

MEMORANDUM OF AGREEMENT

Between the Tennessee Department of Transportation (TDOT), the Knoxville Regional Transportation Planning Organization (KRTPO) and the Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) for the development of Transportation Conformity Determination(s) under the 8-Hour Ozone and Particulate Matter 2.5 Standards

Current Version Adopted by KRTPO Executive Board on 7/27/2022
Original MOA Adopted 10/27/2004, Updated 8/22/2007

I. PURPOSE

This Memorandum of Agreement (MOA) is for the purpose of conducting cooperative planning and analysis of, and determining transportation conformity for, all transportation projects outside the KRTPO metropolitan planning area, but within the portions of the Knoxville Region that are subject to transportation conformity as either a nonattainment or maintenance area, hereinafter also referred to as the “affected area”.

II. BACKGROUND

- A. The U.S. Environmental Protection Agency (EPA) regulates air quality under the Clean Air Act (CAA) by establishing National Ambient Air Quality Standards (NAAQS) for air pollutants, known as “criteria pollutants” that have been deemed especially harmful to human health and the environment. EPA designates regions as attainment or nonattainment based on monitoring data and whether it meets the current NAAQS for a particular pollutant. A nonattainment area that regains compliance with the NAAQS typically transitions to “maintenance area” status for up to twenty (20) years.
- B. Transportation Conformity is one of the major consequences/actions required of nonattainment and maintenance areas and its purpose is to ensure that federal funding is not used on transportation plans, programs or projects that cause or contribute to any new violation of any standard or delay timely attainment of any standard. Transportation Conformity is federally regulated under 40 CFR Part 93, Subpart A, which sets forth policy, criteria and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to section 110 and Part D of the CAA.
- C. The Knoxville Region is currently subject to transportation conformity based on the designations under three separate NAAQS in the following specific geographic locations as described below and depicted in the attached map:
 1. The EPA designated the Knoxville Nonattainment Area for the **1997 8-hour Ozone Standard** as being the counties of Anderson, Blount, Jefferson, Loudon, Knox, Sevier and a portion of Cocke County. This ozone nonattainment became effective on June 15, 2004. The Region was first designated to attainment with a maintenance plan and subsequently

this standard was revoked, but a modified transportation conformity process is still required as an anti-backsliding measure. Refer to Section IV.D. for details regarding the modified process.

2. The EPA designated the Knoxville Nonattainment Area for the **2006 Daily Particulate Matter less than 2.5 microns in diameter (PM 2.5) Standard** as being the counties of Anderson, Blount, Knox, Loudon and a portion of Roane County. This PM 2.5 nonattainment became effective on December 14, 2009 and the area was redesignated to attainment with a maintenance plan effective on August 28, 2017.
 3. The EPA designated the Knoxville Nonattainment Area for the **2008 8-hour Ozone Standard** as being the counties of Blount, Knox and a portion of Anderson County. This ozone nonattainment became effective on July 20, 2012 and the area was redesignated to attainment with a maintenance plan effective on August 12, 2015.
- D. The above designated maintenance areas include, and are larger than, the KRTPO Planning Area. In addition, a portion of the former 1997 Ozone Maintenance Area in Jefferson County lies within the jurisdiction of the LAMTPO Planning Area. The areas outside of an established metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area are specifically referred to as a “Donut” area in EPA guidance.
- E. 23 CFR 450.314(c) states that if the metropolitan planning area does not include the entire nonattainment or maintenance area, there shall be an agreement among the state department of transportation, state air quality agency, affected local agencies and the metropolitan planning organizations describing the process for cooperative planning and analysis of all projects outside the metropolitan planning area but within the nonattainment or maintenance area. The agreement also must indicate how the total transportation-related emissions for the nonattainment or maintenance area, including areas both within and outside the metropolitan planning area, will be treated for the purposes of determining conformity in accordance with the US Environmental Protection Agency (EPA) conformity regulation. The agreement shall address policy mechanisms for resolving conflicts concerning transportation-related emissions that may arise between the metropolitan planning area and the portion of the nonattainment or maintenance area outside the metropolitan planning area.
- F. Tennessee has a State Transportation Conformity Rule (1200-3-34-.01), which applies to designated nonattainment and maintenance areas and implements the requirements of the federal transportation conformity rule (40 CFR Part 93, Subpart A) concerning several of the requirements in part E above. This MOA is intended to only address the assumption of the responsibility by the TPO for completing conformity analyses/determinations for the entire affected area of the Knoxville Region subject to transportation conformity.

- G. The KRTPO and LAMTPO are required to update and maintain both a Long-Range Transportation Plan (LRTP) covering a minimum 20-year period and a shorter-range Transportation Improvement Program (TIP) that covers 4-years. TDOT is required to update and maintain a Statewide Transportation Improvement Program (STIP) that coincides with the KRTPO and LAMTPO TIP periods. Transportation conformity determinations are required with each major update of those Plans, with the LRTP updated at least every four (4) years and the TIP/STIP updated every three (3) years. Transportation conformity must also be demonstrated for any project amendments made to those Plans in between major updates.
- H. The KRTPO, TDOT and LAMTPO as the three agencies responsible for carrying out transportation planning/programming and demonstrating transportation conformity in the Knoxville region, have come to an agreement that the KRTPO will assume primary responsibility for facilitating the transportation conformity determination process for the entire affected area. This decision is based primarily on the factors that the KRTPO has previous experience with preparing conformity determination reports and maintains a travel demand forecasting model necessary for performing the technical analysis required to demonstrate transportation conformity. Thus, the KRTPO is in the best position to develop projections of future traffic demand and air quality impacts of proposed transportation projects in a holistic manner thereby ensuring that the entire Region is in compliance with all requirements and federal transportation funding is not jeopardized.

III. RESPONSIBILITIES

A. KRTPO:

1. The KRTPO, in coordination with TDOT and other affected agencies will prepare the transportation conformity analysis for the entire affected area which will comply with the applicable requirements of 40 CFR Part 93. If analysis requirements for the non-TPO area are not specific, clear or well defined, the interagency consultation process will be used to determine appropriate analysis procedures.
2. The KRTPO will facilitate meetings of the Interagency Consultation Group as necessary in order to define the specific processes and adhere to schedules required to complete the conformity determination within the appropriate timelines to ensure that the area does not enter a conformity lapse.
3. The KRTPO will be responsible for the development of a comprehensive and multimodal LRTP and TIP that includes a fiscally constrained transportation project listing for the TPO planning area, which is comprised

of urbanized portions of Anderson, Knox, Blount, Loudon, Roane and Sevier counties.

4. The KRTPO will be responsible for development of a single “Regional” transportation conformity determination report (CDR) coinciding with each major update of the LRTP and TIP that identifies a listing of transportation projects for the entire affected area (for both PM2.5 and ozone). The Regional CDR will include input from TDOT on projects in the areas outside of the KRTPO and LAMTPO planning area boundaries.
5. The KRTPO will provide for public input opportunities on the Regional CDR.
6. The KRTPO will be responsible for any required conformity analysis pertaining to amendments to its LRTP or TIP.

B. TDOT:

1. TDOT, in coordination with local affected agencies, is responsible for the development of a transportation project listing on the state and federal-funded roadway system for the non-urbanized portions of the affected area at appropriate horizon years to be compatible with the conformity analysis.
2. TDOT will provide for public involvement opportunities within the non-urbanized portions of the affected area.
3. TDOT will coordinate with and inform the KRTPO staff of any STIP amendments within the donut area to determine necessary conformity analysis requirements.

C. LAMTPO:

1. LAMTPO will provide to the KRTPO a list of fiscally constrained transportation projects that result from a LRTP and/or TIP prepared for the Lakeway Area planning boundary that are within Jefferson County with projects listed in the appropriate horizon years to be compatible with the conformity analysis.
2. LAMTPO will provide for public input opportunities on the Regional CDR within its planning area.
3. LAMTPO will coordinate with and inform the KRTPO staff of any TIP/LRTP amendments within the donut area to determine necessary conformity analysis requirements.

IV. PROCEDURAL CONSIDERATIONS

A. Data Sources:

1. Travel Demand Model – The KRTPO will maintain a validated travel demand forecasting model in order to project future vehicle miles of travel within the affected area for purposes of determining conformity of the transportation projects that are proposed. Furthermore, the KRTPO will be responsible for maintaining a travel demand forecasting model that includes the entire LAMTPO Metropolitan Planning Area. If, through the interagency consultation process, a project is determined to be regionally significant but not included in the model then appropriate off model data forecasting methodologies will be pursued.
2. Off Model Projections – Highway Performance Monitoring System (HPMS) and traffic count data will be used to develop future projections of travel along with other assumptions agreed upon through the interagency consultation process in order to determine conformity of projects in geographic areas unrepresented in the regional travel demand forecasting model such as the portion of Cocke County.

B. Major Plan Update Conformity Submittal Protocol:

1. The KRTPO will develop a single conformity determination for the entire affected area to support major updates to both the Knoxville Regional TPO and the LAMTPO Long Range Transportation Plans and Transportation Improvement Programs as well as TDOT's Statewide Transportation Improvement Program (STIP).
2. The Executive Boards of both the KRTPO and LAMTPO will each formally adopt the regional conformity determination as part of the full Plan/TIP adoption.
3. The TPO will submit the adopted conformity determination first to TDOT for its review/concurrence.
4. Subsequent to its review, TDOT will submit the final conformity determination to the Federal Highway Administration and the Federal Transit Administration for their review and approval (conformity finding) with concurrence from EPA.
5. The LAMTPO will include the ozone conformity determination documentation within their transportation plans as an appendix.

C. TIP/STIP Amendment Conformity Process and Submittal Protocol:

1. This MOA primarily addresses the situation of a major Plan update and coordination of a conformity determination for the entire affected Region, but conformity must also be demonstrated for any project amendments

- made to the current LRTP and/or STIP/TIP, which are individual actions that may be taken by either KRTPO, LAMTPO or TDOT.
2. Any project amendment proposed by KRTPO, LAMTPO or TDOT will be provided to KRTPO staff for review of conformity implications and to determine the level of conformity analysis depending on the project's conformity exempt/non-exempt status.
 3. The KRTPO staff will perform the necessary action to demonstrate conformity based on the following exempt status categories:
 - a. Exempt Project – Provide IAC 14-day review period to confirm Exempt status.
 - b. Non-Exempt Project previously accounted for in a regional emissions analysis – prepare a “Short Conformity Report” (SCR).
 - c. Non-Exempt Project previously unaccounted for, i.e., new projects or significant change in scope or timeframe of existing projects – prepare updated regional emissions analysis.
 - d. Non-Exempt Project within the 1997 8-Hour Ozone “Orphan” Area – prepare conformity report as per EPA guidance described in Section D below.
 4. Only the specific Executive Board of the MPO making the Plan amendment will adopt the associated conformity determination as necessary.

D. 1997 8-Hour Orphan Area Conformity Process:

1. As referenced earlier in this MOA, the 1997 8-Hour Ozone Standard was previously revoked since it was deemed less stringent than the later 2008 8-Hour Ozone Standard. The revocation was challenged in litigation known as South Coast vs. EPA II and a 2018 court decision was made that certain requirements including transportation conformity shall not be revoked as anti-backsliding measures.
2. The EPA released official guidance for how to address conformity for 1997 8-Hour Ozone areas, and specifically for geographies that were designated attainment for the 2008 8-Hour Ozone Standard, which the court decision referred to as “orphan areas”. A “normal” transportation conformity process applies for the areas in the Knoxville Region that were designated nonattainment/maintenance for the 2008 Ozone Standard and were previously designated for the 1997 Ozone Standard (shown in blue on the attached map) while the remaining counties (balance of Anderson outside of the partial 2008 area, Jefferson, Loudon and Sevier) are subject to the new conformity guidance (shown in green on the attached map).
3. Since a large part of this affected area is outside of the KRTPO Planning Area (known as a “donut” area) and portions lie within the LAMTPO Planning Area coordination is required to ensure that project amendments to the STIP and/or the LAMTPO TIP are adequately addressed from a

transportation conformity perspective since the KRTPO staff may not otherwise be typically notified of these.

4. The KRTPO shall be notified by TDOT and/or LAMTPO of any project amendments within the orphan area for development of an appropriate conformity determination, i.e., either a full conformity report or consultation to affirm a project's exempt status with the full Knoxville-area IAC group.
5. In the situation of a full conformity report being required, the KRTPO staff shall compile the report and advertise it for public comment in the appropriate newspapers and subject to the required length of time as per the TN Conformity SIP or controlling Public Involvement Plan of the jurisdiction that the project lies, whichever is longer.

V. AGREEMENT TERMS

- A. This MOA shall remain in effect as long as each of the parties is in agreement with its terms. The interagency consultation process shall be used for revision of the MOA as necessary.

VI. SIGNATORIES

The following signatory parties do hereby agree to comply with the provisions and terms of this MOA.

Terry Frank, TPO Executive Board Chair

Date

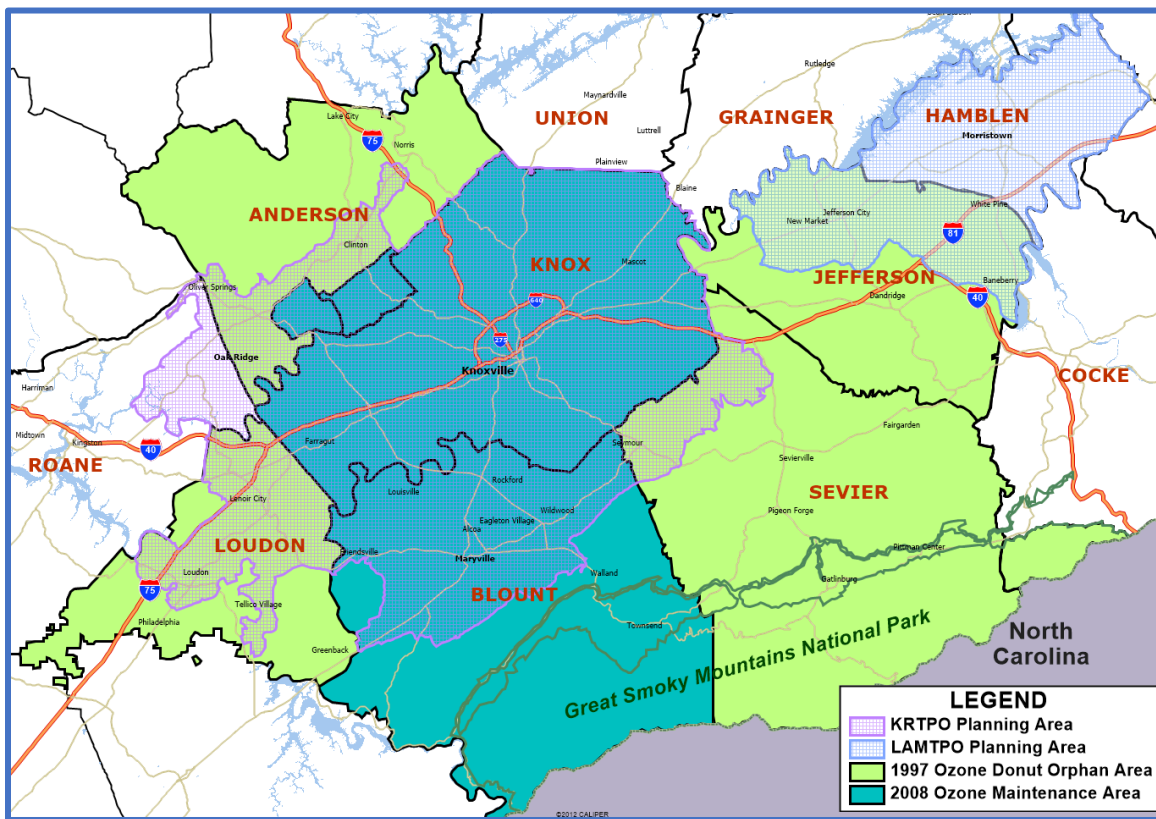
Mark Potts LAMTPO Executive Board Chair

Date

Howard H. Eley, TDOT Commissioner

Date

Knoxville Region Ozone Maintenance Areas (1997 and 2008 NAAQS)



Knoxville Region PM2.5 Maintenance Area (2006 NAAQS)

