

# **Appendix E**

## **Air Quality Conformity Determination**

*For the RPC 2050 Long Range Transportation Plan*

## Air Quality Conformity

The concept of transportation conformity was introduced in the Clean Air Act (CAA) of 1977, which included a provision to ensure that transportation investments conform to a State implementation plan (SIP) for meeting the Federal air quality standards. Conformity requirements were made substantially more rigorous in the CAA Amendments of 1990. The transportation conformity regulations that detail implementation of the CAA requirements were first issued in November 1993, and have been amended several times. The regulations establish procedures for transportation agencies to demonstrate that air pollutant emissions from metropolitan transportation plans, transportation improvement programs and projects are consistent with (“conform to”) the State’s air quality goals in the SIP.

Transportation conformity is required under CAA Section 176I to ensure that Federally-supported transportation activities conform to the purpose of a State’s SIP and to establish the framework for improving air quality to protect public health and the environment. Conformity for the SIP means FHWA and FTA approvals are given to activities that will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the relevant air quality standard, or interim milestones.

The Boston-Manchester-Portsmouth (SE), NH 8-hour Ozone Nonattainment Area includes communities in portions of Hillsborough, Merrimack, Rockingham, and Strafford Counties in southeast New Hampshire (see inset). Those communities were designated as a moderate non-attainment area for the 8-hour ozone National Ambient Air Quality Standard (NAAQS) on April 30, 2004 and re-designated to “Attainment” status in April, 2012. As of July 20, 2013, all of New Hampshire is unclassifiable/attainment for the 2008 8-hour Ozone NAAQS, and as of November 6, 2017 all of New Hampshire is unclassifiable/attainment for the 2015 8 hour Ozone NAAQS.

### Transportation Conformity Requirements

On November 29, 2018, EPA issued Transportation Conformity Guidance for the South Coast II Court

#### **Communities in the Boston-Manchester-Portsmouth (SE), NH 8-Hour Ozone Nonattainment Area (1997 Ozone Standard)**

##### **Hillsborough Co (part)**

Amherst Town, Bedford Town, Brookline Town, Goffstown Town, Hollis Town, Hudson Town, Litchfield Town, Manchester City, Merrimack Town, Milford Town, Nashua City, Pelham Town

##### **Merrimack Co (part)**

Hooksett Town

##### **Rockingham Co (part)**

Atkinson Town, Auburn Town, Brentwood Town, Candia Town, Chester Town, Danville Town, Derry Town, East Kingston Town, Epping Town, Exeter Town, Fremont Town, Greenland Town, Hampstead Town, Hampton Town, Hampton Falls Town, Kensington Town, Kingston Town, Londonderry Town, New Castle Town, Newfields Town, Newington Town, Newmarket Town, Newton Town, North Hampton Town, Plaistow Town, Portsmouth City, Raymond Town, Rye Town, Salem Town, Sandown Town, Seabrook Town, South Hampton Town, Stratham Town, Windham Town

##### **Strafford Co (part)**

Dover City, Durham Town, Rochester City, Rollinsford Town, and Somersworth City

Decision<sup>1</sup> (EPA-420-B-18-050, November 2018) that addresses how transportation conformity determinations can be made in areas that were nonattainment or maintenance for the 1997 ozone NAAQS when the 1997 ozone NAAQS was revoked but were designated attainment for the 2008 ozone NAAQS in EPA's original designations for this NAAQS (May 21, 2012).

Per the court's decision in South Coast II, beginning February 16, 2019, a transportation conformity determination for the 1997 ozone NAAQS will be needed in 1997 ozone NAAQS nonattainment and maintenance areas identified by EPA<sup>2</sup> for certain transportation activities, including updated or amended MTPs/LRTPs and TIPs. Since 2019, Conformity is required no less frequently than every four years and this conformity determination will address the RPC 2050 Long Range Transportation Plan (LRTP) and 2025-2028 Transportation Improvement Program (TIP).

The transportation conformity regulation at 40 CFR 93.109 sets forth the criteria and procedures for determining conformity. These include utilizing latest planning assumptions (93.110), latest emissions model (93.111), consultation (93.112), transportation control measures (93.113(b) and (c)), and emissions budget and/or interim emissions (93.118 and/or 93.119).

For the 1997 ozone NAAQS areas, transportation conformity for MTPs and TIPs can be demonstrated without a regional emissions analysis, per 40 CFR 93.109I. This provision states that the regional emissions analysis requirement applies one year after the effective date of EPA's nonattainment designation for a NAAQS and until the effective date of revocation of such NAAQS for an area. The 1997 ozone NAAQS revocation was effective on April 6, 2015, and the South Coast II court upheld the revocation. As no regional emission analysis is required for this conformity determination, there is no requirement to use the latest emissions model, or budget or interim emissions tests.

Therefore, transportation conformity for the 1997 ozone NAAQS for the Rockingham Planning Commission 2050 Long Range Transportation Plan and 2025-2028 TIP can be demonstrated by applying the remaining requirements in Table 1 in 40 CFR 93.109. These requirements include demonstrating that the TIP and LRTP are fiscally constrained (93.108), incorporating latest planning assumptions (93.110), consulting with other agencies and the public (93.112), and implementing required Transportation Control Measures (93.113).

## Fiscal Constraint

Transportation conformity requirements in 40 CFR 93.108 state that transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450. The 2025-2028 TIP (Section 4 and Appendix A) and 2050 LRTP (Appendix A) document this fiscal constraint.

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<sup>1</sup> EPA-420-B-18-050, November 2018 and other guidance can be found on the EPA website at: <https://www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation>

<sup>2</sup> The areas identified can be found in EPA's "Transportation Conformity Guidance for the South Coast II Court Decision, EPA-420-B-18-050, available on the web at: [www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation](https://www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation)

## Latest Planning Assumptions

The use of latest planning assumptions in 40 CFR 93.110 of the conformity rule applies to regional emissions analysis. However, for the 1997 ozone NAAQS areas, the use of latest planning assumptions also applies to assumptions about transportation control measures (TCMs) in an approved SIP. Assumptions used in the 2025-2028 TIP and 2050 LRTP are derived from the most recent estimates of current and future population, employment, travel, and congestion.

- 2050 Population projections and employment projections were developed as part of the Regional Housing Needs Assessment (2022) and are discussed in MPO LRTP.
- The MPO Regional Travel Demand Model is calibrated to 2020 and utilizes available traffic counts, travel time data, and other factors to establish baseline travel demand.
- The LRTP discusses transit ridership and operations in the MPO region for both regional and inter-city services.
- The New Hampshire SIP includes a single TCM, the New Hampshire Vehicle OBD and Safety Testing Program. This program has been in place and in use since 2005.

## Consultation Process

The consultation requirements in 40 CFR 93.112 were addressed for interagency and public consultation.

Interagency consultation was conducted with NH Department of Transportation, NH Department of Environmental Services Air Resources Division Mobile Source Program, The New Hampshire MPOs (NRPC, RPC, SNHPC, and SRPC) as well as the rural Regional Planning Commissions (CNHPC, LRPC, NCC, SWRPC, and UVLSRPC), FHWA, FTA, and EPA. Interagency Consultation consists of monthly meetings/conference calls that discuss TIP/STIP, Long Range Transportation Plan, and Air Quality Conformity related topics and issues. Interagency consultation was conducted consistent with the New Hampshire Conformity SIP.

Public consultation was conducted consistent with planning rule requirements in 23 CFR 450 and the MPO Public Participation Plan. The draft 2025-2028 TIP, 2050 Plan, and Air Quality Conformity Determination were published on the MPO website on February 7, 2025. A 30-Day public Comment Period was opened on February 7, 2025 and concluded on March 8, 2025 and a public hearing was held on March 12, 2025.

## Transportation Control Measures

Transportation Control Measures (TCMs) are addressed in 40 CFR 93.113. If a State Implementation Plan includes TCMs, they must be implemented in a timely manner and the TIP and LRTP must meet certain criteria in that regard. The New Hampshire SIP includes no unimplemented TCMs and therefore they do not need to be addressed in this document.

## Conclusion

The conformity determination process completed for the 2050 Long Range Transportation Plan and 2025-2028 TIP demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS.