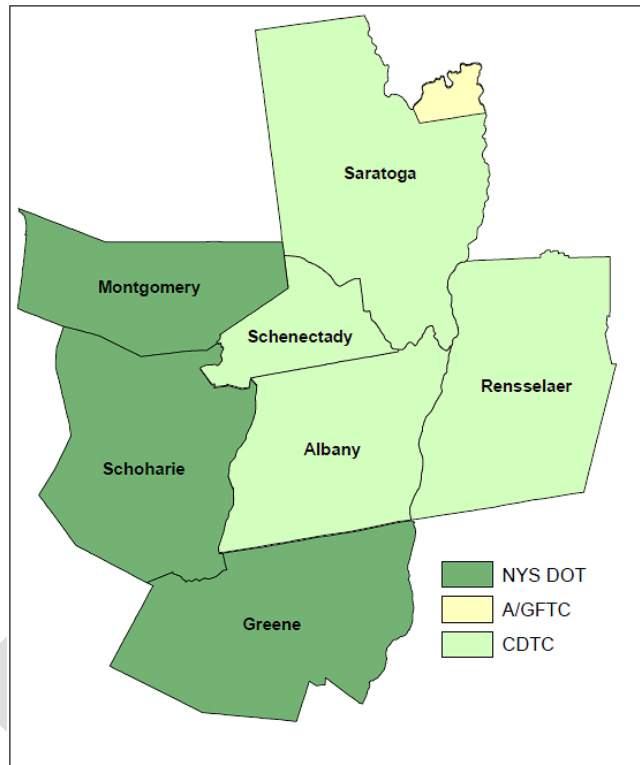


**Albany-Schenectady-Troy  
1997 8-Hour Ozone Non-Attainment Area  
Transportation/Air Quality Conformity Determination**  
**Draft of February 2025**



**Capital Region Transportation Council  
(formerly Capital District Transportation Committee)  
2025-2030 Transportation Improvement Program  
and 2050 *New Visions* Metropolitan Transportation Plan**

**Adirondack/Glens Falls Transportation Council  
2025-2030 Transportation Improvement Program  
and 2045 *Ahead* Metropolitan Transportation Plan**

**Capital Program of Transportation Projects  
in Montgomery, Greene, and Schoharie Counties**

Prepared by:

NYS DOT Environmental Science Bureau, Capital Region Transportation Council and A/GFTC  
in association with NYS DOT Regions 1, 2, and 9

## Executive Summary

The Capital Region Transportation Council (Transportation Council), formerly the Capital District Transportation Committee, and the Adirondack/Glens Falls Transportation Council (A/GFTC) have developed a draft 2025-2030 Transportation Improvement Program (TIP). Adoption of a new TIP requires the Transportation Council and A/GFTC, in cooperation with the New York State Department of Transportation (NYSDOT) Regions 1, 2 and 9, to adopt a new transportation air quality conformity determination for the seven-county Albany-Schenectady-Troy, NY ozone nonattainment area.

This report documents that the involved agencies have completed the transportation conformity process and confirms that the A/GFTC and Transportation Council Transportation Improvement Programs (TIPs) and metropolitan transportation plans (Plans) and projects in the non-urbanized portion of the Albany-Schenectady-Troy area meet all applicable transportation conformity requirements.

Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) requires that federally funded or approved highway and transit activities are consistent with ("conform to") the purpose of the State Implementation Plan (SIP). 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 any interim milestones.

The United States Environmental Protection Agency's (EPA) transportation conformity rules, 40 CFR Parts 51.390 and 93, establish the criteria and procedures for determining whether TIPs, Plans and federally supported highway and transit projects conform to the SIP. Chapter 6 of the New York Codes Rules and Regulations (NYCRR) Subpart 240 (Part 240) is the SIP for transportation conformity consultation in New York State. Part 240 was approved by the USEPA, effective September 29, 2014. Part 240-2 identifies the agencies, procedures, and allocation of responsibilities for consultation and is consistent with consultation requirements in 40 CFR Part 93.105.

The consultation procedures were followed during the conformity determination process and are documented in the Section titled "Consultation" below. In summary, the Transportation Council, A/GFTC, and NYSDOT staff discussed the content of this air quality conformity determination with the New York State Interagency Consultation Group (ICG) for air quality conformity during the development of the Capital Program of Transportation Projects in Greene, Montgomery, and Schoharie Counties as well as the new A/GFTC and Capital Region Transportation Council TIPs and metropolitan transportation plans.

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. The Albany-Schenectady-Troy, NY area was

nonattainment at the time of the 1997 ozone NAAQS revocation on April 6, 2015, and was also designated attainment for the 2008 ozone NAAQS on May 21, 2012. Therefore, per the *South Coast II* decision, this conformity determination is being made for the 1997 ozone NAAQS.

This conformity determination was completed consistent with CAA requirements, associated regulations at 40 CFR Parts 51.390 and 93, 6 NYCRR Part 240 and the *South Coast II* decision, as per the USEPA's *Transportation Conformity Guidance for the South Coast II Court Decision* issued on November 29, 2018.

### **Transportation Conformity Overview**

The concept of transportation conformity was introduced in the Clean Air Act (CAA) of 1977, which included a provision to ensure that transportation investments conform to the State Implementation Plan (SIP) for meeting the Federal air quality standards. Conformity requirements were made substantially more rigorous in the CAA Amendments of 1990. The transportation conformity regulations that detail the criteria and procedures to successfully comply with the CAA conformity provisions were first issued in November 1993 and have been amended several times. The regulations establish the criteria and procedures for transportation agencies to demonstrate that air pollutant emissions from metropolitan transportation plans, transportation improvement programs and projects are consistent with ("conform to") the State's air quality goals in the SIP.

Transportation conformity is required under CAA Section 176(c) to ensure that Federally-supported transportation activities are consistent with ("conform to") the purpose of a State's SIP. Transportation conformity establishes the framework for improving air quality to protect public health and the environment. Conformity to the purpose of the SIP means Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funding and approvals are given to highway and transit activities that will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the relevant air quality standard, or any interim milestone.

### **Albany-Schenectady-Troy 1997 Ozone Nonattainment Area**

On June 15, 2004, the EPA designated the Albany-Schenectady-Troy, NY area consisting of Saratoga, Schenectady, Albany, Rensselaer, Montgomery, Greene, and Schoharie Counties nonattainment for the 1997 8-hour ozone standard (0.08 parts per million). This designation was based on the results of ambient air monitoring data collected by the New York State Department of Environmental Conservation from calendar years 2001-2003. These data established an 8-hour ozone "design value" of 0.087 ppm for the area. The current design value for the area, based on 2020-2022 data, is 0.058 ppm.

On July 20, 2012, the EPA designated the Albany-Schenectady-Troy, NY attainment for the 2008 ozone standard (0.075 ppm). The area was designated attainment for the 2015 ozone standard (0.070ppm) on January 16, 2018.

## **Transportation Conformity Requirements**

On November 29, 2018, EPA issued *Transportation Conformity Guidance for the South Coast II Court Decision*<sup>1</sup> (EPA-420-B-18-050, November 2018) that addresses how transportation conformity determinations can be made in areas that were nonattainment or maintenance for the 1997 ozone NAAQS when the 1997 ozone NAAQS was revoked but were designated attainment for the 2008 ozone NAAQS.

The transportation conformity regulation at 40 CFR 93.109 sets forth the criteria and procedures for determining conformity. The conformity criteria for long-range metropolitan transportation plans (MTPs) and TIPs include latest planning assumptions (93.110), latest emissions model (93.111), consultation (93.112), transportation control measures (93.113(b) and (c)), and emissions budget and/or interim emissions (93.118 and/or 93.119).

In orphan areas that have one or more Metropolitan Planning Organizations (MPOs), transportation conformity for transportation plans and TIPs for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis pursuant to 40 CFR 93.109(c). This provision states that the regional emissions analysis requirement applies one year after the effective date of EPA's nonattainment designation for a NAAQS and until the effective date of revocation of such NAAQS for an area. The 1997 ozone NAAQS revocation was effective on April 6, 2015, and the *South Coast II* decision upheld the revocation. As no regional emission analysis is required for this conformity determination, there is no requirement to use the latest emissions model, or budget or interim emissions tests.

Therefore, transportation conformity for the 1997 ozone NAAQS for the A/GFTC and Transportation Council TIPs and Plans, and the Capital Program of Transportation Projects in Greene, Montgomery and Schoharie Counties can be demonstrated by showing the remaining requirements in Table 1 in 40 CFR 93.109 have been met. These requirements, which are laid out in Section 2.4 of EPA's guidance and addressed below, are:

- Latest planning assumptions (93.110)
- Consultation (93.112)
- Transportation Control Measures (93.113)
- Fiscal constraint (93.108)

## **Latest Planning Assumptions**

The use of latest planning assumptions in 40 CFR 93.110 of the conformity rule generally apply to regional emissions analyses. In the 1997 ozone NAAQS areas, the use of latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP. There are no TCMs in any SIP in the Albany-Schenectady-Troy, NY area. Thus, the latest planning assumption requirement is not applicable for this conformity determination.

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<sup>1</sup> Available from <https://www.epa.gov/sites/production/files/2018-11/documents/420b18050.pdf>

## **Consultation**

The consultation requirements in 40 CFR 93.112 and 6 NYCRR Part 240 were addressed both for interagency consultation and public consultation.

Per 6 NYCRR Part 240, interagency consultation was conducted with the NYSDEC, NYSDOT, FHWA, FTA and USEPA. Representatives of these agencies comprise the Interagency Consultation Group (ICG) for air quality conformity in New York State.

On **Month Date, Year**, the ICG concurred with the classification of Capital Program of Transportation Projects in Greene County (NYSDOT Region 1), Montgomery County (NYSDOT Region 2) and Schoharie County (NYSDOT Region 9). The ICG concurred with the classification of projects in the draft A/GFTC TIP on **Month Date, Year**. The ICG concurred with the classification of projects in the draft Capital Region Transportation Council TIP on **Month Date, Year**.

All projects on the TIPs, MTPs and Capital Programs are exempt for the purposes of transportation conformity as per 40 CFR Part 93, 6 NYCRR Part 240 and the interagency consultation process. A list of projects and their exempt codes is attached to the conformity statement.

Consistent with planning rule requirements in 23 CFR Part 450, the public was provided an opportunity to review and comment on the draft conformity determination and supporting documentation for at least thirty days in March and April 2025.

The draft conformity documentation was posted to the A/GFTC, Transportation Council and NYSDOT web sites. Evidence of public notice is attached to this final conformity documentation. **Comments to be noted when available.**

## **Timely Implementation of TCMs**

There are no transportation control measures (TCMs) in the SIP for the Albany-Schenectady-Troy, NY 1997 ozone nonattainment area.

## **Fiscal Constraint**

Transportation conformity requirements in 40 CFR 93.108 state that transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR Part 450. The Transportation Council's *New Visions 2050* MTP, the A/GFTC 2045 Ahead MTP and the 2025-2030 Transportation Council and A/GFTC TIPs are fiscally constrained, as demonstrated in the Transportation Council's *New Visions 2050* Financial Plan and the draft Transportation Council 2025-2030 TIP. The A/GFTC fiscal constraint demonstration is included in Appendix A of the A/GFTC TIP document.

### **Conclusion (IN DEVELOPMENT)**

The conformity determination process completed for the 2025-2030 A/GFTC and Transportation Council TIPs, the A/GFTC 2045 Ahead MTP, the Transportation Council New Visions 2050 MTP, and the Capital Program of Transportation Projects in Greene, Montgomery and Schoharie Counties demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS. The signed resolutions adopting this conformity determination are included in the final conformity documentation.

### **Attachments (IN DEVELOPMENT)**

1. Evidence of NYSDOT public notice/availability for comment [NYSDOT ESB]
2. Evidence of Capital Region Transportation Council public notice/availability for comment [CRTC]
3. Evidence of AGFTC public notice/availability for comment [AGFTC]
4. Signed Capital Region Transportation Council resolution adopting the Albany-Schenectady-Troy 1997 8-Hour Ozone Non-Attainment Area Transportation/Air Quality Conformity Determination [CRTC]
5. Signed AGFTC conformity resolution adopting the Albany-Schenectady-Troy 1997 8-Hour Ozone Non-Attainment Area Transportation/Air Quality Conformity Determination [AGFTC]
6. Capital Region Transportation Council TIP Project List [CRTC]
7. AGFTC TIP Project List [AGFTC]
8. Exempt Projects reference [CRTC – see main folder for PDF]
9. Greene, Montgomery and Schoharie County Project Lists [NYSDOT ESB]

**Attachment 1**  
**Albany-Schenectady-Troy, NY Air Quality Conformity Determination**  
**for the 2025-2030 Transportation Improvement Program (TIP) Update**

**Evidence of Public Notice**

The notice below was posted at <https://www.dot.ny.gov/programs/stip> on August 2, 2025, for a 30-day public comment period.

[Post screenshot of NYSDOT website posting]

No comments were received during the public comment period.

**Attachment 2**  
**Albany-Schenectady-Troy, NY Air Quality Conformity Determination**  
**for the 2025-2030 Transportation Improvement Program (TIP) Update**

**Evidence of Public Notice**

The following notice and downloadable files were posted to [www.capitalmpo.org](http://www.capitalmpo.org) on August 2, 2025:

[Post screenshot of CRTC website posting]

No comments were received during the public comment period.



**Attachment 3**  
**Albany-Schenectady-Troy, NY Air Quality Conformity Determination**  
**for the 2025-2030 Transportation Improvement Program (TIP) Update**

**Evidence of Public Notice**

The following notice and downloadable files were posted to [www.agftc.org](http://www.agftc.org) on August 9, 2025:

[Post screenshot of AGFTC website posting]

No comments were received during the public comment period.

**Attachment 4**

**Capital Region Transportation Council resolution adopting the Albany-Schenectady-Troy  
1997 8-Hour Ozone Non-Attainment Area Transportation/Air Quality Conformity  
Determination  
Evidence of Public Notice**

[Placeholder for signed Capital Region Transportation Council resolution adopting the Albany-Schenectady-Troy 1997 8-Hour Ozone Non-Attainment Area Transportation/Air Quality Conformity Determination]

**Attachment 5**

**A/GFTC resolution adopting the 2025-2030 Capital Region Transportation Council TIP and  
the Albany-Schenectady-Troy 1997 8-Hour Ozone Non-Attainment Area  
Transportation/Air Quality Conformity Determination  
Evidence of Public Notice**

[Placeholder for signed A/GFTC resolution adopting the 2025-2030 Capital Region  
Transportation Council TIP and the Albany-Schenectady-Troy 1997 8-Hour Ozone Non-  
Attainment Area Transportation/Air Quality Conformity Determination]