

**SUPPORTING STATEMENT FOR**

**EPA INFORMATION COLLECTION REQUEST NUMBER 2130.06**

**TRANSPORTATION CONFORMITY DETERMINATIONS FOR FEDERALLY  
FUNDED AND APPROVED TRANSPORTATION PLANS, PROGRAMS AND  
PROJECTS (REINSTATEMENT)**

**April 2019**

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# **1. IDENTIFICATION OF THE INFORMATION COLLECTION**

## **1(a) Title of the Information Collection**

This information collection request (ICR) is entitled "Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects," ICR number 2130.06. This ICR includes transportation conformity burden anticipated for calendar years 2019-2021.

## **1(b) Short Characterization/Abstract**

Transportation conformity is required under Clean Air Act (CAA) section 176(c) [42 U.S.C. 7506(c)] to ensure that federally supported transportation activities are consistent with ("conform to") the purpose of the state air quality implementation plan (SIP). Transportation activities include transportation plans, transportation improvement programs (TIPs), and federally funded or approved highway or transit projects. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS or "standards") or interim milestones.

Transportation conformity applies under EPA's conformity regulations at 40 CFR Part 93, Subpart A, to areas that are designated nonattainment, and those re-designated to attainment after 1990 ("maintenance areas" with plans developed under CAA section 175A) for the following transportation-related criteria pollutants: ozone, particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>), carbon monoxide (CO), and nitrogen dioxide (NO<sub>2</sub>).

The Environmental Protection Agency (EPA) published the original transportation conformity rule on November 24, 1993 (58 FR 62188), and subsequently published several revisions. EPA develops the conformity regulations in coordination with the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA).

Transportation conformity determinations are required before federal approval or funding is given to certain types of transportation planning documents as well as non-exempt highway and transit projects.<sup>1</sup> In metropolitan nonattainment and maintenance areas, conformity determinations are required for transportation plan and TIP updates and amendments. A metropolitan transportation plan is at least a 20-year planning document that describes the policies, strategies and facilities that are proposed by state and local decision-makers for future implementation in a metropolitan area. The TIP prioritizes and programs capital highway and transit projects for implementation in a metropolitan area over a four-year period, consistent with the transportation plan.

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<sup>1</sup> Projects that are exempt from all or certain conformity requirements include projects listed in 40 CFR 93.126 (e.g., safety projects, maintenance of current roads), projects that do not impact regional emissions in 40 CFR 93.127, and traffic signal synchronization projects listed in 40 CFR 93.128.

To meet the CAA’s conformity requirements, once a SIP is established for a given pollutant and NAAQS, projected regional emissions from a nonattainment or maintenance area’s transportation system must be at or below the motor vehicle emissions level or “budget” for on-road mobile sources in the area’s SIP. Prior to EPA finding a budget adequate<sup>2</sup> or approving a SIP, the conformity rule provides emissions tests that ensure that CAA requirements are met in the interim.

EPA considered the following in developing this ICR:

- Burden estimates for transportation conformity determinations (including both regional and project-level) in current nonattainment and maintenance areas for ozone, PM<sub>2.5</sub>, PM<sub>10</sub>, and CO NAAQS;
- Federal burden associated with EPA’s adequacy review process for submitted SIP budgets that are to be used in conformity determinations;
- Efficiencies in areas making conformity determinations for multiple NAAQS;
- Differences in conformity resource needs in large and small metropolitan areas and isolated rural areas;
- Reduced burden as a result of areas no longer determining conformity for the 1997 PM<sub>2.5</sub> NAAQS due to revocation.<sup>3</sup>
- Reduced burden as a result of areas completing 20 years of maintenance for PM<sub>10</sub>, NO<sub>2</sub> and CO NAAQS, at which time transportation conformity is no longer required; and,
- Increased burden due to areas being designated as nonattainment for the 2015 ozone NAAQS.<sup>4</sup>

EPA also considered new burden associated with a recent court decision. On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit Court issued its decision in *South Coast Air Quality Management District v. EPA (South Coast II)*, in which parties challenged different aspects of EPA’s SIP Requirements Rule for the 2008 Ozone NAAQS, including the revocation of the 1997 ozone NAAQS and its associated anti-backsliding requirements. The court decision referred to the 1997 ozone NAAQS nonattainment or maintenance areas that were designated attainment for the 2008 ozone NAAQS (77 FR 30160, May 21, 2012) as “orphan” areas. The court decision stated that transportation conformity applies for the 1997 ozone NAAQS in these orphan areas. As a result of the court’s September

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<sup>2</sup> Per the transportation conformity rule, submitted SIP budgets are appropriate to use prior to EPA’s approval of the SIP when EPA declares them adequate for transportation conformity purposes (40 CFR 93.118(e) and (f)).

<sup>3</sup> See 81 FR 58010 (effective October 24, 2016).

<sup>4</sup> See 83 FR 25776 (effective August 3, 2018) and 83 FR 35136 (effective September 24, 2018) for San Antonio, Texas.

14, 2018 order,<sup>5</sup> transportation conformity for the 1997 ozone NAAQS began applying again in orphan areas as of February 16, 2019.

At the time of the first *Federal Register* notice for this ICR renewal, EPA was still evaluating the implications of the decision. EPA has now issued guidance and updated this version of the supporting statement to include the burden estimates as a result of the revocation of 1997 ozone NAAQS and the court's decision regarding the 1997 ozone NAAQS orphan areas.

This ICR does not include burden associated with the general development of transportation planning and air quality planning documents for meeting other federal requirements. There are other ICRs that capture associated burdens for these non-conformity planning requirements and are prepared by other organizations within EPA and DOT.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

The CAA gives EPA the statutory authority to establish the criteria and procedures for determining whether transportation activities conform to the SIP. EPA promulgated the transportation conformity regulations under the authority of CAA section 176(c). The federal government needs information collected under these regulations to ensure that metropolitan planning organization (MPO)<sup>6</sup> and federal transportation actions are consistent with state air quality goals.

### **2(b) Practical Utility/Users of the Data**

Federal, state, and local transportation agencies use information collected under the conformity regulation to ensure that federally funded or approved transportation actions conform to SIPs for attaining and maintaining clean air. Specifically, transportation agencies use information they collect to demonstrate that:

- Regional emissions and/or project-level analysis requirements are satisfied;
- Transportation control measures (TCMs) in approved SIPs are implemented in a timely manner;
- State, local, and federal transportation and air quality agencies consult and resolve issues related to conformity determinations; and,

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<sup>5</sup> USCA Case No. 15-1115, Document #1750759, Filed September 14, 2018.

<sup>6</sup> MPO means the policy board of an organization created and designated to carry out the metropolitan transportation planning process (40 CFR 93.101).

- Public comments are considered and responses to comments are documented prior to conformity actions.

### **3. NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

#### **3(a) Non-Duplication**

EPA wrote the transportation conformity regulation and subsequent revisions, in coordination with FHWA and FTA, to avoid duplicating the collection efforts required by other regulatory programs. The conformity regulation works with existing transportation and air quality planning requirements from the CAA, Title 23 of United States Code and other federal highway laws, Federal Transit Laws, and the National Environmental Policy Act (NEPA).

The conformity regulation relies on but does not duplicate DOT's transportation planning regulations for developing transportation plans, TIPs, and projects. Many nonattainment and maintenance areas can rely on travel, economic, or other forecasts that are already available for other planning purposes to complete regional conformity analyses. In addition, the conformity regulation does not create any new fiscal constraint or public participation requirements. The regulation simply relies upon existing transportation planning requirements.

Localized air quality analyses (or "hot-spot" analyses) are generated for certain project-level conformity determinations for certain criteria pollutants. When project-level analyses are required for both conformity approvals and NEPA, project sponsors may rely on the same analysis, assuming that it meets all necessary air quality requirements. Finally, although transportation actions are compared to SIP budgets for conformity determinations when they are available, SIPs are required to be submitted for other CAA purposes, and are not required by the conformity provisions.

#### **3(b) Public Notice Required Prior to ICR Submission to OMB**

In compliance with the 1995 Paperwork Reduction Act (PRA), any agency developing a non-rule related ICR must solicit public comments for a 60-day period prior to submitting the ICR to OMB. These comments, which are used partly to determine realistic burden estimates for respondents, must be considered when completing the final Supporting Statement that is submitted to OMB.

The announcement of a public comment period for this renewal ICR has been made in the *Federal Register* under Docket ID No. EPA-HQ-OAR-2007-0269.<sup>7</sup> The comment period

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<sup>7</sup> To maintain the integrity of the ICR docket and all the associated ICR renewal records, the original docket number and date from the previous ICR continue to be used. For this renewal, a new Phase of the original docket number has been opened.

closed on January 18, 2019, with EPA receiving one set of comments. Below is a summary of the comments and how EPA addressed the comments in this Supporting Statement.

EPA considered all of the comments. Based on the comments and supporting example documentation received, EPA increased the estimated burden hours by 40% associated with an individual transportation plan and TIP conformity determination in the largest MPOs. EPA also changed the assumption in the ICR for how often TIP conformity determinations are completed in larger metropolitan areas that are doing conformity for three or more NAAQS. In this ICR, TIP conformity determinations were increased to once every 3 years, similar to the 2015 ICR where transportation plan conformity determinations were increased from 1 determination every 4 years to 1 determination every 3 years.

### **3(c) Consultations**

To prepare this ICR, EPA relied upon the previous ICR for information on the number of hours required to complete the following:

- Developing transportation plan, TIP, and project conformity determinations;
- Consulting with state, local, and federal agencies on conformity determinations;
- Performing regional and hot-spot analyses;
- Documenting that TCMs in approved SIPs are implemented on time;
- Conducting other miscellaneous activities (e.g., reviewing conformity documents, responding to conformity-related public comments, etc.); and,
- Training new state and local government staff to perform conformity-related duties (for those nonattainment areas without previous conformity experience).

EPA's Office of Transportation and Air Quality (OTAQ) consulted with FHWA and FTA headquarters and requested information from EPA Regional Offices.

Finally, EPA relied upon existing research completed on the transportation conformity process that indicated the number of hours associated with making conformity determinations in isolated rural areas.<sup>8</sup> See Appendix A – Conformity Related Research Considered for this ICR.

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<sup>8</sup> Isolated rural nonattainment and maintenance areas are areas that do not contain nor are part of any metropolitan planning areas as designated under the transportation planning regulations. Isolated rural areas do not have federally required metropolitan transportation plans or TIPs and do not have projects that are part of the emissions analysis of any MPO's metropolitan transportation plan or TIP. Projects in such areas are instead included in statewide transportation improvement programs. These areas are distinct from donut areas (40 CFR 93.101).

### 3(d) Effects of Less Frequent Collection

The CAA requires conformity for transportation plans and TIPs to be determined every four years in metropolitan nonattainment and maintenance areas. This statutory requirement is typically satisfied when an area updates its long-range transportation plan to meet the four-year planning requirement for DOT's transportation planning regulations. The CAA and DOT's transportation planning regulations require TIPs to be updated every four years, and as a result, conformity determinations are also done for TIPs every four years.<sup>9</sup> The CAA also requires conformity for transportation plans and TIPs within two years of a new SIP motor vehicle emission budget being established.<sup>10</sup> The periodic collection of information for metropolitan nonattainment and maintenance areas cannot be reduced, as these minimum periodic conformity determinations were established to achieve and maintain clean air.

However, there are situations where conformity information is collected less frequently, and their reduced burden effects are included in EPA's burden statement. First, the requirement for conformity determinations every four years and within two years of a new SIP budget being established applies in metropolitan areas only. In contrast, conformity determinations are required in isolated rural nonattainment and maintenance areas only when a new project needs federal funding or approval, which occurs infrequently in these areas. Second, information collection ceases to apply when areas reach the end of their 20-year maintenance period. Once an area has attained the NAAQS for a criteria pollutant, the state may submit a request to the EPA for the redesignation of the nonattainment area for that pollutant under CAA section 175A(a). In general, actions on metropolitan transportation plans, TIPs, and FHWA/FTA projects taken on or after the date that is 20 years after the effective date of redesignation will not require a conformity determination for the applicable pollutant.<sup>11</sup>

Finally, reduced information collection has occurred and will continue to occur due to EPA's final rule that addresses revocation for the 1997 PM<sub>2.5</sub> NAAQS as part of the Implementation Rule for the PM<sub>2.5</sub> NAAQS. The rule is effective on October 24, 2016. Transportation conformity for the annual 1997 PM<sub>2.5</sub> NAAQS stopped applying on the effective date in areas that are in maintenance for that NAAQS. EPA will continue to redesignate areas to attainment and the PM<sub>2.5</sub> NAAQS will be revoked in those areas on the effective date of their redesignation.

### 3(e) General Guidelines

This ICR adheres to the guidelines stated in the 1995 Paperwork Reduction Act, OMB's implementing regulations, and EPA's Information Collection Request Handbook. None of these reporting or record keeping requirements violate any of the regulations established by

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<sup>9</sup> Additional plan/TIP amendments are completed on a voluntary basis beyond the required transportation plan/TIP update cycles. These are not addressed in this ICR.

<sup>10</sup> EPA assumed that conformity determinations occur infrequently for this scenario and therefore no burden was included in this ICR.

<sup>11</sup> 40 CFR 93.102(b)(4) and Transportation Conformity Guidance for Areas Reaching the End of the Maintenance Period (EPA-420-B-14-093, October 2014).



OMB in 5 CFR 1320.5.

### **3(f) Confidentiality**

Respondents for the transportation conformity regulation do not submit confidential information for approval. All information collected and submitted in a conformity determination is already publicly available, pursuant to 40 CFR 93.105(e) of the conformity regulation and 23 CFR 450.316(a) of the transportation planning regulations.

### **3(g) Sensitive Questions**

No questions of a sensitive nature are included in any of the information collection requirements for the transportation conformity regulation. Examples of sensitive information include information concerning sexuality or religious beliefs.

## **4. THE RESPONDENTS AND THE INFORMATION REQUESTED**

### **4(a) State and Local Respondents/North American Industry Classification System**

In the transportation conformity process, the respondent is either a state or local agency. Depending upon the type of conformity determination and the type of area involved, the state or local agency may vary. For instance, in metropolitan nonattainment and maintenance areas, MPOs are the primary local respondent for transportation plan and TIP conformity determinations. CAA section 176(c)(1) states that "... No metropolitan planning organization designated under section 134 of Title 23, shall give its approval to any project, program, or plan which does not conform to an implementation plan approved or promulgated under section 7410 of this title..."

In metropolitan areas, each MPO must formally make a conformity determination on its transportation plan and TIP prior to submitting them to DOT for an independent review and a conformity determination. State or local air agencies also provide technical assistance in supplying air quality data or performing emissions factor modeling for transportation plan and TIP regional conformity analyses.

State and local respondents for conformity determinations for projects within metropolitan areas can vary depending upon who the project sponsor is. A project sponsor within a metropolitan area may be the state department of transportation, local transit agency, or other state or local agency, depending upon the individual project. Developing conformity determinations for projects outside metropolitan boundaries is also typically the responsibility of the project sponsor, which is usually the state department of transportation.

The transportation conformity rule also requires that state, local and federal transportation and air quality agencies develop interagency consultation procedures for discussing and resolving issues related to conformity determinations. Such agencies include the MPO, local transit agency, state department of transportation, state and local air agencies, EPA, FHWA, and FTA. Federal respondents for conformity determinations are discussed further in Section 5 of this ICR.

The following is a representative list of North American Industry Classification System (NAICS) codes for the government agencies that would be affected by the transportation conformity regulation:

485111 Mixed Mode Transit System  
485210 Interurban and Rural Bus Transportation  
488490 Other Support Activities for Road Transportation  
924110 Administration of Air and Water Resources and Solid Waste Management Programs  
925120 Administration of Urban Planning and Community and Rural Development  
926120 Regulation and Administration of Transportation Programs

## **4(b) Information Requested**

### **(i) Data Items, Including Record Keeping Requirements**

Section 4(b)(ii) describes the information requested for and roles conducted by state and local respondents for conformity determinations. Some of the information used in conformity determinations is also used for other transportation and air quality planning purposes. Specific roles of state and local agencies will vary from area to area.

### **(ii) Respondent Activities**

#### ***Metropolitan Planning Organizations***

MPOs are the lead agency in making transportation plan and TIP conformity determinations in metropolitan nonattainment and maintenance areas. The level of information collection requirements for completing such determinations will vary with the size of the area and complexity of the air quality problem. The following list includes MPO activities for transportation plan and TIP conformity determinations:

- Conduct regional emissions analyses using the latest planning assumptions and models to determine whether the emissions from the proposed transportation system are consistent with state air quality goals;
- Ensure timely implementation of TCMs in approved SIPs;
- Consult with other state, local, and federal transportation and air quality agencies throughout

the conformity process;

- Circulate draft plan/TIP conformity determinations for interagency review and public comment and respond to any comments on plan/TIP conformity determinations; and,
- Provide travel activity or other data for hot-spot analyses.

### ***State Departments of Transportation***

State departments of transportation are typically the lead agency in developing conformity determinations for projects in isolated rural nonattainment and maintenance areas. They can also be the lead agency for project-level conformity determinations in metropolitan areas. The following list includes state department of transportation activities for conformity determinations:

- Assist the MPOs or conduct the regional emissions analyses for the MPO, using the latest assumptions and models to determine whether the emissions from the proposed transportation system change is consistent with state air quality goals;
- Conduct regional emissions analyses on projects in isolated rural areas and donut areas<sup>12</sup> using the latest assumptions and models to determine whether the emissions from the proposed transportation system change is consistent with state air quality goals;
- Ensure timely implementation of TCMs in approved SIPs;
- Conduct hot-spot analyses for projects when required;
- Comment on draft transportation plan and TIP conformity determinations;
- Consult with other state, local, and federal transportation and air quality agencies throughout the conformity process; and
- Circulate draft project conformity determinations for interagency review and public comment and respond to any comments as appropriate.

### ***Local Transit Agencies***

Local transit agencies in metropolitan areas are typically the lead agency in developing project-level conformity determinations for transit projects in metropolitan areas. The following list includes local transit agency activities for project-level conformity determinations:

- Conduct hot-spot analyses for transit projects when required;

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<sup>12</sup> Donut areas are geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area that contains any part of a metropolitan area(s). These areas are not isolated rural nonattainment and maintenance areas (40 CFR 93.101).

- Comment on draft transportation plan and TIP conformity determinations;
- Consult with other state, local, and federal transportation and air quality agencies throughout the conformity process; and,
- Circulate draft project conformity determinations for interagency review and public comment and respond to any comments as appropriate.

### ***State and Local Air Quality Agencies***

State and local air quality agencies may provide technical assistance to transportation agencies in the development of conformity determinations. The following list includes possible state and local air agency activities for conformity determinations:

- Provide air quality data or perform emissions factor modeling for regional emissions analyses for transportation plans and TIPs in metropolitan areas and projects in isolated rural areas;
- Provide similar assistance for hot-spot analyses for projects as appropriate;
- Consult with state, local, and federal agencies throughout the conformity process; and,
- Comment on draft conformity determinations.

## **5. THE INFORMATION COLLECTED—AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT**

### **5(a) Agency Activities**

#### **(i) FHWA and FTA Activities**

The FHWA Division Office and the FTA Regional Office are involved in several aspects of the transportation conformity process:

- Making conformity determinations for transportation plans, TIPs, and projects;
- Reviewing the relevant materials that are submitted to support the conformity determinations including the travel, emissions, or air quality modeling performed to support a conformity determination and comments submitted by the EPA Regional Office; and,
- Issuing a letter to the appropriate MPO, state department of transportation, or other project sponsor indicating that they have made a conformity determination.

FHWA and FTA field offices also participate in the interagency consultation process for nonattainment and maintenance areas. The interagency consultation process is used to discuss and resolve issues during the development of transportation plan, TIP, and project conformity determinations. The frequency of meetings varies from area to area. FHWA Resource Centers and FHWA/FTA Headquarters provide technical assistance as needed.

## **(ii) EPA Activities**

The EPA Headquarters and Regional Offices are involved in several aspects of the transportation conformity process:

- Participating in the interagency consultation process in nonattainment and maintenance areas;
- Reviewing and commenting on conformity determinations for transportation plans, TIPs and projects, including the travel, emissions, or air quality modeling performed to support a conformity determination;
- Making adequacy findings for submitted SIP motor vehicle emissions budgets. EPA's adequacy review is separate from EPA's review of the SIP for completeness or approval; and,
- Providing technical assistance as needed.

## **5(b) Collection Methodology and Management**

Federal agencies review transportation conformity determinations in accordance with the CAA section 176(c) and 40 CFR Part 93, Subpart A. The interagency consultation process is used to discuss any outstanding issues on the accuracy or quality of data used in conformity analyses and determinations. The general public reviews MPO conformity determinations for transportation plans and TIPs, and federal agencies review MPO responses to these comments. The federal agencies will need to maintain records of their actions, in accordance with other federal record retention requirements. No special machines or processing technologies are employed in reviewing conformity determinations.

## **5(c) Small Entity Flexibility**

A regulatory flexibility analysis is not required because the rule does not affect a significant number of small entities. However, the rule does affect some isolated rural nonattainment and maintenance areas, which are considered to be small entities because they have populations less than 50,000. EPA has taken steps in the conformity rule to reduce the burden placed on these areas. For example, isolated rural areas are required to demonstrate conformity only when they have a new non-exempt federally funded or approved highway or

transit project. In contrast, metropolitan nonattainment and maintenance areas are required to demonstrate conformity at least every four years.

## **5(d) Collection Schedule**

The information collections described in this ICR must be completed before a transportation plan, TIP or project conformity determination is made. DOT's planning regulations require that transportation plans and TIPs be updated at least every four years, and the CAA requires that a conformity determination on the transportation plan and TIP in metropolitan areas be completed at least every four years.<sup>13</sup> Conformity determinations on projects in metropolitan and isolated rural areas are required on an as-needed basis, as previously described in Section 4, The Respondents and the Information Requested.

## **6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION**

### **6(a) Estimating State and Local Respondent Burden and Cost**

#### **(i) Overview**

This section of the ICR includes background information on the number of nonattainment and maintenance areas that are subject to transportation conformity regulations. For these areas, EPA has estimated potential burden for the following:

- Transportation plan and TIP conformity determinations for nonattainment and maintenance areas for CO, PM<sub>10</sub>, PM<sub>2.5</sub> and ozone NAAQS; and,
- Project-level conformity determinations for nonattainment and maintenance areas, including burden associated with quantitative PM hot-spot analyses.

This ICR covers only the time period of 2019 to 2021, and EPA has attributed the amount of burden to the above categories during that time period. Further specifics are addressed as each are discussed below. Please refer to Section 6(b) for additional assumptions used in estimating respondent cost.

#### **(ii) State and Local Respondent Burden and Costs for Nonattainment and Maintenance Areas**

#### ***Background on Nonattainment and Maintenance Areas***

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<sup>13</sup> These are minimum requirements are reflected in the ICR, additional plan/TIP amendments that are done on a voluntary basis beyond the required plan/TIP update cycles are not addressed in this ICR.

As stated earlier, this ICR includes the burden associated with implementing conformity requirements with respect to nonattainment and maintenance areas for transportation-related criteria pollutants: ozone, CO, PM<sub>10</sub>, and PM<sub>2.5</sub>. The following tables illustrate the total number of relevant areas for transportation-related NAAQS (Table 1A) and the areas that are currently subject to transportation conformity requirements during the time period addressed by this ICR (Table 1B), using data from EPA's Green Book for the number of nonattainment and maintenance areas.<sup>14</sup>

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<sup>14</sup> [www.epa.gov/green-book](http://www.epa.gov/green-book)

**Table 1A:  
Nonattainment and Maintenance Areas for Transportation-Related NAAQS**

<b>Pollutant/NAAQS</b>	<b>Number of Metropolitan Nonattainment/Maintenance Areas</b>	<b>Number of Isolated Rural Nonattainment/Maintenance Areas</b>
2015 ozone <sup>15</sup>	45	7
2012 PM <sub>2.5</sub> <sup>16</sup>	7	2
2008 ozone <sup>17</sup>	39	7
CO	75	2
PM <sub>10</sub>	53	36
1997 PM <sub>2.5</sub> <sup>18</sup>	38	1
2006 PM <sub>2.5</sub> <sup>19</sup>	29	3
1971 NO <sub>2</sub> <sup>20</sup>	1	0
<b>Total number of areas</b>	<b>287</b>	<b>58</b>

**Table 1B:**

<sup>15</sup> The ozone areas referred to in this row were designated nonattainment for the 2015 ozone NAAQS on June 4, 2018 for all areas except for San Antonio which was designated nonattainment on August 4, 2018. Transportation conformity starts applying for this NAAQS on August 3, 2019 and August 5, 2019, respectively.

<sup>16</sup> The PM<sub>2.5</sub> areas referred to in this row were designated nonattainment for 2012 primary annual PM<sub>2.5</sub> NAAQS on January 15, 2015 (80 FR 2206). Transportation conformity started applying April 15, 2016.

<sup>17</sup> The ozone areas referred to in this row were designated nonattainment for the 2008 ozone NAAQS on May 21, 2012 (77 FR 30088) and June 11, 2012 (77 FR 34221).

<sup>18</sup> The PM<sub>2.5</sub> areas referred to in this row were designated nonattainment for the 1997 secondary annual PM<sub>2.5</sub> NAAQS on January 5, 2005 (70 FR 944).

<sup>19</sup> The PM<sub>2.5</sub> areas referred to in this row were designated nonattainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS on November 13, 2009 (74 FR 58688).

<sup>20</sup> This entry is for the 1971 annual NO<sub>2</sub> NAAQS. EPA notes that this ICR does not account for conformity burden for the NO<sub>2</sub> NAAQS. There are no new nonattainment areas designated for the 1-hour NO<sub>2</sub> NAAQS, and the one NO<sub>2</sub> area for the annual NO<sub>2</sub> NAAQS has completed its 20-year maintenance period. Therefore, conformity is no longer required for this pollutant/NAAQS under 40 CFR 93.102(b)(4).



**Nonattainment/Maintenance Areas Subject to Transportation Conformity Requirements  
for this ICR**

<b>Pollutant/NAAQS</b>	<b>Number of Metropolitan Nonattainment/Maintenance Areas</b>	<b>Number of Isolated Rural Nonattainment/Maintenance Areas</b>
2015 ozone <sup>21</sup>	45	7
2012 PM <sub>2.5</sub>	7	2
2008 ozone	39	7
CO	38	2
PM <sub>10</sub>	45	24
1997 PM <sub>2.5</sub>	4	1
2006 PM <sub>2.5</sub>	29	3
<b>Total number of areas</b>	<b>207</b>	<b>46</b>

There are fewer nonattainment and maintenance areas in Table 1B than in Table 1A because Table 1B reflects only the areas determining conformity during the time period of this ICR. The additional areas in Table 1A are no longer doing transportation conformity due to either revocation of a NAAQS or completing 20 years of maintenance (40 CFR 93.102(b)(4)).

This ICR reflects the burden associated with determining conformity for all of these pollutants/NAAQS;<sup>22</sup> however, EPA’s estimates reflect efficiencies realized when metropolitan areas are nonattainment or maintenance for two or more pollutants/NAAQS since there is often an overlap of time spent in consultation, regional emissions analysis and other miscellaneous activities. While there may be efficiencies in these areas, EPA also assumes an increase in the frequency of conformity determinations in areas with population greater than 200,000 that are subject to three or more pollutants/NAAQS.

As discussed further below, EPA also has identified the number of nonattainment and maintenance areas with multiple MPOs that are subject to transportation conformity for one or more pollutants/NAAQS, since many metropolitan nonattainment and maintenance areas have more than one MPO (and consequently, more than one transportation plan or TIP conformity determination). The number of MPOs estimated in the following tables is based upon information collected from EPA Regional Offices, EPA’s Green Book, and from other sources.<sup>23</sup>

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<sup>21</sup> Areas newly designated for 2015 ozone NAAQS are doing conformity with EPA’s new guidance, [Transportation Conformity Guidance for 2015 Ozone NAAQS Nonattainment Areas](#), EPA-402-B-18-023, June 2018.

<sup>22</sup> Due to a recent court decision, EPA is also including in this ICR transportation conformity burden in orphan areas for the 1997 ozone NAAQS. Additional details for this part of the burden estimate are included later in this document.

Finally, EPA assumes that the conformity resource burden will differ among:

- Larger metropolitan nonattainment and maintenance areas (urbanized area populations over 200,000);
- Smaller metropolitan nonattainment and maintenance areas (urbanized area populations between 50,000-200,000); and,
- Isolated rural nonattainment and maintenance areas (urbanized populations under 50,000).

Since conformity requirements, complexity of air quality issues and geographic size can vary depending on an area's population, number of MPOs, and number of pollutants involved, EPA believes it is appropriate to account for these differences in calculating the conformity burden in nonattainment and maintenance areas. For donut areas, the burden is assumed to be included in the MPO burden estimates.

### ***Transportation Plan and TIP Conformity Determinations in Metropolitan Nonattainment and Maintenance Areas***

EPA is relying on information from several sources for this ICR's estimated state and local burden hours for conformity determinations:

- As described in Section 3(c), EPA requested burden information from EPA Regions and DOT that regularly work with state and local organizations responsible for making conformity determinations for transportation plans and TIPs;
- EPA has reviewed the conformity burden hour estimates for previous ICRs for the transportation conformity program and the burden hours assumed in DOT's ICR for the transportation planning regulations; and,
- EPA reviewed existing conformity research studies for conformity burden in current rural nonattainment and maintenance areas. These research studies are listed in Appendix A of this ICR.

The following paragraphs describe estimated state and local burden hours for conformity determinations in experienced metropolitan nonattainment and maintenance areas. The ICR assumes that all conformity determination work is completed by state and local employees, although in practice some work may be completed by consultants. EPA again notes that transportation plan and TIP burden hour estimates are based on demonstrating conformity for 4-year transportation plan and TIP updates as required by statute and regulation and does not include conformity determinations for transportation plan and TIP updates or amendments that MPOs undertake for other reasons. This ICR captures the burden associated with meeting the minimum transportation conformity requirements.

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<sup>23</sup> 67 FR 21559, May 1, 2002, Department of Commerce, Bureau of the Census, Qualifying Urban Areas for Census 2000 and 67 FR 45049, July 8, 2002, Department of Transportation, Federal Transit Administration/Federal Highway Administration Designation of Transportation Management Areas.

EPA has calculated the burden associated with transportation plan and TIP conformity determinations by considering the number of MPOs that are subject to conformity, the size of these MPOs, and the number of pollutants that apply.

To estimate burden hours that MPOs incur to determine conformity for just one pollutant/NAAQS, EPA and DOT field offices were asked for estimated state and local respondent burden for the various tasks involved in a transportation plan or TIP conformity determination. For burden hours associated with each additional pollutant, EPA relied on data from ICR 2130.05 for incremental burden hours associated with performing transportation plan and TIP conformity determinations for each additional pollutant/NAAQS, which were based on federal survey responses.

For each burden hour estimated, EPA assumed that state and local agencies work only on conformity-related activities. This ICR does not include burden for the general development of transportation plans, TIPs, projects, or motor vehicle emissions budgets, since these documents are developed to meet other requirements. EPA is assuming that some data collection for transportation planning or SIP purposes could also be used in conformity without additional conformity-related burden. Based on the comments and supporting example documentation received, EPA increased the estimated burden hours by 40% associated with an individual transportation plan and TIP conformity determination in the largest MPOs.

The following tables illustrate the burden hours and cost associated with meeting the conformity requirements for a transportation plan and TIP update in metropolitan nonattainment and maintenance areas that are designated for one or more pollutants/NAAQS. These MPOs and metropolitan areas have experience with the conformity process, have established interagency consultation procedures and have developed models for conducting plan and TIP conformity determinations.

While transportation plan and TIP updates are able to be done with the same frequency (at least every 4 years), EPA assumes that it is only those MPOs with populations between 50,000 and 200,000 that will perform conformity determinations for transportation plans and TIPs at the same time, thus leading to efficiencies in burden hours and cost. In contrast, MPOs in larger areas may choose not to align transportation plan and TIP update conformity determinations as regularly, since these areas are expected to have more complex transportation planning considerations. In addition, EPA has historically assumed that transportation plan conformity determinations are made every 3 years in larger MPOs with 3 or more NAAQS. The previous 2015 ICR included this plan frequency for conformity determinations in these areas. EPA has revised this ICR to also now include a 3-year TIP update cycle for larger MPOs with 3 or more NAAQS.

Therefore, for purposes of this analysis, EPA assumes that conformity determinations for transportation plans and TIPs occur at different times in large metropolitan areas (i.e., those with a population of 200,000 or more; Tables 2 through 5) and that conformity determinations for transportation plans and TIPs occur at the same time in small metropolitan areas (i.e., those with a population between 50,000 and 200,000; see Tables 6 and 7).

**Table 2: State and Local Burden Hours  
Each Transportation Plan Conformity Determination  
by MPO – Population of 200,000 or More**

<b>MPO Demonstrating Conformity for</b>	<b>Consultation</b>	<b>Regional Emissions Analysis</b>	<b>Other Activities</b>	<b>Total Burden Hours</b>
One Pollutant/NAAQS	77	392	63	532
Two Pollutants/NAAQS	101	525	84	710
Three or More Pollutants/NAAQS	123	651	105	879

**Table 3: State and Local Annual Cost  
Transportation Plan Conformity Determinations  
by MPO – Population of 200,000 or More**

<b>MPO Demonstrating Conformity for</b>	<b>Burden Hours</b>	<b>No. of MPOs</b>	<b>Frequency of Action</b>	<b>Total Annual Burden Hours</b>	<b>Cost Per Hour</b>	<b>Total Annual Cost</b>
One Pollutant/NAAQS	532	24	4 years	3192	\$63.59 <sup>24</sup>	\$202,979
Two Pollutants/NAAQS	710	22	4 years	3905	\$63.59	\$248,319
Three or More Pollutants/NAAQS	879	31	3 years	9083	\$63.59	\$577,588

**Total for All Transportation Plan Actions: 16,180 hours/year x \$63.59/hour = \$1,028,886/year**

**Table 4: State and Local Burden Hours  
Each TIP Conformity Determination  
by MPO – Population of 200,000 or More**

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<sup>24</sup> See Section 6(b) Estimating State and Local Respondent Costs, for a description of how the Cost per Hour was calculated.

<b>MPO Demonstrating Conformity for</b>	<b>Consultation</b>	<b>Regional Emissions Analysis</b>	<b>Other Activities</b>	<b>Total Burden Hours</b>
One Pollutant/NAAQS	62	392	63	517
Two Pollutants/NAAQS	77	525	84	686
Three or More Pollutants/NAAQS	92	651	105	848

**Table 5: State and Local Annual Cost  
TIP Conformity Determinations  
by MPO – Population of 200,000 or More**

<b>MPO Demonstrating Conformity for</b>	<b>Burden Hours</b>	<b>No. of MPOs</b>	<b>Frequency of Action</b>	<b>Total Annual Burden Hours</b>	<b>Cost Per Hour</b>	<b>Total Annual Cost</b>
One Pollutant/NAAQS	517	24	4 years	3102	\$63.59	\$197,256
Two Pollutants/NAAQS	686	22	4 years	3773	\$63.59	\$239,925
Three or More Pollutants/NAAQS	848	31	3 years	8,763	\$63.59	\$557,239

**Total for All TIP Actions: 15,638hours/year x \$63.59/hour = \$994,420/year**

**Table 6: State and Local Burden Hours  
Each Transportation Plan and TIP Conformity Determination  
by MPO – Population Between 50,000-200,000**

<b>MPO Demonstrating Conformity for</b>	<b>Consultation</b>	<b>Regional Emissions Analysis</b>	<b>Other Activities</b>	<b>Total Burden Hours</b>
One Pollutant/NAAQS	50	120	30	200
Two Pollutants/NAAQS	61	160	40	261
Three or More Pollutants/NAAQS	77	200	50	327

**Table 7: State and Local Annual Cost  
Transportation Plan and TIP Conformity Determinations  
by MPO – Population Between 50,000-200,000**

<b>MPO Demonstrating Conformity for</b>	<b>Burden Hours</b>	<b>No. of MPOs</b>	<b>Frequency of Action</b>	<b>Total Annual Burden Hours</b>	<b>Cost Per Hour</b>	<b>Total Annual Cost</b>
One Pollutant/NAAQS	200	19	4 years	950	\$63.59	\$60,410
Two Pollutants/NAAQS	261	8	4 years	522	\$63.59	\$33,194
Three or More Pollutants/NAAQS	327	5	3 years <sup>25</sup>	545	\$63.59	\$34,656

**Total for All Transportation Plan and TIP Actions: 2017 hours/year x \$63.59/hour = \$128,261/year**

***Project-Level Conformity Determinations in Metropolitan Nonattainment and Maintenance Areas***

Tables 8 and 9 estimate the burden and cost associated with making conformity determinations for projects in metropolitan nonattainment and maintenance areas. These tables are intended to illustrate burden associated with a typical project-level conformity determination.

To calculate burden for state and local agencies in preparing project-level conformity determinations for these areas, EPA polled its regional offices and DOT, which typically work with state and local agencies in project-level conformity determinations. EPA headquarters estimated the time necessary to conduct the hot-spot analyses based on the guidance documents for these analyses and professional experience. State and local burden hours for consultation and conducting the hot-spot analyses in Table 8 reflect averages of the responses received.

<sup>25</sup> EPA assumes that these areas conform more often.

EPA calculated the average number of annual actions based upon survey responses from EPA Regional Offices and DOT offices that are responsible for working with state and local respondents in making project-level conformity determinations.

Transportation conformity determinations for projects in metropolitan ozone nonattainment and maintenance areas are straightforward, because projects only need to come from a conforming transportation plan and TIP to meet all conformity requirements. A hot-spot analysis is not required for project determinations in these nonattainment and maintenance areas. Alternatively, conformity determinations for all non-exempt federal projects in CO areas must include either a qualitative or quantitative hot-spot analysis (depending on the type of project).<sup>26</sup> In PM<sub>2.5</sub> and PM<sub>10</sub> areas, project-level conformity determinations must include a quantitative hot-spot analysis if the project results in a significant increase in diesel vehicles.<sup>27</sup>

The total burden estimates for project-level conformity determinations represent 50% of total state and local burden for a PM or CO hot-spot analysis. We are assuming that the analysis would also be used for satisfying NEPA requirements, so only half of the burden would be included in the conformity ICR. These numbers include scoping the project analysis, emissions modeling, air quality modeling, determining background concentrations, calculating design values, quality assurance, and preparing the final documentation.

The state and local burden hours for completing both qualitative CO and quantitative PM and CO hot-spot analyses are shown in Table 8. EPA calculated the average number of annual actions based on past experience and input given by the EPA Regional Offices and DOT Offices that are responsible for working with state and local respondents in making project-level conformity determinations. EPA is assuming that some data for hot-spot analyses will already be available because it is necessary for project development (e.g., traffic data).

Consultation with other state and local agencies is an important activity for these analyses and EPA estimates that on average seven state and local agencies participate in one consultation meeting on each transportation project. EPA is assuming that conformity-related consultation would be one of many issues discussed through consultation meetings as a project proceeds through the NEPA process.

EPA assumes that the total burden hours for project-level conformity determinations would be approximately the same for larger and smaller metropolitan areas because requirements for project-level conformity determinations do not differ based upon population

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<sup>26</sup> See the conformity rule (40 CFR 93.123(a)) for the types of projects that require qualitative versus quantitative CO hot-spot analyses.

<sup>27</sup> Per the conformity rule (40 CFR 93.123(b)(1)), projects where a PM hot-spot analysis is required include: "(i) new highway projects that have a significant number of diesel vehicles, and expanded highway projects that have a significant increase in the number of diesel vehicles ; (ii) projects affecting intersections that are at Level-of-Service D, E, or F because of increased traffic volumes from a significant number of diesel vehicles related to the project; (iii) new bus and rail terminals and transfer points that have a significant number of diesel vehicles congregating at a single location; (iv) expanded bus and rail terminals and transfer points that significantly increase the number of diesel vehicles congregating at a single location; and, (v) projects in or affecting locations, areas, or categories of sites which are identified in the PM<sub>10</sub> or PM<sub>2.5</sub> applicable SIP or SIP submission as appropriate, as sites of violation or possible violation."

size.

**Table 8: State and Local Burden Hours  
Each Project-level Conformity Determination  
Metropolitan Nonattainment and Maintenance Areas**

<b>Pollutant</b>	<b>Type of Hot-spot Analysis</b>	<b>Consultation</b>	<b>Hot-spot Analysis</b>	<b>Other Activities</b>	<b>Total Burden Hours</b>
Ozone, PM <sub>2.5</sub> and PM <sub>10</sub> <sup>28</sup>	None	0.5	N/A	0.5	1
PM <sub>2.5</sub> or PM <sub>10</sub>	Quantitative	18	71	3	92
CO	Quantitative	6	14	2	22
CO	Qualitative	3	2	1	6

**Table 9: State and Local Annual Cost  
Project-level Conformity Determinations  
Metropolitan Nonattainment and Maintenance Areas**

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<sup>28</sup> Most projects in PM<sub>10</sub> and PM<sub>2.5</sub> areas do not require a quantitative hot-spot analysis. In contrast, all non-exempt CO projects in CO areas require some type of hot-spot analysis.



Metropolitan Area/Pollutant		Burden Hours Per Action	Average No. of Actions/year	No. of MPOs	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
Project level conformity determination - No Hotspot Analysis – ozone, , PM <sub>2.5</sub> and PM <sub>10</sub>	Pop. 200,000+	1	65	77	5005	\$63.59	\$318,268
	Pop. 50,000-200,000	1	15	32	480	\$63.59	\$30,523
PM <sub>2.5</sub> Hot-spot Analyses		92	0.1	49	451	\$63.59	\$28,679
PM <sub>10</sub> Hot-spot Analyses		92	0.1	45	414	\$63.59	\$26,326
CO Quantitative Hot-spot Analyses		22	5	43	4730	\$63.59	\$300,781
CO Qualitative Hot-Spot Analyses		6	0.5	43	129	\$63.59	\$8,203

**Total for All Project-level Actions: 11,209/year x \$63.59/hour= \$712,780/year**

### ***Project-Level Conformity Determinations in Isolated Rural Nonattainment and Maintenance Areas***

Tables 10 through 12 includes the state and local government burden estimated with performing regional emissions analysis and project-level conformity determinations in ozone, CO, PM<sub>2.5</sub> and PM<sub>10</sub> isolated rural areas.<sup>29</sup>

EPA considered several factors in developing these estimates. EPA assumed that state departments of transportation will continue to be the lead agency in preparing project-level conformity determinations in all isolated rural areas. Some state air quality agencies may also provide emissions modeling assistance to isolated rural areas, as is now done in some areas.

We also retained the assumption made in the previous ICR (2130.05) supporting

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<sup>29</sup> There are no current NO<sub>2</sub> nonattainment or maintenance areas in isolated rural areas. See Table 1 for further information.

statement that isolated rural areas that are nonattainment or maintenance for more than one pollutant/NAAQS will have additional burden hours, because these areas may be required to conduct a regional emissions analysis for an additional year and may have additional technical issues to resolve. Therefore, we included more burden hours for consultation, conducting regional emissions analysis, and performing other activities in these areas, as in previous ICRs.

**Table 10: State and Local Burden Hours  
Each Project-level Conformity Determination  
Regional Emissions Analysis  
For Isolated Rural Areas – Population Less Than 50,000**

Demonstrating Conformity for	Consultation	Regional Emissions Analysis	Other Misc. Activities	Total Burden Hours
One Pollutant/NAAQS	28	65	15	108
Two Pollutants/NAAQS	33	90	20	143

**Table 11: State and Local Annual Cost  
Each Project-level Conformity Determination  
Regional Emissions Analysis  
For Isolated Rural Areas – Population Less than 50,000**

Demonstrating Conformity for	Burden Hours	No. of Areas	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
One Pollutant/NAAQS	108	40	5 years	864	\$63.59	\$54,942
Two Pollutants/NAAQS	143	4	5 years	114	\$63.59	\$7,249

**Total for All Actions: 978 hours/year x \$63.59/hour = \$62,191/year**

Table 11 reflects a frequency of project-level conformity determinations being done once every five years in each isolated rural area, which is less than MPOs in the previous burden calculations. MPOs are required by regulation to determine conformity once every four years. Our experience from previous ICRs and existing research (see Appendix A) is that isolated rural areas determine conformity less than once every four years.

In general, conformity determinations for projects in isolated rural areas are more involved than for projects in metropolitan areas, because a regional emissions analysis is also performed when a regionally significant project “not from a conforming transportation plan and

TIP” is to receive federal funding or approval.<sup>30</sup>

EPA notes that this ICR may overestimate burden associated with determining conformity for projects in isolated rural areas, since conformity determinations for non-regionally significant projects may not require that a new regional emissions analysis be completed every time.

Consultation between state and local agencies would also occur for each project requiring a hot-spot analysis.<sup>31</sup> Like metropolitan projects, EPA is also assuming that conformity-related topics would be one of many issues discussed through consultation meetings as a project proceeds through the NEPA process.

Localized analyses are assumed to be used to meet both transportation conformity and NEPA requirements. Therefore, EPA is assuming that the estimated burden associated with consultation and preparation of these hot-spot analyses would be divided equally between transportation conformity and NEPA. Accordingly, the burden estimates in Table 12 reflect only the share of the burden attributable to fulfilling transportation conformity requirements for hot-spot analyses (i.e., half of the burden hours associated with the analyses).

**Table 12: State and Local Burden Hours for  
Each Project-Level Conformity Determination  
Hot-Spot Analysis  
Isolated Rural Nonattainment and Maintenance Areas**

Pollutant	Type of Hot-spot Analysis	Consultation	Hot-spot Analysis	Total Burden Hours
CO	Quantitative	6	14	20
CO	Qualitative	3	2	5

Table 13 shows state and local burden hours estimated for performing project-level conformity determinations in CO isolated rural areas. EPA did not include PM quantitative analysis for isolated rural areas in this ICR, reflecting our experience to date.

To calculate the total burden hours for state and local agencies in isolated rural areas, EPA assumed that a conformity determination occurs once every five years, as in the previous ICR. Also, the transportation conformity regulation requires a hot-spot analysis for every non-exempt project in a CO nonattainment or maintenance area. Because there are two isolated rural areas that are nonattainment or maintenance for CO, we assumed there would be two CO hot-spot analyses in isolated rural areas over a five-year period.

<sup>30</sup> Isolated rural areas are not required by federal law to develop metropolitan transportation plans or TIPs.

<sup>31</sup> EPA estimates that four state and local agencies would participate in one consultation meeting on each transportation project.

**Table 13: State and Local Annual Cost  
Project-Level Conformity Determinations  
Hot-Spot Analysis  
Isolated Rural Nonattainment and Maintenance Areas**

<b>Metropolitan Area</b>	<b>Burden Hours per Action</b>	<b>No. of Areas</b>	<b>Frequency of Action</b>	<b>Total Annual Burden Hours</b>	<b>Cost Per Hour</b>	<b>Total Annual Cost</b>
CO - Quantitative Hot-spot Analyses	20	2	5 years	8	\$63.59	\$509
CO – Qualitative Hot-Spot Analyses	5	2	5 years	2	\$63.59	\$127

**Total State and Local Respondent Burden for Project Level Conformity Determinations: 10 hours/year x \$63.59/hour = \$636**

***1997 Ozone NAAQS Orphan Areas***

On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit Court issued its decision in *South Coast Air Quality Management District v. EPA (South Coast II)*, in which parties challenged different aspects of EPA’s SIP Requirements Rule for the 2008 Ozone NAAQS, including the revocation of the 1997 ozone NAAQS and its associated anti-backsliding requirements. The court decision referred to the 1997 ozone NAAQS nonattainment or maintenance areas that were designated attainment for the 2008 ozone NAAQS (77 FR 30160, May 21, 2012) as “orphan” areas. The court decision stated that transportation conformity applies for the 1997 ozone NAAQS in these orphan areas. As a result of the court’s September 14, 2018 order,<sup>32</sup> transportation conformity for the 1997 ozone NAAQS began applying again in orphan areas as of February 16, 2019.

At the time of the first *Federal Register* notice for this ICR renewal, EPA was still evaluating the implications of the decision. EPA has now issued guidance and updated this version of the supporting statement to include the burden estimates as a result of the revocation of 1997 ozone NAAQS and the court’s decision regarding the 1997 ozone NAAQS orphan areas.

As of February 16, 2019, orphan areas with an MPO must meet the transportation conformity regulation’s frequency requirements at 40 CFR 93.104, which describe when transportation conformity must be determined for metropolitan transportation plans, TIPs, and projects. A new conformity determination is required at least every four years for a new

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<sup>32</sup> USCA Case No. 15-1115, Document #1750759, Filed September 14, 2018.

transportation plan and TIP starting on the date DOT makes a 1997 ozone NAAQS conformity determination (per 40 CFR 93.104(b)(3) and (c)(3)).

In orphan areas that have one or more MPOs, transportation conformity for transportation plans and TIPs for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis pursuant to 40 CFR 93.109(c). See EPA’s guidance for additional information on how transportation conformity requirements are met for the 1997 ozone NAAQs in orphan areas.<sup>33</sup>

Tables 14 through Table 18 include the state and local government burden estimated for orphan areas with MPOs and orphan isolated rural areas for transportation conformity determinations. Burden hours for orphan areas in Table 14, Table 16 and Table 18 are based on Table 6, Table 8 and Table 10, without the regional emissions analysis burden included, consistent with EPA’s November 2018 guidance.

**Table 14: State and Local Burden Hours for Each Orphan Area Transportation Plan and TIP Conformity Determination**

Area Demonstrating Conformity for	Consultation	Other Activities	Total Burden Hours
1997 ozone NAAQS	50	30	80

**Table 15: State and Local Annual Cost for Orphan Area Transportation Plan and TIP Conformity Determinations**

Area Demonstrating Conformity for	Burden Hours	No. of Areas	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
1997 ozone NAAQS	80	72	4 years	1,440	\$63.59	\$91,570

**Total for All Transportation Plan and TIP Actions: 1,440 hours/year x \$63.59/hour = \$91,570**

**Table 16: State and Local Burden Hours Each Orphan Area Project-level Conformity Determination**

<sup>33</sup>[“Transportation Conformity Guidance for the South Coast II Court Decision” \(PDF\)](#) 28 pp, 480 K, November 2018, (EPA-420-B-18-050).

NAAQS	Type of Hot-spot Analysis	Consultation	Hot-spot Analysis	Other Activities	Total Burden Hours
1997 Ozone NAAQS	None	0.5	N/A	0.5	1

**Table 17: State and Local Annual Cost for Orphan Area Project-level Conformity Determinations for Metropolitan Nonattainment and Maintenance Areas**

Burden Hours Per Action	Average No. of Actions/year	No. of Areas	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
1	15	72	1,080	\$63.59	\$68,677

**Total for All Project-level Actions: 1,080/year x \$63.59/hour= \$68,677/year**

**Table 18: State and Local Burden Hours Each Orphan Area Project-level Conformity Determination for Isolated Rural Areas – Population Less Than 50,000**

Demonstrating Conformity for	Consultation	Total Burden Hours
1997 ozone NAAQS	28	28

**Table 19: State and Local Annual Cost for Orphan Area Project-level Conformity Determinations For Isolated Rural Areas – Population Less than 50,000**

Demonstrating Conformity for	Burden Hours	No. of areas	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
1997 ozone NAAQS	28	17	4 years	119	\$63.59	\$7,567

**Total for All Transportation Plan and TIP Actions: 119 hours/year x \$63.59/hour = \$7,567/year**

## 6(b) Estimating State and Local Respondent Costs

The following paragraphs describe the assumptions used for estimating state and local respondent costs illustrated in Section 6(a):

### (i) Estimating Labor Costs

EPA assumed that each state and local burden hour associated with conformity determinations is completed by an experienced technical staff person at a state or local agency or contractor. In addition to salary costs, EPA is also including overhead costs associated with employing an experienced technical staff person, such as paid leave, health insurance, retirement savings, office space, computers, and other business expenses.

EPA is assuming that state and local burden hours would be completed by an experienced technical staff person being paid at a GS-13, Step 3 federal government employee salary of \$80,670/year.<sup>34</sup> EPA then divided the annual 2018 GS-13, Step 3 salary rate by 2080 (the number of hours in a work year) and multiplied this number by the standard government overhead factor of 1.6. This calculation results in a state and local cost of \$63.59/burden hour.

### (ii) Estimating Capital/Start-up and Operations and Maintenance (O&M) Costs

In general, EPA is not expecting that additional computers, software, or other capital investments are needed to do conformity analyses. Planners should be able to adapt existing equipment and systems for conformity use.

The transportation conformity regulation does not contain any continuing record-keeping or reporting requirements that require additional capital or O&M costs for individual state or local respondent actions. Thus, no capital or O&M costs are included for record-keeping and reporting actions.

### (iii) Annualizing Capital Costs

<sup>34</sup> 2018 Office of Personnel Management salary table  
[www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS.pdf](http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS.pdf).

EPA has assumed the following in annualizing estimates:

- Estimates for transportation plan and TIP conformity determinations are annualized over a four-year period, to correspond with CAA requirements that transportation plans and TIPs conform with a new conformity determination and regional emissions analysis every four years. EPA included the cost associated with meeting the minimum requirements, and therefore assumed that only one transportation plan or TIP conformity determination will be done for each MPO every four years in metropolitan nonattainment and maintenance areas, with one exception. For MPOs designated nonattainment or maintenance for 3 or more NAAQS, the frequency is assumed to be once every 3 years. For the purposes of this ICR, EPA is not considering additional burden from MPOs updating or revising transportation plans and TIPs voluntarily, or as required by state regulations, on a more frequent basis.

## 6(c) Estimating Agency Burden and Costs

This section of the ICR shows federal agency burden and costs associated with carrying out transportation conformity regulations.

### (i) Estimating Federal Labor Costs

EPA estimates that each DOT and EPA federal burden hour associated with conformity determinations and adequacy findings is completed by an experienced technical staff person. EPA is also including overhead costs associated with employing an experienced technical staff person, such as paid leave, health insurance, retirement savings, office space, computers, and other business expenses.

EPA assumed that federal burden hours would be completed by an experienced technical staff person being paid at a GS-13, Step 3 federal government employee salary of \$80,670/year.<sup>35</sup> EPA then divided the annual GS-13, Step 3 salary rate by 2080 (the number of hours in a work year) and multiplied this number by the standard government overhead factor of 1.6. This calculation resulted in a federal cost of \$63.59/burden hour.

### ***Transportation Plan and TIP Conformity Determinations in Metropolitan Nonattainment/Maintenance Areas – Federal Burden Hours and Cost***

Tables 20 through 22 show estimated federal burden hours and cost associated with making conformity determinations for transportation plans and TIPs in metropolitan nonattainment and maintenance areas. EPA assumes that federal burden in these areas is associated only with conformity-related work prior to an MPO's determination and for reviewing transportation plan and TIP conformity determinations and that MPOs have established interagency consultation procedures with regularly scheduled meetings for

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<sup>35</sup> 2018 Office of Personnel Management salary table  
[www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS.pdf](http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS.pdf).



discussing conformity issues. Because MPOs serving smaller metropolitan areas (populations between 50,000-200,000) typically do conformity determinations for transportation plans and TIPs at the same time since they are typically on the same four-year update cycle, EPA also assumes that federal burden associated with consulting on and reviewing transportation plan and TIP conformity determinations for these MPOs is done at the same time as well. Therefore, federal burden associated with transportation conformity requirements in smaller metropolitan areas (50,000-200,000) is half the burden associated with transportation plan and TIP conformity determinations in large metropolitan areas.

EPA calculated estimated federal burden hours based upon survey responses from EPA Regional Offices and DOT offices that are responsible for work associated with making conformity determinations for transportation plans and TIPs.

**Table 20: Federal Burden Hours  
Each Transportation Plan or TIP Conformity Determination  
Metropolitan Nonattainment and Maintenance Areas  
Population of 200,000 or More**

<b>Metropolitan Planning Organization</b>	<b>Activity</b>	<b>FHWA</b>	<b>FTA</b>	<b>EPA</b>	<b>Total</b>
Per Conformity Determination  (Includes all areas with populations of 200,000+)	Attending Consultation Meetings	12	12	12	36
	Conformity-Related Work Prior to MPO Submission	12	1	3	16
	Reviewing Plan Conformity Determination	13	2	7	22

**Federal Hours Burden Hours for Each Plan or TIP Conformity Determination: 74**

**Table 21: Federal Burden Hours  
Each Transportation Plan/TIP Conformity Determination  
Metropolitan Nonattainment and Maintenance Areas  
Population of 50,000-200,000**

<b>Metropolitan Planning Organization</b>	<b>Activity</b>	<b>FHWA</b>	<b>FTA</b>	<b>EPA</b>	<b>Total</b>
Per Conformity Determination  (Includes all areas with populations of 50,000-200,000)	Attending Consultation Meetings	12	12	12	36
	Conformity-Related Work Prior to MPO Determination	12	1	3	16
	Reviewing Plan Conformity Determination	13	2	7	22

**Federal Hours Burden for Each Plan/ TIP Conformity Determination: 74**

**Table 22: Federal Annual Cost for MPOs  
Transportation Plan and TIP Conformity Determinations  
Metropolitan Nonattainment and Maintenance Areas**

<b>Action</b>	<b>Metropolitan Nonattainment Area</b>	<b>Burden Hours Per Action</b>	<b>No. of MPO's</b>	<b>Frequency of Action</b>	<b>Total Annual Burden Hours</b>	<b>Cost Per Hour</b>	<b>Total Annual Cost</b>
Plan	Per Conformity Determination (Pop. 200,000+)	74	77	4 years	1,425	\$63.59	\$90,616
TIP	Per Conformity Determination (Pop. 200,000+)	74	77	4 years	1,425	\$63.59	\$90,616
Plan/ TIP	Per Conformity Determination (pop. 50,000-200,000)	74	32	4 years	592	\$63.59	\$37,645

**Total Federal Burden for Plan and TIP Actions: 3,442 hours/year x \$63.59/hour = \$218,877**

***Project-Level Conformity Determinations in Metropolitan Nonattainment and Maintenance Areas – Federal Burden Hours and Cost***

Tables 23 and 24 estimate the burden hours and cost that federal agencies incur associated with conformity determinations for projects in metropolitan nonattainment and

maintenance areas. These tables are intended to illustrate burden associated with a typical project-level conformity determination.

To calculate burden for federal agencies associated with consultation and reviewing project-level conformity determinations for metropolitan nonattainment and maintenance areas, EPA polled its regional offices and DOT. The following tables show federal burden associated with consultation and reviewing project-level conformity determinations prepared by state and local respondents. State and local respondents burden hours and cost associated with consultation, hot-spot analysis and regional emissions analysis may be found in Tables 8 and 9.

**Table 23: Federal Burden Hours  
Each Project-level Conformity Determination Metropolitan Nonattainment and  
Maintenance Areas**

<b>Pollutant</b>	<b>Type of Hot-spot Analysis</b>	<b>Consultation</b>	<b>Reviewing Project-level conformity determinations</b>	<b>Total Burden Hours</b>
Ozone, PM <sub>2.5</sub> and PM <sub>10</sub>	None	0.5	0.5	1
PM <sub>2.5</sub> and PM <sub>10</sub>	Quantitative	5	11	16
CO	Quantitative	1	2	3
CO	Qualitative	0.25	1.25	1.5

**Table 24: Federal Annual Cost  
Project-level Conformity Determinations  
Metropolitan Nonattainment and Maintenance Areas**

Type of Analysis		Burden Hours Per Action	Average No. of Actions/ Year	No. of MPOs	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
Project level conformity determination - No Hot-spot Analysis	Pop. 200,000+	1	65	77	5,005	\$63.59	\$318,268
	Pop. 50,000-200,000	1	15	32	480	\$63.59	\$30,523
PM <sub>2.5</sub> Hot-spot Analyses		16	0.1	49	78	\$63.59	\$4,960
PM <sub>10</sub> Hot-spot Analyses		16	0.1	45	72	\$63.59	\$4,578
CO Quantitative Hot-spot Analyses		3	5	43	645	\$63.59	\$41,016
CO Qualitative Hot-Spot Analyses		1.5	0.5	43	32	\$63.59	\$2,035

**Total for All Project-level Actions: 6,312hours/year x \$63.59/hour= \$401,380/year**

***Project-Level Conformity Determinations in Isolated Rural Nonattainment and Maintenance Areas – Federal Burden Hours and Cost***

Table 25 shows federal burden associated with conformity determinations for a typical regionally significant project in an isolated rural nonattainment or maintenance area. Table 26 shows federal burden associated with interagency consultation and review of hot-spot analyses in isolated rural CO, PM<sub>2.5</sub> and PM<sub>10</sub> nonattainment and maintenance areas. Table 25 shows federal annual cost associated with conformity determinations for project-level conformity determinations in isolated rural nonattainment and maintenance areas.

In general, conformity determinations for projects in isolated rural areas are more involved than for metropolitan areas, since isolated rural areas also need to perform a regional emissions analysis when a regionally significant project is to receive federal funding or approval.

To account for additional burden hours spent by state and local agencies for consultation, the consultation for Federal agencies has also been increased to support additional meetings and activities.

**Table 25: Federal Burden Hours  
Each Project-Level Conformity Determination  
Isolated Rural Nonattainment and Maintenance Areas**

### Regional Emissions Analysis Component

Type of Project	Activity	FHWA	FTA	EPA	Total
Projects in Isolated Rural Area	Attending Consultation Meetings	6	1	1	8
	Conformity-Related Work on Draft Determination	6	1	2	9
	Reviewing Project Conformity Determination	10	1	5	16

**Total for Each Isolated Rural Area Project Determination: 33**

**Table 26: Federal Burden Hours Each Project-Level Conformity Determination Isolated Rural Nonattainment and Maintenance Areas Hot-spot Analysis Component**

Pollutant	Type of Hot-spot Analysis	Consultation	Reviewing Project-level conformity determinations	Total Burden Hours
CO	Quantitative	1	2	3
CO	Qualitative	0.25	1.25	1.5

**Table 27: Federal Agency Burden Cost for Project-Level Conformity Determinations Isolated Rural Nonattainment and Maintenance Areas**

Type of Project	Burden Hours per Action	No. of Isolated Rural Areas	Frequency of Action	Total Annual burden hours	Cost Per Hour	Total Annual Cost
Projects in Isolated Rural Areas – Regional Analysis	33	44	5 years	290	\$63.59	\$18,441
CO –Quantitative Hot-spot Analyses	3	2	5 years	1	\$63.59	\$63.5
CO –Qualitative Hot-spot Analyses	1.5	2	5 years	1	\$63.59	\$63.5

**Total Federal Agency Burden for Project Level Conformity Determinations: 292 hours/year x \$63.59/hour = \$18,568/year**

### ***1997 Ozone NAAQS Orphan Areas and Federal Agencies***

As described earlier, on February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit Court issued its decision in *South Coast Air Quality Management District v. EPA (South Coast II)*, in which parties challenged different aspects of EPA’s SIP Requirements Rule for the 2008 Ozone NAAQS, including the revocation of the 1997 ozone NAAQS and its associated anti-backsliding requirements. The court decision referred to the 1997 ozone NAAQS nonattainment or maintenance areas that were designated attainment for the 2008 ozone NAAQS (77 FR 30160, May 21, 2012) as “orphan” areas. The court decision stated that transportation conformity applies for the 1997 ozone NAAQS in these orphan areas. As a result of the court’s September 14, 2018 order,<sup>36</sup> transportation conformity for the 1997 ozone NAAQS began applying again in orphan areas as of February 16, 2019.

Tables 28 through Table 33 includes the federal government burden estimated for orphan areas with MPOs and orphan isolated rural areas. Burden hours for orphan areas in Tables 28, Table 30 and Table 32 are based on Table 21, Table 23 and Table 25, without burden associated with the regional emissions analysis. See EPA’s guidance for additional information on how transportation conformity requirements are met for the 1997 ozone NAAQs in orphan areas.<sup>37</sup>

<sup>36</sup> USCA Case No. 15-1115, Document #1750759, Filed September 14, 2018.

<sup>37</sup>[“Transportation Conformity Guidance for the South Coast II Court Decision” \(PDF\)](#) 28 pp, 480 K, November 2018, (EPA-420-B-18-050).

**Table 28: Federal Burden Hours for  
Each Orphan Area Transportation Plan/TIP Conformity Determination  
Metropolitan Nonattainment and Maintenance Areas**

<b>Metropolitan Planning Organization</b>	<b>Activity</b>	<b>FHWA</b>	<b>FTA</b>	<b>EPA</b>	<b>Total</b>
Per Conformity Determination for 1997 ozone NAAQS	Attending Consultation Meetings	12	12	12	36
	Conformity-Related Work Prior to MPO Determination	4	1	1	6
	Reviewing Plan and TIP Conformity Determination	4	7	2	13

**Federal Hours Burden for Each Plan/ TIP Conformity Determination: 55**

**Table 29: Federal Annual Cost for Orphan Areas  
Transportation Plan and TIP Conformity Determinations  
Metropolitan Nonattainment and Maintenance Areas**

<b>Metropolitan Nonattainment Area</b>	<b>Burden Hours Per Action</b>	<b>No. of Areas</b>	<b>Frequency of Action</b>	<b>Total Annual Burden Hours</b>	<b>Cost Per Hour</b>	<b>Total Annual Cost</b>
Per Conformity Determination for 1997 ozone NAAQS	55	72	4 years	990	\$63.59	\$62,954

**Total Federal Burden for Plan and TIP Actions: 990 hours/year x \$63.59/hour = \$62,954/year**

**Table 30: Federal Burden Hours  
Each Orphan Area Project-level Conformity Determination  
Metropolitan Nonattainment and Maintenance Areas**

<b>NAAQS</b>	<b>Type of Hot-spot Analysis</b>	<b>Consultation</b>	<b>Reviewing Project-level conformity determinations</b>	<b>Total Burden Hours</b>
1997 Ozone NAAQS	None	0.5	0.5	1

**Table 31: Federal Annual Cost  
Orphan Area Project-level Conformity Determinations  
Metropolitan Nonattainment and Maintenance Areas**

Burden Hours Per Action	Average No. of Actions/ Year	No. of Areas	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
1	15	72	1080	\$63.59	68,677

**Total Federal Burden for Plan and TIP Actions: 1080 hours/year x \$63.59/hour = \$68,677/year**

**Table 32: Federal Burden Hours for  
Each Orphan Area Project-Level Conformity Determination  
Isolated Rural Nonattainment and Maintenance Areas**

Type of Project	Activity	FHWA	FTA	EPA	Total
Projects in Isolated Rural Areas for 1997 ozone NAAQS	Attending Consultation Meetings	6	1	1	8
	Conformity-Related Work on Draft Determination	2	1	1	4
	Reviewing Project Conformity Determination	3	1	2	6

**Total for Each Isolated Rural Area Project Determination:18**

**Table 33: Federal Agency Burden Cost for  
Orphan Area Project-Level Conformity Determinations  
Isolated Rural Nonattainment and Maintenance Areas**

Burden Hours per Action	No. of Isolated Rural Areas	Frequency of Action	Total Annual burden hours	Cost Per Hour	Total Annual Cost
18	17	5 years	61	\$63.59	\$3,892

**Total Federal Agency Burden for Project Level Conformity Determinations: 61 hours/year x \$63.59/hour = \$3,892/year**



***Adequacy Findings for SIP Motor Vehicle Emissions Budgets – Federal Burden Hours***

One component of the federal burden associated with transportation conformity is EPA’s role in making adequacy findings for SIPs with new motor vehicle emissions budgets. The conformity regulation requires the motor vehicle emissions budget(s) from a submitted SIP to be used as the measure of conformity once EPA finds such a budget(s) adequate (40 CFR 93.118(e) and (f)).<sup>38</sup> The total burden of the adequacy review process is completed by EPA. No other federal agencies are involved in the adequacy review process. This ICR also does not account for any state or local work associated with developing the SIP because SIPs are developed to meet other non-conformity requirements.

EPA based burden hours associated with each adequacy review on the average amount of EPA staff time needed per adequacy determination, EPA staff time includes the time needed to notify the public that a SIP has been submitted and is under adequacy review, the adequacy review of the SIP’s budget(s), responding to any public comments, and publishing a *Federal Register* notice with EPA’s finding.

Table 34 illustrates EPA’s burden hours for each adequacy finding. These estimates were drawn from a recent survey of EPA Regional Offices, as well as an estimate of the time spent at headquarters.

**Table 34: Federal Burden Hours Adequacy Findings of SIP Motor Vehicle Emissions Budgets**

Activity		Hours to perform
Per Adequacy Finding	Adequacy Review	17
	<i>Federal Register</i> Notice Preparation and Publication	19
	Preparation for and Website Posting	3

**Burden hours per Adequacy Finding: 39**

***Adequacy Findings – Federal Costs***

<sup>38</sup> Per 40 CFR 93.118(e)(4), EPA will find a budget adequate if the following minimum criteria is met: (i) The submitted SIP is endorsed by the Governor or his/her designee and has been subject to a state public hearing; (ii) Interagency consultation took place and any EPA stated concerns have been addressed; (iii) The budget is clearly identified and precisely quantified; (iv) The budget, when considered with all other emissions sources, is consistent with applicable SIP requirements; (v) The budget is consistent with and is clearly related to the emissions inventory and submitted SIP control measures; and, (vi) Revisions to a previously submitted SIP explain and document any changes to the previous budget and control measures, impacts on point and source emissions, and any changes to established safety margins and reasons for those changes.

Table 35 shows the total federal annualized cost associated with making adequacy determinations for SIP motor vehicle emissions budgets. EPA estimated the number of adequacy reviews needed each year based on the historical average number of SIPs that EPA has processed for adequacy over the past 36 months, which is 35 determinations, and responses from EPA Regions regarding the anticipated number of SIPs expected to process for adequacy in fiscal year 2019.

Table 36 show costs associated with *Federal Register* notices of adequacy findings. A *Federal Register* notice of EPA’s adequacy determination is always required, but often such notice is given with a proposed or final rulemaking action to approve the submitted SIP which is required due to other non-conformity requirements. Therefore, EPA included in the above table only the cost associated with *Federal Register* notices that were published separate from a proposed or final rulemaking action to approve the submitted SIP.

**Table 35: Federal Annual Cost of Adequacy Findings**

Action	Average Number of Actions per Region	No. of Regions	Burden Hours per Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Burden Cost
Adequacy Finding	3	10	39	1,170	\$63.59	\$74,400

**Table 36: Federal Annual Cost of *Federal Register* Notices**

Action	Average Number of Actions	No. of Regions	Total <i>Federal Register</i> Notice Publications	Average cost per Publication	Total Annual Burden Cost
<i>Federal Register</i> Notice – Publication Costs	3	10	30	\$413	\$12,390

**Total Burden for Adequacy Findings: 1,170 hours/year x \$63.59/hour = \$74,400+ \$12,390 = \$86,790/year**

## 6(d) Estimating the Respondent Universe and Total Burden and Costs

EPA estimates that 109 MPOs and 46 isolated rural areas (155 total respondents) will be subject to conformity requirements during the period covered by this ICR and that EPA Regional Offices, the FHWA and FTA will be involved in interagency consultation, and review of any transportation-related conformity determinations performed by MPOs during this process. EPA also estimates that similar consultation will occur for projects in isolated rural areas. This ICR also assumes additional burden associated with implementation to the *South Coast II* court decision.

## 6(e) Bottom Line Burden Hours and Cost Tables

The bottom line annual burden for all state and local respondents is **48,671** hours with a cost of **\$3,094,989**. This burden information is taken from Table 37 and the hours multiplied by the estimated hourly labor costs of \$63.59 for a burden cost. This information is also listed in the first *Federal Register* notice as the cost and burden for the Respondents, which as state and local agencies.

The bottom line annual burden for federal agency respondents is **13,347** hours with a cost of **\$861,126**.<sup>39</sup>

Finally, the bottom line burden to all federal, state, and local agency respondents over the 3-year period covered by this ICR is estimated at **186,054** hours with a cost of approximately **\$11,868,342**. This is calculated using information from Table 37, by using the total burden hours and multiplying by the estimated hourly labor costs, adding in the cost of the *Federal Register* notice publication, and multiplying by 3 for the years of the period covered by this ICR.

### (i) State and Local Agency Tally

The bottom-line annual burden for all State and local agencies in performing transportation conformity determinations for transportation plans and TIPs in nonattainment and maintenance areas is **35,275** hours/year with a cost of **\$2,243,137**/year.

The bottom-line annual burden for all State and local agencies in performing project level conformity determinations and, where applicable, hot-spot analyses in metropolitan areas, and isolated rural areas is **13,396** hours/year at a cost of **\$851,852**/year.

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<sup>39</sup> To obtain bottom-line annual Federal agency cost associated with conformity determinations, EPA multiplied the bottom-line Federal agency annual burden hours by estimated hourly labor costs of \$63.59 and then added \$12,390 in *Federal Register* notice publication costs from Table 35 and 36 to reach the bottom line Federal agency annual estimated cost of \$861,126.

**(ii) Federal Agency Tally**

The bottom-line annual burden for Agencies associated with transportation conformity determinations for transportation plans and TIPs in nonattainment areas and isolated rural areas is **4,432** hours/year at a cost of **\$281,831/year**.

The bottom-line annual burden for Agencies associated with project-level conformity determinations (including, where applicable, hot-spot analysis) in metropolitan areas and isolated rural areas is **7,745** hours/year at a cost of **\$492,504/year**.

The bottom-line annual burden for EPA associated with adequacy determinations for motor vehicle emission budgets associated with SIPs is **1,170** hours/year at a cost of **\$86,790/year**.<sup>40</sup>

Tables 37 and 38 show the total annual estimated burden hours and cost associated with transportation conformity determinations requirements incurred by state, local and federal respondents.

**Table 37: Total Annual Burden Hours  
Transportation Conformity Determinations**

Type of Conformity Determination	Total Annual State and Local Burden Hours	Total Annual Federal Burden Hours	Total Annual Conformity Burden Hours
Transportation Plan/ TIP Conformity Determination	35,275	4,432	39,707
Project Conformity Determination	13,396	7,745	21,141
Adequacy Finding	0	1,170	1,170
Total	48,671	13,347	62,018

BOTTOM LINE ANNUAL BURDEN HOURS: 62,018/year

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<sup>40</sup> To obtain bottom-line annual cost associated with adequacy determinations for motor vehicle emission budgets, EPA multiplied the total burden hours in Table 35 and 36 by estimated hourly labor costs of \$63.59 and then added \$12,390 in *Federal Register* notice publication costs to reach the bottom line annual cost of \$86,790.

**Table 38: Total Annual Costs  
Transportation Conformity Determinations**

<b>Type of Action</b>	<b>Total Annual State and Local Cost</b>	<b>Total Annual Federal Cost</b>	<b>Total Annual Conformity Costs</b>
Transportation Plan/ TIP Conformity Determination	\$2,243,137	\$281,831	\$2,524,968
Project Conformity Determination	\$851,852	\$492,504	\$1,344,356
Adequacy Finding Determinations	N/A	\$86,790	\$86,790
Total	\$3,094,989	\$861,125	\$3,956,114

BOTTOM LINE ANNUAL COST: \$3,956,114/year<sup>41</sup>

**(iii) Variations in the Annual Bottom Line**

EPA does not anticipate significant variations in the annual respondent reporting burden or cost over the course of the clearance period.

**6(f) Reasons for Change in Burden**

Decrease in state and local respondent burden hours since the previous ICR was approved is approximately 11,877 hours/year:

**(i) Adjustment for decreased burden associated with decreased transportation conformity analysis for PM<sub>10</sub>, CO, 1997 PM<sub>2.5</sub>, 1997 PM<sub>2.5</sub>, ozone, and NO<sub>2</sub> NAAQS**

A decrease in burden was projected due to the requirement for transportation conformity ending in PM<sub>10</sub>, NO<sub>2</sub>, and CO areas that have reached the end of the 20-year maintenance period. A decrease in burden was projected due to fewer transportation conformity determinations for areas previously designated nonattainment or maintenance for the 1997 PM<sub>2.5</sub> NAAQS.

Burden was increased for the 1997 ozone NAAQS due to the *South Coast II* court decision, which occurred during the development of this ICR.

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<sup>41</sup> To obtain bottom-line costs associated with conformity determinations (Table 38), EPA multiplied the bottom-line burden hours in Table 37 by estimated hourly labor costs of \$63.59 and then added \$12,390 in *Federal Register* notice publication costs from Table 35 and 36 to reach the bottom line annual cost of \$3,956,114.

**(ii) Adjustment for decreased burden associated with emissions model training**

The amount of training hours was reduced for this ICR as no new emissions model has been released and additional hours for model transition and training are not anticipated. However, the burden hours for consultation continues to be reflected in burden hours.

**(iii) Adjustment for increased burden associated with transportation plan and TIP conformity determinations**

Based on the comments and supporting example documentation received, EPA increased the estimated burden hours by 40% associated with an individual transportation plan and TIP conformity determination in the largest MPOs as well as increased TIP frequency for the largest MPOs doing conformity for 3 or more NAAQS.

**6(g) Burden Statement**

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

## **Appendix A: Conformity-Related Research Considered for This ICR**

The following is the conformity research studies that were considered for this ICR. EPA has cited in the ICR when these studies were utilized as appropriate.

- April 2003, “Transportation/Air Quality Issues in Rural Areas,” FHWA and Dye Management Group.
- October 2003, “Rural Conformity: A Survey of Practice,” NCHRP and ICF Consulting.