



Section 6: Transportation Air Quality Conformity

Transportation Conformity Determination Report

As part of its transportation planning process, the State of Rhode Island completed the transportation conformity process for the State Transportation Improvement Program (STIP). This report documents that the STIP meets 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 National Ambient Air Quality Standards (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), state transportation improvement programs (STIPs) and related 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ozone national ambient air quality standard (NAAQS) and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked.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. The Providence area (covers all of Rhode Island) was classified as nonattainment at the time of the 1997 ozone NAAQS revocation on April 6, 2015 and was 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 STIP.

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.

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 was 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.

The 1970 Clean Air Act defined a one-hour National Ambient Air Quality Standard (NAAQS) for ground-level ozone. The 1990 Clean Air Act Amendments (CAAA) further classified degrees of nonattainment of the one-hour standard based on the severity of the monitored levels of the pollutant. The entire state of Rhode Island was classified as being in serious nonattainment for the one-hour ozone standard.

In 1997, the EPA proposed a new, eight-hour ozone standard that replaced the one-hour standard as scientific information showed that ozone could affect human health at lower levels, and over longer exposure times than one hour. The 1997 eight-hour ozone NAAQS was 0.08 parts

per million. The entire state of Rhode Island was classified as a moderate nonattainment area for the 1997 eight-hour ozone standard. On June 15, 2010, EPA determined that the entire state of Rhode Island no longer violated the 1997 eight-hour ozone NAAQS and was in attainment of the 1997 eight-hour ozone NAAQS. The determination was based upon complete, quality-assured, certified ambient air monitoring data that showed Rhode Island monitored attainment of the 1997 8-hour ozone NAAQS for the 2007–2009 monitoring period.

The eight-hour ozone NAAQS was again revised on March 27, 2008 from 0.08 parts per million (ppm) over an eight-hour period to 0.075 ppm over an eight-hour period. On February 13, 2015 EPA published a final rule that revoked the 1997 ozone NAAQS for all purposes, including transportation conformity. Effective July 20, 2012, the entire State of Rhode Island was designated as attainment for the 2008 eight-hour ozone NAAQS.

On October 1, 2015 EPA again revised the NAAQS for ozone from 0.075 ppm over an eight-hour period to 0.07 ppm over an eight-hour period. On January 16, 2018 Bristol County, Newport County and Providence Country were designated as attainment/unclassifiable for the 2015 eight-hour ozone NAAQS. On August 3, 2018 Kent and Washington County were designated as attainment/unclassifiable for the 2015 eight-hour ozone NAAQS. The entire state of Rhode Island is now considered attainment/unclassifiable for the 2015 eight-hour ozone NAAQS.

FFY 2022-2031 State Transportation Improvement Program (STIP)

The 2022-2031 STIP is one part of Rhode Island’s transportation planning process. The planning process includes the development of a State Long Range Transportation Plan (LRTP). The Rhode Island State Planning Council, Metropolitan Planning Organization (MPO) for the State of Rhode Island, adopts the long-range transportation plan. As projects in the long-range plan advance to implementation, they are programmed in the STIP for study, design, and construction, provided they attain environmental permits and other necessary clearances.

The purpose of the STIP is to set forth the State’s short-term program for transportation projects. The STIP is prepared according to the [State Planning Council’s Rules and Standards](#), Part 1.5 Metropolitan Planning Organization: Transportation Planning. The Rhode Island State Planning Council’s Transportation Advisory Committee (TAC) works with the Rhode Island Department of Transportation (RIDOT) and the Rhode Island Public Transit Authority (RIPTA) in soliciting project proposals from the public and cities and towns, and in developing a draft STIP. Following public and agency review, the draft STIP is approved by the State Planning Council, forwarded to the Governor of Rhode Island, then on to federal funding agencies—the Federal Highway Administration and the Federal Transit Administration.

Projects of Regional Significance

Regionally significant projects are defined by USDOT as a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area’s transportation network,

including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.

For informational and conformity purposes, the STIP shall include all regionally significant projects proposed to be funded with federal funds other than those administered by the FHWA or the FTA, as well as all regionally significant projects to be funded with non-federal funds.

Rhode Island has developed a State Transportation Improvement Program that includes projects to reduce vehicle miles of travel and improve traffic flow.

Table 6-1: FFY 2022-2031 State Transportation Improvement—Program Regionally Significant Projects

Project Title	Mode	Location	Timeframe
Route 6/10 Redesign/Reconstruction	Highway	Providence	< 5 years
Interstate 95 Northbound Viaduct	Highway	Providence	< 5 years
Pawtucket/Central Falls Train Station	Passenger Rail	Pawtucket/Central Falls	< 5 years
Route 146 Reconstruction	Highway	North Smithfield	< 5 years
Washington Bridge Rehabilitation and Redevelopment	Highway	Providence/ East Providence	< 5 years
Route 37 and I-295 Interchange Safety Improvements	Highway	Cranston/Warwick	< 5 years
Smarter, Simpler Roads for the Newport Innovation Corridor (Pell Bridge Ramps Phase 2)	Highway	Newport	< 5 years
Amtrak Rail Platform at Warwick Station (T.F. Green Airport)	Passenger Rail	Warwick	> 5 years
Route 4 and Interstate 95 Interchange and Deferred Quonset Connector Ramps	Highway	East Greenwich	5 - 10 years
Route 6 Corridor Improvements	Highway	Providence/Johnston	5 – 10 years
East Avenue Corridor Improvements	Highway	Warwick	5 – 10 years
Route 4 Traffic Light Elimination	Highway	North Kingstown	> 10 years
Create Access from ProvPort to I-95 Southbound and Roadway Reconstruction	Highway	Providence	> 10 years

Project Title	Mode	Location	Timeframe
Rhode Island-Boston Regional Rail	Passenger Rail	Statewide	> 10 years
Bus Rapid Transit/Light Rail Improvements on two corridors: Providence-CCRI Warwick via TF Green, Central Falls-CCRI Warwick	Bus Transit	Providence/ Central Falls/ Warwick	> 15 years
Rapid Bus Improvements	Bus Transit	Providence Metro	< 5 years
Regional Rapid Bus Improvements	Bus Transit	Statewide	< 5 years

Transportation Conformity Requirements

Overview

On November 29, 2018, EPA issued Transportation Conformity Guidance for the South Coast II Court Decision¹ (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 LRTPs and STIPs 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 LRTPs and STIPs 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 the STIP by the Rhode Island Department of Administration’s Division of Statewide Planning/State Planning Council 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)

¹ Available from <https://www.epa.gov/sites/production/files/2018-11/documents/420b18050.pdf>

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 State of Rhode Island SIP does not include any TCMs.

Consultation Requirements

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

Interagency consultation was conducted with the Rhode Island Division of Statewide Planning (as staff to the MPO), Rhode Island Department of Transportation, Rhode Island Department of Environmental Management, Rhode Island Public Transit Authority, Federal Highway Administration, Federal Transit Administration, and Environmental Protection Agency. Interagency consultation was conducted consistent with the requirements in Rhode Island Air Pollution Control Regulation No. 49, "Transportation Conformity."

Public consultation was conducted consistent with planning rule requirements in 23 CFR 450. The Rhode Island Division of Statewide Planning held an Interagency Consultation Meeting with the agencies listed above on May 11, 2021, to review and discuss the findings from this conformity determination document. On June 10, 2021 the State Planning Council authorized the public hearing. Notice of the public hearing was also provided on June 10, 2021. This notice included posting to

the Rhode Island Secretary of State website, posting on the Rhode Island Division of Planning website, and email notification to the Division of Statewide Planning's over 1,400 transportation stakeholder distribution list. Two public hearings to accept oral comments were conducted in front of members of Transportation Advisory Committee. The first hearing was held on June 29, 2021 at the Narragansett Town Hall. The second hearing was held on June 30, 2021 at the Rhode Island Department of Administration building in Providence. On August 26, 2021, the Transportation Advisory Committee voted to recommend to the State Planning Council, the 2022–2031 STIP, including the findings of this report. On September 9, 2021, the State Planning Council voted to adopt the FFY 2022–2031 STIP and support of the findings from this Transportation Conformity Report for the 1997 ozone NAAQS for the STIP. This Report was then submitted to FHWA, FTA, and the EPA for final determination.

Fiscal Constraint

Transportation conformity requirements in 40 CFR 93.108 state that transportation plans and STIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450. The FFY 2022–2031 STIP is fiscally constrained, as demonstrated in Section 2 of the STIP where fiscal constraint is demonstrated.

Conclusion

The conformity determination process completed for Rhode Island's FFY 2022-2031 State Transportation Improvement Program, demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 Ozone NAAQS.