

U.S. Environmental Protection Agency Information Collection Request (ICR)

Executive Summary

Title: Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs, and Projects (Renewal)

OMB Control Number: 2060-0561

EPA ICR Number: 2130.07

Abstract:

The collection of this information is required to ensure that the Agency can effectively identify and evaluate the burden anticipated for transportation conformity activities for federal, state, and local agencies in all areas where transportation conformity applies. This ICR includes transportation conformity burden anticipated for calendar years 2024-2026.

Transportation conformity is required under Clean Air Act 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 Clean Air Act section 175A) for the following transportation-related criteria pollutants: ozone, particulate matter (PM_{2.5} and PM₁₀), carbon monoxide (CO), and nitrogen dioxide (NO₂).

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.¹ In metropolitan nonattainment and maintenance areas, conformity determinations are required for transportation plan and TIP updates and amendments that include non-exempt projects. 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.

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

Terms of Clearance

Previous Terms of Clearance: In accordance with 5 CFR 1320, the information collection is approved for three years. As terms of clearance, however, the agency is required to closely track the frequency with which this collection is used and (1) submit a request for revision if the actual burden exceeds the expected level approved in this ICR; and (2) ensure that the burden reflected in the renewal is accurate.

EPA received ICR renewal approval for control number 2060-0561 (ICR 2130.06) July 18, 2019, with Terms of Clearance, for a three-year period. The existing ICR is set to expire on February 29, 2024. EPA's efforts to comply with the Terms of Clearance are discussed below.

Under the ICR's Terms of Clearance, EPA was required to conform to the 18-question format that is standard for ICRs and the Paperwork Reduction Act (PRA) approval process.

1. NEED AND AUTHORITY FOR THE COLLECTION

The Clean Air Act 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 Clean Air Act section 176(c). EPA's regulations for implementing transportation conformity are found at 40 CFR Part 51, Subpart T and 40 CFR Part 93, Subpart A. These three items may be found as separate attachments with the following names:

- CAA_176(c).docx
- CFR_Chapter1_Title40_C_Part51_SubpartT.docx
- CFR_Chapter1_Title40_C_Part93_SubpartA.docx

The federal government needs information collected under these regulations to ensure that metropolitan planning organization (MPO)² and federal transportation actions are consistent with state air quality goals.

2. 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
- Public comments are considered and responses to comments are documented prior to conformity actions.

3. USE OF TECHNOLOGY

² As defined in EPA's transportation conformity regulation, "*metropolitan planning organization (MPO)* means the policy board of an organization created as a result of the designation process in 23 U.S.C. 134(d)." 40 CFR 93.101.

There is no automated system used to collect information about transportation conformity determinations. EPA does not collect or store transportation conformity determinations in a central location. Transportation conformity determinations are made by various entities across the U.S., including metropolitan planning organizations and the U.S. DOT. Typically, these entities use their own websites to make this information available to the public.

EPA Headquarters does have a central website that the EPA Regional Offices can use to post announcements that EPA has received SIPs that will be reviewed for adequacy, which eliminates the need for each Region to post them separately.

4. EFFORTS TO IDENTIFY DUPLICATION

EPA wrote the transportation conformity regulation and subsequent revisions in coordination with FHWA and FTA. The conformity regulation works with existing transportation and air quality planning requirements from the Clean Air Act, 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, in part, 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 Clean Air Act purposes and are not required by the conformity provisions.

5. MINIMIZING BURDEN ON SMALL ENTITIES

This collection affects 43 isolated rural nonattainment and maintenance areas which, for the purposes of this ICR, EPA 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.

6. EFFECTS OF LESS FREQUENT COLLECTION

The Clean Air Act 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 Clean Air Act 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.³ The Clean Air Act also requires conformity for transportation plans and TIPs within two years of a new motor vehicle emission budget being established.⁴ Given this statutory language, the periodic collection of information for metropolitan nonattainment and maintenance areas cannot be reduced, as these minimum periodic reporting requirements were established to achieve and maintain clean air.

Conformity determinations are required in isolated rural nonattainment and maintenance areas only when a new project needs federal funding or approval. The Clean Air Act's minimum four-year frequency requirement for transportation plans and TIPs and two-year budget-related conformity requirements do not apply in these areas. Therefore, these areas are not required to demonstrate conformity on a regular basis as in metropolitan areas. Conformity determinations before project approvals are made in isolated rural areas and are necessary to meet the goals of the Clean Air Act.

Information collection occurs less frequently in isolated rural nonattainment and maintenance areas compared to metropolitan areas, as these areas do not have as many large transportation projects as metropolitan areas. As noted above, the frequency of conformity determinations has been reduced for these areas in this ICR.

Information collection would cease in areas that 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 Clean Air Act section 175A(a). These states must submit SIPs that demonstrate how they will maintain the NAAQS and once redesignated are referred to as maintenance areas under the transportation conformity rule. 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.⁵

Finally, reduced information collection will also occur because of EPA's final rule that addresses revocation for the 1997 primary annual PM_{2.5} NAAQS as part of the Implementation Rule for the PM_{2.5} NAAQS.⁶ The rule became effective on October 24, 2016. As explained in that rule, EPA finalized an approach that revokes the 1997 PM_{2.5} NAAQS "in areas that have always been designated attainment for that NAAQS and in areas that have been redesignated to attainment for that NAAQS," leading to the result that after the effective date of the revocation, areas that have been redesignated to attainment for the 1997 annual PM_{2.5} NAAQS (i.e., maintenance areas) "will not be required to make transportation ... conformity determinations" for that NAAQS.⁷ EPA further explained in that rule that "areas designated nonattainment for the [1997 annual PM_{2.5} NAAQS] at the time of the final rule's revocation would be required to continue to comply with applicable conformity requirements for that NAAQS" and that this "obligation would continue until the effective date of the redesignation of such an area to attainment

³ Additional plan/TIP amendments are completed on a voluntary basis beyond the required plan/TIP update cycles. These are not addressed in this ICR.

⁴ See 40 CFR 93.104(e). EPA assumed that conformity determinations occur infrequently for this reason, and therefore no burden was included in this ICR.

⁵ 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).

⁶ 81 FR 58010 (published on August 24, 2016).

⁷ *Id.* at 58125-58126; see also *id.* at 58142-58147.

for the [1997 annual PM_{2.5} NAAQS].”⁸ Accordingly, EPA anticipates that as areas are redesignated to attainment for this NAAQS, there will be reduced information collection activities related to transportation conformity requirements in those areas.

7. 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 OMB in 5 CFR 1320.5.

8. PUBLIC COMMENT AND CONSULTATIONS

The first FR notice was published on August 8, 2023 in [88 FR 53483](#). We received no public comments on our submission. A copy of the first FR Notice is attached as “FR_1st_Notice_2023-16873.”

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-2007-0269.⁹

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 in a previous ICR. In this ICR, the frequency of conformity determinations in isolated rural areas has been reduced compared to the previous ICR, based on discussion with the EPA Regional Offices in August and September 2022.¹⁰

⁸ *Id.* at 58143.

⁹ 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.

¹⁰ 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

9. PAYMENTS OR GIFTS TO RESPONDENTS

Not applicable.

10. PROVISIONS FOR PROTECTION OF INFORMATION

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.

11. JUSTIFICATION FOR SENSITIVE QUESTIONS

No questions of a sensitive nature are included in any of the information collection requirements for the transportation conformity regulation.

12. RESPONDENT BURDEN HOURS & LABOR COSTS

Data Items, Including Record Keeping Requirements:

The paragraphs below describe 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.

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 typical 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

transportation improvement programs. These areas are distinct from donut areas (40 CFR 93.101).

the lead agency for project-level conformity determinations in metropolitan areas. The following list includes typical 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 emissions from the proposed transportation system are consistent with state air quality goals;
- Conduct regional emissions analyses for projects in isolated rural areas and donut areas¹¹ using the latest assumptions and models to determine whether emissions from the proposed transportation system are 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 typical local transit agency activities for project-level conformity determinations:

- Conduct hot-spot analyses for transit 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.

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 some 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.

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

¹¹ 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).

and TIPs be updated at least every four years in nonattainment and maintenance areas, and the Clean Air Act requires that a conformity determination on the transportation plan and TIP in metropolitan areas be completed at least every four years.¹² Conformity determinations on projects in metropolitan and isolated rural areas are required on an as-needed basis, as previously described in respondent information and activities.

This section of the Supporting Statement 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, PM₁₀, PM_{2.5} 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 2024 to 2026 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 Question 13 for additional assumptions used in estimating respondent cost.

As stated earlier, this ICR includes the State and Local burden associated with implementing conformity requirements with respect to nonattainment and maintenance areas for transportation-related criteria pollutants: ozone, CO, PM₁₀, and PM_{2.5}. The following tables illustrate the total number of relevant areas for transportation-related NAAQS that are currently subject to transportation conformity requirements during the time period addressed by this ICR (Table 1), using data from EPA's Green Book for the number of nonattainment and maintenance areas.¹³

¹² 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.

¹³ www.epa.gov/green-book

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

NAAQS	Number of Metropolitan Nonattainment/Maintenance Areas	Number of Isolated Rural Nonattainment/Maintenance Areas
2015 ozone ¹⁴	44	9
2012 PM _{2.5} ¹⁵	7	2
2008 ozone ¹⁶	41	6
1971 CO	14	0
1987 PM ₁₀	40	28
1997 PM _{2.5} ¹⁷	3	1
2006 PM _{2.5} ¹⁸	29	3
1971 NO ₂ ¹⁹	0	0
1997 ozone	46	12
Sum of areas for these NAAQS	255	61

The number of nonattainment and maintenance areas in Table 1 only reflects the areas determining conformity during the time period of this ICR. Many areas are no longer determining transportation conformity due to either revocation of a NAAQS or completing 20 years of maintenance for a NAAQS (40 CFR 93.102(b)(4)). Also, Table 1 includes the 1997 ozone NAAQS orphan areas; as noted above, the

¹⁴ All ozone areas referred to in this row were designated nonattainment for the 2015 ozone NAAQS on June 4, 2018 except for San Antonio, which was designated nonattainment on August 4, 2018. Transportation conformity started applying for this NAAQS on August 3, 2019 and August 5, 2019, respectively.

¹⁵ The PM_{2.5} areas referred to in this row were designated nonattainment for 2012 primary annual PM_{2.5} NAAQS on January 15, 2015 (80 FR 2206). Transportation conformity started applying April 15, 2016.

¹⁶ 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).

¹⁷ The PM_{2.5} areas referred to in this row were designated nonattainment for the 1997 annual PM_{2.5} NAAQS on January 5, 2005 (70 FR 944). Two of these metropolitan areas are determining conformity for the annual and 24-hour 1997 PM_{2.5} NAAQS.

¹⁸ The PM_{2.5} areas referred to in this row were designated nonattainment for the 2006 24-hour PM_{2.5} NAAQS on November 13, 2009 (74 FR 58688).

¹⁹ This entry is for the 1971 annual NO₂ NAAQS. EPA notes that this ICR does not account for conformity burden for the NO₂ NAAQS. There are no new nonattainment areas designated for the 1-hour NO₂ NAAQS, and the one NO₂ area for the annual NO₂ NAAQS has completed its 20-year maintenance period. Therefore, there are no areas that are subject to conformity requirements for this NAAQS.

burden and costs for these areas are estimated separately.

Note that the last row in the table reflects the sum of the rows but not the number of unique areas subject to conformity requirements, as many areas are nonattainment or maintenance for more than one NAAQS. There are 102 individual MPOs and 43 individual isolated rural areas subject to conformity requirements during the time period of this ICR, not including the 1997 ozone NAAQS orphan areas, which are discussed separately at the end of this section.

This ICR reflects the burden associated with determining conformity for all of these NAAQS; however, EPA's estimates reflect efficiencies realized when metropolitan areas are nonattainment or maintenance for two or more NAAQS since the time spent in consultation, regional emissions analysis and other miscellaneous conformity activities in these areas pertain to multiple NAAQS. That is, while the burden for conformity for two NAAQS is higher than the burden of conformity for one NAAQS, it is not double the burden, and similar assumptions apply for conformity for more than two 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 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 from EPA's Green Book, the Federal Highway Administration website MPO database²⁰, and from other sources.

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 (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 NAAQS 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. And, as noted, burden associated with the 1997 ozone NAAQS orphan areas is estimated separately from the other NAAQS.²¹

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

²⁰ <https://www.planning.dot.gov/mpo/>

²¹ Donut areas are defined at 40 CFR 93.101

for conformity determinations. Burden data referenced in this question were requested from EPA Regions and DOT in previous ICRs, unless otherwise stated:

- As described in Question 8, 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 conformity research studies for conformity burden in current rural nonattainment and maintenance areas^{22,23}.

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, rather than more frequent plan and TIP revisions or amendments which are not required by the Act. This ICR captures the burden associated with meeting the minimum transportation conformity requirements.

EPA has calculated the burden associated with transportation plan and TIP conformity determinations by considering the number of MPOs that are subject to conformity requirements, the size of these MPOs, and the number of NAAQS that apply. To estimate burden hours that MPOs incur to determine conformity for just one NAAQS, EPA relied on data from previous ICRs, which were based on EPA and DOT field offices' estimates of 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 NAAQS, EPA relied on data from ICR 2130.05, 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.

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 NAAQS. These MPOs and metropolitan areas have experience with the conformity process, established interagency consultation procedures, and models for conducting plan and TIP conformity determinations.

While transportation plan and TIP updates can be done with the same frequency (at least every 4 years),

²² April 2003, "Transportation/Air Quality Issues in Rural Areas," FHWA and Dye Management Group.

²³ October 2003, "Rural Conformity: A Survey of Practice," NCHRP and ICF Consulting.

EPA estimates that it is only those MPOs serving smaller populations (50,000-200,000 populations) 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 are expected to have more complex transportation planning considerations and are not as likely to align transportation plan and TIP updates.

Therefore, for purposes of this analysis, EPA assumes that conformity determinations for transportation plans and TIPs will always occur at different times in large metropolitan areas (Tables 2 through 5) and that conformity determinations for transportation plans and TIPs will occur at the same time in small metropolitan areas (see Tables 6 and 7).

Table 2: State and Local Burden Hours Per Transportation Plan Conformity Determination by an MPO - Population of 200,000 or More

MPO Demonstrating Conformity For	Consultation	Regional Emissions Analysis ²⁴	Other Activities	Total Burden Hours
One NAAQS	77	392	63	532
Two NAAQS	101	525	84	710
Three or More NAAQS	123	651	105	879

Table 3: Total State and Local Annual Cost for Transportation Plan Conformity Determinations by MPOs - Population of 200,000 or More

MPO Demonstrating Conformity For	Burden Hours	No. of MPOs	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
One NAAQS	532	21	4 years	2,793	<u>\$69.37</u>	\$193,750
Two NAAQS	710	23	4 years	4,083	\$69.37	\$282,203
Three or More NAAQS	879	31	3 years	9,083	\$69.37	\$630,088

Total for All Transportation Plan Actions: 15,959 hours/year x \$69.37/hour = \$1,107,041/year

²⁴ The burden for regional emissions analyses is framed in this ICR as an MPO responsibility but we recognize that some state DOTs or other agencies may also perform the analyses, in cooperation with or instead of the MPO.

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

MPO Demonstrating Conformity For	Consultation	Regional Emissions Analysis	Other Activities	Total Burden Hours
One NAAQS	62	392	63	517
Two NAAQS	77	525	84	686
Three or More NAAQS	92	651	105	848

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

MPO Demonstrating Conformity For	Burden Hours	No. of MPOs	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
One NAAQS	517	21	4 years	2,714	\$69.37	\$188,270
Two NAAQS	686	23	4 years	3,945	\$69.37	\$273,630
Three or More NAAQS	848	31	3 years	8763	\$69.37	\$607,866

Total for All TIP Actions: 15,421 hours/year x \$69.37/hour = \$1,069,766/year

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

MPO Demonstrating Conformity For	Consultation	Regional Emissions Analysis	Other Activities	Total Burden Hours
One NAAQS	50	120	30	200
Two NAAQS	61	160	40	261
Three or More NAAQS	77	200	50	327

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

MPO Demonstrating Conformity For	Burden Hours	No. of MPOs	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
One NAAQS	200	12	4 years	700	\$69.37	\$41,622
Two NAAQS	261	10	4 years	653	\$69.37	\$45,299
Three or More NAAQS	327	5	3 years	545	\$69.37	\$37,807

Total for All Transportation Plan and TIP Actions: 1,798 hours/year x \$69.37/hour = \$124,727/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 relied on data from the previous ICR:

- The time necessary to conduct a hot-spot analysis was EPA Headquarters' estimate 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 from EPA Regional Offices and DOT from previous ICRs.
- The average number of annual actions was calculated 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 (40 CFR 93.114, 40 CFR 93.115). A hot-spot analysis is not required for project determinations in these nonattainment and maintenance areas (Hot-spot tests apply only in CO, PM₁₀, and PM_{2.5} areas, per 40 CFR 93.109(d)). 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).²⁵ In PM_{2.5} and PM₁₀ areas, project-level conformity determinations must include a hot-spot analysis if the project is of local air quality concern.²⁶

When required, PM hot-spot analysis must be quantitative, per 40 CFR 93.116 and 93.123(b). Where PM hot-spot analyses are done using refined modeling, quantitative CO analyses can be done with screening and thus are estimated to take fewer hours. EPA has guidance for conducting PM and CO hot-spot analyses.²⁷ MOVES is used for hot-spot analyses and other purposes outside of California; the EMFAC model is used in California.²⁸

We are assuming that PM and CO hot-spot analyses would also be used for satisfying NEPA requirements, so only half of the burden of these analyses are included in this conformity ICR. The burden hours 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. Estimates for the average number of annual actions associated with

²⁵ See the conformity rule (40 CFR 93.123(a)) for the types of projects that require quantitative versus qualitative CO hot-spot analyses.

²⁶ Per the conformity rule (40 CFR 93.123(b)(1)), a quantitative hot-spot analysis for projects in PM areas is required for: "(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 PM₁₀ or PM_{2.5} applicable SIP or SIP submission as appropriate, as sites of violation or possible violation."

²⁷ Guidance for both PM and CO hot-spot analyses is found on EPA's [Project-Level Conformity and Hot-Spot Analyses](#) website.

²⁸ Information regarding emissions models for SIP development and regional emissions analyses for transportation conformity determinations are available on EPA's [State and Local Transportation webpage](#).

project-level conformity are unchanged from the previous ICR. 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 size served by an MPO. Requirements for project-level conformity determinations are the same for large and small metropolitan nonattainment and maintenance areas.

Table 8: State and Local Burden Hours Per Project-level Conformity Determination in a Metropolitan Nonattainment or Maintenance Areas

NAAQS	Type of Hot-spot Analysis	Consultation	Hot-spot Analysis	Other Activities	Total Burden Hours
Ozone, PM _{2.5} , and PM ₁₀ ²⁹	None	0.5	N/A	0.5	1
PM _{2.5} or PM ₁₀	Quantitative	18	71	3	92
CO	Quantitative	6	14	2	22
CO	Qualitative	3	2	1	6

²⁹ Only some projects in PM₁₀ and PM_{2.5} areas require a quantitative hot-spot analysis. In contrast, all non-exempt CO projects in CO areas require some type of hot-spot analysis. See 40 CFR 93.116 and 93.123.

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

Metropolitan Area/NAAQS		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 _{2.5} and PM ₁₀	Pop. 200,000+	1	65	74	4,810	\$69.37	\$333,670
	Pop. 50,000-200,000	1	15	27	405	\$69.37	\$28,095
PM _{2.5} Hot-spot Analyses		92	0.1	47	432	\$69.37	\$29,968
PM ₁₀ Hot-spot Analyses		92	0.1	38	350	\$69.37	\$24,252
CO Quantitative Hot-spot Analyses		22	5	14	1,540	\$69.37	\$106,830
CO Qualitative Hot-Spot Analyses		6	0.5	14	42	\$69.37	\$2,914

Total for All Project-level Actions: 7,578/year x \$69.37/hour= \$525,727/year

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

Tables 10 through 13 includes the state and local government burden estimated with performing conformity determinations in ozone, CO, PM_{2.5} and PM₁₀ isolated rural areas.³⁰ In an isolated rural area, a project-level conformity determination for a regionally significant project must also include a regional emissions analysis (40 CFR 93.109(g)). This is the only time in an isolated rural area when a regional emissions analysis is necessary, as these areas do not have metropolitan transportation plans or TIPs.

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 a previous ICR supporting statement that isolated rural areas that are nonattainment or maintenance for more than one 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.

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.³¹ Therefore, the burden hours associated with project-level conformity determinations in isolated rural areas is greater than in metropolitan areas, e.g., the state and local burden hours in Table 10 are greater Table 8.

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.

Table 10: State and Local Burden Hours Per Project-level Conformity Determination in an Isolated Rural Area - Population Less Than 50,000

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

³⁰ There are no current NO₂ or CO nonattainment or maintenance areas in isolated rural areas. See Table 1 for further information.

³¹ Isolated rural areas are not required by federal law to develop metropolitan transportation plans or TIPs.

Table 11: State and Local Annual Cost Per Project-level Conformity Determination in an Isolated Rural Area – 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 NAAQS	108	43	10 years	464	\$69.37	\$32,188
Two NAAQS	143	6	10 years	86	\$69.37	\$5,966

Total for All Actions: 550 hours/year x \$69.37/hour = \$38,154/year

Table 11 reflects a frequency of project-level conformity determinations being done once every ten years in each isolated rural area, which is less frequently than assumed in the previous ICR. MPOs are required by regulation to determine conformity once every four years (40 CFR 104(b)). Our experience from previous ICRs, information from the Regional conformity staff, and existing research is that isolated rural areas determine conformity less than once every four years because they are required to determine conformity only when a non-exempt Federal project needs approval. Based on discussion with the EPA Regional Offices referenced earlier in this section and our experience with implementing the conformity rule, we reduced the frequency of these determinations from every five years in the last ICR to every ten years.

As for hot-spot analyses, this ICR assumes that isolated rural areas have no additional burden. As noted above, hot-spot analyses are required for all projects in CO nonattainment and maintenance areas, but there are no isolated rural areas that are nonattainment or maintenance for CO. Hot-spot analyses are also required for projects of air quality concern in PM nonattainment and maintenance areas, but based on past experience, the likelihood of these occurring in isolated rural areas is low. Therefore, EPA did not include any of these analyses for isolated rural areas in this ICR.

The 1997 Ozone NAAQS

In this supporting statement, EPA is accounting for the burden associated with this NAAQS separately because conformity requirements for the orphan areas for the 1997 ozone NAAQS are more limited. Since the last ICR, EPA has issued guidance³² for what transportation conformity requirements apply in these areas. This guidance explains, for example, that under the transportation conformity rule, no regional emissions analysis is required for the 1997 ozone NAAQS.³³ While consultation must occur, given there is no regional emissions analysis, for purposes of this analysis EPA assumes that consultation is also limited because there are fewer things to consult on.

³² See the [Transportation Conformity Guidance for the South Coast II Court Decision](#).

³³ See *id.* at 11.

For the purpose of estimating burden, EPA assumed that any 1997 ozone orphan area determining conformity for another NAAQS, and any 1997 ozone “partial” orphan area, has no additional conformity burden. EPA is assuming that consultation is already occurring in these cases for another NAAQS, and therefore, meeting conformity requirements for the 1997 ozone NAAQS does not result in additional burden in this situation.

The burden associated with this NAAQS occurs only in those 1997 ozone orphan areas that are unique, that is, do not determine conformity for any other NAAQS. We distinguish in this ICR between those with an MPO and those that are in an isolated rural area:

- For the orphan areas with an MPO that are designated nonattainment or maintenance only for this NAAQS, EPA assumes 10 hours of state and local burden per transportation plan or TIP conformity determination and 1 hour per project-level conformity determination.
- For the orphan areas that are in an isolated rural area, EPA assumes no additional state and local burden for conformity determinations. Conformity determinations in these areas are exceedingly rare.

Tables 12 and 13 include the state and local government burden and costs associated with conformity determinations for the 1997 ozone NAAQS. Tables 14 and 15 give the burden and costs associated with project-level conformity determinations for the 1997 ozone NAAQS. Since there is no regional emissions analysis required, only limited consultation is required.

Table 12: State and Local Burden Hours Per Transportation Plan and TIP Conformity Determination in 1997 Ozone Orphan Nonattainment and Maintenance Areas

Demonstrating Conformity For	Consultation	Regional Emissions Analysis	Other Misc. Activities	Total Burden Hours
1997 ozone NAAQS	10	0	0	10

Table 13: State and Local Annual Cost Per Transportation Plan and TIP Conformity Determination in 1997 Ozone Orphan Nonattainment or Maintenance Areas

Demonstrating Conformity For	Burden Hours	No. of Areas	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
1997 ozone NAAQS	10	46	4 years	115	\$69.37	\$7,978

Total for All Actions: 115 hours/year x \$69.37/hour = \$7,978/year

Table 14: State and Local Burden Hours Per Project-level Conformity Determination in a 1997 Ozone Orphan Nonattainment or Maintenance Areas with an MPO

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 15: Total State and Local Annual Cost for Project-level Conformity Determinations in 1997 Ozone Orphan Nonattainment and Maintenance Areas with an MPO

Metropolitan Area/NAAQS	Burden Hours Per Action	Average No. of Actions/year	No. of MPOs	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
1997 ozone NAAQS	1	12	46	552	\$69.37	\$38,292

Total for All Project-level Actions: 552/year x \$69.37/hour = \$38,292/year

The following paragraphs describe the assumptions used for estimating state and local respondent costs illustrated previously:

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 \$90,182/year.³⁴ EPA then divided the annual 2023 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 \$69.37/burden hour.

Estimating Respondent Universe and Total Burden and Costs

EPA estimates that 102 MPOs 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. Additionally, EPA estimates that 46 areas with MPOs will be subject to conformity for the 1997 ozone NAAQS and that limited interagency consultation will take place for these areas. EPA estimates that based on the infrequency of conformity determinations for the 1997 ozone NAAQS in isolated rural areas, there will be no additional burden for such areas during the time period covered by this ICR.

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 and isolated rural areas is **33,843** hours/year with a cost of **\$2,347,654**/year.

The bottom-line annual burden for all state and local agencies in performing project-level conformity determinations (including, where applicable, hot-spot analyses) in metropolitan areas and isolated rural areas is **8,639** hours/year at a cost of **\$599,260**/year.

³⁴ 2023 Office of Personnel Management salary table
<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/GS.pdf>.

13. RESPONDENT CAPITAL AND O&M COSTS

Costs for transportation conformity are associated with hours rather than capital. 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. 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.

EPA's cost estimates are based on the burden hours in Q12. As explained in Q12, these estimates of hours vary based on whether MPOs determine transportation conformity for one, two, or three or more NAAQS. EPA also assumes conformity resource burden will differ among larger vs. smaller metropolitan areas and isolated rural areas. Please refer to Q12 for this discussion.

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 Clean Air Act 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 three or more NAAQS, the frequency is assumed to be once every three years, based on assumptions made by EPA in the 2019 ICR. 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.

The bottom-line annual burden for all state and local respondents is **42,481** hours with a cost of **\$2,946,914**. This burden information is taken from Table 29 and the hours multiplied by the estimated hourly labor costs of \$69.37 for a burden cost. This information is also listed in the first *Federal Register* notice as the cost and burden for the Respondents, which are state and local agencies.

The bottom-line annual burden for federal agency respondents is **10,947** hours with a cost of **\$774,234**.³⁵

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 **160,285** hours with a cost of approximately **\$11,163,444**. This is calculated by using the total burden hours and multiplying by the estimated hourly labor costs in Table 29, adding in the cost of the *Federal Register* notices, and multiplying by three for the years covered by this ICR.

14. AGENCY COSTS

³⁵ 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 \$69.37 and then added \$14,820 in *Federal Register* notice publication costs from Table 28A and B to reach the bottom-line federal agency annual estimated cost of \$603,633.

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

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 \$90,182/year.³⁶ EPA then divided the annual 2023 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 \$69.37/burden hour.

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

Tables 16 through 18 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 reviewing transportation plan and TIP conformity determinations and that MPOs have established interagency consultation procedures with regularly scheduled meetings for discussing conformity issues. Because MPOs serving smaller metropolitan areas (populations between 50,000-200,000) typically make 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 previously 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 16: Federal Burden Hours Per Transportation Plan or TIP Conformity Determination in Metropolitan Nonattainment and Maintenance Areas with Population of 200,000 or More

³⁶ <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2014/GS.pdf> 2018 Office of Personal Management GS Salary table www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS.pdf.

Metropolitan Planning Organization	Activity	FHWA	FTA	EPA	Total
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/TIP Conformity Determination	13	2	7	22

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

Table 17: Federal Burden Hours Per Transportation Plan/TIP Conformity Determination in Metropolitan Nonattainment and Maintenance Areas with Population of 50,000-200,000

Metropolitan Planning Organization	Activity	FHWA	FTA	EPA	Total
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/TIP Conformity Determination	13	2	7	22

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

Table 18: Federal Annual Cost Associated with MPO Transportation Plan and TIP Conformity Determinations Metropolitan Nonattainment and Maintenance Areas

Action	Metropolitan Nonattainment Area	Burden Hours Per Action	No. of MPO's	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
Plan	Per Conformity Determination (Pop. 200,000+)	74	75	4 years	1,388	\$69.37	\$96,521
TIP	Per Conformity Determination (Pop. 200,000+)	74	75	4 years	1,388	\$69.37	\$96,521
Plan/ TIP	Per Conformity Determination (pop. 50,000-200,000)	74	27	4 years	1,388	\$69.37	\$34,650

Total Federal Burden for Plan and TIP Actions: 3,275 hours/year x \$69.37/hour = \$227,152

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

Tables 19 and 20 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 relied on a poll of its regional offices and DOT from a previous ICR. 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 19: Federal Burden Hours Per Project-level Conformity Determination in Metropolitan Nonattainment and Maintenance Areas

NAAQS	Type of Hot-spot Analysis	Consultation	Reviewing Project-level conformity determinations	Total Burden Hours
Ozone, PM _{2.5} and PM ₁₀	None	0.5	0.5	1
PM _{2.5} and PM ₁₀	Quantitative	5	11	16
CO	Quantitative	1	2	3
CO	Qualitative	0.25	1.25	1.5

Table 20: 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	75	4,875	\$69.37	\$338,179
	Pop. 50,000-200,000	1	15	27	405	\$69.37	\$28,095
PM _{2.5} Hot-spot Analyses		16	0.1	47	75	\$69.37	\$5,203
PM ₁₀ Hot-spot Analyses		16	0.1	38	60.8	\$69.37	\$4,218
CO Quantitative Hot-spot Analyses		3	5	14	210	\$69.37	\$14,568
CO Qualitative Hot-Spot Analyses		1.5	0.5	14	11	\$69.37	\$763

Total for All Project-level Actions: 5,637 hours/year x \$69.37/hour= \$391,025/year

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

Table 21 shows federal burden associated with conformity determinations for a typical regionally significant project in an isolated rural nonattainment or maintenance area. Table 22 shows federal burden associated with interagency consultation and review of project-level conformity determinations in isolated rural CO, PM_{2.5} and PM₁₀ nonattainment and maintenance areas. Table 22 shows federal annual cost associated with project-level conformity determinations in isolated rural nonattainment and maintenance areas.

As described above, in general, project-level conformity determinations in isolated rural areas are more involved than in metropolitan areas since a conformity determination for a regionally significant project in an isolated rural area also includes a regional emissions analysis.

In accordance with additional burden hours spent by state and local agencies for consultation, the consultation hours for federal agencies are also increased for project-level conformity determinations in isolated rural areas compared to those in metropolitan areas, to support additional meetings and

activities. Therefore, hours in Table 19 are greater than hours in Table 17.

Table 21: Federal Burden Hours Per Project-Level Conformity Determination in Isolated Rural Nonattainment and Maintenance Areas

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 22: 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	33	43	10 years	142	\$69.37	\$9,851

Total Federal Agency Burden for Project Level Conformity Determinations: 142 hours/year x \$69.37/hour = \$9,851/year

The 1997 Ozone NAAQS

As stated above, EPA is accounting for the burden associated with this NAAQS based on a different methodology. Since the previous ICR, EPA has issued guidance describing how the limited transportation conformity requirements apply in these areas.³⁷ EPA assumes 15 hours of burden across the three

³⁷ <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100VQME.pdf>

federal agencies per conformity determination since conformity determinations for these areas are limited, for the reasons outlined in Section 1(b) above and described more fully in the guidance. For purposes of estimating burden associated with the ICR for this NAAQS, EPA has focused on the time related to consultation. Similar to the state and local burden for project-level conformity, we assume only 1 hour of federal burden for each project-level conformity determination.

Table 23 shows federal burden associated with conformity determinations across agencies in an ozone orphan nonattainment or maintenance area. The burden in Table 23 is one fifth (20%) of the burden for plan/TIP conformity determinations for other NAAQS, as there are fewer requirements for these conformity determinations. Table 24 shows federal burden costs associated with each conformity determination. Table 25 shows federal burden associated with interagency consultation and review of a project-level conformity determinations in those areas. Table 26 shows federal annual cost associated with project-level conformity determinations in the ozone orphan nonattainment and maintenance areas.

EPA assumes no federal burden for isolated rural areas performing conformity determinations for due to the infrequency of new projects in those areas.

Table 23: Federal Burden Hours Per Transportation Plan/TIP Conformity Determination in 1997 Ozone Orphan Nonattainment and Maintenance Areas

Metropolitan Planning Organization	Activity	FHWA	FTA	EPA	Total
Per Conformity Determination	Attending Consultation Meetings	2.5	2.5	2.5	7.5
	Conformity-Related Work Prior to MPO Determination	2.5	0.2	0.6	3.3
	Reviewing Plan/TIP Conformity Determination	2.5	0.4	1.5	4.4

Federal Hours Burden for Each Plan/ TIP Conformity Determination: 15

Table 24: Federal Annual Cost Associated with MPO Transportation Plan and TIP Conformity Determinations in 1997 Ozone Orphan Nonattainment and Maintenance Areas

Action	Metropolitan Nonattainment Area	Burden Hours Per Action	No. of MPO's	Frequency of Action	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
Plan/ TIP	Per Conformity Determination	15	46	4 years	172.5	\$69.37	\$11,966

Total Federal Burden for Plan and TIP Actions: 172.5 hours/year x \$69.37/hour = \$11,966/year

Table 25: Federal Annual Burden Hours Per Project-Level Conformity Determination in 1997 Ozone Orphan Nonattainment and Maintenance Areas

NAAQS	Type of Hot-spot Analysis	Consultation	Reviewing Project-level conformity determinations	Total Burden Hours
1997 ozone NAAQS	None	0.5	0.5	1

Table 26: Total Federal Annual Cost for Project-level Conformity Determinations in 1997 Ozone Orphan Nonattainment and Maintenance Areas

Metropolitan Area/NAAQS	Burden Hours Per Action	Average No. of Actions/year	No. of MPOs	Total Annual Burden Hours	Cost Per Hour	Total Annual Cost
1997 ozone NAAQS	1	12	46	552	\$69.37	\$38,292

Total for All Project-level Actions: 552/year x \$69.37/hour= \$38,292/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)(1) and (f)).³⁸ The total burden of the adequacy review process belongs to 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 finding, EPA staff time includes the time needed to notify the public at 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 27 illustrates EPA's burden hours for each adequacy finding. These estimates were drawn from a survey of EPA Regional Offices conducted for a previous ICR, as well as an estimate of the time spent at headquarters.

Table 27: 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

In a previous ICR, EPA estimated the number of adequacy reviews needed each year based on the historical average number of SIPs that EPA had processed for adequacy over the past 36 months, which was 35 determinations, and responses from EPA Regions regarding the anticipated number of SIPs expected to process for adequacy during a fiscal year. Based on that methodology, Table 28A shows the total federal annualized cost associated with making adequacy finding for SIP motor vehicle emissions budgets.

Table 28B show costs associated with *Federal Register* notices of adequacy findings. A *Federal Register* notice of EPA's adequacy finding is always required, but often such notice is given with a proposed or

³⁸ Per 40 CFR 93.118(e)(4), EPA will find a budget adequate if the following minimum criteria are met: (a) 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.

final rulemaking action to approve the submitted SIP which is required for other non-conformity CAA reasons. Therefore, the table includes 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 28A: 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	\$69.37	\$81,163

Table 28B: 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	\$494	\$14,820

Total Burden for Adequacy Findings: 1,170 hours/year x \$69.37/hour = \$81,163+ \$14,820 = \$95,983

Federal Agency Tally

The bottom-line annual burden for agencies associated with transportation conformity determinations (i.e., FHWA, FTA, and EPA) for transportation plans and TIPs in nonattainment areas and isolated rural areas is **3,447 hours/year** at a cost of **\$239,084/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 **6,331 hours/year** at a cost of **\$439,168/year**.

The bottom-line annual burden associated with adequacy findings for motor vehicle emission budgets associated with SIPs is **1,170 hours/year** at a cost of **\$95,983/year**.³⁹

Tables 29 and 30 show the total annual estimated burden hours and cost associated with transportation conformity determinations requirements incurred by state, local and federal respondents.

³⁹ To obtain bottom-line annual cost associated with adequacy findings for motor vehicle emission budgets, EPA multiplied the total burden hours in Table 28A and B by estimated hourly labor costs of \$69.37 and then added \$14,820 in *Federal Register* notice publication costs to reach the bottom-line annual cost of \$95,983.

**Table 29: 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	33,843	3,447	37,289
Project Conformity Determination	8,639	6,331	14,969
Adequacy Finding	N/A	1,170	1,170
Total	42,481	10,947	53,428

BOTTOM-LINE ANNUAL BURDEN HOURS: 53,428/year

Table 30: Total Annual Costs Transportation Conformity Determinations

Type of Action	Total Annual State and Local Cost	Total Annual Federal Cost	Total Annual Conformity Costs
Transportation Plan/ TIP Conformity Determination	\$2,347,654	\$239,084	\$2,586,738
Project Conformity Determination	\$599,260	\$439,168	\$1,038,427
Adequacy Finding	N/A	\$95,983	\$95,983
Total	\$2,946,914	\$774,234	\$3,721,148

BOTTOM-LINE ANNUAL COST: \$3,721,148/year⁴⁰

⁴⁰ To obtain bottom-line costs associated with conformity determinations (Table 25), EPA multiplied the bottom-line burden hours in Table 27 by estimated hourly labor costs of \$69.37 and then added \$14,820 in *Federal Register* notice publication costs from Table 28A and B to reach the bottom-line annual cost of \$2,254,227.

FHWA and FTA Activities

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

- 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 a range of transportation conformity-related technical assistance and support as needed.

EPA Activities

The EPA Headquarters and Regional Offices are involved in several aspects of the transportation conformity process, including EPA activities such as:

- 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.

Federal agencies review conformity determinations in accordance with the Clean Air Act 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. There is an opportunity for members of the public to review and comment on MPO conformity determinations for transportation plans and TIPs, and federal agencies review MPO responses to these comments. The federal agencies 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.

15. CHANGE IN BURDEN

Decrease in state and local respondent burden hours since the previous ICR was approved is

approximately 6,190 hours/year⁴¹:

A decrease in burden was projected due to the requirement for transportation conformity ending in PM₁₀, NO₂, and CO areas that have reached the end of the 20-year maintenance period. A decrease in burden was also projected due to fewer transportation conformity determinations for areas previously designated nonattainment or maintenance for the 1997 annual PM_{2.5} NAAQS and the 1997 ozone NAAQS that were revoked in 2016 and 2015, respectively.⁴² The effects of less frequent collection are described in more detail Question 6 of this statement and this reduction is considered a “program change” for purposes of burden adjustment.

Additionally, an “adjustment” has decreased the projected burden due to EPA’s updated assumption on the amount of burden hours for conformity determinations in isolated rural areas since the last ICR. Based on the infrequency of conformity determinations in isolated rural areas, we updated the frequency of actions to once every ten years compared to the once every five years assumption used in previous ICRs.

16. PUBLICATION OF DATA

Not applicable as EPA does not publish transportation conformity determinations.

17. DISPLAY OF OMB CONTROL NUMBER AND EXPIRATION DATE ON INSTRUMENTS

Not applicable; EPA is not seeking such approval.

18. CERTIFICATION STATEMENT

Not applicable; EPA is not requesting any exceptions.

⁴¹ In our first supporting statement, the reported reduction in burden hours was 8,590. That number was miscalculated and the updated number in the above text is correct. No other calculations were affected, and all other burden totals remain the same as provided in the first supporting statement.

⁴²