
**Transportation Conformity Determination Report for
the 1997 ozone NAAQS**

DRAFT
***Evansville Metropolitan
Planning Organization***

*2026–2030 Transportation
Improvement Program*

Evansville MPO Policy Committee Adoption:

USDOT Conformity Finding:

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Acknowledgements

This Transportation Conformity Report for the 2026-2030 Transportation Improvement Program (TIP) was prepared by the Evansville MPO. Individuals from the following agencies contributed their efforts towards the completion of the Transportation Conformity Determination Report. They include:

- Indiana Department of Transportation (INDOT)
- Indiana Department of Environmental Management (IDEM)
- US Environmental Protection Agency (EPA)
- Federal Highway Administration (FHWA)
- Federal Transit Administration (FTA)
- Kentucky Transportation Cabinet (KYTC)

1.0 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.

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.

2.0 Metropolitan Transportation Plan (MTP) 2050

The Metropolitan Transportation Plan (MTP) 2050 is a long-range plan that identifies regionally significant transportation needs and issues in the region. The MTP 2050 was adopted by the Evansville MPO Policy Committee on March 9, 2023 and the Air Quality Conformity Determination was approved by the U.S. Department of Transportation (USDOT) on April 4, 2023.

The MTP 2050 was modified December 27, 2024 to move two projects from one project listing period to the next one out. Cost estimates in the first 5 years of the MTP were updated as appropriate along with the federal fiscal constraint table. No new conformity finding was required for the modification.

3.0 2026 – 2030 Transportation Improvement Program (TIP)

The 2026-2030 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

4.0 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.

This conformity determination report evaluates the transportation activities in the MTP 2050 as modified December 27, 2024 and the 2026-2030 TIP. Once US DOT makes its 1997 ozone NAAQS conformity determination for the modified 2050 MTP and 2026 – 2030 TIP, conformity will be required no less frequently than every four years.

5.0 Transportation Conformity Requirements

5.1 Overview

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). 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.

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>

Therefore, transportation conformity for the 1997 ozone NAAQS for MTP 2050 as modified December 27, 2024 and the 2026-2030 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)

5.2 Latest Planning Assumptions

The use of the 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 the latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP. The Indiana SIP does not include any TCMs for the Vanderburgh and Warrick County Orphan Maintenance Area. (see also Section 5.4.)

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. There have been no changes to the assumptions since the April 4, 2023 approval of the MTP 2050 Air Quality Conformity Determination.

5.3 Consultation Requirements

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

Interagency consultation is being conducted with INDOT, IDEM, FHWA, FTA, and EPA. During the development of the conformity determination, the consulting agencies will be sent a copy of the draft conformity report and the 2026-2030 TIP for review via email. Interagency consultation will be conducted consistent with the *Indiana Conformity Consultation Guidance* and the Conformity SIP as applicable.

Public consultation will be conducted consistent with planning rule requirements in 23 CFR 450. The Evansville MPO released the conformity documentation for a public comment period from March 17, 2025 through April 16, 2025.

5.4 Timely Implementation of TCMs

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

5.5 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 MPO has demonstrated the modified MTP 2050 and 2026-2030 TIP are fiscally constrained.

Conclusion

This conformity determination document concludes that the MTP 2050 and the FY 2026-2030 TIP satisfy all applicable criteria and procedures in the U.S. EPA guidance to assist in the implementation of the February 16, 2018 decision from 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).

Appendix A:
MPO Resolution

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Appendix B:

Public Involvement

DRAFT TIP 2026-2030, and CONFORMITY DOCUMENTATION NOTICE OF 30-DAY PUBLIC COMMENT PERIOD AND OPEN HOUSES

The Evansville Metropolitan Planning Organization (MPO) announces a 30-day review and comment period from March 17, 2025 through April 16, 2025 for the Draft 2026–2030 Transportation Improvement Program (TIP), and corresponding draft Conformity Documentation.

The TIP identifies funding for transportation projects over the immediate short-term of five years. The associated draft Conformity Documentation demonstrates that the 2026-2030 TIP meets the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone standards.

Public Comment Period: March 17, 2025 through April 16, 2025

Where to Find:

Website: www.evansvillempo.com

Office: Room 316 in the Evansville-Vanderburgh County Civic Center Complex
Business Hours: Monday – Friday 8:00AM to 4:30 PM

Open House Locations & Times:

Henderson: Henderson County Public Library, Pittsburg Tank & Tower Event Suite A
Address: 101 S Main St, Henderson, KY 42420
Time: 4:30 PM - 5:30 PM, Monday, March 31, 2025

Evansville: The Pagoda
Address: 401 SE Riverside Dr, Evansville, IN 47713
Time: 12:30 PM - 1:30 PM, Wednesday, April 2, 2025

Newburgh: NCPL Bell Road Library, Diamond Room
Address: 4111 Lakeshore Dr, Newburgh, IN 47630
Time: 4:30 PM - 5:30 PM, Wednesday, April 2, 2025

How to Comment:

Email: pdrach@evansvillempo.com

Mail: Evansville Metropolitan Planning Organization
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Call in comments: (812) 436-7833

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