



## **An Overview of Air Quality Planning and Transportation Conformity**

### **Air Quality Standards**

The Clean Air Act (CAA) requires the U.S. Environmental Protection Agency (EPA) to identify and periodically revise national ambient air quality standards (NAAQS or standards) for air pollutants that may reasonably be anticipated to endanger public health or welfare. To date, EPA's Office of Air Quality Planning and Standards has set NAAQS for six "criteria" air pollutants: carbon monoxide, nitrogen dioxide, ground-level ozone, lead, particulate matter (soot, dust and other particles), and sulfur dioxide. [Click here](#) for the appropriate units of measure for each standard.

### **Attainment Designations**

EPA and the states share responsibility for ensuring that all areas attain federal NAAQS by the deadlines specified in the CAA. A geographic area, such as a county or partial county, that does not meet the air quality standards for a criteria pollutant is classified as a nonattainment area. A state may be designated as a nonattainment or maintenance area (i.e., a previously designated nonattainment area) for one or more pollutants and may have different classifications based upon the severity of violations for each pollutant.

EPA regulations require three consecutive years of data before an area can be designated as attainment or nonattainment. Typically, EPA will use the three most recent years of data.

### **State Implementation Plans**

States are required to develop an enforceable state implementation plan (SIP) for each nonattainment area. "Control Measure" SIPs for ozone, PM<sub>2.5</sub>, and CO nonattainment areas are generally due within 36 months from the date of designation. A SIP includes specific requirements to reduce pollution from factories, businesses and mobile sources in order to meet NAAQS. Mobile sources include on-road sources such as cars, trucks and buses, as well as off-road sources such as trains, ships, boats, airplanes, lawn mowers and construction equipment. A SIP identifies the total motor vehicle emissions that an area can produce and still demonstrate attainment of air quality standards—commonly called an "emission budget."

States must involve the public, through hearings and opportunities to comment, in the development of each SIP. EPA must approve each SIP, and if a SIP is not acceptable or the state fails to submit one, EPA must impose sanctions.

### **Transportation Conformity**

Transportation conformity provisions under the CAA attempt to coordinate transportation and air quality planning. Specifically, the act's conformity provisions are designed to ensure that: (1) planning for transportation systems is consistent with a state's air quality plan (SIP) for attaining and

maintaining NAAQS; and (2) transportation activities do not worsen air quality or interfere with the “purpose” of a SIP. EPA’s transportation conformity rule (40 CFR Parts 51 and 93) establishes the criteria and procedures for determining whether metropolitan transportation plans, transportation improvement programs, and federally supported highway and transit projects conform to the SIP. <sup>1</sup>

### ***What is transportation conformity?***

*Def. Conformity – Process to assess the compliance of any transportation plan, program, or project with air quality implementation plans. The conformity process is defined by the Clean Air Act.*

CAA states that transportation plans, programs and projects in nonattainment or maintenance areas that are funded or approved by the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) must not:

- Create new NAAQS violations;
- Increase the frequency or severity of existing NAAQS violations; or
- Delay attainment of the NAAQS.

### ***Applicability***

Transportation conformity applies in all nonattainment and maintenance areas that fail to meet air quality standards for the following transportation-related criteria pollutants (and precursor pollutants):

- Ozone (volatile organic compounds and nitrogen oxides);
- Carbon monoxide;
- Nitrogen dioxide (nitrogen oxides); and
- Particulate Matter (PM-10 and PM 2.5)

The conformity provisions apply to maintenance areas for 20 years from the date EPA approves the area’s request for redesignation to attainment.

CAA Section 176(c)(6) and the conformity regulation at 40 CFR 93.102(d) provide a one-year grace period from the effective date of designations before transportation conformity applies in areas newly designated nonattainment for a specific NAAQS.

### ***When is transportation conformity required?***

Conformity determinations are required for the adoption, acceptance, approval or support of transportation plans or TIPs by a metropolitan planning organization or the U.S. Department of Transportation (FHWA/FTA). In addition, conformity determinations are required for the approval, funding or implementation of FHWA/FTA projects. Conformity determinations ARE NOT required for individual projects that are not FHWA/FTA projects.

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<sup>1</sup> EPA’s March 14, 2012, final rule (77 FR 14979; also known as the “Conformity Restructuring Rule”) restructured the transportation conformity rule so that existing conformity requirements will apply for any new or revised NAAQS. This was done to reduce the need to amend the rule in the future merely to reference a specific NAAQS and to provide more certainty to transportation planners as conformity provisions could apply generally to any newly designated NAAQS.

## *What is a conformity lapse?*

A conformity lapse occurs when an area fails to satisfy the timeframe for making a conformity determination. Once a conformity lapse occurs, no new projects<sup>2</sup> may advance in that area until a new conformity determination is made for the transportation plan and transportation improvement plan. This affects transit as well as highway projects.

Certain projects that do not involve federal funds or approvals may also be affected by a conformity lapse. State and local transportation agencies that routinely receive federal highway or transit funds in their programs cannot proceed with regionally significant non-federal projects unless the project already had received full approval or authorization for funding before the lapse.

### **Guidance: 2015 Ozone NAAQS**

EPA recently updated its "[Guidance for Transportation Conformity Implementation in Multi-jurisdictional Nonattainment and Maintenance Areas](#)," (EPA420-B-12-046, July 2012, referred to as the "Multi-jurisdictional Guidance"). The Multi-jurisdictional Guidance describes how conformity determinations are made on metropolitan transportation plans and TIPs when a nonattainment or maintenance area involves more than one MPO, more than one state, or both, and describes what conformity tests apply.

EPA plans to issue updated transportation conformity guidance to address issues that are expected to arise in implementing the 2015 ozone NAAQS in future nonattainment areas. It will address transportation conformity requirements that apply in ozone nonattainment areas including:

- When conformity will apply for the 2015 ozone NAAQS;
- Requirements for completing transportation plans and TIP conformity determinations in metropolitan areas; and
- Requirements for completing conformity determinations in rural areas.

This new update will closely follow the current "[Transportation Conformity Guidance for 2008 Ozone NAAQS Nonattainment Areas](#)" (EPA-420-B-12-045). With the exception of issues unique to the 2015 ozone NAAQS (such as implementation dates), EPA said it expects the new guidance to be very similar to the guidance for the 2008 ozone NAAQS.

Policy guidance issued by EPA and/or the U.S. Department of Transportation to assist state and local transportation and air quality agencies implement the transportation conformity program, including the resources above, is online at <http://www3.epa.gov/otaq/stateresources/transconf/policy.htm>.

**For more information, please contact Leah Pilconis, senior environmental advisor to AGC, at [pilconisl@agc.org](mailto:pilconisl@agc.org).**

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<sup>2</sup> During a conformity lapse, only certain projects can receive additional federal funding or approvals to proceed (i.e., exempt projects, project phases that were approved before the lapse, and transportation control measures (TCMs) in approved SIPs).