

Five separate comments were received from the public during the public comment period for the 2031 RTP and FY08-11 MTIP Air Quality Conformity Determination (AQCD). The subject matter of these are listed below as items 1-8, with staff responses below each item.

At public hearing before MPC, October 11, 2007:

1) *The document is not written in a language understandable to the public.*

Contact information for MPO staff was readily available for those who might have wanted to ask questions or find out more. Also, a cover memo and a summary of the document and its results were provided. The document must address the requirements specified in both state and federal rules and regulations, some of which involve a technical analysis. While MPO staff attempted to write the document as clearly as possible, there are undoubtedly some complexities. A SYNOPSIS is being added to this document to aid the interested reader. The Citizen's Advisory Committee will also be asked to look at this summary and provide suggestions.

2) *To accommodate both State and Federal frequency rules, air quality conformity should be done on a three year cycle followed by a one year cycle.*

Air quality conformity is a necessary component that responds to an update of a transportation plan or program in this MPO area. It need be done only when triggered either by the required periodicity defined in the Federal law or State rules, or, by a significant change to a plan or project that occurs before the routine cycle is complete. At this time, a routine three year cycle will meet both current State and Federal requirements. There is no need to conduct a separate analysis one year later.

Two letters were received during the public comment period, plus one comment at the public hearing, concerning the following:

3) *The MPO should report on CO₂ emissions.*

Based on USEPA and ODEQ findings and rules, the MPO is required at this time to make a regional transportation conformity determination only on carbon monoxide. The AQCD is focused on this requirement and responds to existing, published regulations, an established health standard, an approved inventory of emission sources, an established target for transportation sources, and an approved analysis technique. Such protocols have not been established for CO₂. The AQCD for carbon monoxide, required in order to address federal funding of projects, is not the appropriate document for reporting on CO₂.

The State has established a Greenhouse Gas Reporting Advisory Committee to study greenhouse gas mandatory reporting rules in response to HB 3543. Minutes from the committee suggest that reporting protocols will be established and a database set up so that good quality accounting and quantification can be ensured. Four specific gases (carbon dioxide, methane, nitrous oxide and sulfur hexafluoride), and two broad classes (hydrofluorocarbons and perfluorocarbons) are being considered. All emissions sources, both direct and indirect, will be considered. Guidance will be prepared on how to prepare inventories and emissions calculations. Who, when and how to report will be addressed. Public comments will be invited on the rule-making prior to submission to EQC for consideration.

MPO staff provided information used in local efforts to investigate and characterize the sources of CO₂ emissions per capita within each of Eugene and Springfield. Shortcomings in the analysis tools and base data requirements became evident during this effort. The on-going State effort should provide clarity and approved techniques that can be implemented consistently across the state and that can be used to guide both local and state policy making.

4) The RTP fails to regulate CO₂ as a criteria air pollutant

Neither the RTP nor the MPO regulate pollution. The Clean Air Act requires EPA to set national ambient air quality standards for six common air pollutants. These are known as “criteria” pollutants. They are: particulate matter, ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides and lead. CO₂ is not a criteria air pollutant. It is not included in the Oregon SIP to which the current states rules concerning conformity determinations respond. The Oregon SIP identifies carbon monoxide as the only pollutant that must be addressed in a conformity determination for transportation plans in this area. This AQCD complies with those rules.

5) Oregon’s climate change framework imposes an obligation to regulate carbon dioxide emissions

The MPO does not regulate pollution. The State has established a committee to recommend reporting rules concerning greenhouse gas emissions to the EQC for adoption (see above #3). The schedule calls for recommendations by the end of 2007, a public comment period for Spring 2008, and EQC consideration of the rules by mid-2008. It is premature for the MPO to report on emissions as the appropriate analysis techniques and other protocols have not been established. Further, it is not known at this time if the MPO will be the reporting agency for the Central Lane area. This presumably will become clear when the rules are issued.

6) Massachusetts v. EPA establishes that CO₂ is likely a criteria air pollutant under federal law, and that Oregon should regulate CO₂ as a criteria air pollutant in the Oregon SIP.

When Oregon makes this action and the Oregon SIP is approved by USEPA, the MPO will respond as necessary.

7) The Draft AQCD fails to comply with Statewide Planning Goal 6

Under OAR 660-012-0016(1), adoption or amendment of a regional transportation plan by an MPO is not a land use decision under Oregon law. Further, under OAR 660-012-0016(4)(a), an air quality conformity determination does not trigger the need to make a finding that the RTP is consistent with the comprehensive plan. The purpose of the state conformity rules (DEQ administrative rules 340-252) is to ensure that demonstration of conformity with the published, EPA-approved state implementation plan (SIP) is carried out.

8) The RTP does not consider the cumulative effects of CO₂ emissions... as required under NEPA.

USDOT does not take action on the RTP which is a planning document; thus, adoption of the RTP is not a federal action under NEPA.