



---

**HOUSTON-GALVESTON AREA COUNCIL**

---

PO Box 22777 • 3555 Timmons Lane, Suite 120 • Houston, Texas 77227-2777 • 713/627-3200

August 24, 2010

Air Docket  
Environmental Protection Agency  
Mail Code: 2822T  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

Attn: Docket ID No. EPA-HQ-OAR-2009-0128

Dear Sir/Madam:

The Houston-Galveston Area Council (H-GAC) as the metropolitan transportation planning organization (MPO) for the eight-county Houston-Galveston-Brazoria region submits the following comments on the proposed rulemaking changes published in the Vol. 75, No. 156 of the Federal Register on 08-13-2010.

The Houston-Galveston Area Council (H-GAC) recognizes that the primary purposes of the Environmental Protection Agency's (EPA) draft rulemaking are to: (1) reorganize and streamline existing regulations, (2) clarify the existing rule on "clean data" and extend it to all non-attainment areas, (3) clarify that the conformity rule will apply to the secondary standard (once it is set) just as it does to the primary standard, and (4) change the requirement for the establishment of a "near-term" air quality conformity analysis year.

H-GAC supports EPA's proposed restructuring of 40 CFR 93 that will make it easier for EPA to make small administrative changes to the regulations, specifically establishing a new baseline year, without triggering a rulemaking process. Additionally, H-GAC supports EPA's proposal to extend the "clean data" option currently contained in 40 CFR 93.109(c)(5), (d)(5), and (e)(4) to all non-attainment areas. H-GAC recommends that EPA and the Federal Highway Administration (FHWA) conduct an educational outreach campaign with MPOs and State Departments of Transportation once the new standards go into effect.

H-GAC holds its support for EPA's proposal to apply the conformity requirements to the secondary standard in abeyance until EPA provides more information as to what the test will be for showing compliance with the secondary standard. It is difficult for any practitioner to offer meaningful comments on this proposal until the test requirements are known. In general, H-GAC concurs with previous comments submitted jointly by the Association of Metropolitan Planning Organizations (AMPO) and the American Association of State Highway and Transportation Officials (AASHTO) dated July 19, 2010 on the efficacy of the secondary standard.

H-GAC does not support the amendment of 40 CFR 93.118 for the proposed purposes outlined by EPA in the draft rulemaking. H-GAC finds the rationale behind EPA's proposal to amend sections of 40 CFR 93.118 to require additional analysis years to be somewhat unsubstantiated. Further, it is H-GAC's position that this proposed change will require MPOs and SDOTs to expend a great deal more resources to complete conformity determinations than the proposed rulemaking indicates.

The increase in both milestone and attainment year conformity analyses has the potential to significantly limit the MPO's ability to move non-exempt highway and transit projects within the four years of an approved, conforming Transportation Improvement Program (TIP). As a consequence, MPOs in non-attainment areas may be unable to timely modify the implementation year of TIP projects to account for unexpected project delays, funding shortfalls or increased funding availability. H-GAC proposes that the conformity rules be modified to permit a MPO operating with a conforming plan and TIP to move non-exempt projects within the four years of the TIP without regard to specific milestone or attainment years affected by this action. This limited flexibility would not enable the addition of new, non-exempt projects to the TIP but would provide minimal flexibility to utilize available funds for projects in the approved, conforming TIP.

Please do not hesitate to contact me on 713-993-4585 if you have any questions or require additional information.

Sincerely,



Alan C. Clark  
MPO Director

AC:aj

cc: Ms. Margie McAllister, TCEQ  
Mr. Delvin Dennis, P.E., TxDOT-Houston  
Mr. James Koch, P.E., TxDOT-Houston  
Ms. Kimberly Slaughter, Houston METRO  
Mr. Jefferson Grimes, TxDOT  
Ms. Shelley Whitworth, H-GAC  
Ms. Pat Waskowiak, H-GAC  
Mr. Steve Howard, H-GAC