

§ 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 or a contract was awarded to develop the specific environmental analysis;

(ii) Sufficient environmental analysis is completed by March 15, 1994 so that the Federal agency may determine that the Federal action is in conformity with the specific requirements and the purposes of the applicable SIP pursuant to the agency's affirmative obligation under section 176(c) of the Clean Air Act (Act); and

(iii) A written determination of conformity under section 176(c) of the Act has been made by the Federal agency responsible for the Federal action by March 15, 1994.

(d) Notwithstanding any provision of this subpart, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the National Environmental Policy Act (NEPA), or the Clean Air Act (Act).

[58 FR 63253, Nov. 30, 1993; 58 FR 67442, Dec. 21, 1993]

§ 93.151 State implementation plan (SIP) revision.

The Federal conformity rules under this subpart, in addition to any existing applicable State requirements, es-

tablish the conformity criteria and procedures necessary to meet the Act requirements until such time as the required conformity SIP revision is approved by EPA. A State's conformity provisions must contain criteria and procedures that are no less stringent than the requirements described in this subpart. A State may establish more stringent conformity criteria and procedures only if they apply equally to nonfederal as well as Federal entities. Following EPA approval of the State conformity provisions (or a portion thereof) in a revision to the applicable SIP, the approved (or approved portion of the) State criteria and procedures would govern conformity determinations and the Federal conformity regulations contained in this part would apply only for the portion, if any, of the State's conformity provisions that is not approved by EPA. In addition, any previously applicable SIP requirements relating to conformity remain enforceable until the State revises its SIP to specifically remove them from the SIP and that revision is approved by EPA.

§ 93.152 Definitions.

Terms used but not defined in this part shall have the meaning given them by the Act and EPA's regulations (40 CFR chapter I), in that order of priority.

Affected Federal land manager means the Federal agency or the Federal official charged with direct responsibility for management of an area designated as Class I under the Act (42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

Applicable implementation plan or applicable SIP means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110 of the Act, or promulgated under section 110(c) of the Act (Federal implementation plan), or promulgated or approved pursuant to regulations promulgated under section 301(d) of the Act and which implements the relevant requirements of the Act.

Areawide air quality modeling analysis means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air