



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2007-0269; FRL 11000-01-OAR]

**Proposed Information Collection Request; Comment Request; Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects, EPA ICR No. 2130.07, OMB Control No. 2060-0561**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), “Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs, and Projects” (EPA ICR No. 2130.07, OMB Control No. 2060-0561), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through February 29, 2024.

**DATES:** Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2007-0269 online using [www.regulations.gov](https://www.regulations.gov) (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Aaron Letterly, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734-214-4340; email address: [letterly.aaron@epa.gov](mailto:letterly.aaron@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <https://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another Federal Register notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* 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 or contribute to 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 redesignated 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<sub>2.5</sub> and PM<sub>10</sub>), carbon monoxide (CO), and nitrogen dioxide (NO<sub>2</sub>). EPA published the original transportation conformity rule on November 24, 1993 (58 FR 62188), and subsequently published several revisions. EPA develops the conformity regulations in coordination with the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA).

Transportation conformity determinations are required before federal approval or funding is given to certain types of transportation planning documents as well as non-exempt highway and transit projects.<sup>1</sup>

EPA considered the following in renewing the existing ICR:

- Burden estimates for transportation conformity determinations (including both regional and project-level) in current nonattainment and maintenance areas for the ozone, PM<sub>2.5</sub>, PM<sub>10</sub>, and CO NAAQS;<sup>2</sup>
- Federal burden associated with EPA’s adequacy review process for submitted SIP motor vehicle emissions budgets that are to be used in conformity determinations;
- Efficiencies in areas making conformity determinations for multiple NAAQS;
- Differences in conformity resource needs in large and small metropolitan areas and isolated rural areas;
- Infrequency of conformity determinations in isolated rural areas;
- Reduced burden from certain areas no longer determining conformity for the 1997 annual PM<sub>2.5</sub> NAAQS due to revocation;<sup>3</sup>

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<sup>1</sup> Some projects are exempt from all or certain conformity requirements; see 40 CFR 93.126, 93.127, and 93.128.

<sup>2</sup> Currently there are no NO<sub>2</sub> nonattainment or maintenance areas that are required to make transportation conformity determinations.

<sup>3</sup> See 81 FR 58010 (published on August 24, 2016 and effective October 24, 2016) for a description of this revocation and implications for transportation conformity.

- Reduced burden from areas completing 20 years of maintenance for PM<sub>10</sub>, NO<sub>2</sub> and CO NAAQS, at which time transportation conformity is no longer required; and,
- The limited conformity requirements that apply in the 1997 ozone NAAQS areas that were not designated nonattainment for a later ozone NAAQS.

This ICR does not include burden associated with the general development of transportation planning and air quality planning documents for meeting other federal requirements.

*Form Numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are metropolitan planning organizations (MPOs), state departments of transportation, local transit agencies, and state and local air quality agencies. Federal agencies potentially affected by this action include FHWA, FTA, and EPA.

*Respondent's obligation to respond:* Mandatory pursuant to Clean Air Act section 176(c) (42 U.S.C. 7506(c)) and 40 CFR and Part 93 Subpart A.

*Estimated number of respondents:* EPA estimates that 102 MPOs will be subject to transportation conformity requirements during the period covered by this ICR and that EPA Regional Offices, FHWA, and FTA will be involved in interagency consultation, and review of MPO transportation-related conformity determinations during this process. EPA also estimates that similar consultation will occur for project-level conformity determinations in isolated rural areas. In addition, there are 46 MPOs that determine conformity only for the 1997 ozone NAAQS that are also accounted for, but their conformity-related requirements are estimated to be limited and less burdensome due to the circumstances with that NAAQS.

*Frequency of response:* The information collections described in this ICR must be completed before a transportation plan, TIP, or project conformity determination is made. The Clean Air Act requires conformity to be determined for transportation plans and TIPs every four years. Conformity determinations on projects in metropolitan and isolated rural areas are required on an as-needed basis.

*Total estimated burden:* 42,481 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* \$2,946,914 (per year), includes zero annualized capital or operation and maintenance costs.

*Changes in Estimates:* There is a decrease of 8,590 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to PM<sub>10</sub>, NO<sub>2</sub>, and CO areas reaching the end of the 20-year maintenance period, beyond which transportation conformity is not required, as well as fewer transportation conformity determinations for areas previously designated nonattainment or maintenance for the 1997 annual PM<sub>2.5</sub> NAAQS and the 1997 ozone NAAQS. Additionally, EPA updated its assumptions about the frequency of conformity determinations in isolated rural areas, which reduced the number of actions and resulting burden hours compared to previous ICRs.

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