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Air Quality Conformity and GHG Analysis

**BERKSHIRE REGION MPO AIR QUALITY CONFORMITY
DETERMINATION154**

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*Evaluation And Reporting Of Statewide Greenhouse Gas Reductions In
Transportation - June 2023*

Berkshire Region MPO Air Quality Conformity Determination

This section documents the latest air quality conformity determination for the 1997 ozone National Ambient Air Quality Standards (NAAQS) in the Berkshire Region. It covers the applicable conformity requirements according to the latest regulations, regional designation status, legal considerations, and federal guidance. Further details and background information are provided below:

INTRODUCTION

The 1990 Clean Air Act Amendments (CAAA) require metropolitan planning organizations within nonattainment and maintenance areas to perform air quality conformity determinations prior to the approval of Long-Range Transportation Plans (LRTPs) and Transportation Improvement Programs (TIPs), and at such other times as required by regulation. 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 means Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funding and approvals are given to highway and transit activities that 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).

A nonattainment area is one that the U.S. Environmental Protection Agency (EPA) has designated as not meeting certain air quality standards. A maintenance area is a nonattainment area that now meets the standards and has been re-designated as maintaining the standard. A conformity determination is a demonstration that plans, programs, and projects are consistent with the State Implementation Plan (SIP) for attaining the air quality standards. The CAAA requirement to perform a conformity determination ensures that federal approval and funding go to transportation activities that are consistent with air quality goals.

LEGISLATIVE AND REGULATORY BACKGROUND

The entire Commonwealth of Massachusetts was previously classified as nonattainment for ozone, and was divided into two nonattainment areas. The Eastern Massachusetts ozone nonattainment area included Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties. Berkshire, Franklin, Hampden, and Hampshire counties comprised the Western Massachusetts ozone nonattainment area. With these classifications, the 1990 Clean Air Act Amendments (CAAA) required the Commonwealth to reduce its emissions of volatile organic compounds (VOCs) and nitrogen oxides (NOx), the two major precursors to ozone formation to achieve attainment of the ozone standard.

The 1970 Clean Air Act defined a one-hour national ambient air quality standard (NAAQS) for ground-level ozone. The 1990 CAAA further classified degrees of nonattainment of the one-hour standard based on the severity of the monitored levels of the pollutant. The entire commonwealth of Massachusetts was classified as being in serious nonattainment for the one-hour ozone standard, with a required attainment date of 1999. The attainment date was later extended, first to 2003 and a second time to 2007.

In 1997, the EPA proposed a new, eight-hour ozone standard that replaced the one-hour standard, effective June 15, 2005. Scientific information had shown that ozone could affect human health at lower levels, and over longer exposure times than one hour. The new standard was challenged in court, and after a lengthy legal battle, the courts upheld it. It was finalized in June 2004. The eight-hour standard is 0.08 parts per million, averaged over eight hours and not to be exceeded more than once per year. Nonattainment areas were again further classified based on the severity of the eight-hour values. Massachusetts as a whole was classified as being in moderate nonattainment for the eight-hour standard, and was separated into two nonattainment areas—Eastern Massachusetts and Western Massachusetts.

In March 2008, EPA published revisions to the eight-hour ozone NAAQS establishing a level of 0.075 ppm, (March 27, 2008; 73 FR 16483). In 2009, EPA announced it would reconsider this standard because it fell outside of the range recommended by the Clean Air Scientific Advisory Committee. However, EPA did not take final action on the reconsideration so the standard would remain at 0.075 ppm.

After reviewing data from Massachusetts monitoring stations, EPA sent a letter on December 16, 2011 proposing that only Dukes County would be designated as nonattainment for the new proposed 0.075 ozone standard. Massachusetts concurred with these findings.

On May 21, 2012, (77 FR 30088), the final rule was published in the Federal Register, defining the 2008 NAAQS at 0.075 ppm, the standard that was promulgated in March 2008. A second rule published on May 21, 2012 (77 FR 30160), revoked the 1997 ozone NAAQS to occur one year after the July 20, 2012 effective date of the 2008 NAAQS.

Also on May 21, 2012, the air quality designations areas for the 2008 NAAQS were published in the Federal Register. In this Federal Register, the only area in Massachusetts that was designated as non-attainment is Dukes County. All other Massachusetts counties were designated as attainment/unclassified for the 2008 standard. On March 6, 2015, (80 FR 12264, effective April 6, 2015) EPA published the Final Rulemaking, "Implementation of the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone: State Implementation Plan Requirements; Final Rule." This rulemaking confirmed the removal of transportation conformity to the 1997 Ozone NAAQS and the replacement with the 2008 Ozone NAAQS, which (with actually a stricter level of allowable ozone concentration than the 1997 standards) classified Massachusetts as "Attainment/unclassifiable" (except for Dukes County).

However, 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 NAAQS and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked. Conformity determinations

are required in these areas after February 16, 2019. On November 29, 2018, EPA issued Transportation Conformity Guidance for the South Coast II Court Decision (EPA-420-B-18-050, November 2018) that addresses how transportation conformity determinations can be made in these areas. According to the guidance, both Eastern and Western Massachusetts, along with several other areas across the country, are now defined as "orphan nonattainment areas" – areas that were designated as non-attainment for the 1997 ozone NAAQS at the time of its revocation (80 FR 12264, March 6, 2015) and were designated attainment for the 2008 ozone NAAQS in EPA's original designations rule for this NAAQS (77 FR 30160, May 21, 2012).

CURRENT CONFORMITY DETERMINATION

After 2/16/19, as a result of the court ruling and the subsequent federal guidance, transportation conformity for the 1997 NAAQS – intended as an "anti-backsliding" measure – now applies to both of Massachusetts' orphan areas. Therefore, a conformity determination was made for the 1997 ozone NAAQS on the 2020-2040 Regional Transportation Plans. This conformity determination was finalized in July 2019 following each MPO's previous endorsement of their regional transportation plan, and approved by the Massachusetts Divisions of FHWA and FTA on October 15, 2019. This conformity determination continues to be valid for the Berkshire FFY 2023-2027 Transportation Improvement Program, and Massachusetts' FFY 2023-2027 STIP, as each is developed from the conforming 2020-2040 Regional Transportation Plans.

The transportation conformity regulation at 40 CFR 93.109 sets forth the criteria and procedures for determining conformity. The conformity criteria for TIPs and RTPs 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 TIPs and RTPs 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 Berkshire FFY 2023-2027 Transportation Improvement Program and 2020-2040 Regional Transportation Plans can be demonstrated by showing that 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 (See following section on Timely Implementation of TCMs).

Consultation:

The consultation requirements in 40 CFR 93.112 were addressed both for interagency consultation and public consultation. Interagency consultation was conducted with FHWA, FTA, US EPA Region 1, MassDEP, and the Massachusetts MPOs on March 6, 2019 to discuss the latest conformity-related court rulings and resulting federal guidance. Regular and recurring interagency consultations have been held since on an (at least) annual schedule, with the most recent conformity consultation held on April 27, 2022. This ongoing consultation is conducted in accordance with the following:

- ◆ Massachusetts' Air Pollution Control Regulations 310 CMR 60.03 "Conformity to the State Implementation Plan of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 USC or the Federal Transit Act"
- ◆ The Commonwealth of Massachusetts Memorandum of Understanding among the Massachusetts Department of Transportation, Massachusetts Department of Environmental Protection, Massachusetts Metropolitan Planning Organizations, and Regional Transit Authorities, titled [The Conduct of Air Quality Planning and Coordination for Transportation Conformity](#) (dated September 16, 2019)

Public consultation was conducted consistent with planning rule requirements in 23 CFR 450. Title 23 CFR Section 450.324 and 310 CMR 60.03(6) (h) requires that the development of the TIP, RTP, and related certification documents provide an adequate opportunity for public review and comment. Section 450.316(b) also establishes the outline for MPO public participation programs. The Berkshire MPO's Public Participation Plan was formally adopted in 2016. The Public Participation Plan ensures



that the public will have access to the RTP and all supporting documentation, provides for public notification of the availability of the RTP and the public's right to review the document and comment thereon, and provides a 21-day public review and comment period prior to the adoption of the RTP and related certification documents. The Public Participation Plan can be found online at <https://berkshireplanning.org/initiatives/metropolitan-planning-organization-mpo/>

The public comment period for this conformity determination commenced on June 28, 2023. During the 21-day public comment period, any comments received were incorporated into this Plan. This allowed ample opportunity for public comment and MPO review of the draft document. The public comment period will close on July 18, 2023 and subsequently, the Berkshire MPO is expected to endorse this air quality conformity determination on or before July 25, 2023. These procedures comply with the associated federal requirements.

Fiscal Constraint:

Transportation conformity requirements in 40 CFR 93.108 state that TIPs and transportation plans and must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450. The Berkshire 2023-2027 Transportation Improvement Program and 2020-2040 Regional Transportation Plan are fiscally constrained, as demonstrated in this document.

In summary and based upon the entire process described above, the Berkshire MPO has prepared this conformity determination for the 1997 Ozone NAAQS in accordance with EPA's and Massachusetts' latest conformity regulations and guidance. This conformity determination process demonstrates that the FFY 2023-2027 Transportation Improvement Program and the 2020-2040 Regional Transportation Plan meet the Clean Air Act and Transportation Conformity Rule requirements for the 1997 Ozone NAAQS, and have been prepared following all the guidelines and requirements of these rules during this time period.

Therefore, the implementation of the Berkshire MPO's FFY 2023-2027 Transportation Improvement Program and the 2020-2040 Regional Transportation Plan are consistent with the air quality goals of, and in conformity with, the Massachusetts State Implementation Plan.

EVALUATION AND REPORTING OF STATE-WIDE GREENHOUSE GAS REDUCTIONS IN TRANSPORTATION - JUNE 2023

This section documents recent progress made by MassDOT and the MPOs in working to help achieve greenhouse gas (GHG) reduction goals as outlined in state regulations applicable to Massachusetts. This "progress report" estimates future carbon dioxide (CO₂) emissions from the transportation sector as part of meeting the GHG reduction goals established through the Commonwealth's Global Warming Solutions Act (GWSA).

GWSA Transportation Status: Future Carbon Dioxide Emissions Reductions

The Global Warming Solutions Act of 2008 requires statewide reductions in greenhouse gas (CO₂) emissions of 25 percent below 1990 levels by the year 2020, and 80 percent below 1990 levels by 2050.

The Commonwealth's thirteen metropolitan planning organizations (MPOs) are involved in helping to achieve greenhouse gas reductions mandated under the GWSA. The MPOs work closely with the Massachusetts Department of Transportation (MassDOT) and other involved agencies to develop common transportation goals, policies, and projects that would help to reduce GHG emission levels statewide, and meet the specific requirements of the GWSA regulation – Global Warming Solutions Act Requirements for the Transportation Sector and the Massachusetts Department of Transportation (310 CMR 60.05). The purpose of this regulation is to assist the Commonwealth in achieving their adopted GHG emission reduction goals by:

- ◆ Requiring each MPO to evaluate and report the aggregate GHG emissions and impacts of both its Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP).
- ◆ Requiring each MPO, in consultation with MassDOT, to develop and utilize procedures to prioritize and select projects in its RTP and TIP based on factors that include GHG emissions and impacts.

Meeting the requirements of this regulation is being achieved through the transportation goals and policies contained in the Federal Fiscal Year (FFY) 2024 RTPs, the major projects planned in the RTPs, and the mix of new transportation projects that are programmed and implemented through the TIPs.

The GHG evaluation and reporting processes enable the MPOs and MassDOT to identify the anticipated GHG impacts of the planned and programmed projects, and also to use GHG impacts as a criterion in prioritizing transportation projects. This approach is consistent with the greenhouse gas reduction policies of promoting healthy transportation modes through prioritizing and programming an appropriate balance of roadway, transit, bicycle and pedestrian investments; as well as supporting smart growth development patterns through the creation of a balanced multi-modal transportation system. All of the MPOs and MassDOT are working toward reducing greenhouse gases with "sustainable" transportation plans, actions, and strategies that include (but are not limited to):

- ◆ Reducing emissions from construction and operations
- ◆ Using more fuel-efficient fleets
- ◆ Implementing and expanding travel demand management programs
- ◆ Encouraging eco-driving
- ◆ Providing mitigation for development projects
- ◆ Improving pedestrian, bicycle, and public transit infrastructure and operations (healthy transportation)
- ◆ Investing in higher density, mixed use, and transit-oriented developments (smart growth)

Regional GHG Evaluation and Reporting in RTPs

MassDOT coordinated with MPOs and regional planning agency (RPA) staffs on the implementation of GHG evaluation and reporting in development of each MPO's 2016 and 2020 RTPs. This collaboration has continued in developing the MPOs' FFY 2024 RTPs and FFYs 2024-28 TIPs. Working together, MassDOT and the MPOs have attained the following milestones:

- ◆ Modeling and long-range statewide projections for GHG emissions resulting from the transportation sector, as a supplement to the FFY 2024 RTPs. Using the newly updated statewide travel demand model, GHG emissions have been estimated for 2019 (base) conditions, and for 2050 base ("no-build" including existing and committed projects) and build (action) conditions (see the chart in this section for the results of this modeling).
- ◆ All of the MPOs have addressed GHG emission

reduction projections in their RTPs (including the statewide estimates in the chart that follows), along with a discussion of climate change and a statement of MPO support for reducing GHG emissions from transportation as a regional goal.

MassDOT's statewide estimates of CO2 emissions resulting from the collective list of all recommended projects in all Massachusetts RTPs combined are presented in the table below. Emissions estimates incorporate the latest planning assumptions including updated socio-economic projections consistent with the FFY 2024 RTPs:

Massachusetts Statewide Aggregate CO2 Estimated Emissions Impacts from Transportation (all emissions in tons per summer day):

Year	CO ₂ Action Emissions	CO ₂ Base Emissions	Difference (Action - Base)
2019	75,113.60	75,113.60	N/A
2050	53,772.50	53781.4	-8.9

This analysis includes only those larger, regionally significant projects that are included in the statewide travel demand model. Many other types of projects that cannot be accounted for in the model (such as bicycle and pedestrian facilities, shuttle services, intersection improvements, etc.), are covered in each MPO region's RTP with either "qualitative" assessments of likely CO2 change, or actual quantitative estimates listed for each project.

As shown above, collectively, all the projects in the RTPs in the 2050 Action scenario provide a statewide reduction of nearly 9 tons of CO2 per day compared to the base (existing and committed projects) case.

These results demonstrate that the transportation sector is expected to continue making positive progress in contributing to the achievement of GHG reduction targets consistent with the requirements of the GWSA. MassDOT and the MPOs will continue to advocate for steps needed to accomplish the Commonwealth's long-term goals for greenhouse gas reductions.

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