

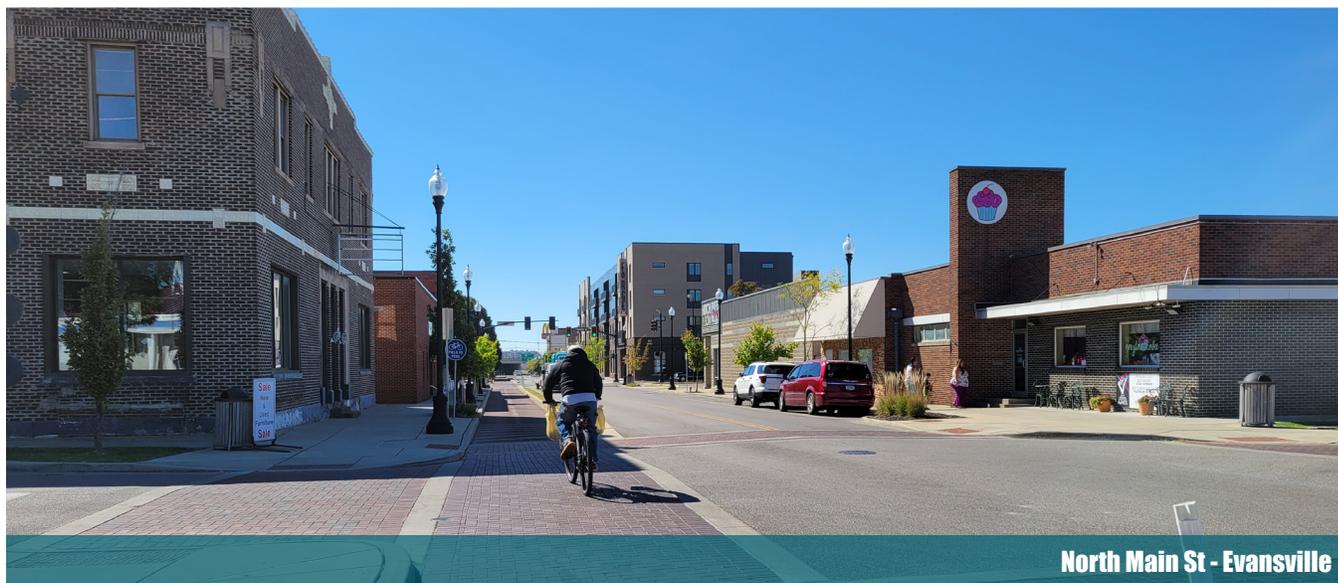
As part of its transportation planning process, Evansville MPO completed the transportation conformity process for the MTP 2050 and 2024 - 2028 TIP. This chapter documents that the MTP 2050 and 2024 -2028 TIP meet the federal transportation conformity requirements in 40 CFR Part 93.

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 to 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ozone national ambient air quality standard (NAAQS) and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked.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 were 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 on 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.

## 08 AIR QUALITY



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## 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 to 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 on May 21, 2012.

## 2050 Metropolitan Transportation Plan (MTP) Amendment

The 2050 MTP 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 Advisory Committee and the public, the 2050 MTP is a guide for the implementation of multimodal transportation improvements, policies and programs in the Metropolitan Planning Area through 2050.

## 2024-2028 Transportation Improvement Program (TIP)

The 2024 – 2028 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 and KYTC, 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.

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## 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 EPA<sup>1</sup> 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 2050 conformity will be required no less frequently than every four years. This conformity determination report will address transportation conformity for the MTP 2050 and 2024 – 2028 TIP.

## Transportation Conformity Requirements

On November 29, 2018, EPA issued *Transportation Conformity Guidance for the South Coast II Court Decision*<sup>22</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).

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).

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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](http://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 2050 and the 2024 – 2028 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 2050 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 2050.

The latest planning assumptions are:

- The base year of the model is 2020.
- The population data is from 2020 Decennial Census at census block level and then aggregated to TAZ (traffic analysis zone) level.

- The household characteristic data is from CTPP (Census Transportation Planning Products) data at census block level and then aggregated to TAZ (traffic analysis zone) level.
- The employment data is from Census Bureau’s product LEHD (Longitudinal Employer-Household Dynamics) at census block level and then aggregated to TAZ level.
- INDOT’s 2019 AADT roadway layer was used as observed traffic data for model validation.
- Woods and Poole control data was used as the base for future economic and demographic data for 2030, 2040, and 2050. This county level information was provided to the City/County planning commission officials for their distribution to TAZ level based on their plans for future growth in the county.

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 2050 MTP, 2024–2028 TIP, and the development of the conformity determination analysis, the consulting agencies communicated on a regular basis. 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 January 25, 2023 through February 24, 2023.

## 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 amended MTP 2050 and 2024 – 2028 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 7.

The FY 2024-2028 TIP includes a summary of the fiscal constraint analysis for local highway projects listed in the TIP document. The details for the federal funds and programmed amounts are also located in the document. The difference between funds available and the programmed amounts is anticipated to be recovered with other federal fund surplus, project costs savings, and/or additional local contributions. The local match required for federally funded projects is supplied from a variety of local sources including LRSA, MVHA and others. The LPA is required, prior to beginning projects, to have identified the specific source and amount required for their local match. The detailed discussion can be found in the FY 2024-2028 TIP, Chapter 3.

## Conclusion

The conformity determination process completed for the MTP 2050 and 2024–2028 TIP demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS.