

**Georgia Statewide  
Interagency Consultation  
(IAC) on Transportation  
Conformity**

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# Statewide Interagency Consultation Process on Transportation Conformity

This chapter provides details on how to facilitate Interagency Consultation (IAC) on transportation conformity determinations for urban and rural areas respectively. Specifically, it outlines the following:

- The background of transportation conformity
- What organizations should join the interagency consultation
- How the conformity determination process should be conducted

Further details are provided in the following sections.

## 1 Background

### 1.1 Transportation Conformity Requirements

This Standard Operating Procedures (SOP) serves as a quick reference for organizing Interagency Consultation (IAC) to meet the requirements of Georgia's Transportation Conformity Rule ([Rules for Air Quality Control, Chapter 391-3-1-.15](#))<sup>1</sup>.

The Clean Air Act (CAA) section 176(c) ([42U.S.C.7506\(c\)](#)) requires that federally funded or approved highway and transit activities are consistent with (“conform to”) the State Implementation Plan (SIP) objectives. Conformity with 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 Standard (NAAQS) or any interim milestones. In accordance with the requirements of CAA Section 176(c)(4)(E), it delineates the state-specific transportation conformity processes to be followed in current and future Georgia nonattainment and maintenance areas. Environmental Protection Agency’s (EPA) transportation conformity rules (40 CFR 51.390 and 40 CFR 93.100- 40 CFR 93.129) establish the criteria and procedures for determining whether Metropolitan Transportation Plans (MTPs), Transportation Improvement Programs (TIPs), and federally supported highway and transit projects conform to the state’s implementation plan (SIP) for air quality.

On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit in *South Coast Air Quality Mgmt. District v. EPA* (“South Coast II,” 882 F.3d 1138) held that transportation conformity determinations must be made in areas that were either nonattainment or maintenance for the 1997 ozone NAAQS and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked. Conformity determinations are required in these areas after February 16, 2019. The Georgia Department of Transportation (GDOT) is responsible for conformity determinations in ozone nonattainment and maintenance areas in the rural areas affected by this decision.

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<sup>1</sup> Ga. Comp. R. & Regs. r. 391-3-1-.15 Transportation Conformity. Retrieved 11/13/2024. <https://rules.sos.ga.gov/GAC/391-3-1-.15>

## 1.2 Project Exemption Status

Part of the transportation conformity process requires the classification of projects as exempt or non-exempt from transportation conformity (and further delineated as exempt from just regional emissions analysis). Based on the project descriptions, all transportation projects could be identified with one of the following classifications:

- Non-Exempt
- Type 2 - Exempt from transportation conformity
- Type 3 - Exempt from regional emissions analysis

Type 2 projects are exempt from the requirement to determine conformity. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A project could be classified as Exempt based on the criteria set forth in [40 CFR 93.126](#) – Table 2<sup>2</sup>, except that if GDOT or MPO in consultation with other agencies, the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason ([40 CFR 93.105\(c\)\(1\)\(iii\)](#)). The Type 2 Exempt projects are listed in the table below:

**Table 1. Type 2 Exempt Projects**

Exempt Projects Type	Exempt Projects
<b>Safety</b>	Railroad/highway crossing
	Projects that correct, improve, or eliminate a hazardous location or feature
	Safer non-Federal-aid system roads
	Shoulder improvements
	Increasing sight distance
	Highway Safety Improvement Program implementation
	Traffic control devices and operating assistance other than signalization projects
	Railroad/highway crossing warning devices
	Guardrails, median barriers, crash cushions
	Pavement resurfacing and/or rehabilitation
	Pavement marking
	Emergency relief (23 U.S.C.125)
	Fencing

<sup>2</sup> Code of Federal Regulations, 40 CFR 93.126, up to date as of 10/24/2024, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-93/subpart-A/section-93.126>

	Skid treatments
	Safety roadside rest areas
<b>Safety</b>	Adding medians
	Truck climbing lanes outside the urbanized area
	Lighting improvements
	Widening narrow pavements or reconstructing bridges (no additional travel lanes)
	Emergency truck pullovers
<b>Mass Transit</b>	Operating assistance to transit agencies
	Purchase of support vehicles
	Rehabilitation of transit vehicles <sup>3</sup>
	Purchase of office, shop, and operating equipment for existing facilities
	Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.)
	Construction or renovation of power, signal, and communications systems
	Construction of small passenger shelters and information kiosks
	Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures)
	Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way
	Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet <sup>3</sup>
	Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771
<b>Air Quality</b>	Continuation of ridesharing and van-pooling promotion activities at current levels
	Bicycle and pedestrian facilities
<b>Other</b>	Specific activities which do not involve or lead directly to construction, such as: <ul style="list-style-type: none"> <li>• Planning and technical studies</li> <li>• Grants for training and research programs</li> <li>• Planning activities conducted pursuant to titles 23 and 49 U.S.C.</li> <li>• Federal-aid systems revisions</li> </ul>
	Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action

	Noise attenuation
<b>Other</b>	Emergency or hardship advance land acquisitions (23 CFR 710.503)
	Acquisition of scenic easements
	Plantings, landscaping, etc.
	Sign removal
	Directional and informational signs
	Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities)
	Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes

Type 3 projects ([40 CFR 93.127](#)) are exempt from regional emissions analysis requirements but may require a local hot spot analysis as part of the project-level conformity process if federal approval is needed (areas in maintenance or nonattainment for the ozone ambient air quality standards do not require a hot spot analysis). Project level conformity for the Type 3 projects is addressed during the environmental phase of project development. Type 3 projects include the following:

- Intersection channelization projects.
- Intersection signalization projects at individual intersections.
- Interchange reconfiguration projects.
- Changes in vertical and horizontal alignment.
- Truck size and weight inspection stations.
- Bus terminals and transfer points.

### 1.3 Conformity Requirements for Urban Areas

The Metropolitan Planning Organizations (MPOs) that are in or have nonattainment or maintenance areas are responsible for making conformity determinations in collaborations with United States Department of Transportation (USDOT) on MTPs, TIPs, and amendments to the MTPs or TIPs. Each new transportation plan must be demonstrated to conform before the transportation plan is approved by the MPO or accepted by USDOT. When a new project is added to the MTP or TIP, an amendment to the MTP or TIP is triggered. The exemption status of each project must be determined. Unless the amendment merely adds or deletes exempt projects listed in [40 CFR 93.126](#) or [40 CFR 93.127](#) (quoted in details in section 1.2 above), all transportation plan amendments must be found to conform before the transportation plan amendments are approved by the MPO or accepted by USDOT. The conformity determination must be based on the transportation plan and the amendment taken as a whole. The MPO and USDOT must determine the conformity of the transportation plan (including a new regional emissions analysis) no less frequently than every four years.

### 1.4 Conformity Requirements for Isolated Rural Areas

Isolated rural nonattainment and maintenance areas are areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations.

Isolated rural areas do not have Federally required MTPs or TIPs and do not have projects that are part of the emissions analysis of any MPO's MTP or TIP. Projects in such areas are instead included in Statewide Improvement Programs (STIPs). These areas are not donut areas. 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).

During the STIP update, GDOT should review projects to identify any regionally significant or non-exempt projects located in the isolated rural nonattainment or maintenance area. Conformity determinations are only required for rural isolated areas when a non-exempt project approval is required.

## 2 Interagency Consultation

For any transportation plan such as MTP, TIP, and STIP, and plan amendments, the following agencies should be involved in the interagency consultation: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Environmental Protection Agency (EPA), Georgia Department of Transportation (GDOT), and Georgia Environmental Protection Division (EPD).

Depending on the locations of the project and the nonattainment or maintenance area, the following organizations may also need to be involved: Metropolitan Planning Organizations (MPOs); Counties; Georgia Regional Transportation Authority (GRTA); Publicly owned transit agencies; National Park Services (NPS) if the project falls into a National Park; United States Department of Agriculture (USDA) if the project falls into a National Forest.

Conflicts among State agencies, publicly owned transit agencies, MPOs, or Counties, shall be escalated to the Governor if they cannot be resolved by the heads of the involved agencies.

## 3 Process

### 3.1 Process for Rural Areas

GDOT is responsible for leading the efforts to make the conformity determination and meet the transportation conformity requirements in the nonattainment and maintenance areas in the isolated rural areas, with the Office of Planning acting as the point of contact. The review and conformity determination process are triggered by a STIP update. The IAC process should include the following steps:

**Step 1 – Identify new projects in the STIP update or amendment that fall into the isolated rural nonattainment or maintenance area**

The NAAQS designated areas for nonattainment or maintenance status are defined spatially, which could include three dimensions of latitude, longitude, and elevation. Therefore, it is important to verify if the new projects fall into the isolated rural nonattainment or maintenance area based on the spatial boundaries.

**Step 2 - Evaluate the Project Conformity Exempt/Non-Exempt Determination for new projects in the nonattainment and maintenance areas.**

If any of the new projects are found to be Non-Exempt or if the amendment contains existing Non-Exempt projects or a combination of Exempt/Non-Exempt go to Step 3.

If the amendment does not contain any Non-Exempt projects, or it amends only Exempt projects, GDOT should prepare the amendment package and share with the IAC the schedule, public involvement process, and fiscal constraint to receive and respond to any comments from IAC, before going out to public comment.

### **Step 3 Prepare Conformity Determination Report**

GDOT will prepare a Conformity Determination Report. This consists of:

1. Completing a table to evaluate each project's Exempt/Non-Exempt status according to the criteria set forth in 40 CFR 93.126 and 40 CFR 93.127.
2. Composing an e-mail addressing the Exempt/Non-Exempt preliminary categorization, fiscal balancing, evaluation against the most recent planning assumptions, and evaluation of whether the project triggers the requirement for an updated emissions analysis (even in cases where regional emissions analyses are no longer required for conformity).

### **Step 4 Transmittal to IAC of the Action**

GDOT will share the amendment package and Conformity Determination Report with IAC members. This consists of sending the elements described in Step 3 to IAC members.

### **Step 5 IAC forms Concurrence**

Individual IAC members have 14 days to review and respond to the e-mail, either concurring with the recommendation for Transportation Conformity Exempt/Non-Exempt status, or with any questions or concerns. A non-response during the IAC comment period from an IAC member organization will be interpreted as a non-objection from that organization, and the amendment process can proceed. A statement to this effect should be included in the e-mail used to request comments from the IAC.

If a significant concern is identified, GDOT staff addresses the concern and resubmits the adjusted Amendment materials for a new 14-day review period.

Conflicts among State agencies, publicly owned transit agencies, MPOs, or Counties, shall be escalated to the Governor if they cannot be resolved by the heads of the involved agencies.

### **Step 6 FHWA or FTA issues the Conformity Determination Findings**

After IAC members have concurred with the recommendation for the Transportation Conformity Determination, and after consulting with the EPA, the FHWA (for highway projects) or the FTA (for transit projects) will issue a conformity determination finding on these documents.

### **Step 7 GDOT releases the Conformity Determination for Public Review**

GDOT shares all relevant documents and information for a 15-day public review and comment period.

### **Step 8 Process for Final Adoption of Amendments**

If significant public comments are received on a project, the comments must be addressed, and a new round of IAC Consultation/Public Comment must take place prior to final adoption.

Once formally approved by the FHWA or FTA, the updated documents are posted on the GDOT website, and the involved IAC members will be notified via email.

## **3.2 Process for Urban Areas**

MPOs are responsible for the nonattainment and maintenance areas in their respective metropolitan planning areas (MPAs). The procedures detailed in the Georgia Department of Natural Resources Transportation Conformity Manual<sup>3</sup> (2010) should be followed. During updates or amendments to the MTP and TIP, the IAC process should follow similar steps outlined above, with the MPO serving as the primary responsible party instead of GDOT. The MPO's Community Advisory Committee (CAC), Technical Coordinating Committee (TCC), and Policy Committee (PC) should be involved in the process (specifically GRTA board for the Atlanta MPO). Additionally, any plan or amendment will require the PC's approval before adoption.

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<sup>3</sup> Georgia Department of Natural Resources Transportation Conformity Manual, Georgia Department of Natural Resources Environmental Protection Division, Air Protection Branch, April 15, 2010, <https://epd.georgia.gov/document/document/georgia-department-natural-resources-transportation-conformity-manual/download>