



Standard Operating Procedure for Complying with Conformity Requirements

Approval Authority: Air Quality & Noise Work Leader, Jackie Ploch
Review Authority: Air Specialist, Tim Wood

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Purpose of This SOP

The purpose of this SOP is to explain clearly how to comply with conformity requirements at the project level. In particular, it details how to prepare and coordinate a conformity report, which is used to document that project-level conformity requirements have been met.

Subject Overview

The Clean Air Act (CAA) requires that all federal actions in nonattainment or maintenance areas have to conform to the State Implementation Plan (SIP), unless otherwise exempt. A project requiring a project-level conformity determination must receive a FHWA/FTA conformity determination prior to the environmental decision being made. This SOP was developed to assist project sponsors with preparing conformity reports and, when applicable, getting a project-level conformity determination from FHWA/FTA.

A determination of project level conformity is not permanent. It is recommended that conformity be checked early and often in the project development process, using the Transportation Conformity Report Form. This form should be coordinated at least 60 days prior to the anticipated environmental decision so as to avoid having to coordinate it more than once. In particular, if there is a planned MTP update/amendment and corresponding transportation conformity determination expected to be completed on or near the time of project approval, then it is recommended that the project sponsor prepare this conformity determination after the plan update/amendment and corresponding transportation conformity determination is completed.

Authorities

There is no specific authority or requirement to use this SOP, but it designed to help project sponsors meet the conformity requirements of the CAA in regards to transportation projects. Correctly following the procedure outlined in this SOP should ensure the production of a legally sufficient report that meets the CAA requirements.

Toolkit

The following tools should be used in conjunction with this SOP.

- Transportation Conformity Report Form
- Texas Nonattainment Areas and Counties Table
- SOP for Complying with Hot-Spot Requirements
- SOP for Preparing Air Quality Statements

Personnel

The audience for this SOP includes project sponsors, contractors, and consultants responsible for preparing valid documentation that a project complies with CAA conformity requirements.



Procedure

1. Determine whether the project is in an area in attainment or unclassifiable for all National Ambient Air Quality Standards (NAAQS). If so, proceed to Step 10. If not, continue to Step 2.
2. Determine whether the project has a federal lead¹ other than FHWA/FTA. If so, consult with the ENV air specialist, and continue to Step 3. If not, proceed to Step 4.
3. Address potential general conformity requirements by completing Steps 3.1 through 3.6 as directed.
 - 3.1. Determine whether the project is considered “de minimis” in accordance with [40 CFR 93.153\(c\)\(2\)](#). If so, document that the project is “de minimis,” then proceed to Step 10. If not, continue to Step 3.2.
 - 3.2. Determine whether the project is exempt from a project level conformity determination in accordance with [40 CFR 93.153\(d\)](#) or [93.153\(e\)](#). If so, document that the project is exempt, and proceed to Step 10. If not, continue to Step 3.3.
 - 3.3. Prepare an analysis methodology to identify the total of direct and indirect emissions associated with the project. Get approval from the federal lead agency on that methodology before initiating the analysis. Continue to Step 3.4.
 - 3.4. Perform the analysis. Send the analysis to the ENV air specialist for review. Continue to Step 3.5.
 - 3.5. Determine whether the project’s total of direct and indirect emissions exceed the emission levels specified in [40 CFR 93.153\(b\)](#). If so, continue to Step 3.6. If not, document that a project level conformity determination is not necessary because the project does not exceed the applicable thresholds, and proceed to Step 10.
 - 3.6. Coordinate with the lead federal agency on how to obtain a project-level conformity determination². Once the conformity determination has been obtained, proceed to Step 10.
4. Determine which projects are exempt from a project level conformity determination by completing Steps 4.1 through 4.6 as directed.
 - 4.1. Determine whether the project is located in a nonattainment or maintenance area (NA/MA) for ONLY sulfur dioxide and/or lead. If so, proceed to Step 10. If not, continue to Step 4.2.
 - 4.2. Determine whether the project is exempt from conformity in accordance with [40 CFR 93.126](#)³ or [40 CFR 93.128](#). If so, proceed to Step 10. If not, continue to Step 4.3.
 - 4.3. Determine whether the project is a FHWA/FTA project⁴. If so, continue to Step 4.4. If not, proceed to Step 4.5.

¹ Such as the Surface Transportation Board or the Federal Railroad Administration

² The project will need a general conformity determination from the federal lead agency prior to the project’s approval.

³ Ultimately, the interpretation of what projects types meet these exemption criteria is under the purview of the federal lead agency. For example, although it could be interpreted to meet some of the exemption project types, a project changing from general purpose to managed lanes is NOT considered to be exempt from conformity.



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- 4.4. Determine whether the project is located within a nonattainment or maintenance area for either carbon monoxide (CO) or particulate matter (PM). If so, proceed to Step 5. If not, continue to Step 4.6.
- 4.5. Determine whether the project is considered regionally significant⁵. If so, continue to Step 4.6. If not, proceed to Step 10.
- 4.6. Determine if the project is exempt from regional conformity requirements per [40 CFR 93.127](#). If so, proceed to Step 10. If not, proceed to Step 6.
5. Follow the procedures in the *SOP for Complying with Hot-Spot Requirements* in order to address hot-spot compliance activities. Continue to Step 6.
6. Determine the conformity status of the project by completing Steps 6.1 through 6.4 as directed.
 - 6.1. Complete the *Transportation Conformity Report Form* as directed by the form and continue to Step 6.2.
 - 6.2. Determine whether the form directed the preparer to STOP on Steps 8 through 15. If so, work with the local district Transportation Planning and Development (TP&D) and the local MPO to address the consistency problem, ensure the appropriate revisions are made, and then proceed to Step 6. If not, continue to Step 6.3.
 - 6.3. Determine whether the form directed the preparer to STOP on Steps 19 or 20. If so, conduct coordination with the Consultation Partners to determine the applicable mitigation measures for the project, provide written commitments to implement these mitigation measures, and proceed to Step 6. If not, continue to Step 6.4.
 - 6.4. Within at least 60 days prior to the anticipated environmental document decision, coordinate the Transportation Conformity Report Form and all applicable attachments with the ENV air specialist for review, and address any comments from the ENV reviewer. The ENV air specialist will coordinate the Transportation Conformity Form with FHWA/FTA, as applicable. Continue to step 7.
7. Determine whether the project has received a project level conformity determination by completing Steps 7.1 through 7.2 as directed.
 - 7.1. Determine whether the ENV air specialist has indicated that FHWA/FTA signed the form, indicating they made a project-level conformity determination for the project. If so, then proceed to Step 8. If not, continue to Step 7.2.
 - 7.2. Identify the FHWA/FTA concerns regarding the *Transportation Conformity Report Form* and address them as appropriate. Resubmit the revised *Transportation Conformity Report Form* with the appropriate documentation to the ENV air specialist who will coordinate it with FHWA/FTA for a project level conformity determination. Proceed to Step 7.1.
8. Identify the times when it is appropriate to reevaluate the project's conformity status by completing Steps 8.1 through 8.3.

⁴ Either has FHWA/FTA funding or action (such as an Interstate Access Justification)

⁵ According to the MPO. See the definition of regionally significant in Appendix A.



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- 8.1. Since the completion of the *Transportation Conformity Report Form*, determine whether there has been a change in the project's design concept, scope, financing, or implementation schedule. If so, proceed to Step 6. If not, continue to Step 8.2.
- 8.2. Since the completion of the *Transportation Conformity Report Form*, determine whether there have been MTP or TIP updates that changed how the project's design concept, scope, financing, or implementation schedule is represented in these plans. If so, proceed to Step 6. If not, continue to Step 8.3.
- 8.3. Since the completion of the *Transportation Conformity Report Form*, determine whether there has been a change to the area's attainment status. If so, proceed to Step 1. If not, continue to Step 9.
9. Retain copies of all applicable documentation supporting conformity decisions in the project file, including but not limited to the *Transportation Conformity Report Form*, Consultation Partner decisions, an emissions analysis in support of general conformity decisions, a hot-spot analysis, copies of the applicable pages of the MTP and TIP, and all coordination regarding conformity. Continue to Step 10.
10. Refer to the *SOP for Preparing Air Quality Statements* for the applicable conformity disclosure language to include in the project file.

The procedure is complete.



Appendix A: Acronyms and Definitions

Acronyms

Acronym	Full Name
CAA	Clean Air Act
CO	Carbon Monoxide
ENV	TxDOT Environmental Affairs Division
FHWA/FTA	Federal Highway Administration/Federal Transit Administration
MPO	Metropolitan Planning Organization
MTP	Metropolitan Transportation Plan
NAAQS	National Ambient Air Quality Standards
NA/MA	Nonattainment or Maintenance Area
NO2	Nitrogen Dioxide
PM	Particulate Matter
SIP	State Implementation Plan
SOP	Standard Operating Procedure
STIP	Statewide Transportation Improvement Program
TIP	Transportation Improvement Program
TP&D	Transportation Planning and Development
TxDOT	Texas Department of Transportation



Definitions

Term	Definition
FHWA/ FTA Project	A project that has FHWA/FTA funding, needs a FHWA/FTA decision, or that has been delegated.
Non-Regionally Significant Project	A project that is not regionally significant. These are often specifically identified by the Metropolitan Planning Organization (MPO) as being non-regionally significant.
Regionally Significant Project	<p>Federal definition (40 CFR 93.101): 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.</p> <p>State definition (30 TAC 114.260(2)(A)(iv)): Regionally significant projects will include, at a minimum, all facilities classified as principal arterial or higher, or fixed guideway systems or extensions that offer an alternative to regional highway travel. Also, these include minor arterials included in the travel demand modeling process that serve significant interregional and intraregional travel, and connect rural population centers not already served by a principal arterial, or connect with intermodal transportation terminals not already served by a principal arterial. A significant change in design concept and scope is defined as a revision of a project in the MTP or TIP that would significantly affect model speeds, vehicle miles traveled, or network connections. In addition to new facilities, examples include changes in the number of through lanes or length of project (more than one mile), access control, addition of major intermodal terminal facilities (such as new international bridges, park-and-ride lots, and transfer terminals), addition/deletion of interchanges, or changing between free and toll facilities.</p>



Appendix B

The following table shows the revision history for this document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
February 2014	. Version 1 released
September 2015	Version 2 released in order to clarify the timing, the exemptions, and the ENV air specialist's intermediary role in the coordination process.