Transportation Conformity Determination Report for the 1997 ozone NAAQS

Triangle Region

Capital Area Metropolitan Planning Organization (CAMPO)

- *2045 Metropolitan Transportation Plan (MTP) Amendments*
- *2020-2029 Transportation Improvement Program (TIP) Amendments*

MPO Adoption Date: November 18, 2020

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Acknowledgements

This *Transportation Conformity Report* for the CAMPO 2045 Metropolitan Transportation Plan (MTP) and 2020-2029 Transportation Improvement Program (TIP) was prepared by the Triangle J Council of Governments. Individuals from the following agencies contributed their efforts towards the completion of the Transportation Conformity Determination Report. They include:

- NC Capital Area Metropolitan Planning Organization
- NC Department of Transportation
- NC Department of Environmental Quality, Division of Air Quality
- US Federal Highway Administration
- US Federal Transit Administration
- US Environmental Protection Agency

Executive Summary

As part of its transportation planning process, the North Carolina Capital Area Metropolitan Planning Organization (CAMPO) most recently completed the transportation conformity process for the 2045 MTP in August 2019 and the 2020-2029 TIP in October 2019. This report addresses amendments to the 2045 MTP and the 2020-2029 TIP documents that the 2045 MTP and 2020-2029 TIP continue to meet 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 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.

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 Research Triangle Region was "maintenance" at the time of the 1997 ozone NAAQS revocation on April 6, 2015 and was also 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 MTP and TIP.

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.

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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 were 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.

USEPA originally declared Durham County, Wake County and Dutchville Township in Granville County non-attainment for ozone (O_3) under the 1-hour ozone standard and Durham County and Wake County non-attainment for Carbon Monoxide (CO) on November 15, 1990. Ozone, the primary component of smog, is a compound formed when volatile organic compounds (VOC) and oxides of nitrogen (NO_x) mix together in the atmosphere with sunlight. NO_x and VOC are referred to as ozone "precursors." Durham County, Wake County and Dutchville Township were redesignated by USEPA to attainment with a maintenance plan for ozone under the 1-hour standard on June 17, 1994 and Durham County and Wake County were redesignated by USEPA to attainment with a maintenance plan for CO on September 18, 1995. The 20-year CO maintenance requirements for the Triangle expired in 2015.

In 1997 the NAAQS for ozone was reviewed and revised to reflect improved scientific understanding of the health impacts of this pollutant. When the standard was revised in 1997, an eight-hour ozone standard was established that was designed to replace the

one-hour standard. The USEPA designated the entire Triangle area as a "basic" non-attainment area for ozone under the eight-hour standard with an effective date of June 15, 2004; the designation covered the following geographic areas:

- Durham County
- Wake County
- Orange County
- Johnston County
- Franklin County
- Granville County
- Person County
- Baldwin, Center, New Hope and Williams Townships in Chatham County

On December 26, 2007, the Triangle Area was redesignated as attainment with a maintenance plan for ozone under the eight-hour standard. The USEPA direct final rule for ozone is provided in Appendix B.

The US Court of Appeals for the DC Circuit in the South Coast AQ Management District v EPA, No. 15-1115, issued a decision on February 16, 2018. In that decision, the Court struck down portions of the 2008 Ozone National Ambient Air Quality Standards (NAAQS) State Implementation Plan Requirements Rule which vacated the revocation of transportation conformity requirements for the 1997 8-hour Ozone NAAQS.

In November 2018, USEPA issued Guidance for the South Coast v EPA Court Decision. USEPA's guidance states that transportation conformity for MTPs and TIPs for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis pursuant to 40 CFR 93.109(c). Transportation conformity for the 1997 ozone NAAQS would be required on MTP and TIP actions as of February 16, 2019.

The 2045 Metropolitan Transportation Plan is one part of the MPO's transportation planning process. The *2045* Transportation Plan was developed between 2015 and 2018. Federal law *40 CFR part 93.104(b)(3)* requires a conformity determination of transportation plans no less frequently than every four years. As required in *40 CFR 93.106*, the analysis years for the transportation plans are no more than ten years apart. The CAMPO area includes all of Wake County and parts of Franklin, Granville, Harnett and Johnston Counties.

The 2045 Transportation Plans used the latest adopted planning assumptions as discussed in 40 CFR 93.110, and were adopted as part of the Plan. Four components combine to represent planning assumptions and translate them into travel:

a. A single travel demand model was developed for the urbanized portion of the Triangle maintenance area, including all of the CAMPO area.

b. A single set of population, housing and employment projections was developed and adopted by the MPO, using GIS-based growth allocation.

c. A set of highway and transit projects that was consistent across jurisdiction boundaries was developed and refined through partner cooperation.

d. Forecasts of travel entering and leaving the modeled area were updated to reflect the most recent traffic count data.

This collection of socioeconomic data, highway and transit networks and travel forecast tools and methods, representing the latest planning assumptions, was finalized through the adoption of the Metropolitan Transportation Plan. Additional detail on planning assumptions is available in the Transportation Plan documents, which are available from both CAMPO and the Triangle J Council of Governments.

The Transportation Plan is fiscally constrained as discussed in *40 CFR 93.108*. The Plan is fiscally constrained to the year 2045. The estimates of available funds are based on historic funding availability and methods used in the NCDOT Strategic Transportation Investments legislation and policy, and include federal, state, private, and local funding sources. Additional detail on fiscal constraint is included in the MPO transportation plan.

This conformity determination is for an amendment to the 2045 MTP. The projects that constitute this amendment are listed in Appendix A.

The 2020-2029 TIP is one part of the MPO's transportation planning process. The planning process includes the development of a Metropolitan Transportation Plan (MTP). The MPO adopts the long-range transportation plan. As projects in these long-range plans advance to implementation, they are programmed in the TIP for study, design, right-of-way acquisition and construction, provided they attain environmental permits and other necessary clearances.

The purpose of the TIP is to set forth the MPO's near-term program for transportation projects. The TIP is prepared according to the MPO's procedures. An MPO Committee works with the State DOT and the appropriate transit operators in developing a draft TIP. Following public and agency review, the TIP is typically approved first by the State DOT (as part of the STIP), and then by the MPO. The TIP is forwarded to the State DOT, then on to federal funding agencies—the Federal Highway Administration, and the Federal Transit Administration.

The 2020-2029 TIP was adopted and a conformity determination made with an effective date of February 6, 2020.

This conformity determination does not include any project description or schedule changes to the 2020-2029 TIP; a companion TIP amendment is adding funding to the project being amended for the 2045 MTP.

4.0 Transportation Conformity Determination: General Process

Per the court's decision in *South Coast II*, beginning February 16, 2019, a transportation conformity determination for the 1997 ozone NAAQS will be needed in 1997 ozone NAAQS nonattainment and maintenance areas identified by EPA[1] for certain transportation activities, including updated or amended metropolitan MTPs and TIPs. Once US DOT makes its 1997 ozone NAAQS conformity determination for the 2045 MTP and 2020-2029 TIP, conformity will be required no less frequently than every four years. This conformity determination report will address transportation conformity for amendments to the 2045 MTP and the 2020-2029 TIP.

[1] The areas identified can be found in EPA's "Transportation Conformity Guidance for the South Coast II Court Decision, EPA-420-B-18-050, available on the web at: www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation .

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5.0 Transportation Conformity Requirements

5.1 Overview

On November 29, 2018, EPA issued **Transportation Conformity Guidance for the South Coast II Court Decision**[2] (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 MTPs and TIPs 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 MTPs and TIPs 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 [*insert MTP, TIP, MPO*] 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)

[2] Available from https://www.epa.gov/sites/production/files/2018-11/documents/420b18050.pdf

5.2 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 North Carolina SIP does not include any TCMs, see also Section 5.4.

5.3 Consultation Requirements

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

Interagency consultation was conducted with CAMPO, NC DOT, NC DAQ, FHWA, FTA, and EPA. Interagency consultation was conducted consistent with the North Carolina Conformity SIP.

Public consultation was conducted consistent with planning rule requirements in 23 CFR 450, and in conformance with CAMPO's adopted Public Involvement Policy.

Both agency and public comments, and responses to these comments, are contained in Appendix E.

5.4 Timely Implementation of TCMs

The North Carolina SIP does not include any TCMs.

5.5 Fiscal Constraint

Transportation conformity requirements in 40 CFR 93.108 state that transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450. Including these amendments, the *2045* MTP and 2020-2029 TIP are fiscally constrained, as demonstrated in Chapter 8 of the 2045 MTP.

Conclusion

The conformity determination process completed for the amended 2045 MTP and amended 2020-2029 TIP demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS.

APPENDIX A: 2045 MTP Amendments

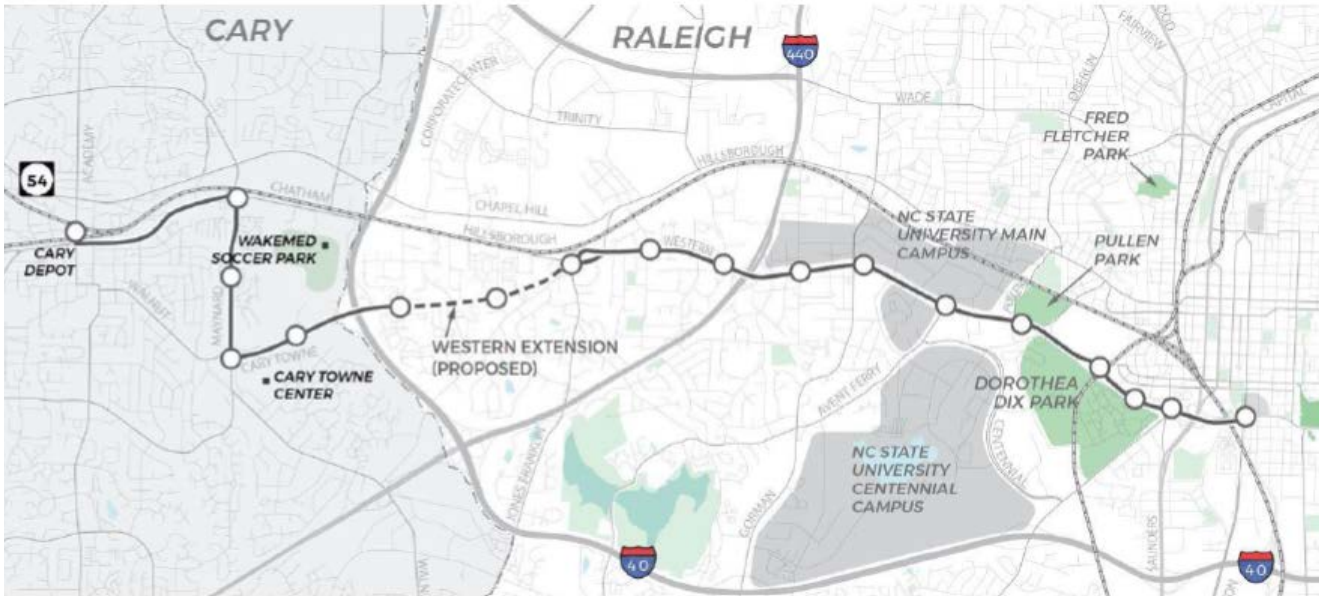
Proposed List of Changes for Capital Area MPO 2045 MTP Amendments

CAMPO ID	Revised CAMPO ID	NCDOT TIP Number	Revised NCDOT TIP Number	Project Title	Emissions Analysis Status	Programming Description	Explanation of Need for Amendment	Requested by
T156c	-	TL-0006	-	BRT – Downtown Cary to Downtown Raleigh – Fixed Guideway	Regionally Significant	Alignment modification based on further study	Updated project based on further study in project development process	CAMPO

The BRT project will generally run along Western Boulevard and the planned Western Boulevard extension towards Cary. The following reference map is provided to help orient the public and resource agencies to the location of the project. The map is from the companion effort to further detail the Locally Preferred Alternative (LPA) for the BRT project.

Additional information on the project is available at the following web site: https://raleighnc.gov/bus-rapid-transit-western

Wake BRT: Western Corridor Proposed LPA Map



APPENDIX B: Conformity Process Schedule

Initial consultation with conformity partners-request for comment on schedule & report format:	September 24, 2020
MPO releases draft conformity report for public and agency comment (date not later than):	September 30, 2020
Receipt of FHWA, FTA, EPA and DAQ comments:	October 21, 2020
Public Hearing on MTP and TIP amendments and Conformity Determination:	October 21, 2020
MPO Action on MTP and TIP amendments and Conformity Determination:	November 18, 2020
Federal Action (USDOT determination and letter to State/MPO):	December 18, 2020
Conformity Process complete:	December 18, 2020

APPENDIX C: Interagency Consultation

Interagency consultation followed a process similar to that used in recent conformity determinations:

1. The MPO, NCDOT, Triangle J COG and FHWA staff discuss the areas and plans to be covered by the CDR, propose a tentative schedule and prepare a template for the report.
2. The report template and anticipated schedule is circulated to agency staff by TJCOG; initial comments and ideas were sought through an interagency consultation call on September 24, 2020.
3. The draft report with the schedule is released for public and agency comment, with the draft report sent to agency partners by TJCOG staff. The draft report, incorporating edits from the September 24, 2020 consultation meeting was sent to agency partners and posted to the CAMPO website.
4. Comments received are forwarded to Triangle J COG staff who summarize the comments and prepare comments in consultation with the applicable MPOs and incorporate the responses in the final Conformity Determination Report.

APPENDIX D:

Public Participation and Notification

Public participation and notification for the Air Quality Conformity Determination Report followed CAMPO's Public Participation Plan, which can be viewed at the following site:

https://www.campo-nc.us/get-involved/public-participation-plan

CAMPO posts the draft CDR on its website and uses social media to notify people of the CDR in its social media communications. CAMPO conducts a public comment period (slated to start no later than September 30, 2020 and run through November 16, 2020, well in excess of the required 30-day period). CAMPO will hold a public hearing on the Conformity Determination Report, scheduled for its October 21, 2020 board meeting. If required as part of the Public Participation Plan, this appendix includes copies of public notifications and affidavits from media organizations.

In addition to public participation on the air quality process, CAMPO has a parallel public process for input and review of the relevant MTP and TIP documents. Although not specifically a part of the air quality work, the MPOs have information related to the public engagement on their MTP and TIP documents on their websites. For this amendment, GoRaleigh, the Western BRT project sponsor, also has had an extensive public process to determine the Locally Preferred Alternative (LPA) for the project.

Those interested in providing public comment are welcome to do so through the CAMPO website: http://www.campo-nc.us/contact-us, at CAMPO's Technical Coordinating Committee meetings (currently on-line every 1st Thursday at 10:00am), CAMPO's Public Hearing scheduled for the Executive Board Meeting to be held on-line on October 21, 2020 at 4:00pm, or by contacting CAMPO Staff.

APPENDIX E:

Public & Agency Comments and Responses

Appendix E contains any comments on the draft conformity report and responses to these comments. Each commenter is assigned a code and each comment a number. Responses follow each comment. In certain instances, the respondent may insert italicized, bracketed wording to clarify the comment, using the format *[clarifying comment]*. Except as noted by any italicized, bracketed comments, or in the case of minor spelling or grammatical corrections, no changes are made to the comments as received. Comments submitted in digital formats may have altered formats from the original due to the mechanics of importing and combining these files within this appendix.

APPENDIX F:

Adoption, Endorsement Resolution and Agency Determinations

The following pages in the final report will contain adoptions, endorsement resolutions and agency determinations after all of the agencies have completed the process.