

As part of its transportation planning process, Evansville MPO completed the transportation conformity process for the 2045 MTP and 2020 - 2024 TIP. This report documents that the 2045 MTP and 2020 -2024 TIP meet the federal transportation conformity requirements in 40 CFR Part 93.

Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) requires that federally funded or approved highway and transit activities are consistent with (“conform to”) the purpose of the State Implementation Plan (SIP). Conformity for the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or any interim milestones (42 U.S.C. 7506(c)(1)). EPA’s transportation conformity rules establish the criteria and procedures for determining whether metropolitan transportation plans, transportation improvement programs (TIPs), and federally supported highway and transit projects conform to the SIP (40 CFR Parts 51.390 and 93).

On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit in *South Coast Air Quality Mgmt. District v. EPA* (“*South Coast II*”, 882 F.3d 1138) held that transportation conformity determinations must be made in areas that were either nonattainment or maintenance for the 1997 ozone national ambient air quality standard (NAAQS) and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked. These conformity determinations are required in these areas after February 16, 2019. Vanderburgh and Warrick Counties were maintenance areas at the time of the 1997 ozone NAAQS revocation on April 6, 2015 and was also designated attainment for the 2008 ozone NAAQS on May 21, 2012. Therefore, per the *South Coast II* decision, this conformity determination is being made for the 1997 ozone NAAQS in the MTP and TIP.

This conformity determination was completed consistent with CAA requirements, existing associated regulations at 40 CFR Parts 51.390 and 93, and the *South Coast II* decision, according to EPA’s *Transportation Conformity Guidance for the South Coast II Court Decision* issued on November 29, 2018.

AIR QUALITY

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Greenway at US 41/Lloyd Expressway Overpass

Transportation Conformity Process

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 the criteria and 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. This document has been prepared for State and local officials who are involved in decision making on transportation investments.

Transportation conformity is required under CAA Section 176(c) to ensure that Federally-supported transportation activities are consistent with (“conform to”) the purpose of a State’s SIP. Transportation conformity establishes the framework for improving air quality to protect public health and the environment. Conformity for the purpose of the SIP means Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funding and approvals are given to highway and transit 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 any interim milestone.

Vanderburgh and Warrick Counties were maintenance areas for the 1997 Ozone NAAQS at the time of revocation and were designated as attainment for the 2008 Ozone NAAQS, and have not been required to make transportation conformity determinations for any Ozone NAAQS since the 1997 Ozone NAAQS was revoked in April 2015.

2045 Metropolitan Transportation Plan (MTP)

The MTP 2045 for the Evansville, Indiana - Henderson, Kentucky Urbanized Area is developed through the cooperative transportation planning process of the Evansville Metropolitan Planning Organization. Informed by input from public officials, local public agencies, a Citizen’s Advisory Committee and the public, the MTP 2045 is a guide for the implementation of multimodal transportation improvements, policies and programs in the Metropolitan Planning Area through 2045.

2020-2024 Transportation Improvement Program (TIP)

The 2020–2024 TIP is one part of the Evansville MPO’s transportation planning process. The planning process includes the development of a Metropolitan Transportation Plan (MTP) which is adopted by the MPO. As projects in the MTP advance to implementation, they are programmed in the TIP for study, design, and construction, provided they attain environmental permits and other necessary clearances.

The TIP identifies and prioritizes the Evansville MPO’s short-term program of projects that is consistent with the MTP. The TIP development procedures include working with state Departments of Transportation (DOTs), Local Public Agencies (LPAs) and the appropriate transit operators in soliciting project proposals. This collaboration also includes engaging the public and the various Evansville MPO Committees to keep them informed about the regional transportation plans. Following public and agency review, the draft TIP is approved by the MPO, forwarded to INDOT, then on to federal funding agencies—the Federal Highway Administration, and the Federal Transit Administration. The TIP must include a minimum four-year program of projects, and it must be updated at least every four years.

Transportation Conformity Determination: General Process

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 EPA¹ for certain transportation activities, including updated or amended metropolitan MTPs and TIPs. Once US DOT makes its 1997 ozone NAAQS conformity determination for the MTP 2045 and 2020-2024 TIP, conformity will be required no less frequently than every four years. This conformity determination report will address transportation conformity for the MTP 2045 and 2020-2024 TIP.

Transportation Conformity Requirements

On November 29, 2018, EPA issued *Transportation Conformity Guidance for the South Coast II Court Decision*² (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).

The transportation conformity regulation at 40 CFR 93.109 sets forth the criteria and procedures for determining conformity. The conformity criteria for MTPs and TIPs include: 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).

¹ 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.

² Available from <https://www.epa.gov/sites/production/files/2018-11/documents/420b18050.pdf>

For the 1997 ozone NAAQS areas, transportation conformity for MTPs and TIPs for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis, per 40 CFR 93.109(c). 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 MTP 2045, 2020-2024 TIP can be demonstrated by showing the remaining requirements in Table 1 in 40 CFR 93.109 have been met. These requirements, which are laid out in Section 2.4 of EPA's guidance and addressed below, include:

- Latest planning assumptions (93.110)
- Consultation (93.112)
- Transportation Control Measures (93.113)
- Fiscal constraint (93.108)

Latest Planning Assumptions

The use of latest planning assumptions in 40 CFR 93.110 of the conformity rule generally apply to regional emissions analysis. In the 1997 ozone NAAQS areas, the use of latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP.

The development of the MTP 2045 included updating the land use assumptions derived from the estimates of current and future population, employment, travel, and congestion. All forecasts utilized the best available planning assumptions concerning development and socio-economic forecasts to the year 2045.

The Indiana SIP does not include any TCMs for the Vanderburgh and Warrick County Orphan Maintenance Area.

Consultation Requirements

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

Interagency consultation was conducted with INDOT, IDEM, FHWA, FTA, and EPA. During the preparation of the MTP 2045, 2020–2024 TIP, and the development of the conformity determination analysis, the consulting agencies communicated on a regular basis. This included, but was not limited to, scheduled conference calls on May 11, 2018, October 30, 2018, December 4, 2018, and December 20, 2018. For the conformity analysis, the procedures used and all of the major assumptions were subject to discussion, review, and consensus approval by the consulting agencies. Interagency consultation was conducted consistent with the Indiana Conformity Consultation Guidance and the Conformity SIP as applicable.

Public consultation was conducted consistent with planning rule requirements in 23 CFR 450. The Evansville MPO released the conformity documentation for a public comment period from February 11, 2019 through March 12, 2019.

Timely Implementation of TCMs

No Traffic Control Measures (TCM) are included in the SIP for the Vanderburgh and Warrick County Orphan Maintenance Area.

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 MTP 2045 and 2020–2024 TIP are fiscally constrained.

The MTP includes a financial plan that demonstrates how the plan can be implemented. The financial plan compares the estimates of funds that are reasonably expected to be available for transportation uses, including transit, and the cost of constructing, maintaining and operating the total (existing, plus planned) transportation system over the period of the plan. The detailed discussion can be found in Chapter 6.

The FY 2020-2024 TIP includes a summary of the fiscal constraint analysis for local highway projects listed in the TIP document. In accordance with

federal requirements, federal funds within the first four years of the TIP are within the anticipated Federal funding levels, indicating fiscal constraint for local federal-aid projects. The LPA is required, prior to beginning projects, to have identified the specific source and amount required for their local match. The detailed discussion and demonstration of fiscal constraint can be found in Chapter 3 of the FY 2020-2024 TIP.

Conclusion

The conformity determination process completed for the MTP 2045 and 2020–2024 TIP demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS.