

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 14. Conformity

Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved under Title 23 U.S.C. or the Federal Transit Act

§1432. Incorporation by Reference

A. 40 CFR Part 93, Subpart A, July 1, 2008~~5~~, is hereby incorporated by reference with the exclusion of Sections 105, 122(a)(4)(ii), and 125(c).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:697 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:640 (March 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 35:**.

§1434. Consultation

A. – C.1.e. ...

f. the MPO shall notify the agencies specified in Paragraph B.2 of this Section of transportation plan or TIP ~~revisions or amendments which~~that merely add or delete exempt projects listed in 40 CFR 93.126 or 93.127 (as incorporated by reference in LAC 33:III.1432), and allow a 30-day comment period; and

C.1.g. – D.4. ...

E. Public Consultation Procedures. Consistent with the requirements of 23 CFR 450.316(~~a~~**b**), relating to public involvement, affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process that provides opportunity for public review and comment. This process shall, at a minimum, provide reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and before taking formal action on conformity determinations for all ~~TP~~transportation plans and TIPs. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the fee schedule contained in 49 CFR 7.439~~5~~. In addition, any such agency must specifically address in writing any public comments claiming that known plans for a regionally significant project that is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998), amended LR 24:1684 (September 1998), repromulgated LR 24:1925 (October 1998), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2085 (October 2007), LR 35:**.

§1435. Commitments for Regional Emissions Analysis

A. In accordance with 40 CFR 93.122(a)(4)(ii), prior to making a conformity determination on the transportation plan or TIP, the MPO, where one exists, or the MPO's designee, shall not include emissions reduction credits from any control measures that are not included in the transportation plan or TIP, and that do not require a regulatory action in the regional emissions analysis used in the conformity analysis unless the MPO, where one exists, or the MPO's designee, or the FHWA/FTA obtains written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to implement those control measures must be fulfilled by the appropriate entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§1437. Commitments for Project-Level Mitigation and Control Measures

A. In accordance with 40 CFR 93.125(c), prior to making a project-level conformity determination for a transportation project, the FHWA/FTA must obtain from the project sponsor and/or operator written commitments, as defined in 40 CFR 93.101, to implement any project-level mitigation or control measures in the construction or operation of the project identified as conditions for NEPA process completion. The written commitments to implement those project-level mitigation or control measures must be fulfilled by the appropriate entities. Prior to making a conformity determination of the transportation plan or TIP, the MPO, where one exists, or the MPO's designee, shall ensure that any project-level mitigation or control measures are included in the project design concept and scope, and are appropriately identified in the regional emissions analysis used in the conformity analysis. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.