

1997 8-Hour Ozone Standard Court Ruling



North Carolina Division Office

Forest Heritage National Scenic Byway an a North Carolina Scenic Byway

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1997 8-Hour Ozone Standard Court Ruling



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- US Court of Appeals for the DC Circuit issued a decision in the South Coast AQ Management District v EPA, No 15-1115, which *struck down portions of the 2008 Ozone NAAQS SIP Requirements rule concerning the Ozone NAAQS*



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The 1997 ozone standard was replaced by the 2008 ozone standard.

1997 8-Hour Ozone Standard Court Ruling



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- Effective on **April 23, 2018**
- Overturned the revocation of the 1997 Ozone NAAQS
- Waiting on guidance from EPA clarifying the possible impacts
- FHWA/FTA Interim Guidance on Conformity Requirements for the 1997 Ozone NAAQS issued on April 23, 2018



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- EPA revoked the 1997 standard because the 2008 standard was more stringent.
- The court ruling over-turned the revocation of the 1997 ozone standard
- We are currently waiting on EPA guidance clarifying impacts
- FHWA published interim guidance to help Division offices administer the Federal Aid program. The next couple of slides will highlight sections in the interim guidance

FHWA Interim Guidance:
Impacted Areas
1997 8-Hour Ozone Standard

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Metrolina Area

- **Cabarrus Rowan MPO:** Cabarrus, Rowan
- **Gaston Cleveland Lincoln MPO:** Gaston, Lincoln
- **Charlotte Regional Transportation Planning Organization:** Iredell-p, Mecklenburg, Union
- **NCDOT (donut):** Union

Triangle Area

- **Capital Area MPO:** Franklin, Granville, Johnston, Wake
- **Durham Chapel Hill Carrboro MPO:** Chatham, Durham Orange,
- **Burlington Graham MPO:** Orange
- **NCDOT (donut):** Chatham, Franklin, Granville, Johnston, Orange, Person

Rocky Mount Area

- **Rocky Mount MPO:** Edgecombe, Nash
- **NCDOT (donut):** Edgecombe, Nash

Great Smoky Mountain National Park

- **NCDOT (donut):** Swain, Haywood

P = partial



- This slide show the areas impacted under the 1997 ozone standard. Broken down by areas/MPO's/counties
- The maintenance area for the GSMNP is within the boundaries of the park. This area is not tied to an MPO so there are no conformity frequency requirements. The only time this area need to act is if there is a federally funded road project within the boundary of the park.



FHWA Interim Guidance: MTP/TIP Impacts

North Carolina Division Office

- MTP/TIP update and amendments that involves “non-exempt” projects **may not proceed.**
 - MTP/TIP actions that involve **administrative modifications** or amendments that merely add or delete **exempt projects** may proceed because those actions do not require a conformity determination

Amendments

- **Addition or deletion of a project**
- **Changes in project cost beyond a predetermined threshold**
- **Phase initiation dates to move in or out of the 4 year TIP/STIP time window**
- **Change in funding involving non-traditional funding sources**
- **Major change in design project or scope (termini/number of travel lanes)**



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- MTP/TIP update and amendments that involve non-exempt projects may not proceed
- MTP/TIP actions that involve administrative modifications or a project that merely add or delete exempt projects can proceed because those actions do not require a conformity determination
- If you have a project in the existing MTP/TIP and is represented correctly in the planning documents. You are good to go you do not need to do anything

FHWA Interim Guidance:
MTP/TIP Impacts

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Administrative Modifications

- Change in project cost below pre-determined thresholds,
- Movement of project phases within the 4 year STIP time window
- Changes to project scope or description do not significantly diminish the ability to achieve the original project intent
- Change in traditional funding sources

Exempt Projects

- Non capacity adding improvements
- Safety Improvements
- Traffic control devices
- Pavement rehabilitation
- See 40 CFR 93.126, .127 & .128

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We will provide the reference documents (FHWA interim guidance/STIP Amendment and Modification Guidelines/Listing of Exempt Projects) to the webinar participants

FHWA Interim Guidance: STIP Impacts



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- STIP approvals **may not proceed** unless the TIP is determined to conform with the 1997 ozone NAAQS or limited to projects exempt from transportation conformity



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FHWA Interim Guidance: NEPA Impacts

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- NEPA approvals **may not proceed** unless the project is included in a MTP and TIP. Projects that have already completed NEPA may proceed.



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Project has to be in a MTP/TIP. This does not say conforming.

Next Steps



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- FHWA and NCDOT TPD are assisting impacted MPO/RPOs on the conformity processes work related to the 1997 Ozone Standard
- Conformity work expected to be completed by the end of the calendar year



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Transportation Conformity Process Triggers

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Change to project scope:

- Change to number of lanes – adding or removing
- Auxiliary lanes - particularly if one mile or greater in length
- Managed lanes – HOV or HOT
- Change in project length – longer or shorter
- Interchanges – addition or deletion
- Intersections – replacing with an interchange

Change to project schedule:

- Acceleration of project
- Delay of Project



So until we can complete conformity for the impacted areas we need to be aware of conformity triggers.....

If your project has a change in scope or schedule it could impact your project schedule until a conformity process is completed

Call to ACTION!

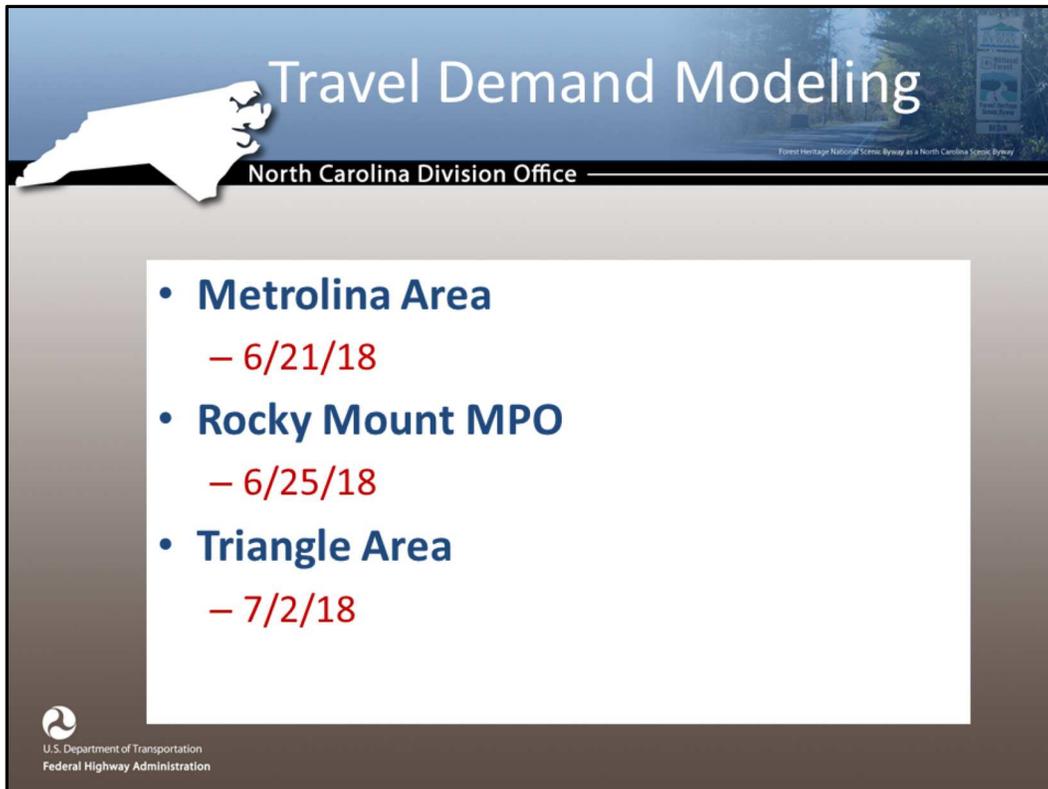


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- If there are any project changes that will result in an AMENDMENT **communicate** it to the MPO, NCDOT-TPD or FHWA
- If unsure please **ASK A QUESTION**



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The slide features a blue header with the title "Travel Demand Modeling" in white. To the left of the title is a white silhouette of the state of North Carolina. Below the title, the text "North Carolina Division Office" is displayed. The main content area is a white box containing a bulleted list of regions and their respective dates. In the bottom left corner of the slide, there is a logo for the U.S. Department of Transportation Federal Highway Administration.

Travel Demand Modeling

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- **Metrolina Area**
– 6/21/18
- **Rocky Mount MPO**
– 6/25/18
- **Triangle Area**
– 7/2/18

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If you want your project changes included in this conformity work that is beginning the cut off dates are provided for the impacted regions.

Once the TDM modeling work has started the door is closed and you will have to wait until another conformity process is started

Summary

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- Administrative Modifications -> Good
- Amendments -> Bad*
- Be aware of conformity triggers -> Communicate with MPO/NCDOT TPD/FHWA
- Unsure -> Ask Question

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Amendments are not necessarily bad if the project change is communicated early enough there should be plenty of time to complete a conformity process before a Federal Action is needed.

If there is a project scope change and a question is not asked related to impacts and work proceeds on a NEPA document and it comes time for signatures, then you will have a problem

Contacts



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Questions



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