

Air Quality Conformity Determination

For the SKATS FY 2021-2026 Transportation Improvement Program

Healthy Air

Following passage of the federal Clean Air Act Amendments in 1990, the Salem-Keizer area was designated as a non-attainment area for the carbon monoxide (CO) and 1-hour ozone (O₃) national ambient air quality standards (NAAQS). However, monitoring data since that time has shown that pollutant levels are decreasing.

Carbon Monoxide Status

Previously, the CO monitor for the SKATS region was located at Market Street and Lancaster Drive. The CO monitor had been located there in the past to ensure that measurements were being made in the location of highest CO concentrations prior to a re-designation effort. No violations of the carbon monoxide standard were recorded between 1984 and 2003, and the last exceedance was in 1993¹. Based on this history of clean air, the Oregon Department of Environmental Quality (DEQ) removed the CO monitor in 2006 and developed a Carbon Monoxide Limited Maintenance Plan for the SKATS region, which was submitted to the US Environmental Protection Agency (EPA) in 2007 and went into effect March 2, 2009². As an area with a limited maintenance plan, SKATS is no longer required perform a regional emissions analysis for CO but still must demonstrate conformity as discussed below.

Ozone Status

Effective June 15, 2004, EPA formally designated the entire state of Oregon “unclassifiable/attainment” for the 8-hour ozone NAAQS.

Federal and State Regulations

The U.S. Congress approved amendments to the Clean Air Act (CAAA) on November 15, 1990. Shortly thereafter, urban air sheds were tested and classified on the basis of their attainment or non-attainment to national ambient air quality standards. The area encompassed by the SKATS boundary was designated as a non-attainment area for carbon monoxide (CO) and ozone (O₃).

The U.S. Environmental Protection Agency (EPA) and the U.S. Department of Transportation (USDOT) issued the final rule for CAAA conformity on November 24, 1993 (40 CFR Parts 51 and 93), which included rules for regional emissions analyses of transportation improvement programs (TIPs) and transportation plans in the interim period before approval of a revised State Implementation Plan (SIP)³. The State of Oregon's Environmental Quality Commission adopted *Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans*

¹ An exceedance of the standard can happen on one day. A violation of the standard is based on multiple observations. An official violation is classified as three exceedances at a monitor.

² Salem-Keizer Area Carbon Monoxide Limited Maintenance Plan, State Implementation Plan Volume 2 Section 4.57, June 4, 2007 Oregon Department of Environmental Quality. (EPA Approval is located at 73 FR 79655. See: <https://www.govinfo.gov/content/pkg/FR-2008-12-30/pdf/E8-30825.pdf#page=1>.)

³ For more information see: <https://www.epa.gov/state-and-local-transportation/transportation-conformity-chronological-list-rulemakings>

of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act (hereafter referred to as the Transportation Conformity), OAR 340-20-710 through 340-20-1080, in March 1995. The rule was last revised in 2010 under OAR 340-252-0010 to 340-252-0230, Transportation Conformity.

The transportation conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do conform. Conformity means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

Since 1993, EPA finalized several amendments to the transportation conformity rule. The first set of amendments was published on August 7, 1995 (60 FR 40098), a second set on

November 14, 1995 (60 FR 57179), and a third set on August 15, 1997 (62 FR 43780). In particular, the third set of rules increased the flexibility of demonstrating conformity for areas not required to submit SIP, such as SKATS (see next section for details).

In 1997, EPA revised the primary ozone standard from the 1-hour to an 8-hour standard. On April 30, 2004, EPA finalized the rules (69 FR 23951) that revoked the 1-hour ozone standard one year after the effective date of 8-hour ozone nonattainment designations. In accordance with EPA's April 30, 2004 final rule, conformity for the 1-hour standard will no longer apply in existing 1-hour nonattainment and maintenance areas once the standard and corresponding designations are revoked.

On July 1, 2004, new transportation conformity amendments were finalized (69 FR 40004) that: include criteria and procedures for the new 8-hour ozone and fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS); address conformity requirements for 1-hour non-attainment areas that are in attainment of the 8-hour ozone standards (such as SKATS); contain conformity rules that implement the March 2, 1999 court decision when conformity lapses occur; and include a few miscellaneous revisions to clarify the existing regulation and improve implementation.

On December 22, 2006, the DC Court of Appeals struck down the 8-hour ozone standard, stating that EPA had violated the Clean Air Act in relaxing the limits. Later decision by the court clarified the ruling, and the State of Oregon is still designated as attainment for ozone.

In 2008, EPA modified federal rules to require states to adopt only parts of the conformity rules as state regulations. Passages that pertain to Oregon-specific conditions, such as those describing interagency consultation and any requirements that are more restrictive than federal minimum standards were required to be retained as states rules. In response to the federal changes, in February 2010 the Oregon Environmental Quality Commission repealed state rules that simply duplicated federal measures, allowing the federal measures to govern. The changes to the state conformity rules were submitted to EPA and were approved in 2012 as a revision to the State Implementation Plan.

Transportation Conformity as it Applies to the SKATS Area

According to federal rules, while areas with approved limited maintenance plans are not required to perform a regional emission analysis, they are required to demonstrate conformity of the transportation plans as stated in 40 CFR part 93, subpart A. These requirements, and how SKATS is meeting them in regard to the SKATS FY 2021-2026 TIP, are presented below. A more detailed discussion is presented in *AQCD Appendix 1*.

- a.) Transportation plans and projects provide for timely implementation of SIP transportation control measures (TCMs) in accordance with 40 CFR 93.113;
 - 1. There are no TCMs identified in the SIP for the SKATS area.
- b.) Transportation plans and projects comply with the fiscal constraint element per 40 CFR 93.108;
 - 1. As required by federal regulations, the SKATS FY 2021-2026 TIP⁴ is financially constrained, containing only those projects that funds are identified for or ‘reasonably expected’ to be available over the time frame of the plans.
 - 2. The financial constraint assumptions developed for the SKATS FY 2021-2026 TIP are shown on pages 77 to 79 of the TIP.
- c.) The MPO’s interagency consultation procedures meet applicable requirements of 40 CFR 93.105;
 - 1. The equivalent State Rule is OAR 340-252-0060.
 - 2. A draft of this document was circulated to ODOT, EPA, Oregon DEQ, FHWA, and FTA prior to adoption. The draft was sent to the group on March 25, 2020. In addition, a document explaining the reasons for updating the TIP was included.
 - 3. Two comments were received, one from FHWA and one from ODOT. FHWA suggested two minor edits of the document on page 1 and 3, and ODOT suggested revision to the discussion on transit service on page 7 to reflect the disruption caused by the COVID-19 pandemic.
- d.) Conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;
 - 1. The previous conformity determination for the FY 2018-FY 2023 TIP was adopted on February 27, 2018 and conformed by USDOT on May 25, 2018.
- e.) The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;

⁴ The TIP is available at: <https://www.mwvcog.org/transportation-planning/transportation-improvement-program-tip/>

As of March 2, 2009, SKATS is not required to perform regional emissions modeling as part of the conformity process. Thus, no emissions modeling was performed as part of this TIP Update.

- f.) Projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and
 - 1. Projects included in the SKATS FY 2021-2026 TIP that are required to perform hot spot analysis will have this conducted by the project sponsors during the appropriate phase of the project.
- g.) Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.
 - 1. Project sponsors and operators will conform to the CAA requirements.

AQCD Appendix 1: Supplemental Conformity Checklist

Response to the applicable conformity criteria and procedures as they apply to the amended SKATS FY 2021-2026 TIP, as per State of Oregon conformity rules (OAR 340-252-0010 et seq.), is made in the following text. This checklist is provided to assist in the state and federal review of this conformity determination and the consultation requirements of OAR 340-252-0060.

1. Conformity Requirements

40 CFR 93.014: Frequency of Conformity Determinations

A new transportation plan must be found to conform before the plan is approved by the MPO or accepted by USDOT. The conformity determination for the current SKATS plan (2019-2043 Regional Transportation Systems Plan) was adopted on May 28, 2019 and was approved/acknowledged by USDOT on March 2, 2020 (*see letter in Appendix 2*). The conformity determination marked the beginning of the four-year cycle of conformity for the RTSP.

A new TIP must be demonstrated to conform before the TIP is accepted by USDOT, and the TIP must be updated no less frequently than every four years. The current MTIP, FY 2018-2023, was adopted on February 27, 2018 and conformed by USDOT on May 25, 2018 (*see letter in Appendix 2*). The conformity determination marked the beginning of the four-year cycle under federal rules.

OAR 340-252-0060 and 40 CFR 93.105: Consultation

Federal, state, and local interagency consultation are required before making conformity determinations. See the response to OAR 340-252-0060 and 40 CFR 93.112 below for details of the consultation carried out for this conformity determination.

The Salem-Keizer Area Transportation Study (SKATS) MPO is the lead agency responsible for making the conformity determination for the RTPs and TIPs, RTP amendments, TIP amendments, performing transportation modeling, regional emissions analyses, and preparing and distributing the draft and final documents. The MPO is the agency responsible for assuring the adequacy of the interagency consultation. The SKATS Technical Advisory Committee (TAC) is designated under this regulation as the standing committee for the purposes of consultation on air quality. Members of the SKATS TAC include representatives of the City of Salem, City of Keizer, City of Turner, Marion County, Polk County, Salem Area Mass Transit District, Salem-Keizer School District, Oregon Department of Land Conservation and Development, Oregon Department of Transportation, Oregon Department of Environmental Quality, and FHWA. This committee currently meets monthly. The meetings are open to the public.

As described in more detail in the response to OAR 340-252-0060 and 40 CFR 93.112 below, MPO staff conferred with TAC members, consulted other state and federal agencies on development of the conformity determinations, and provided public notices on the TIP Update

and conformity determination. This conformity determination is based on processes developed in 2007 during the conformity determination of the 2031 RTSP and FY 08-FY 11 TIP, and that had been used for all subsequent updates and amendments to the SKATS RTSP and TIP.

40 CFR 93.106: Content of Transportation Plans

The SKATS 2019-2043 RTSP describes the recommended and fiscally constrained transportation system up to the 2043 horizon year. Chapter 7 and Appendix A of the RTSP documents the employment and population projections and land use allocations by jurisdiction to 2043. These forecasts were coordinated with the local jurisdictions through a Land Use Subcommittee of the TAC, and approved for use in the RTSP, TIP, and conformity determinations by the SKATS Policy Committee on June 26, 2018. The projections for the population and employment in the area were made for the new horizon year of 2043 using the same methodology used for the 2011-2035 RTSP. The SKATS Policy Committee endorsed this method at their meeting on April 27, 2010.

The highway and transit projects described within the RTSP are divided into “Recommended” and “Illustrative” categories (*see Table 7-3 and Appendix I*). All projects are sufficiently identified by description and location to ensure adequate modeling of capacity, routes, and speeds. Transit operations described in Chapter 4 of the RTSP reflect the system as of early 2019, before the planned service enhancements were enacted in September 2019. The Plan recognizes that by late 2020 additional service will be offered on weekday evenings, Saturdays and Sundays as part of the funding available from ODOT due to House Bill 2017. As such, the Plan recommends continuation of this level of transit service where existing demand exists, and future service increases in service coverage, types, and frequencies including projects such as the bus replacement, and ITS applications.

See additional information in response to 40 CFR 93.110 below.

40 CFR 93.108: Fiscal Constraints for the Transportation Plans and TIPs

The financial constraint assumptions developed for the amended SKATS FY 2021-2026 TIP are documented on pages 77-79.

2. Criteria and Procedures for Determining Conformity

40 CFR 93.109: General

In order to demonstrate conformity of a transportation plan and/or TIP, specific criteria listed in OAR 340-252-0110 through 340-252-0200 (40 CFR 93.110 through 93.119) must be addressed. These criteria include using the latest planning assumptions and the latest emissions model and undertaking interagency consultation and public involvement. Responses to the criteria are listed below.

As of June 15, 2005, the SKATS area is not required to show conformity for HC and NO_x, the precursors to ozone; and from March 2, 2009, is operating under a limited maintenance plan for Carbon Monoxide (CO), and thus not required to perform regional emissions modeling for CO.

40 CFR 93.110: Latest Planning Assumptions

This criteria states that the conformity determination must be based upon the most recent planning assumptions in force at the time of the conformity determination. Key assumptions include population and employment forecasts for the 442 transportation analysis zones (TAZs) over which the transportation network of the 2019-2043 RTSP is defined. This conformity analysis uses the most current projections of 2018 to 2043 population and employment as prepared by SKATS and reviewed by the SKATS TAC (see response to 40 CFR 93.106). Allocations were made to transportation analysis zones in consultation with the individual jurisdictions and coordinated with the SKATS Land Use Subcommittee. Housing, population, and employment forecasts and allocations reflect local development, redevelopment, and infill plans for mixed-use nodes, known projects currently in the planning process, and the availability of vacant, buildable land by current plan designation.

Transit service is assumed to change during the life of the RTSP and changed in the 2019 as service is added later in the weekday evenings, and on Saturdays. It was planned to add service on Sundays in 2020, but the COVID-19 pandemic has postponed these plans. Current transit service is a mix of corridors with frequent service and connector-like service with less frequent service. There is a central transit center in downtown Salem where the majority of bus routes meet, and smaller transit stations in West Salem and Keizer, with a third in the planning stages for South Salem. Longer term, an additional transit station is planned for East Salem at a location yet to be determined. The Transit District reviews fares every two years and links them to an expected farebox rate of return but keeps the increases as small as possible and retain discounts for bus passes.

Salem Area Mass Transit District's website and staff provided historical and current ridership numbers. Cherriots ridership grew from 2.7 million trips in 1990 to over 4.3 million in 2000, increasing further to over 5 million riders for the first time in 2003 and peaked at 5.54 million in 2006. Ridership since 2006 have shown decreases every year, which can be partially attributable to service cuts (including removing Saturday service in 2009), fare increases, the regional/national economy (either the Great Recession in 2007-2010 or cheap fuel in 2014 onwards). Ridership in 2018 (the latest available) was 2.9 million trips, which is approximately the same as ridership in the last two years.

There are no required TCMs for the SKATS area.

40 CFR 93.111: Latest Emissions Model

As of March 2, 2009, SKATS is not required to perform regional emissions modeling as part of the conformity process. Thus, no modeling was performed as part of this amendment.

OAR 340-252-0060 and 40 CFR 93.112: Consultation

The SKATS MPO must make conformity determinations according to the interagency consultation procedures in OAR 340-252-0060 and according to the public involvement procedures established in OAR 340-252-0060 and 23 CFR Part 450.

Based on consultation conducted for the SKATS FY 04-FY 07 TIP amendment in December 2004, it was agreed that early consultation via e-mail was preferred by the MPO and state and federal agencies. This has been followed for all the subsequent consultations to date.

For this update, a draft copy of the AQCD and appendices was sent to air quality staff specialists at FHWA, FTA, EPA, ODOT and DEQ on March 25, 2020 for review. The draft copy of the AQCD and appendices were available for public review and comment during the public review period of the SKATS FY 2021-2026 Transportation Improvement Program (TIP) which took place between March 25, 2020 and May 26, 2020. The public could download the draft AQCD from the Mid-Willamette Valley Council of Governments website. The AQCD was included in public outreach materials and briefly summarized, including the online Open House (please see **Appendix D** of the SKATS FY 2021-2026 TIP for a complete list). Adoption of this document by the SKATS Policy Committee took place on May 26, 2020.

40 CFR 93.113: Timely Implementation of TCMs

There are no TCM requirements in the SKATS non-attainment area.

40 CFR 93.114: Currently conforming transportation plan and TIP

The SKATS 2019-2043 RTSP was adopted on May 28, 2019 and conformed on March 2, 2020 (*see USDOT letter included in AQCD Appendix 2*). The FY 2018-2021 TIP was adopted on February 27, 2018 and conformed by USDOT on May 25, 2018.

Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by DOT.

40 CFR 93.115: Projects from a Plan and TIP

Projects in the TIP are either drawn from the RTSP or are consistent with the policies and purpose of the plan and will not interfere with other projects specifically within the plan. Typically, TIP projects not in the RTSP are pavement rehabilitation/resurfacing projects.

AQCD Appendix 2

- a. U.S. DOT Air Quality Conformity Determination, SKATS 2019 – 2043 Regional Transportation Systems Plan

Air Quality Conformity Determination (AQCD) Consultation (*Excerpted from the TIP*)

The draft Air Quality Conformity Determination (AQCD) for the draft SKATS FY 2021-2026 Transportation Improvement Program (TIP) was sent to the air quality consultation group via email on March 25, 2020. A reminder was sent April 23, 2020. The group was informed that comments would be accepted until May 17th to allow time for any changes to be integrated into the AQCD in time for distribution for the May 26th Public Hearing and SKATS Policy Committee meeting.

The AQCD consultation group is listed in **Table 18**.

Table 18
AQCD Consultation Group

Agency	Contact
U.S. Environmental Protection Agency, Region X	Karl Pepple
U.S. Environmental Protection Agency, Region X	Claudia Vaupel
U.S. Environmental Protection Agency, Region X	Adam Clark
Federal Transit Administration	Jeremy Borrego
Federal Highway Administration	Rachael Tupica
Oregon Department of Environmental Quality	Rachel Sakata
Oregon Department of Environmental Quality	Karen White-Fallon
Oregon Department of Transportation	Natalie Liljenwall

Comments Received

Rachel Sakata stated that she reviewed the document and had no comments.

Karl Pepple responded, asked to add Adam Clark to the contact list, verified the hearing date, and had no comments prior to the adoption of the AQCD.

Response: Added Adam Clark to the mailing list and confirmed the hearing date.

Natalie Liljenwall reviewed the document and had the following comment, which was incorporated in the document:

I just have one question. On page 7, in the 2nd paragraph, it is stated that Transit services will make big changes in 2019 and 2020, were big changes made in 2019? Maybe you want to reword that 2019 was a past action and 2020 changes are a future action.

Rachael Tupica reviewed the document and had two minor suggested edits which were incorporated in the document.