



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 15 2017

Ms. Pragati Srivastava
Administrator
Memphis Metropolitan Planning Organization
125 N Main Street
Memphis, Tennessee 38103

Dear Ms. Srivastava:

The United States Environmental Protection Agency is providing this letter in its consultative role to document that the transportation conformity requirements, under the Clean Air Act (CAA) section 176(c), for Shelby County located in the Memphis, Tennessee carbon monoxide (CO) maintenance area, ends on December 26, 2017. This date marks the extended 20-year maintenance period from the effective date of the motor vehicle emissions budget (budget) established in the second 10-year maintenance period for the CO National Ambient Air Quality Standard (NAAQS).

Under 40 CFR 93.102(b)(4) of the EPA's regulations, transportation conformity applies to maintenance areas for a 20-year planning period, until a standard is revoked, or unless the maintenance plan specifies that the conformity requirements apply for a longer timeframe. Pursuant to CAA section 176(c)(5) and as explained in the preamble of the 1993 final rule, conformity applies to transportation-related pollutants and their precursors for which an area is designated nonattainment or is subject to a maintenance plan approved under CAA section 175A for areas redesignated to attainment. The section 175A maintenance planning period is 20 years, unless the applicable implementation plan specifies a longer maintenance period, (see 58 FR 62188, 62206, November 24, 1993). The EPA further clarified this conformity provision in its January 24, 2008, final rule (73 FR 4434-5).

This letter documents that, because Tennessee established a budget for 2017 in the second 10-year maintenance plan which was effective December 26, 2006 (71 FR 62384), the planning period was extended for more than 20 years from August 25, 1994 (i.e. the effective date of the area's first 10-year maintenance plan (57 FR 37939)). Therefore, as of December 26, 2017, transportation conformity requirements for the CO NAAQS ceased to apply in the Memphis maintenance area.

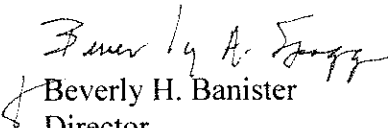
As a result, the Memphis Metropolitan Planning Organization may reference this letter to indicate that the conformity requirements of 40 CFR Part 93 no longer apply for the CO NAAQS in the Memphis maintenance area. In addition, project sponsors can reference this letter to indicate that as of December 26, 2017, transportation conformity requirements also no longer apply for the CO NAAQS for Federal Highway Administration (FHWA)/Federal Transit Administration (FTA) projects as defined in 40 CFR 93.101.

Even though the conformity obligation of CO has ended, the terms of the maintenance plan remain in effect and all measures and requirements contained in the plan must be complied with until the state

submits, and the EPA approves a revision to the state plan, (see *GM Corp. v. United States*, 496 U.S.530, June 14, 1990). Such a state implementation plan revision would have to comply with the anti-backsliding requirements of CAA Section 110(l), and if applicable, CAA section 193, if the intent is to remove a control measure or to reduce its stringency.

If you have questions about the transportation conformity requirements in the Memphis area, please contact Scott Davis of my staff at (404) 562-9127.

Sincerely,

A handwritten signature in black ink, appearing to read "Beverly H. Banister". The signature is written in a cursive style with a large initial "B".

Beverly H. Banister
Director

Air, Pesticides and Toxics Management Division

cc: Theresa Claxton
FHWA-Tennessee Division

Sean Santalla
FHWA-Tennessee Division

Marc Corrigan
Tennessee Department of Environmental
Conservation

Yvette Taylor
FTA-Region 4

Josh Suddath
Tennessee Department of Transportation