

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE USE) RESOLUTION NO. 14-4493
OF FEDERAL STREAMLINING PROVISIONS)
FOR REGIONAL AIR QUALITY CONFORMITY)
DETERMINATIONS) Introduced by Chief Operating Officer Martha
Bennett in concurrence with Council
President Tom Hughes

WHEREAS, clean air contributes to the health of Metro residents and their quality of life; and

WHEREAS, the federal Clean Air Act (CAA) and other federal laws, including Code of Regulations (CFR) 93.100 through CFR 93.128 contain air quality standards designed to ensure that federally supported activities meet air quality standards, and these federal standards apply to on-road transportation plans, programs and activities in the Metro area; and

WHEREAS, Chapter 340, Division 252, Transportation Conformity, of Oregon Administrative Rules was adopted to implement section 176(c) of the federal Clean Air Act, as amended, and these rules also apply to Metro area on-road transportation plans, programs and activities; and

WHEREAS, these federal and state regulations require an air quality conformity determination in order for metropolitan planning organizations (MPOs) to conduct its transportation planning and programming activities; and

WHEREAS, the federal transportation conformity rules 40 CFR 93.106(d)(3) allow that MPOs with an adequate or approved CAA section 175A(b) maintenance plan may elect to shorten the timeframe of the conformity determination to extend through the last year of such maintenance plan after consultation with state and local air quality agencies, solicitation of public comments, and consideration of such comments ; and

WHEREAS, Metro has consulted with the Oregon Department of Environmental Quality about utilizing the streamlining provision and gained approval; and

WHEREAS, the Transportation Policy Advisory Committee took action November 22, 2013 approving the proposed use of the streamlining provision for air quality analyses; and

WHEREAS, opportunities for public comment was made available and staff made refinements to the air quality analysis approach according to the comments; and

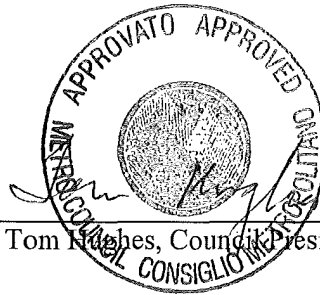
WHEREAS, Metro agrees to continue to assess the final year of the long-range transportation plan in subsequent air quality conformity analyses to gain a long-term look at the implications of regional transportation policy and its effects on air quality; and

WHEREAS, Metro reviewed federal and state requirements and have determined all criteria have been met to utilize the provision to streamline the air quality conformity analysis; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) approved this legislation at the January 9, 2014 meeting; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT and approves the use of the transportation conformity streamlining provision for regional air quality conformity determination.

ADOPTED by the Metro Council this 16 day of January 2014.



Tom Hughes, Council President

Approved as to Form:

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a long, horizontal, wavy line.

Allison R. Kean, Metro Attorney

STAFF REPORT

FOR THE PURPOSE OF APPROVING THE USE OF FEDERAL STREAMLINING PROVISIONS FOR REGIONAL AIR QUALITY CONFORMITY DETERMINATIONS

Date: December 16, 2013

Prepared by: Grace Cho

REQUEST

The Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council are requested to approve the use of federal streamlining provisions for regional air quality conformity purposes. Action by JPACT and the Metro Council is requested to fulfill process requirements issued by EPA in order to utilize the provision.

INTRODUCTION

Because the Portland region failed to meet national air quality standards for carbon monoxide pollution in the past the region was designated a non-attainment area. As a result, the region is required to conduct an air quality conformity analysis for each update of the Regional Transportation Plan (RTP) and the Metropolitan Transportation Improvement Program (MTIP) to demonstrate compliance with an adopted air quality maintenance plan in order for transportation projects to be eligible to receive federal funding.

BACKGROUND

The air quality conformity determination is a regional emissions analysis which compares future emissions from transportation activities to a state allocated emissions budgets. To conduct a regional air quality analysis Metro builds and maintains a series of transportation networks to feed into a regional emissions model. Known as analysis years, these networks must meet federal air quality requirements. The transportation networks are derived from the projects identified in the RTP and MTIP.

ISSUE

Typically, Metro models three transportation networks for air quality analysis purposes (base year, final year of maintenance plan, and horizon year), but in preparation for the 2014 RTP update and the 2015-2018 MTIP, federal requirements dictate five transportation networks will need to be constructed. This adds significant workload to the relatively minor update of the 2014 RTP.

PROPOSED SOLUTION – UTILIZE REGULATORY STREAMLINING PROVISION

The Transportation Conformity Regulations Section §93.106(d)(3) allows regions with approved maintenance plans to elect to shorten the timeframe of the conformity analysis to the end of the maintenance plan.¹ For the Portland metropolitan region, streamlining the conformity determination to the end of the maintenance plan means the air quality analysis would be conducted through the year 2017, which is the final year of the approved maintenance plan.

However, recognizing that a 2017 conformity determination would not allow for a long-term picture of air quality impacts, staff proposes conducting an air quality analysis for the base year (2010), end of the maintenance plan (2017) and long-range transportation plan horizon year (2040). This approach would utilize the shortening provision and reduce the number of transportation networks to develop, while also providing for the long-term air quality picture. Therefore, the use of the provision would not have an impact on the air quality outcomes, as the region would still aim to meet or be below the emissions budget allocated by the state for 2040. Additionally, staff determined modeling additional years will not yield additional beneficial information to assist policymakers, but would require significant resources.

¹ The Transportation Conformity rules provision §93.106(d)(3) states: “For areas that have an adequate or approved CAA section 175A(b) maintenance plan, the MPO may elect to shorten the timeframe of the conformity determination to extend through the last year of such maintenance plan after consultation with state and local air quality agencies, solicitation of public comments, and consideration of such comments.”

Utilizing the shortened conformity provision would be applicable for all air quality analysis moving forward.

AIR QUALITY CONFORMITY ANALYSIS STREAMLINING PROCESS

In accordance with federal rules, the metropolitan planning organization is the main party to initiate a TCM substitution.² Following internal consultation, Metro elected to initiate undergoing to the process to utilize the streamlining provision in November 2013. Metro consulted with the U.S. Environmental Protection Agency (EPA) to gather clarity on the process requirements which must be met in order to utilize the provision. Following, Metro consulted with DEQ on utilizing the provision. Based on the consultation with DEQ, Metro has agreed to continue to assess the horizon year of the long-range transportation plan as part of all subsequent air quality conformity analyses to ensure the region’s long-term transportation policies and investments do not harm air quality.

At the November 22, 2013 Transportation Policy Advisory Committee (TPAC) meeting, members were consulted on utilizing the provision to streamline the conformity analysis work and requested TPAC make a recommendation to the Joint Policy Advisory Committee on Transportation (JPACT). Members were presented an analysis the proposal to utilize the EPA streamlining provision met the following criteria:

- Consultation with state and local air quality agencies;
- Solicitation of public comments and consideration of public comments; and
- MPO board and governing body approval.³

Table 2. Proposed Utilization of Streamlining Provision Criteria Being Met

| Proposed Activity | Justification/Rationale | Applicable EPA Rule/Provision |
|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Consultation with DEQ on proposed shortened conformity timeframe | EPA rules require MPOs consult with state and local air quality agencies regarding streamlining the conformity timeframe. Full interagency consultation is not required and formal approval from state and local air quality agencies is not required. DEQ would not need to take this through any of its processes, unlike the TCMs. Consultation was conducted on November 20, 2013 with DEQ staff. | Consultation with state and local air quality agencies |
| Consultation and request of approval from TPAC | Notification of an action is provided to the TPAC interested parties list a week in advance of the meeting. EPA also states MPOs should follow normal process for public participation regarding conformity actions. Since a formal public comment period is not conducted for conformity methodology approval, the approach to ask for approval from TPAC is sufficient. Opportunity for public comment is available at the TPAC meeting. TPAC consultation was conducted on November 22, 2013. Action to recommend to JPACT made. ⁴ | Solicitation of public comments |

³ US Environmental Protection Agency. Transportation Conformity Regulations. April 2012, page 15.

⁴ TPAC. November 22, 2013 <http://www.oregonmetro.gov/index.cfm/go/by.web/id=31965>

| | | |
|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| Review comments received and refine shortened conformity timeframe (if appropriate) | Metro staff took the comments made at the TPAC meeting to refine the proposed approach for streamlining the conformity timeframe in the materials presented before JPACT and Metro Council. Public comments made on the conformity streamlining provision will also be taken will also be accepted. | Consideration of public comments. |
| Approval by MPO board and Metro Council on the streamlined air quality conformity determination method | EPA requires receiving approval from the MPO board and governing body to use the streamlining conformity provision in the air quality analysis methodology. | MPO board and governing body approval |

ANALYSIS/INFORMATION

1. **Known Opposition:** DEQ is in agreement with the proposed approach Metro has put forward to continue to assess the horizon year of the plan as part of all air quality conformity analyses.

Legal Antecedents:

Federal regulations include:

- Clean Air Act, as amended [42 U.S. C. 7401 and 23 U.S.C. 109(j)], as amended].
- US EPA transportation conformity rules (40 CFR, parts 51 and 93)

State regulations include:

- Oregon Administrative Rules for Transportation Conformity, (OAR Chapter 340, Division 252).
- 2006 State Implementation Plan (SIP).
- 2006 Portland Area Carbon Monoxide Maintenance Plan and 2007 Portland Area Ozone Maintenance Plan.

2. **Anticipated Effects:** Adoption of this resolution allows for air quality analysis to assess emissions for three transportation networks: base year (2010), last year of the maintenance plan (2017), and horizon year (2040) of the plan. This goes into effect immediately for demonstrating conformity of regional transportation plans and programming documents. The funding of proposed transportation projects in the 2015-2018 MTIP and the update of the 2014 Regional Transportation Plan update will be able to continue as scheduled.
3. **Budget Impacts:** None. Upon approval of this action, projects included in the 2015-2018 Metropolitan Transportation Improvement Program and the 2014 RTP update will be able to move forward with implementation.

RECOMMENDED ACTION

Metro staff recommends the approval of Resolution No. 14-4493.