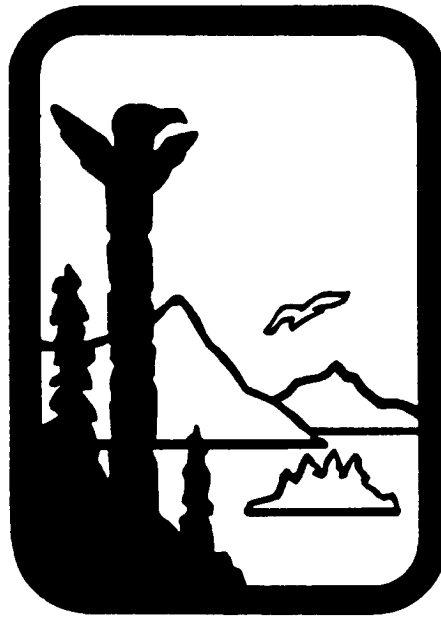


Alaska Department of Environmental Conservation



Amendments to:

State Air Quality Control Plan

Vol. II: Analysis of Problems, Control Actions

Section III.I: Transportation Conformity

Adopted

September 18, 2014

**Sean Parnell
Governor**

**Larry Hartig
Commissioner**

The underlined language within this version is new since its last adoption.

Acronyms & Abbreviations

AAC	Alaska Administrative Code
AAQAC	AMATS Air Quality Advisory Committee
ADOT&PF	Alaska Department of Transportation & Public Facilities
AMATS	Anchorage Metropolitan Area Transportation Solutions
CAA	Clean Air Act
CFR	Code of Federal Regulations
DEC	Alaska Department of Environmental Conservation
EPA	U.S. Environmental Protection Agency
FHWA	Federal Highway Administration
FMATS	Fairbanks Metropolitan Area Transportation System
FNSB	Fairbanks North Star Borough
FTA	Federal Transit Authority
MOA	Municipality of Anchorage
MPA	Metropolitan Planning Area
MPO	Metropolitan Planning Organization
MTP	Metropolitan Transportation Plan
NAAQS	National Ambient Air Quality Standards
PM _{2.5}	Fine Particulate Matter (≤ 2.5 microns)
PM ₁₀	Course Particulate Matter (≤ 10 microns)
U.S.C.	United States Code
SAFETEA-LU	Safe, Accountable, Flexible, Efficient, Transportation Equity Act of 2005: A Legacy for Users (Pub. L. 109–59)
SIP	State Implementation Plan
TAC	Technical Advisory Committee
TIP	Transportation Improvement Program
UPWP	Unified Planning Work Program

Volume II, Section III.I. Transportation Conformity

III.I.1 Introduction

Transportation conformity is required under Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) to ensure that federally funded highway and transit projects are consistent with the purpose of Alaska's State Air Quality Control Plan. The portions of the State Air Quality Control Plan that are approved by the U.S. Environmental Protection Agency (EPA) under the CAA are also known as the state implementation plan (SIP). Transportation conformity regulations are implemented by the Alaska Department of Environmental Conservation (DEC) through this section of the SIP and related state regulations found in Article 7 of the Alaska Administrative Code (AAC), Title 18, Chapter 50 (18 AAC 50). Alaska's SIP is a legally enforceable document demonstrating how the state will attain and maintain the national ambient air quality standards (NAAQS) in nonattainment and maintenance areas. Transportation conformity applies to areas that are designated nonattainment (a geographical area where the air quality exceeds the NAAQS) and to those areas re-designated to attainment after 1990 or "maintenance areas" (a geographical area that has implemented measures to improve air quality so that the pollution levels are within the NAAQS) for the following transportation-related criteria pollutants: ozone, fine and coarse particulate matter (PM-2.5 & PM-10), carbon monoxide, and nitrogen dioxide. Conformity for 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 NAAQS.

This chapter of Alaska's SIP describes the regulations, criteria and procedures for assuring that transportation plans, programs, and projects in Alaska conform to the SIP's purpose of eliminating violations of the NAAQS and achieving expeditious attainment of these standards. These criteria and procedures apply to activities approved, adopted or funded under 23 U.S.C. (Highways) or 49 U.S.C. Chapter 53 (Federal Transit Laws) that contribute to regulated emissions within either a nonattainment or maintenance area. Alaska's SIP is adopted by reference in Title 18, Chapter 50, Article 1 of the Alaska Administrative Code (18 AAC 50.030).

III.I.2 Regulatory Background

EPA's conformity procedures have been developed in accordance with section 176(c) of the Clean Air Act (CAA) 'Limitations on Certain Federal Assistance' which states the following:

"No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to an implementation plan after it has been approved or promulgated under section 110."

Section 176(c) also requires states to include the procedures for making conformity determinations in their SIP.

In 1993, EPA promulgated two regulations which established the criteria and procedures for determining whether federally funded transportation activities conform to the CAA section 176(c). The first regulation was promulgated on November 24, 1993 [58 FR 62188] and is entitled, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws" (Title 40, Code of Federal Regulations (CFR), Part 51, Subpart T). These regulations are known as the transportation conformity regulations. The second regulation was promulgated on November 30, 1993 [58 FR 63247] at 40 CFR Part 51, Subpart W, and is entitled "Determining Conformity of General Federal Actions to State or Federal Implementation Plans". These regulations are also known as the general conformity regulations. In 1994, DEC adopted regulations at 18 AAC 50 Article 7 to implement the requirements of 40 CFR, Part 51, Subparts T and W. Both subparts acted in concert with 40 CFR Part 93 "Determining conformity of Federal actions to State or Federal implementation plans", and were collectively known as the federal conformity regulations.

These same federal conformity regulations, 40 CFR Parts 51 and 93, were amended August 15, 1997 [62 FR 43801]. These amendments required that states incorporate selected sections of 40 CFR Part 93, Subpart A "in verbatim form". In 1998, the state met this requirement by incorporating these sections by reference at 18 AAC 50.710. The state decided that incorporating the federal requirements, as written in Subpart A, was the best approach for most of these regulatory amendments. Therefore, anytime the federal conformity regulations (40 CFR, Part 93, Subpart A; or Part 51, Subparts T or W) were amended, these regulations then became adopted by reference into 18 AAC 50.710.

On August 10, 2005, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law (Pub. L. 109-59). Section 6011 of SAFETEA-LU amended CAA section 176(c) and required EPA to promulgate changes to 40 CFR, Part 51, Subpart T and Part 93, Subpart A [73 FR 4420, January 24, 2008]. The SAFETEA-LU Act eliminated the requirement for states to adopt and submit General

Conformity SIPs. Under SAFTEA-LU, states are required to submit a transportation conformity SIP that addresses only the following provisions of the federal transportation conformity rule: 40 CFR 93.105; 40 CFR 93.122(a)(4)(ii); and 40 CFR 93.125(c). The requirements of SAFETEA-LU reduces the administrative burden for state and local agencies significantly because they minimize the possibility of having to revise the conformity SIP each time the federal rule is revised. Any future changes to the federal conformity rules that do not affect these three provisions apply immediately in any state that has only the three provisions in its approved conformity SIP, and such changes do not need to be adopted into the state's SIP to be applicable.

In response to the passage of the SAFETEA-LU Act, the Federal Highway Administration (FHWA) made changes to regulations in Title 23 CFR, Part 450, Subpart C: Metropolitan Transportation Planning and Programming [72 FR 7224, February 14, 2007]. In February 2010, DEC adopted new conformity regulations, in 18 AAC Article 7, to be consistent with some of the new requirements of Title 23 CFR, Part 450 and SAFETEA-LU. Specifically, DEC revised 18 AAC 50.720(b) (2) with the intent that a public hearing or meeting for a conformity determination be required for the following: 1) transportation plans and transportation improvement programs; 2) for projects within a designated nonattainment or maintenance area listed under 18 AAC 50.015(b) or (d), but not included within a transportation plan or transportation improvement program; and 3) if the written comments received under 18 AAC 720(b)(1) request a public hearing or meeting for a regionally significant project. Also, during this same regulatory change, DEC adopted EPA's new transportation conformity regulations to include criteria and procedures for conducting PM2.5 and PM10 hot-spot analyses during project level transportation conformity determinations [71 FR 12468, March 10, 2006].

In March 2010, EPA again amended the transportation conformity regulations (40 CFR, Part 93, Subpart T) in light of an October 17, 2006 final rule that strengthened the 24-hour PM2.5 NAAQS [75 FR 14260, March 24, 2010]. During this regulation amendment, EPA also clarified the regulations concerning hot-spot analyses to address a December 2007 remand from the Court of Appeals. In April 2010, EPA amended its general conformity regulations (40 CFR, Part 51, Subpart W) to conform to the requirements of the SAFETEA-LU Act by eliminating the requirement for States to adopt and submit General Conformity SIPs [75 FR 17254, April 5, 2010]. The current SIP revision streamlines Alaska's transportation conformity regulations by removing the general conformity regulations and incorporating the three required provisions of the federal transportation conformity rule as required by the SAFETEA-LU Act. DEC's current transportation conformity regulations (18 AAC 50, Article 7), adopted on September 18, 2014, are included with this SIP submittal and can also be found at the State of Alaska's Department of Law website: <http://www.legis.state.ak.us/basis/folio.asp>.

III.I.3 Agency Designations and Responsibilities

Title 40 CFR 51.240 states the following:

“Each state implementation plan must identify organizations, by official title that will participate in developing, implementing, and enforcing the plan and the responsibilities of such organizations. The plan shall include any related agreements or memoranda of understanding among organizations.”

As required under 40 CFR 51, Subpart T, and Part 93, Subpart A, whenever a local or state transportation planning organization receives federal funds under Title 23 U.S.C. (Highways) or Title 49 U.S.C. Chapter 53 (Federal Transit Laws) for transportation activities that contribute to emissions in a nonattainment area or maintenance area it is responsible for determining whether the federally-funded transportation project, transportation improvement program (TIP), or metropolitan transportation plan conforms to the SIP. In Alaska, DEC is responsible for implementing this requirement by regulation; therefore, no memoranda of understanding are needed to implement the transportation conformity requirements. Alaska Statutes Chapter 46.14 requires DEC to develop a SIP providing for the attainment of the NAAQS. The state regulatory procedures followed for SIP development are located in the state’s “Drafting Manual for Administrative Regulations”.¹

Alaska’s agency designations and responsibilities for metropolitan planning areas and non-metropolitan planning areas, as required by 40 CFR 51.240, are presented in the following sections. As mentioned, Alaska’s transportation conformity regulations are found at 18 AAC 50, in Article 7. These regulations require federal agencies to conform to the attainment measures and emissions budgets contained in Alaska’s SIP. Alaska’s attainment measures and emission budgets are located in Volume II, Section III of the SIP, as adopted by reference in 18 AAC 50.030 and as presented in Table III.I.3-1 (as of July 2011). Alaska’s air quality designations, classifications and control regions are found at 18 AAC 50.015.

Table III.I.3-1 Attainment Plan Location in the SIP

Nonattainment/Maintenance Areas and Pollutant	Location of the Attainment Plan and Emission Budget within the SIP
Municipality of Anchorage: Carbon Monoxide	Vol. II, Section III, Part B
Fairbanks North Star Borough: Carbon Monoxide	Vol. II, Section III, Part C
Eagle River area: PM-10	Vol. II, Section III, Part D, Subpart 2
City & Borough of Juneau’s Mendenhall Valley area: PM-10	Vol. II, Section III, Part D, Subpart 3
Fairbanks North Star Borough: PM-2.5	Under Development

1: “*Drafting Manual for Administrative Regulations*”, 20th Edition, August 2013, AK Department of Law.

III.I.3.1 Alaska's Metropolitan Planning Organizations and Areas

Sections 104(f) and 134 of the United States Code Title 23- Highways and the Urban Mass Transportation Act of 1964, as amended, provide funding for and require designation of a metropolitan planning organization (MPO) for urbanized areas of at least 50,000 population to carry out a transportation planning process.² These statutes require municipalities in Alaska with at least 50,000 people to coordinate with the State of Alaska on the planning and construction of all urban transportation facilities with a comprehensive transportation planning process. Currently, there are two MPOs governing two metropolitan planning areas (MPA) in Alaska as described below.³

III.I.3.1.1 Municipality of Anchorage Metropolitan Planning Area

On April 8, 1976 the Governor of the State of Alaska designated the Municipality of Anchorage (MOA) as the MPO for its respective MPA. The Governor also identified the Anchorage Metropolitan Area Transportation Solutions (AMATS) Policy Committee as the policy body providing the direction for transportation planning within the MOA MPA. AMATS consists of a Policy Committee; a Technical Advisory Committee; the Municipality's Planning and Zoning Commission; an Air Quality Advisory Committee; the Municipal Assembly; the Freight Advisory Committee and the Bicycle and Pedestrian Advisory Committee. Additional details describing AMATS are provided in Volume II, Section III.B.1 of Alaska's SIP. The roles and responsibilities of each policy body within AMATS are written in the "Intergovernmental Operating Agreement for Transportation and Air Quality Planning" adopted on June 28, 2012.⁴ The parties to the agreement are the State of Alaska and the Municipality of Anchorage, whom originally entered into this agreement effective as of October 1, 2002.

The five member AMATS Policy Committee has the overall responsibility for the implementation of the inter-governmental agreement and for the adoption of the AMATS Metropolitan Transportation Plan (MTP), Transportation Improvement Program (TIP) and the Unified Planning Work Program (UPWP). The AMATS Policy Committee has the primary responsibility for convening meetings, determining the meeting frequency and developing agendas with respect to the development and adoption of the MTPs, TIPs and the UPWP within the MOA MPA.

2: Metropolitan Planning Organization ("MPO") means the policy board of an organization created as a result of the designation process in 23 U.S.C. 134(d).

3: Metropolitan Planning Area ("MPA") means the geographic area determined pursuant to 23 USC §134(d) in which the MPO carries out the development and implementation of transportation and air quality plans and programs under 23 USC §134 and the Federal Transit Act §8.

4: **AMATS Inter-Governmental Operating Agreement for Transportation and Air Quality Planning**, dated June 28, 2012.

The AMATS Policy Committee also has the responsibility for administering the public involvement process concerning the development of Air Quality Plans, the local component of Alaska's SIP, and provides a formal recommendation to the Anchorage Assembly for its approval. Unlike all the other plans, where final approval rests with the AMATS Policy Committee, Air Quality Plans (SIP amendments) are ultimately approved through resolution by the Anchorage Assembly. All Air Quality Plans, MTPs, TIPs and UPWPs are developed with full assistance from the Alaska Department of Transportation & Public Facilities (ADOT&PF) and DEC, as well as other cooperating agencies. These plans and programs, together with the AMATS public involvement process, help to ensure transportation conformity within the MOA MPA.

The eleven member AMATS Technical Advisory Committee (TAC) reports to the AMATS Policy Committee. The TAC is responsible for the development of the AMATS's transportation plans and programs (e.g., MTPs, TIPs and the UPWP), including air quality plan development, as well as making recommendations to the Municipal Planning and Zoning Commission, the Anchorage Assembly and AMATS Policy Committee. The nine member AMATS Air Quality Advisory Committee (AAQAC) is appointed by the Policy Committee and is responsible for assisting, advising, and submitting recommendations to the AMATS TAC and Policy Committee with regards to air quality and transportation plans. The by-laws of the AAQAC were ratified by the AMATS Policy Committee on January 24, 2013.⁵

III.I.3.1.2 Fairbanks North Star Borough Metropolitan Planning Area

On April 14, 2003, the Governor of the State of Alaska designated the Fairbanks Metropolitan Area Transportation System (FMATS) Policy Committee as the policy body providing the direction of transportation planning in the Fairbanks Metropolitan Area. FMATS is comprised of a Policy Committee and a Technical Committee. The seven member Policy Committee is comprised of the following representatives: Northern Region Director of ADOT&PF, a representative from DEC's Air Quality Division, the Mayor of the FNSB, the Mayor of the City of Fairbanks, the Mayor of the City of North Pole, a designated representative from the FNSB assembly and a designated representative of the Fairbanks City Council. The roles and responsibilities of the each member agency within FMATS are written in the "Intergovernmental Operating Agreement and Memorandum of Understanding for Transportation and Air Quality Planning in the Metropolitan Area of the Fairbanks Metropolitan Planning Organization" signed December 16, 2013.⁶

5: **AAQAC By-Laws**, as amended December 4, 2012, and ratified by the AMATS Policy Committee on January 24, 2013.

6: **FMATS Inter-Governmental Operating Agreement and Memorandum of Understanding for Transportation and Air Quality Planning, Amendment 1**, signed December 16, 2013.

The City of Fairbanks is the designated host agency for the MPO's Coordinator's Office. The roles and responsibilities of the FMATS's Coordinator's Office are described in the "FMATS Memorandum of Understanding for the Implementation of a Fairbanks Metropolitan Area Transportation System Coordinator's Office"⁷, dated November 2, 2007. The MPO, with assistance from the ADOT&PF, has the responsibility for developing the MTP, TIP and UPWP; and for convening meetings, determining the meeting frequency and developing agendas with respect to conformity for the MTP and TIP. The UPWP is reviewed by the FMATS Technical Committee, approved by the Policy Committee and forwarded to ADOT&PF for concurrent approval by FHWA and Federal Transit Authority (FTA) prior to any work being performed.

Within the Fairbanks MPA, the FNSB has been designated as the lead air quality agency responsible for developing an Air Quality Plan, the local component of Alaska's SIP. The FNSB, with assistance from DEC, is responsible for convening meetings, determining the meeting frequency and developing agendas with respect to the development and adoption of the SIP within the FMATS MPA. Conformity related aspects of the air quality SIP are developed in consultation with the FMATS committees and the SIP is provided to the FMATS committees for their review. The FNSB Assembly also reviews the SIP and meets to adopt a resolution expressing its level of support for the Air Quality Plan or SIP amendments. All of these plans and programs comprise a major portion of the transportation conformity process within the FNSB MPA.

III.I.3.1.3 Conformity Analysis within the FNSB PM2.5 Non-attainment Area

Federal regulations, found at 23 CFR 450.314 (b-c), require that if the MPA does not include the entire nonattainment or maintenance area, an agreement shall be written between the state department of transportation (ADOT&PF), state air quality agency (DEC), affected local agencies (FNSB) and the MPO (FMATS) describing the process for cooperative planning and analysis of all projects outside the MPA but within the non-attainment or maintenance area. The roles and responsibilities of each agency for air quality related transportation planning in the FNSB PM2.5 non-attainment area are listed in the 2010 "Memorandum of Agreement for the Development of Transportation Conformity Determinations within the Fairbanks PM2.5 Non-attainment Area" signed by ADOT&PF, DEC, FMATS and the FNSB.⁸

ADOT&PF is the lead agency, in collaboration with FMATS, FNSB and DEC, for coordinating the development of the transportation conformity analysis in the FNSB PM2.5

7: FMATS Memorandum of Understanding for the Implementation of a Fairbanks Metropolitan Area Transportation System Coordinator's Office, dated November 2, 2007.

8: Memorandum of Agreement for the Development of Transportation Conformity Determinations within the Fairbanks PM2.5 Non-attainment Area, dated June 24, 2010.

non-attainment area. ADOT&PF, in collaboration with the FNSB, is responsible for the development of a Regional Long Range Transportation Plan which identifies fiscally constrained transportation projects for the non-attainment area outside of the MPA and which get incorporated into the MTP. Both DEC and FNSB are jointly responsible for implementing air pollution control measures in the FNSB PM2.5 non-attainment area and for the development and approval of any SIP amendments.

DEC and ADOT&PF are responsible for ensuring that transportation activities conform to and are supportive of, the goals of the SIP in order to attain and maintain the NAAQS. DEC and FNSB are responsible for developing SIP emissions inventories and budgets; preparing a list of the transportation control measures (TCMs) in the approved SIP; providing the TCM list to the agencies described in this subsection and in 18 AAC 50.715(a) (2); preparing the final document or decision; assuring the adequacy of the interagency consultation process with respect to Alaska's SIP and the list of TCMs in the approved SIP.

III.I.3.2 Non-Metropolitan Planning Areas in Alaska

For those municipalities and boroughs in Alaska with a population of less than 50,000 (i.e., non-metropolitan areas) the transportation conformity process is coordinated between the municipality and/or borough, ADOT&PF and DEC. If federal money is supporting the transportation project then the FHWA and/or the FTA are consulted.

ADOT&PF is Alaska's statewide, including non-metropolitan planning area, transportation planning organization. ADOT&PF is the agency responsible for developing transportation plans, TIPs, making conformity determinations, preparing the final document or decision, and for assuring the adequacy of the interagency consultation process with respect to the development of any conformity determinations in non-metropolitan planning areas. ADOT&PF has the responsibility for convening meetings, determining the meeting frequency and developing agendas with respect to the development and adoption of any documents related to transportation conformity in non-metropolitan areas. The responsibilities of ADOT&PF are further described in Volume II, Section III.A.3 of the SIP.

In non-metropolitan planning areas, the local or regional transportation or transit agency must disclose regionally significant projects to ADOT&PF in a timely manner. Such disclosure must be made no later than the first occasion on which any of the following actions is sought:

- (A) adoption or amendment of a local jurisdiction's transportation system plan to include a proposed project;
- (B) the issuance of administrative permits for the facility or for construction of the facility;

- (C) the execution of a contract for final design or construction of the facility;
or
(D) the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with final design, permitting or construction of the project, or any approval needed for any facility that is dependent on the completion of the regionally significant project.

To help assure timely disclosure, the sponsor of any potentially regionally significant project in non-metropolitan areas must disclose the details of such project to ADOT&PF as requested. Requests for disclosure must be made in writing to any affected local or regional transportation or transit agency.

In non-metropolitan planning areas, DEC is responsible for implementing the SIP and coordinating with local, state and federal agencies to ensure that federally funded transportation projects meet the intent of the state's transportation conformity regulations. ADOT&PF would still have the lead on making sure transportation conformity is completed for transportation projects in non-metropolitan non-attainment/maintenance areas and would consult with DEC on these analyses. DEC is responsible for implementing the SIP and coordinating with ADOT&PF to ensure conformity.

FHA is the federal agency responsible for transportation planning and construction in Alaska. FTA is the federal agency responsible for public transit systems. Both agencies are responsible for ensuring that transportation conformity determinations are conducted, as required, prior to providing funds for transportation related projects funded under Title 23 U.S.C. or Title 49 U.S.C. Chapter 53 (Federal Transit Laws).

III.I.4 General Roles and Responsibilities

Any other organization within the State of Alaska responsible under state law for developing, submitting or implementing transportation-related provisions of an implementation plan, and any local transportation agency or local government is entitled to participate in any interagency consultation process.

It is the role and responsibility of the sponsoring agency in an interagency consultation process to confer with all other agencies (as identified under this section and 18 AAC 50.715) with an interest in the document to be developed; provide all appropriate information to those agencies needed for meaningful input; solicit early and continuing input from those agencies; conduct the consultation process described in the applicable paragraphs of this article; where required, assure policy-level contact with those agencies; prior to taking any action, consider the views of each such agency; respond to those views in a timely, substantive, written manner prior to any final decision on such document and assure that such views and written response are made

part of the record of any decision or action.

It is the role and responsibility of each agency specified in this section and 18 AAC 50.715, when not fulfilling the role and responsibilities of a sponsoring agency, to confer with the sponsoring agency and other participants in the consultation process, review and comment as appropriate (including comments in writing) on all proposed and final documents and decisions in a timely manner, attend consultation and decision meetings, assure policy-level contact with other participants, provide input on any area of substantive expertise or responsibility (including planning assumptions, modeling, information on status of TCM implementation, and interpretation of regulatory or other requirements), and provide technical assistance to the sponsoring agency or consultation process in accordance with this article when requested. Any agency, by mutual agreement with another agency, may take on a role or responsibility assigned to that other agency under this rule.