

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140**JAN 16 2017**OFFICE OF
AIR AND WASTE

Portland Transportation Conformity Interagency Consultation Group
c/o Ms. Martha Bennett, Chief Operating Officer
Metro Regional Center
600 NE Grand Avenue
Portland, Oregon 97232-2736

Dear Portland Transportation Conformity Interagency Consultation Group:

Congratulations on reaching the end of the 20-year maintenance period for carbon monoxide!

The U.S. Environmental Protection Agency is providing this letter in its consultative role to document that the transportation conformity requirements under Clean Air Act (CAA) section 176(c), for the Portland, Oregon carbon monoxide (CO) area ended on October 2, 2017. This date marks 20 years from the effective date of redesignation of the area to attainment for the CO National Ambient Air Quality Standard (NAAQS). See 62 FR 46208 (October 2, 1997).

Under 40 CFR 93.102(b)(4) of the EPA's regulations, transportation conformity applies to maintenance areas through the 20-year maintenance planning period, unless the maintenance plan specifies that the transportation conformity requirements apply for a longer time period. 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 EPA further clarified this conformity provision in its January 24, 2008 final rule (73 FR 4420, 4434-5).

This letter documents that, because the approved maintenance plan for the Portland CO area did not extend the maintenance period beyond 20 years from redesignation, transportation conformity requirements for CO ceased to apply after October 2, 2017 (i.e., 20 years after the effective date of the EPA's approval of the first 10-year maintenance plan and redesignation of the area to attainment for the CO NAAQS). As a result, Metro may reference this letter to indicate that the transportation conformity requirements of 40 CFR Part 93 no longer apply for the CO NAAQS. In addition, project sponsors can reference this letter to indicate that as of October 2, 2017, transportation conformity requirements also no longer apply for the CO NAAQS for FHWA/FTA projects as defined in 40 CFR 93.101. Even though the conformity obligation for 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(1), and if applicable, CAA section 193, if the intent of the revision is to remove a control measure or to reduce its stringency.

If you have questions about the transportation conformity requirements in the Portland area, please contact Karl Pepple, of my staff, at (206) 553-1778 or pepple.karl@epa.gov.

Sincerely,

A handwritten signature in black ink that reads "Tim Hamlin". The signature is written in a cursive style with a long horizontal stroke at the end.

Timothy B. Hamlin
Director

cc: Mr. Mark Smith
Oregon Department of Environmental Quality

Ms. Natalie Liljenwall
Oregon Department of Transportation

Ms. Carol Newvine
Oregon Department of Transportation

Ms. Michelle Eraut
Federal Highway Administration

Mr. Ned Conroy
Federal Transit Administration

Ms. Grace Cho
Metro