process to be followed for each document or decision subject to this rule shall be determined by consensus among the consulting agencies and shall thereafter be binding on all parties until such time as it may be revised by consensus among the consulting agencies.

H. All drafts and supporting materials subject to consultation shall be provided at such level of detail as each consulting agency may need to determine its response. Any consulting agency may request, and the appropriate lead agency shall supply, supplemental information as is reasonably available for the consulting agency to determine its response.

I. The time allowed at each stage in the consultation process shall not be less than that specified by regulation or this rule, published by the lead agency in any document describing the consultation procedures to be followed under 23 CFR part 450, 40 CFR part 51 or this rule, or otherwise previously agreed by consensus of the consulting agencies. Where no such time has been specified, published or agreed to, the time shall be determined by consensus of the consulting agencies based upon the amount of material subject to consultation, the extent of prior informal or technical consultation and discussion, the nature of the decision to be made, and such other factors as are previously agreed by the consulting agencies. The time allowed for consultation shall be the same for all agencies being consulted, and any extension of time granted to one (1) agency shall also be allowed all other agencies.

J. Determining the adequacy of consultation opportunities.

(I) Representatives of the consulting agencies listed in subparagraph (3)(A)2.C. of this rule shall meet once each calendar year for the purpose of reviewing the sequence and adequacy of the consultation planning and programming processes established or proposed under subparagraph (3)(A)2.G. of this rule for each type of document or decision. Responsibility for convening this meeting shall rest with the appropriate lead agency designated in subparagraph (3)(A)2.B. of this rule.

(II) In any year (other than the first after the adoption of this rule) in which there is an agreed upon consultation planning or programming process in effect and no consulting agency has requested any change to that process, the appropriate lead agency may propose that this process remain in effect. Upon notification of acceptance of this proposal by all consulting agencies, no further action by the lead agency shall be required and the meeting and review required under part (3)(A)2.J.(I) of this rule need not take place for that year.

K. The consultation planning and programming processes proposed and agreed to under subparagraph (3)(A)2.G. of this rule shall comply with the following general principles:

(I) Consultation shall be held early in the planning process, so as to facilitate sharing of information needed for meaningful input and to allow the consulting agencies to confer with the lead agency during the formative stages of developing any document or decision subject to this rule;

(II) For conformity determinations for transportation plan revisions or TIPS, the consultation process shall, at a minimum, specifically include opportunities for the consulting agencies to confer upon the analysis required to make conformity determinations. This consultation shall normally take place at the technical level, except to the extent agreed by consensus under subparagraph (3)(A)2.J. of this rule, and shall take place prior to the consideration of draft documents or conformity determinations by the MPO;

(III) For state implementation plans, the consultation process shall, at a minimum, specifically include opportunities for the consulting agencies to confer upon the motor vehicle emissions budget. This consultation shall take place at the technical and policy levels, except to the extent agreed by consensus under subparagraph (3)(A)2.J. of this rule, and shall take place prior to the consideration of the draft budget by the state air quality agency;

(IV) In addition to the requirements of parts (3)(A)2.K.(II)-(3)(A)2.K.(III) of this rule, if TCMs are to be considered in transportation plans, TIPS or state implementation plans, specific opportunities to consult regarding TCMs by air quality and transportation agencies must be provided prior to the consideration of the TCMs by the appropriate lead agency; and

(V) Additional consultation opportunities must be provided prior to any final action being taken by any of the lead agencies defined in subparagraph (3)(A)2.B. of this rule on any document or decision subject to this rule. Before taking formal action to approve any plan, program, document or other decision subject to this rule, the consulting agencies shall be given an opportunity to communicate their views in writing to the lead agency. The lead agency shall consider those views and respond in writing in a timely and appropriate manner prior to any final action. Such views and written response shall be made part of the record of the final decision or action. Opportunities for formal consulting agency comment may run concurrently with other public review time frames.

L. Consultation on planning assumptions.

(I) The MPO shall convene a meeting of the consulting agencies listed in subparagraph (3)(A)2.C. of this

rule no less frequently than once each calendar year for the purpose of reviewing the planning, transportation and air quality assumptions, and models and other technical procedures in use or proposed to be used for the state implementation plan (SIP) motor vehicle emissions inventory, motor vehicle emissions budget, and conformity determinations. This meeting shall normally take place at the technical level except to the extent agreed by consensus under subparagraph (3) (A)2.J. of this rule.

(II) In all years when it is intended to determine the conformity of a transportation plan revision or TIP, the meeting required in part (3) (A)2.L.(I) of this rule shall be held before the MPO commences the evaluation of projects submitted or proposed for inclusion in the transportation plan revision or TIP, and before the annual public meeting held in accordance with 23 CFR section 450.322(c). The MPO shall consider the views of all consulting agencies before making a decision on the latest planning assumptions to be used for conformity determinations. The state air quality agencies shall consider the views of all consulting agencies before making a decision on the latest planning assumptions to be used for developing the SIP motor vehicle emissions inventory, motor vehicle emissions budget and for estimating the emissions reductions associated with TCMs.

(III) It shall be the responsibility of each of the consulting agencies to advise the MPO of any pending changes to their planning assumptions or methods and procedures used to estimate travel, forecast travel demand, or estimate motor vehicle emissions. Where necessary the MPO shall convene meetings, additional to that required under part (3) (A)2.L.(I) of this rule, to share information and evaluate the potential impacts of any proposed changes in planning assumptions, methods or procedures and to exchange information regarding the timetable and scope of any upcoming studies or analyses that may lead to future revision of planning assumptions, methods or procedures.

(IV) Whenever a change in air quality or transportation planning assumptions, methods or procedures is proposed that may have a significant impact on the SIP motor vehicle emissions inventory, motor vehicle emissions budget or conformity determinations, the agency proposing the change shall provide the consulting agencies an opportunity to review the basis for the proposed change. All consulting agencies shall be given at least thirty (30) days to evaluate the impact of the proposed change prior to final action by the agency proposing the change. To the fullest extent practicable, the time frame for considering and evaluating proposed changes shall be coordinated with the procedures for consultation on planning assumptions in parts (3) (A)2.L.(I)-(3) (A)2.L.(III) of this rule.

M. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the consultation purpose is identified in the public notice for the meeting and all consulting agencies are notified in advance of the meeting.

N. In any matter which is the subject of consultation, no consulting agency may make a final decision or move to finally approve a document subject to this rule until the expiry of the time allowed for consultation and the completion of the process notified under subparagraph (3)(A)2.G. of this rule. Notwithstanding the previous sentence, any consulting agency may make a final decision or move to finally approve a document subject to this rule if final comments on the draft document or decision have been received from all other consulting agencies. The lead agency designated under subparagraph (3)(A)2.B. of this rule shall, in making its decision, take account of all views expressed in response to consultation.

3. Interagency consultation procedures—specific processes. Interagency consultation procedures shall also include the following specific processes:

A. An interagency consultation process in accordance with paragraph (3)(A)2. of this rule involving the MPO, state and local air quality planning agencies, state and local transportation agencies, the EPA and the DOT shall be undertaken for the following (except where otherwise provided, the MPO shall be responsible for initiating the consultation process):

(I) Evaluating and choosing a model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses;

(II) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of 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;

(III) Evaluating whether projects otherwise exempted from meeting the requirements of 40 CFR 93.126 and 93.127 should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason;

(IV) Making a determination, required by 40 CFR 93.113(c) (1), 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 over other projects within their control. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

(V) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR 93.126 or 40 CFR 93.127. In any year when it is intended to prepare a transportation plan revision, TIP or TIP amendment that merely adds or deletes exempt projects, the MPO shall notify all consulting agencies in writing within seven (7) calendar days after taking action to approve such exempt projects. The notification shall include enough information about the exempt projects for the consulting agencies to determine their agreement or disagreement that the projects are exempt under 40 CFR 93.126 or 40 CFR 93.127;

(VI) Determining whether a project is considered to be 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 whether 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;

(VII) Advising on the horizon years to be used for conformity determinations, in accordance with 40 CFR 93.106;

(VIII) Advising whether the modeling methods and functional relationships used in the model are consistent with acceptable professional practice and are reasonable for the purposes of emission estimation, as specified in 40 CFR 93.122;

(IX) Reviewing the models, databases and other requirements specified in 40 CFR 93.123 and advising if there are grounds for recommending to the EPA regional administrator that these models, databases or requirements are inappropriate. In such an event, the consulting agencies shall propose alternative methods to satisfy the requirements for conformity in accordance with 40 CFR 93.123;

(X) Determining what forecast of vehicle miles traveled to use in establishing or tracking motor vehicle emissions budgets, developing transportation plans, TIPS or applicable implementation plans, or in making conformity determinations;

(XI) Determining whether the project sponsor or the MPO has demonstrated that the requirements of 40 CFR 93.116-93.119 are satisfied without a particular mitigation or control measure, as provided in 40 CFR 93.125;

(XII) Developing a list of TCMs to be included in the applicable implementation plan; and

(XIII) Choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas, as required by 40 CFR 93.109(I) (2);

B. An interagency consultation process in accordance with paragraph (3) (A)2. involving the MPO, state and local air quality planning agencies and state and local transportation agencies for the following (except where otherwise provided, the MPO shall be responsible for initiating the consultation process):

(I) Evaluating events which will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104. Any of the consulting agencies listed in subparagraph (3) (A)2.C. of this rule may request that the MPO initiate the interagency consultation process to evaluate an event which should, in the opinion of the consulting agency, trigger a need for a conformity determination. The MPO shall initiate appropriate consultation with the other consulting agencies in response to such request, and shall notify the consulting agencies and the requesting agency in writing of its proposed action in response to this evaluation and consultation; and

(II) Consulting on the procedures to be followed in performing emissions analysis for transportation activities which cross the borders of the MPO's region or the St. Louis nonattainment area or air basin;

C. Consultation on nonfederal projects.

(I) An interagency consultation process in accordance with paragraph (3) (A)2. of this rule involving the MPO, state and local air quality agencies and state and local transportation agencies shall be undertaken to ensure that plans

for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including all those by recipients of funds designated under Title 23 U.S.C. or Title 49 U.S.C., are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are immediately disclosed.

(II) Notwithstanding the provisions of part (3) (A) 3.A. (I) of this rule, it shall be the responsibility of the sponsor of any such regionally significant project, and of any agency that becomes aware of any such project through applications for approval, permitting or funding, to disclose such project to the MPO in a timely manner. Such disclosure shall be made not later than the first occasion on which any of the following actions is sought: any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to design or construct the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with design, permitting or construction of the project, or the execution of any contract to design or construct or any approval needed for any facility that is dependent on the completion of the regionally significant project.

(III) Any such regionally significant project that has not been disclosed to the MPO in a timely manner shall be deemed not to be included in the regional emissions analysis supporting the conformity determination for the TIP and shall not be consistent with the motor vehicle emissions budget in the applicable implementation plan, for the purposes of 40 CFR 93.121.

(IV) For the purposes of this section and of 40 CFR 93.121, the phrase adopt or approve of a regionally significant project means the first time any action necessary to authorizing a project occurs, such as any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to construct the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with construction of the project, or any written decision or authorization from the MPO that the project may be adopted or approved;

D. This interagency consultation process involving the agencies specified in subparagraph (3) (A) 2.C. of

this rule shall be undertaken for assuming the location and design concept and scope of projects which are disclosed to the MPO as required by subparagraph (3)(A)3.C. of this rule but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.122. This process shall be initiated by the MPO;

E. The MPO shall undertake an on-going process of consultation with the agencies listed in subparagraph (3)(A)2.C. of this rule for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO. This process shall, as far as practicable, be integrated with the cooperative development of the Unified Planning Work Program under 23 CFR section 450.314; and

F. This process insures providing final documents (including applicable implementation plans and implementation plan revisions) and supporting information to each agency after approval or adoption. This process is applicable to all agencies described in subparagraph (3)(A)1.A. of this rule, including federal agencies.

4. Record keeping and distribution of final documents.

A. It shall be the responsibility of the lead agency designated under subparagraph (3)(A)2.B. of this rule to maintain a complete and accurate record of all agreements, planning and programming processes, and consultation activities required under this rule and to make these documents available for public inspection upon request.

B. It shall be the affirmative responsibilities of the lead agency designated under subparagraph (3)(A)2.B. of this rule to provide to the other consulting agencies copies of any final document or final decision subject to this rule within thirty (30) days of final action by the lead agency.

5. Resolving conflicts.

A. Conflicts among state agencies or between state agencies and the MPO regarding a final action on any conformity determination subject to this rule shall be escalated to the governor if the conflict cannot be resolved by the heads of the involved agencies. Such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

B. It shall be the responsibility of the state air quality agency to provide timely notification to the MPO and other consulting agencies of any proposed conformity determination where the agency identifies a potential conflict which, if unresolved, would, in the opinion of the agency, justify escalation to the governor. To the extent that consultation is not otherwise required under this rule, the state air quality agency shall consult with the other agencies listed in subparagraph (3)(A)2.C. of this rule in advance of escalating a potential conflict to the governor, and, if necessary, shall convene the meetings required under subparagraph (3)(A)5.A. of this rule.

C. When the MPO intends to make a final determination of conformity for a transportation plan, plan revision, TIP or TIP amendment, the MPO shall first notify the director of the state air quality agency of its intention and include in that notification a written response to any comments submitted by the state air quality agency on the proposed conformity determination. Upon receipt of such notification (including the written response to any comments submitted by the state air quality agency), the state air quality agency shall have fourteen (14) calendar days in which to appeal a proposed determination of conformity to the governor. If the Missouri air quality agency appeals to the governor of Missouri, the final conformity determination will automatically become contingent upon concurrence of the governor of Missouri. If the Illinois air quality agency presents an appeal to the governor of Missouri regarding a conflict involving both Illinois and Missouri agencies or the MPO, the final conformity determination will automatically become contingent upon concurrence of both the governor of Missouri and the governor of Illinois. The state air quality agency shall provide notice of any appeal under this subsection to the MPO, the state transportation agency and the Illinois air quality agency. If neither state air quality agency appeals to the governor(s) within fourteen (14) days of receiving written notification, the MPO may proceed with the final conformity determination.

D. The governor may delegate the role of hearing any such appeal under this subsection and of deciding whether to concur in the conformity determination to another official or agency within the state, but not to the head or staff of the state air quality agency or any local air quality agency, the state department of transportation, a state transportation commission or board, any agency that has responsibility for only one (1) of these functions, or an MPO.

6. Interagency consultation procedures—public consultation procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(b). Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.43. In addition, these agencies must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

(B) Requirement to Fulfill Commitments to Control Measures (Federal Code Location: 40 CFR 93.122(a)(4)(ii)). Written commitments to control measures that are not included in the transportation plan and TIP must be obtained from the entity or entities with authority and ability to implement the control measures prior to a conformity determination and such commitments must be fulfilled.

(C) Requirement to Fulfill Commitments to Mitigation Measures (Federal Code Location: 40 CFR 93.125(c)). Written commitments to project-level mitigation measures which are conditions for making conformity determinations for a transportation plan or transportation improvement program must be obtained from the project sponsor prior to a positive conformity determination. Project sponsors committing to mitigation measures to facilitate positive conformity determinations must comply with such commitments.

(4) Reports and Records Keeping. (*Not Applicable*)

(5) Test Methods. (*Not Applicable*)

EPA Rulemakings

CFR: 40 C.F.R. 52.1320(c)
 FRM: 72 FR 59014 (10/18/2007)
 PRM: 72 FR 59066 (10/18/2007)
 State Submission: 07/27/2007
 State Final: 10 C.S.R. 10-5 (10/24/2006; effective 07/30/2007)
 APDB File: MO-256; EPA-R07-OAR-2007-0912
 Description: This revision incorporates the requirements of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which was signed into law on August 10, 2005.

CFR: 40 C.F.R. 52.1320(c)
 FRM: 68 FR 66350 (11/26/2003)
 PRM: 68 FR 66389 (11/26/2003)
 State Submission: 09/16/2003
 State Final: 10 C.S.R. 10-5 (09/30/2003)
 APDB File: MO-168
 Description: The EPA approved a revision that will accomplish the implementation of the one-year grace period before conformity is required in areas that are designated non-attainment for a given air quality standard for the first time and will require that conformity be determined within 18 months of EPA's affirmative finding that the SIP's motor vehicle emissions budgets are adequate.

CFR: 40 C.F.R. 52.1320(c)(101)(i)(B)
 FRM: 62 FR 46880 (9/5/97) Correction Notice 63 FR 6645 (02/10/98)
 PRM: 61 FR 46938 (9/5/97)
 State Submission: 2/2/97
 State Proposal: 21 MR 2651 (11/15/96)
 State Final: 10 C.S.R. 10-5 (11/30/96)
 APDB File: MO-139
 Description: The EPA approved an amendment to the rule which adopted specific revisions to the Federal transportation conformity rule contained in 40 C.F.R. 51.390-464 (Subpart T) as amended on November 14, 1995. The action of 63 FR 6645 (February 10, 1998) corrects the effective date of the September 5, 1997, notice to February 10, 1998, to be consistent with sections 801 and 808 of the Congressional Review Act.

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CFR: 40 C.F.R. 52.1320(c)(92)(i)(A)

FRM: 61 FR 7711 (2/29/96)

PRM: 61 FR 7760 (2/29/96)

State Submission: 2/14/95

State Proposal: 19 MR 2557 (11/1/94)

State Final: 10 C.S.R. 10-5 (4/28/95)

APDB File: MO-116b

Description: The EPA approved a new regulation which takes final action to approve the SIP submitted by the state of Missouri for the purpose of fulfilling the requirements set forth in the EPA's Transportation Conformity rule. The SIP was submitted by the state to satisfy the Federal requirements in 40 C.F.R. 51.396.

Difference Between the State and EPA-Approved Regulation

None.