

making a project-level conformity determination, if a project in Table 3 also meets the criteria in § 93.123(b)(1). 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 of this section is not exempt from regional emissions analysis if the MPO in consultation with other agencies (see § 93.105(c)(1)(iii)), 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 follows:

TABLE 3—PROJECTS EXEMPT FROM REGIONAL EMISSIONS ANALYSES

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

[58 FR 62235, Nov. 24, 1993, as amended at 71 FR 12511, Mar. 10, 2006]

**§ 93.128 Traffic signal synchronization projects.**

Traffic signal synchronization projects may be approved, funded, and implemented without satisfying the requirements of this subpart. However, all subsequent regional emissions analyses required by §§ 93.118 and 93.119 for transportation plans, TIPs, or projects not from a conforming plan and TIP must include such regionally significant traffic signal synchronization projects.

**§ 93.129 Special exemptions from conformity requirements for pilot program areas.**

EPA and DOT may exempt no more than six areas for no more than three years from certain requirements of this subpart if these areas are selected to participate in a conformity pilot program and have developed alternative requirements that have been approved by EPA as an implementation plan revision in accordance with § 51.390 of this chapter. For the duration of the pilot program, areas selected to participate in the pilot program must

comply with the conformity requirements of the pilot area's implementation plan revision for § 51.390 of this chapter and all other requirements in 40 CFR parts 51 and 93 that are not covered by the pilot area's implementation plan revision for § 51.390 of this chapter. The alternative conformity requirements in conjunction with any applicable state and/or federal conformity requirements must be proposed to fulfill all of the requirements of and achieve results equivalent to or better than section 176(c) of the Clean Air Act. After the three-year duration of the pilot program has expired, areas will again be subject to all of the requirements of this subpart and 40 CFR part 51, subpart T, and/or to the requirements of any implementation plan revision that was previously approved by EPA in accordance with § 51.390 of this chapter.

[64 FR 13483, Mar. 18, 1999]

**Subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans**

SOURCE: 58 FR 63253, Nov. 30, 1993, unless otherwise noted.

**§ 93.150 Prohibition.**

(a) No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.

(b) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this subpart before the action is taken.

(c) Paragraph (b) of this section does not include Federal actions where:

(1) A National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994; or

(2)(i) Prior to January 31, 1994, an environmental analysis was commenced