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

Rhode Island Division of Statewide Planning

Long Range
Transportation Plan:
Transportation 2040

Moving Forward RI

Reviewed by the Rhode Island State Planning Council
December 10, 2020

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Acknowledgements

The Rhode Island *Air Quality Transportation Conformity Report* for the Long-Range Transportation Plan (Transportation 2040) was prepared by the Rhode Island Division of Statewide Planning. Individuals from the following agencies contributed their efforts towards the completion of the Transportation Conformity Determination Report. They include:

Rhode Island Department of Administration's Division of Statewide Planning
Rhode Island Department of Environmental Management
Rhode Island Department of Transportation
Rhode Island Public Transit Authority
Rhode Island Historic Preservation and Heritage Commission
Rhode Island Coastal Resources Management Council
Federal Highway Administration
Federal Transit Administration
United States Environmental Protection Agency

Executive Summary

As part of its transportation planning process, the State of Rhode Island completed the transportation conformity process for the Long-Range Transportation Plan (LRTP). This report documents that the LRTP 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 LRTP.

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.

■

1.0 Background

1.1 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 County 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.**

2.0 Long Range Transportation Plan (LRTP): Transportation 2040

The LRTP is part of Rhode Island’s transportation planning process. The State Planning Council adopts the LRTP as an element of the State Guide Plan. As projects in the long-range plan advance to implementation, they are programmed in the State Transportation Improvement Program (STIP) for study, design, and construction, provided they attain environmental permits and other necessary clearances.

The purpose of the LRTP is to set forth the state’s long-term program for transportation projects and other transportation activities. The LRTP is prepared according to State Planning Council Rule IX, “Transportation Planning and Public Involvement Procedures.” The Division of Statewide Planning works with the Rhode Island State Planning Council’s Transportation Advisory Committee (TAC) in soliciting public input in developing a draft LRTP Update. Following public and agency review, the draft LRTP is approved by the Rhode Island State Planning Council, and forwarded to federal funding agencies; the FHWA and the FTA.

Prior to final approval, projects in the LRTP are subjected to the transportation air quality conformity analysis. Details on all projects included in the current or draft LRTP are reviewed as part of the Interagency consultation process with state agencies including the Rhode Island Department of Transportation (RIDOT), the Rhode Island Public Transit Authority (RIPTA), and the Rhode Island Department of Environmental Management (RIDEM), to consider which projects should be designated “regionally significant” projects.

3.0 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 LRTP 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 Long Range Transportation Plan 2040 that includes projects to reduce vehicle miles of travel and improve traffic flow. The projects listed in **Table 1 - Projects of Regional Significance Proposed as Part of the LRTP: Transportation 2040** have been classified as regionally significant projects according to the USDOT definition.

Table 1. Projects of Regional Significance Proposed as Part of the LRTP: Transportation 2040

Table 1. Long Range Transportation Plan 2040 – Regionally Significant Projects		
<u>Year in Service</u>	<u>Mode</u>	<u>Project</u>
2025	Passenger Rail	Pawtucket Commuter Rail Station (MBTA)
2030	Passenger Rail	*Rhode Island-Boston Regional Rail – incorporating intercity and commuter rail service enhancements to achieve faster and more frequent passenger rail service between Rhode Island and Boston
2040	Bus Transit	*Central Falls-CCRI LRT/BRT - High-capacity transit running the length of the metro area
2030	Bus Transit	*Rapid Bus Network - multiple bus routes serving Metropolitan Providence with transit priority elements and an anticipated 10 min. service frequency
2030	Highway	Route 4 and Interstate 95 Interchange
2030	Highway	Route 403 Deferred Ramps
2025	Highway	Route 4 Traffic Light Elimination
2025	Highway	Route 146 at Sayles Hill Road Interchange
2030	Highway	I-195 East Interchange at Taunton and Warren Avenues
2025	Highway	I-195 West Washington Bridge Improvements
2025	Highway	I-95 North and Route 146 North Merge
2025	Highway	Route 138 Pell Bridge Ramps Reconstruction
2035	Highway	I-95 South ProvPort Access
2030	Highway	I-295 Widening (I-95 to Route 6)
*denotes new Regionally Significant Project		

4.0 Transportation Conformity Requirements

4.1 Overview

On November 29, 2018, EPA issued **Transportation Conformity Guidance for the South Coast II Court Decision**¹ (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

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

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 LRTP 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)

4.2 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, see also Section 4.4.

4.3 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, Rhode Island Historic Preservation and Heritage Commission, Rhode Island Coastal Resources Management Council 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 **September 23, 2020** to review and discuss the findings from this conformity determination document. On **October 8, 2020** the State Planning Council authorized the public hearing. Notice of the public hearing was provided on **October 9, 2020**. 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 Planning's transportation stakeholders distribution list. A public hearing to accept comments was conducted on **October 29, 2020** in front of the Transportation Advisory Committee via the online web conference platform Zoom. On **November 19, 2020** the Transportation Advisory Committee voted to **recommend** to the State Planning Council Transportation 2040, including the findings of this report. On **December 10, 2020** the State Planning Council reviewed the public's comments and voted to issue a resolution in support of the findings from this Transportation Conformity Report for the 1997 ozone NAAQS for the LRTP. This Report was then submitted to FHWA, FTA, and the EPA for final determination.

The following items documenting the public process are attached in the Appendix of this Report:

- Interagency Consultation Meeting Agenda - **September 23, 2020**
- Interagency Consultation Meeting Notes - **September 23, 2020**
- Public Notice for Transportation 2040 and Transportation Conformity Report for the 1997 Ozone NAAQS - **October 9, 2020**
- Transportation Advisory Committee Minutes - **November 19, 2020**
- State Planning Council Meeting Minutes - **December 10, 2020**

4.4 Timely Implementation of TCMs

The Rhode Island SIP does not include any TCMs.

4.5 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. Transportation 2040 is fiscally constrained, as demonstrated in the Financial Plan section where fiscal constraint is demonstrated. The Financial Plan section indicates that transportation spending will not exceed expected revenues, as documented in the Revenue Projections Report (see: http://planri.com/pdf/lrtp/07_Revenue%20Projections_draftfinal.pdf).

Conclusion

The conformity determination process completed for Moving Forward RI, Rhode Island's 2040 Long Range Transportation Plan, demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 Ozone NAAQS.

APPENDIX

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Public Involvement or Interagency Consultation Documents

[insert Title]:

***[MPO Resolution or other
documentation]***