

~~(2) The certified inspector shall review the facility files to confirm that:~~

~~(a) All testing required by this chapter has been completed;~~

~~(b) The operator has performed daily inspections of the Stage II equipment;~~

~~(c) The records required by this chapter are complete and maintained onsite; and~~

~~(d) All other requirements of this chapter are being met.~~

~~(3) The certified inspector shall complete an inspection form provided by the Department and submit the completed form to the Department within 30 days after completing the inspection.~~

KENDL P. PHILBRICK
Secretary of the Environment

Subtitle 11 AIR QUALITY

26.11.26 Conformity

Authority: Environment Article, §§1-101, 1-404, 2-101 — 2-103,
2-301 — 2-303, 10-102, and 10-103,
Annotated Code of Maryland

Notice of Proposed Action

[06-334-P]

The Secretary of the Environment proposes to amend Regulations .01 — .05 and .07 — .09 under COMAR 26.11.26 Conformity.

Statement of Purpose

The purpose of this action is to update the citations to the federal conformity regulations to reflect all amendments that have occurred since that last set of amendments to COMAR 26.11.26. These include transportation conformity regulations for the new 8-hour ozone and fine particulate (PM_{2.5}) national ambient air quality standards (NAAQS), incorporations of existing federal guidance that is consistent with a U.S. Court of Appeals decision, and streamlining and improvement of the existing federal transportation conformity rule.

The proposed action also adds the Hagerstown/Eastern Panhandle (HEP) Metropolitan Planning Organization (MPO) to the list of affected MPOs to ensure that consultation procedures are followed in Washington County.

These amendments will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to Maryland's State Implementation Plan (SIP).

BACKGROUND

Conformity

Section 176 of the Clean Air Act entitled "Limitations on certain Federal Assistance" ensures that federal funding, permits, and approvals go to activities that are consistent with air quality goals expressed in the SIP. These activities cannot produce new air quality violations, worsen existing violations, or delay timely attainment of national ambient air quality standards (NAAQS). Since the major application of this provision is transportation plans and projects, EPA promulgated rules specifically addressing the process for making this determination. These provisions apply in non-attainment and maintenance areas to ensure that public health is protected by early consideration of transportation decisions in areas with air quality challenges.

In general, federal funds for transportation plans, programs, and projects are passed to the states through metropolitan planning organizations (MPOs). The MPOs consist of local governments and the state Department of Transportation with other representatives as deemed necessary by the specific metropolitan area. The other representatives can include state Departments of Planning and the Environment, and transit authorities. The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) certify the MPOs and their planning processes including their ability to perform a regional analysis of the emissions expected from the region's transportation system.

The original 1993 federal transportation conformity rule established the criteria and procedures by which the FHWA, FTA, and MPOs determine the conformity of federally funded or approved highway and transit plans, programs, and projects to state air quality plans. The rule basically sets forth several options for determining whether a plan or project conforms. The rule requires that the agencies involved in developing the SIP and involved in developing the transportation plans consult with each other on the processes used to prepare these plans. The rule provides penalties for noncompliance with the rule.

Through consultation, the affected agencies have agreed that the test used in Maryland is the mobile source emissions budget test, which compares emissions generated by transportation plans to mobile source emission budgets established in the SIP. This test essentially caps emissions from the transportation system at a level that allows the nonattainment area to comply with federal air quality standards. Failure to meet this test can delay or stop the transportation planning process.

Several legal challenges have required revisions to the rule and the new NAAQS for fine particulate matter and 8-hour ozone also necessitated revisions. The revisions have been so frequent that EPA no longer requires environmental agencies to adopt the technical aspects of the transportation conformity rule. Instead, only the interagency consultation process is required. This includes a delineation of responsibilities, meeting processes, and a process for conflict resolution.

New Washington County Requirements

On December 17, 2004, the EPA issued final nonattainment designations for fine particulates (PM_{2.5}). Washington County, Maryland became a PM_{2.5} nonattainment area. New transportation plans and projects there will now require a conformity determination to receive federal approval and funding.

Agencies Affected

Metropolitan planning organizations in Maryland, the Maryland Departments of Transportation and the Environment, the EPA and the FHWA and the FTA must consult on how the requirements of the federal rule will be met before transportation projects are approved and transportation funds are released.

Amendment Requirements

The amendment includes the Washington County MPO in the consultation process and requires a conformity determination on transportation plans, programs, and projects in that county before receiving approval from the FHWA and the FTA.

These amendments reflect the EPA's final rule of March 10, 2006 requiring that certain transportation projects be analyzed for PM_{2.5} hotspots.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on December 14, 2006 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aqua Conference Room, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or call (410) 537-3240, or email to drabin@mde.state.md.us. Comments must be received not later than December 14, 2006, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

.01 Purpose and Scope.

The purpose of this chapter is to [allow the State of Maryland to] implement §176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. §7401 et seq.), and the related requirements of 23 U.S.C. §109(j), with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). This chapter sets forth policy, criteria, and procedures for demonstrating and assuring conformity of these activities to an applicable implementation plan developed pursuant to §110 and Part D of the CAA. *The requirements in this chapter are applicable in areas of the State designated by the U.S. Environmental Protection Agency as nonattainment or maintenance areas for any relevant National Ambient Air Quality Standards (NAAQS).*

.02 Definitions.

A. In this chapter, all terms not defined in this regulation have the meanings stated in 40 CFR §§93.101 and 93.152, [1997 edition] as amended, which is incorporated by reference.

B. Terms Defined.

(1) — (6) (text unchanged)

(7) ["Metropolitan [planning organization] Planning Organization (MPO).

(a) "Metropolitan planning organization (MPO)" means the:

[(a)] (i) — [(b)] (ii) (text unchanged)

(b) "Metropolitan planning organization (MPO)" includes:

[(15)] (i) ["Transportation Steering Committee of Baltimore (TSC)" means] *The "Baltimore Regional Transportation Board (BRTB),"* the MPO for the Baltimore region, which includes Anne Arundel, Baltimore, Carroll, Harford, and Howard counties and the cities of Baltimore and Annapolis [.] ;

(ii) *The "Hagerstown/Eastern Panhandle (HEP)" MPO for the Hagerstown area, which includes Washington County, Maryland and the counties of Berkeley and Jefferson in West Virginia;*

[(8)] (iii) *The "National Capital Transportation Planning Board (TPB)"*, [is] the MPO for the Washington region, which includes Frederick, Montgomery, and Prince George's counties in Maryland, [as well as] the District of Columbia, and Northern Virginia [.] ; and

[(16)] (iv) *The "Wilmington Area Planning Council (WILMAPCO)"*, [means] the MPO for New Castle County, Delaware and Cecil County, Maryland.

(9) — (14) (text unchanged)

.03 Transportation Conformity.

A. (text unchanged)

B. Requirement for Conformity. Each agency and organization charged with the responsibility to make transportation conformity determinations shall do so pursuant to *this chapter and the provisions of 40 CFR Part 93, Subpart A, [as adopted at 62 FR 43801 (August 15, 1997)] as amended, which is incorporated by reference [.] and this regulation.*

.04 Transportation Conformity—Consultation in General.

A. The MPOs, RPOs, the Department, and MDOT shall comply with the procedures in this [regulation] *chapter* governing interagency consultation, conflict resolution, and public consultation with each other and with divisional or regional offices of the EPA, Federal Highway Administration (FHWA), and Federal Transit Administration (FTA) on the development of:

(1) — (6) (text unchanged)

B. [A party is not allowed to be a participating agency] *An agency may not participate in the consultation process unless [that party] it is identified as a participating agency in this [regulation] chapter.*

.05 Transportation Conformity—Interagency Consultation Requirements.

A. — B. (text unchanged)

C. In addition to serving as lead agency pursuant to §A(2) of this regulation, the MPOs are responsible for:

(1) — (10) (text unchanged)

(11) In cooperation with the Department and MDOT, evaluating whether projects otherwise exempted from meeting the requirements of 40 CFR [127] §93.127 should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason;

(12) In cooperation with MDOT and the Department, making a determination as required by 40 CFR [113] §93.113, whether past obstacles to implementation of TCMs that are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influ-

ence over approvals or funding for TCMs are giving maximum priority to approvals or funding for TCMs, and as part of this consultation, considering whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCM or substitute TCMs or other emission reduction measures;

(13) (text unchanged)

(14) In cooperation with MDOT and the Department, evaluating events which may trigger new conformity determinations in addition to those triggering events established by 40 CFR §93.104;

(15) In cooperation with MDOT and the Department, developing assumptions regarding the location and design concept and scope of projects which are disclosed to the MPO as required by this regulation, 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, *as amended*;

(16) — (17) (text unchanged)

D. (text unchanged)

E. In addition to serving as lead agency pursuant to §A(4) of this regulation, the Department is responsible for:

(1) — (2) (text unchanged)

(3) Gaining final approval at the State level for control strategy implementation plan revisions and maintenance plans;

(4) Identifying, as required by 40 CFR §93.123, projects located at sites in [PM₁₀] PM_{2.5} nonattainment areas which will have vehicle and roadway emission and dispersion characteristics which are essentially identical to those sites which have violations verified by monitoring and, therefore, require [quantitative PM₁₀] *qualitative, quantitative, or both, PM_{2.5} hot-spot analysis as required by 40 CFR §93 Subpart A as amended*;

(5) — (9) (text unchanged)

.07 Transportation Conformity—Public Consultation Procedures.

A. [The] *In accordance with 40 CFR §93.105(e), the MPOs shall:*

(1) — (2) (text unchanged)

(3) *Assess and impose reasonable charges [in accordance with the provisions of 49 CFR §7.95] for public inspection and copying of such information, consistent with the fee schedule contained in 49 CFR 7.43.*

B. — C. (text unchanged)

.08 Transportation Conformity—Interagency Consultation Procedures.

The MPOs, RPOs, MDOT, and the Department may enter into agreements to set forth specific consultation procedures in more detail that are not in conflict with this [regulation] chapter.

.09 General Conformity.

Each department, agency, and instrumentality of the federal government shall comply with the general conformity requirements of 40 CFR Part 93, Subpart B, [as adopted at 58 FR 63253 (November 30, 1993)], *as amended*, which is incorporated by reference [, and this regulation]. This regulation addresses and replaces the requirements at 40 CFR §93.151 for a revision to the Maryland State Implementation Plan.

KENDL P. PHILBRICK
Secretary of the Environment

**Title 29
DEPARTMENT OF STATE POLICE**

**Subtitle 07 OFFICE OF THE STATE FIRE
MARSHAL**

29.07.01 Nongovernmental Electrical Inspectors

*Authority: Public Safety Article, §12-605,
Annotated Code of Maryland*

Notice of Proposed Action

[06-329-P]

The Secretary of State Police proposes to adopt new Regulations .01 and .02 under a new chapter, COMAR 29.07.01 Nongovernmental Electrical Inspectors.

Statement of Purpose

The purpose of this action is to establish the eligibility requirements and certification for a nongovernmental electrical inspector.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Wagner, Deputy Fire Marshal, Office of the State Fire Marshal, 7543 Main Street, Sykesville, MD 21784, or call 410-552-0154, or fax to 410-552-0540. Comments will be accepted through December 13, 2006. A public hearing has not been scheduled.

.01 Eligibility.

A. *Except as provided under §B of this regulation, the following are the minimum eligibility qualifications to become a nongovernmental electrical inspector:*

(1) *Completion of an apprenticeship as an electrician;*
and

(2) *5 years of documented progressive experience in the electrical trade.*

B. *Instead of the experience required under §A of this regulation, an electrical engineering degree or accumulated credits in combination with education, training, and experience may be considered by the Office of the State Fire Marshal to meet the qualifications.*

.02 Certification.

A. *An applicant for initial certification must pass a comprehensive written examination.*

B. *Initial certifications are valid for varying amounts of time, depending on the date of certification.*

