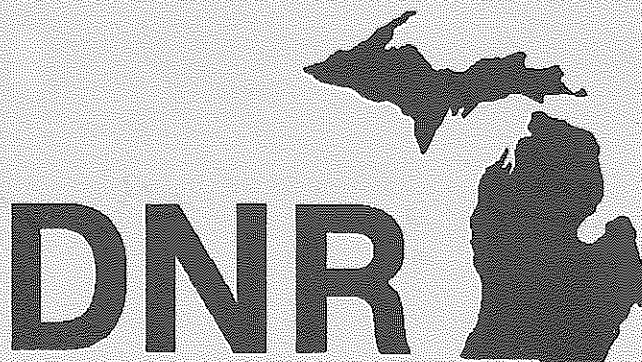


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**The Michigan Transportation Conformity  
Air Quality  
State Implementation Plan (SIP)  
Revision**



*Prepared by:*

*Michigan Department of Natural Resources  
Air Quality Division  
P.O. Box 30028  
Lansing, Michigan 48909*

*and*

*Michigan Department of Transportation  
State Transportation Building  
425 West Ottawa Street  
P.O. Box 30050  
Lansing, MI 48909*

*November, 1994*

**THE MICHIGAN TRANSPORTATION CONFORMITY  
AIR QUALITY  
STATE IMPLEMENTATION PLAN (SIP)  
REVISION**

NOVEMBER 1994

prepared  
by

MDOT  
THE MICHIGAN DEPARTMENT OF TRANSPORTATION

and

MDNR  
THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES

Preparation of this document was completed in a collaborative effort of the Federal Highway Administration, Michigan Department of Transportation and the Michigan Department of Natural Resources, and the U. S. Environmental Protection Agency and Metropolitan Planning Organizations.

**State Transportation Building  
425 West Ottawa Street  
P.O. Box 30050  
Lansing, Michigan 48909**

## **Abstract**

**Title:** The Michigan Transportation Conformity Air Quality State Implementation Plan Revision.

**Authors:** Michigan Department of Transportation, the Michigan Department of Natural Resources, with assistance from the U.S. Environmental Protection Agency and U.S. Department of Transportation.

**Subject:** Description of the Michigan air quality conformity process for Transportation Improvement Programs, Amendments, Transportation Plans and Amendments.

**Date:** November 1994

**Planning Agency:** Michigan Department of Transportation  
Bureau of Transportation Planning  
Urban Planning Section

**Contact Person:** Marsha Small, Manager  
Urban Planning Section  
Michigan Department of Transportation  
425 West Ottawa Street  
P.O. Box 30050  
Lansing, Michigan 48909  
(517) 373-9054

The purpose of this document is to implement §176(c) of the Clean Air Act (CAA), and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by Metropolitan Planning Organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Act. This document sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to §110 and Part D of the CAA.

## Acronyms and Definitions

CAAA	Clean Air Act Amendments of 1990
CMAQ	Congestion Mitigation Air Quality
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
I/M	Vehicle Inspection and Maintenance
IAWG	Inter-agency Work Group
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991 (23 CFR part 450 & 49 CFR part 613)
MAB	Metropolitan Area Boundary
MDNR	Michigan Department of Natural Resources
MDOT	Michigan Department of Transportation
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
NAAQS	National Ambient Air Quality Standards
MEPA	Michigan Environmental Protection Act
NEPA	National Environmental Policy Act
RCC	Regional Conformity Committee
SIP	State Implementation Plan
STIP	State Transportation Improvement Program
TCM	Transportation Control Measures

**TIP**      **Transportation Improvement Program**

**TMA**      **Transportation Management Area**

**TP**        **Transportation Plan [formally the Long Range Plan (LRP)]**

**USEPA**    **United States Environmental Protection Agency**

**USDOT**    **United States Department of Transportation**

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## **Chapter I: Introduction**

### **EXECUTIVE SUMMARY:**

The Michigan Department of Transportation, the Michigan Department of Natural Resources, the Federal Highway Administration, the U.S. Environmental Protection Agency, the Metropolitan Planning Organizations and various planning organizations and transportation providers throughout Michigan have collaborated to address the Transportation Conformity Air Quality requirements set forth in the Clean Air Act Amendments of 1990.

Today in Michigan, 37 counties in southern lower Michigan are currently designated as non-attainment for ozone. Of these 37 counties, ten are classified as 'moderate' non-attainment areas, four counties are classified as 'transitional', and 23 counties are 'unclassified'.

In compliance with the CAAA, specifically 40 CFR part 51, Michigan has prepared this Transportation Conformity Air Quality SIP Revision to address the criteria and procedures for determining a conformity finding on transportation plans, programs and projects.

This process exemplifies efforts by the state's MPOs and transportation providers in conjunction with the Michigan Department of Transportation and the Michigan Department of Natural Resources, to eliminate or reduce the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment and continued maintenance of such standards.

The State of Michigan seeks to ensure that its residents receive the maximum available federal funding for transportation programs. This document represents thorough analysis of Federal regulations that were created to enhance the quality of life in Michigan by attainment of National Ambient Air Quality Standards.

The partnership that was formed in accordance with the federal regulations will ensure that Michigan continues to work collectively with different levels of local government for not only this submittal, but to ensure that Michigan continues to be a leader in service for its residents.



EXAMPLE

**Inter-agency Memorandum of Agreement**

**WHEREAS**, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

**WHEREAS**, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and

**WHEREAS**, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (IAWG); and

**WHEREAS**, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General's Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

**NOW THEREFORE BE IT RESOLVED**, that the (MPO), the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the " Michigan Transportation Conformity Air Quality SIP Revision";

**FURTHER BE IT RESOLVED**, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the MPO MAB, in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

**ATTEST:**

Date \_\_\_\_\_  
Patrick M. Nowak, Director MDOT

Date \_\_\_\_\_  
Roland Harmes, Director MDNR

Date \_\_\_\_\_  
Metropolitan Planning Organization Designee

## Inter-agency Memorandum of Agreement

**WHEREAS**, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and


**WHEREAS**, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of Michigan's State Transportation Conformity Air Quality SIP Revision; and

**WHEREAS**, the Michigan Metropolitan Planning Organizations (MPOs), the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan nonattainment areas in consultation with the U.S. Environmental Protection Agency, (this group shall be called the Inter-agency Work Group (IAWG)); and

**WHEREAS**, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General's Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision;

**NOW THEREFORE BE IT RESOLVED**, that the Southeast Michigan Council of Governments (SEMCOG), the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Michigan Transportation Conformity Air Quality SIP Revision"; and

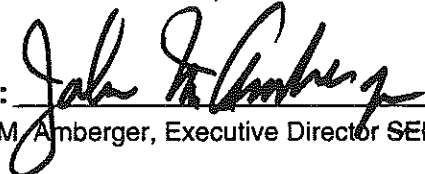
**FURTHER BE IT RESOLVED**, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the SEMCOG seven county area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne Counties), in compliance with the U.S. Clean Air Act Amendments of 1990, and the U.S. Environmental Protection Agency's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991- 23 CFR part 450 and 49 CFR part 613.

ATTEST:   
Patrick M. Nowak, Director MDOT

DATE: NOV 16 1994

ATTEST:   
Roland Harmes, Director MDNR

DATE: 11-18-94

ATTEST:   
John M. Amberger, Executive Director SEMCOG

DATE: 7/22/94



GRAND VALLEY METRO COUNCIL

ALPINE CHARTER TOWNSHIP • BYRON TOWNSHIP • CEDAR SPRINGS • EAST GRAND RAPIDS • GAINES CHARTER TOWNSHIP  
GRAND RAPIDS • GRANDVILLE • HUDSONVILLE • KENT COUNTY • KENTWOOD • PLAINFIELD CHARTER TOWNSHIP • ROCKFORD  
Inter-agency Memorandum of Agreement

WHEREAS, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

WHEREAS, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of Michigan's State Transportation Conformity Air Quality SIP Revision; and

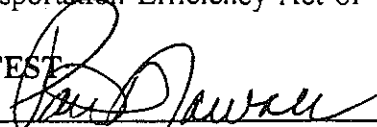
WHEREAS, The Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (LAWG).

WHEREAS, the Michigan MPO's, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201; MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

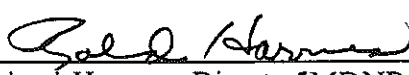
NOW, THEREFORE BE IT RESOLVED, that the Grand Valley Metropolitan Council, (GVMC) the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Michigan Transportation Conformity Air Quality SIP Revision";

FURTHER BE IT RESOLVED, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the Grand Valley Metropolitan Council MAB, in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613

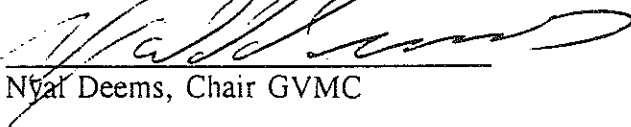
ATTEST

  
Patrick M. Nowak, Director MDOT

Date NOV 16 1994

  
Roland Harmes, Director MDNR

Date 11-18-94

  
Nyal Deems, Chair GVMC

Date November 3, 1994





**Macatawa Area  
Coordinating Council**  
A Cooperative Effort Among Units of Government

**Inter-Agency Memorandum of Agreement**

Policy Board

Richard Vander Broek, Chair  
Leroy Dell, Vice-Chair  
Ann Query  
Edward Berghorst  
Gene Berghorst  
Jerome Bush  
Luciano Hernandez  
Al Hoekman  
Lester Hoogland  
Vern Johnson  
Dal McBurrows  
Al McGeehan  
Phil Quade  
Stu Visser  
John Vogelzang

Committee Chairs:

Land Use/Environmental:  
Richard Vander Broek

Housing/Quality of Life:  
Ann Query

Transportation:  
Leroy Dell

WHEREAS, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

WHEREAS, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan State Transportation Conformity Air Quality SIP Revision; and

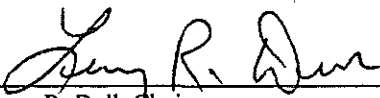
WHEREAS, the Michigan MPO's, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-Agency Work Group (IAWG).

WHEREAS, the Michigan MPO's, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration, and the Michigan Attorney General Office recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.


**NOW THEREFORE BE IT RESOLVED**, that the Macatawa Area Coordinating Council, and the Michigan Department of Transportation adopt the attached document entitled the "Michigan Conformity Air Quality SIP Revision"; and

**FURTHER BE IT RESOLVED**, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the Macatawa Area Coordinating Council Metropolitan Area Boundary, in compliance with the U.S. Clean Air Act, and the U.S. Environmental Protection Agency's conformity rule, consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

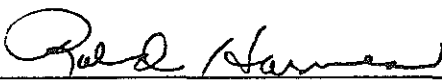
**ATTEST:**

  
\_\_\_\_\_  
Leroy R. Dell, Chairman  
Macatawa Area Coordinating Council

11-8-94  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Patrick M. Nowak, Director  
Michigan Department of Transportation

NOV 16 1994  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Roland Harmes, Director  
Michigan Department of Natural Resources

11-18-94  
\_\_\_\_\_  
Date

**Inter-agency Memorandum of Agreement**

**WHEREAS**, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

**WHEREAS**, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and

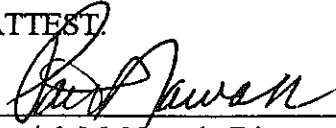
**WHEREAS**, the Michigan MPOs; the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (IAWG).

**WHEREAS**, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

**NOW THEREFORE BE IT RESOLVED**, that the West Michigan Shoreline Regional Development Commission, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Michigan Transportation Conformity Air Quality SIP Revision";

**FURTHER BE IT RESOLVED**, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the West Michigan Shoreline Regional Development Commission MAB, in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

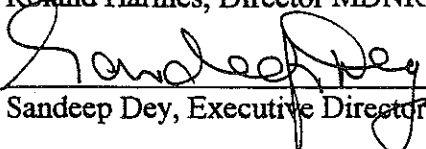
ATTEST

  
\_\_\_\_\_  
Patrick M. Nowak, Director MDOT

Date NOV 16 1994

  
\_\_\_\_\_  
Roland Harmes, Director MDNR

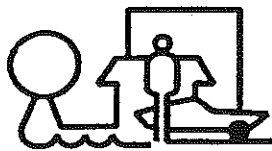
Date 11-18-94

  
\_\_\_\_\_  
Sandeep Dey, Executive Director, West Michigan Shoreline Regional Development Commission

Date 10/19/94







Planning for People

# Tri-County Regional Planning Commission

913 West Holmes-Suite 201  
Lansing, Michigan 48910  
Telephone (517) 393-0342  
Fax (517) 393-4424

## INTER-AGENCY MEMORANDUM OF AGREEMENT

### OFFICERS

**CHAIRPERSON**  
John Czarnecki

**VICE-CHAIRPERSON**  
Richard Hawks

**TREASURER**  
J. William Hawes

**SECRETARY**  
Paul Novak

**COMMISSIONERS**  
Sandy Allen  
Robert Ancei  
Tony Benavides  
Connie Burgess  
Jack Gunther  
Robert Dittmer  
Joseph Drolett  
Michael B. Farrell  
Alvin House  
Ralph Monsma  
John W. Moore, Jr.  
Marsha Small  
Mary Stid  
Dirck Terwilliger  
Marietta White

### EX-OFFICIO

**LANSING MAYOR**  
David C. Hollister

**COUNTY BOARD  
CHAIRPERSONS**  
Robert Dittmer  
Leonard Peters  
Jean McDonald

**EXECUTIVE DIRECTOR**  
Jon W. Coleman

WHEREAS, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

WHEREAS, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and


WHEREAS, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (IAWG).

WHEREAS, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

NOW THEREFORE BE IT RESOLVED, that the Tri-County Regional Planning Commission, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Michigan Transportation Conformity Air Quality SIP Revision";

FURTHER BE IT RESOLVED, that the involved agencies agree to implement the process and procedures included in the Transportation Conformity Air Quality SIP Revision within the Tri-County Regional Planning Commission MAB, in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.


ATTEST

  
Patrick M. Nowak, Director, MDOT

Date NOV 16 1994

  
Roland Harmes, Director, MDNR

Date 11-18-94

  
Jon W. Coleman, Executive Director, TCRPC

Date 10/26/94

**INTERAGENCY MEMORANDUM OF AGREEMENT  
BETWEEN THE  
MICHIGAN DEPARTMENT OF NATURAL RESOURCES,  
MICHIGAN DEPARTMENT OF TRANSPORTATION AND  
BATTLE CREEK AREA TRANSPORTATION STUDY**

**WHEREAS**, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and


**WHEREAS**, the U. S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan State Transportation Conformity Air Quality SIP Revision; and


**WHEREAS**, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

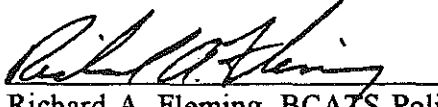
**NOW THEREFORE BE IT RESOLVED**, that the MPOs, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document the "Michigan Transportation Conformity Air Quality SIP Revision"; and

**BE IT FURTHER RESOLVED**, that the involved agencies agree to implement the technical process and procedures included in the Transportation Conformity Air Quality SIP Revision within the Battle Creek Area Transportation Study (BCATS) Metropolitan Area Boundary (MAB), in compliance with the U.S. Clean Air Act, and the EPA's conformity-rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act - 23 CFR part 450 and 49 CFR part 613.

**ATTEST:**

  
Date NOV 16 1994  
Patrick Nowak, Director MDOT

  
Date 11-18-94  
Roland Harmes, Director MDNR

  
Date October 26, 1994  
Richard A. Fleming, BCATS Policy  
Committee Chair

## Interagency Memorandum of Agreement

WHEREAS, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

WHEREAS, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and

WHEREAS, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (IAWG).

WHEREAS, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

NOW THEREFORE BE IT RESOLVED, that the Bay City Area Transportation Study, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Transportation Conformity SIP Revision;

FURTHER BE IT RESOLVED, that the three agencies agree to implement the technical process and procedures included in the Transportation Conformity Air Quality SIP Revision within the Bay City Metropolitan Area Boundary in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.


ATTEST:

  
\_\_\_\_\_  
Patrick Nowak, Director MDOT

Date NOV 16 1994

  
\_\_\_\_\_  
Roland Harmes, Director MDNR

Date 11-18-94

  
\_\_\_\_\_  
Warren Sinke, Chairperson  
Bay City Area Transportation Study

Date Nov. 2, 1994

# INTER-AGENCY MEMORANDUM OF AGREEMENT

WHEREAS, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

WHEREAS, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and

WHEREAS, the Michigan MPO's the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (LAWG).

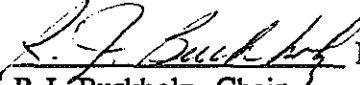
WHEREAS, the Michigan MPO's, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

NOW THEREFORE BE IT RESOLVED, that the Southwestern Michigan Commission, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Michigan Transportation Conformity Air Quality SIP Revision";

FURTHER BE IT RESOLVED, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the Twin Cities Area Transportation Study MAB, in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

ATTEST:

  
Date NOV 16 1994  
Patrick M. Nowak, Director MDOT

  
Date 10-17-94  
R.J. Burkholz, Chair  
TwinCATS Policy Committee

  
Date 11-18-94  
Roland Harmes, Director MDNR

  
Date 10-2-94  
Charles Barger, Chair  
TwinCATS Technical Advisory Committee

  
Date 12/25/94  
Fred Tobin, Chair SWMC



## Southwestern Michigan Commission

185 East Main St., Suite 701, Benton Harbor, MI 49022-4440

616/925-1137 · FAX 616/925-0288

### Inter-Agency Memorandum of Agreement

**WHEREAS**, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

**WHEREAS**, the U. S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan State Transportation Conformity Air Quality SIP Revision; and

**WHEREAS**, The Michigan Metropolitan Planning Organizations, the Michigan Department of Transportation, the Michigan Department of Natural Resources and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U > S > Environmental Protection Agency; the group shall be called the Inter-Agency Work Group (IAWG).

**WHEREAS**, the Michigan Metropolitan Planning Organizations, the Michigan Department of Natural Resources, the Michigan Attorney General Office and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MESA), 1970 PA 127, MAL 691.1201 MA 14.538 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

**NOW THEREFORE BE IT RESOLVED**, that the Southwestern Michigan Commission, the Michigan Department of Natural Resource and the Michigan Department of Transportation adopt the attached document entitled the " Michigan Transportation Conformity Air Quality SIP Revision".

**FURTHER BE IT RESOLVED**, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the Metropolitan Planning Organization's Metropolitan Area Boundary, in compliance with the U.S.

Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991-23 CFR part 450 and 49 CFR part 613.

ATTEST:



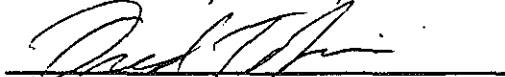
Patrick M. Nowak, Director, MDOT

Date NOV 16 1994



Roland Harmes, Director, MDNR

Date 11-18-94



Fred Tobin, Chair, SWMC

Date 10/25/94

**Inter-agency Memorandum of Agreement**

**WHEREAS**, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

**WHEREAS**, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and

**WHEREAS**, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (IAWG); and

**WHEREAS**, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General's Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

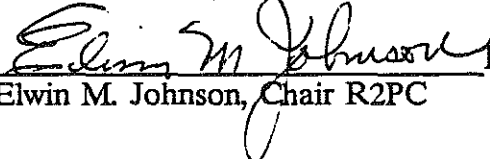
**NOW THEREFORE BE IT RESOLVED**, that the Region 2 Planning Commission, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the " Michigan Transportation Conformity Air Quality SIP Revision";

**FURTHER BE IT RESOLVED**, that the involved agencies agree to implement the processes and procedures included in the Transportation Conformity Air Quality SIP Revision within the JACTS Metropolitan Area Boundary, in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

**ATTEST:**

 Date NOV 16 1994  
Patrick M. Nowak, Director MDOT

 Date 11-18-94  
Roland Harmes, Director MDNR

 Date NOV 10 1994  
Elwin M. Johnson, Chair R2PC

## INTER-AGENCY MEMORANDUM OF AGREEMENT

WHEREAS, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

WHEREAS, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and


WHEREAS, the Kalamazoo Area Transportation Study, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for Michigan in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (IAWG).

WHEREAS, the Kalamazoo Area Transportation Study, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

NOW THEREFORE BE IT RESOLVED, that the Kalamazoo Area Transportation Study, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document the "Michigan Transportation Conformity Air Quality SIP Revision";

FURTHER BE IT RESOLVED, that the involved agencies agree to implement the technical process and procedures included in the Transportation Conformity Air Quality SIP Revision within Kalamazoo MAB, in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act - 23 CFR part 450 and 49 CFR part 613.

ATTEST:

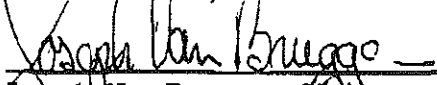
  
\_\_\_\_\_  
Patrick M. Nowak, Director MDOT

NOV 16 1994

Date \_\_\_\_\_

  
\_\_\_\_\_  
Roland Harmes, Director MDNR

Date 11-19-94

  
\_\_\_\_\_  
Joseph Van Bruggen, Chairman

Date November 8, 1994

Kalamazoo Area Transportation Study Policy Committee  
Metropolitan Planning Organization for the Kalamazoo metropolitan area



## Interagency Memorandum of Agreement

WHEREAS, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

WHEREAS, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of a Michigan's State Transportation Conformity Air Quality SIP Revision; and

WHEREAS, the Michigan Department of Transportation, the Michigan Department of Natural Resources, and the Michigan Office of the Federal Highway Administration have worked together to develop a Transportation Conformity Air Quality SIP Revision for the Michigan non-attainment areas in consultation with the U.S. Environmental Protection Agency; this group shall be called the Inter-agency Work Group (IAWG).

WHEREAS, the Michigan MPOs, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Michigan Attorney General Office, and the Michigan Office of the Federal Highway Administration recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

NOW THEREFORE BE IT RESOLVED, that the Saginaw Metropolitan Area Transportation Study, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Transportation Conformity SIP Revision;

FURTHER BE IT RESOLVED, that the three agencies agree to implement the technical process and procedures included in the Transportation Conformity Air Quality SIP Revision within the Saginaw Metropolitan Area Boundary in compliance with the U.S. Clean Air Act, and the EPA's conformity rule, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

ATTEST:

  
Date NOV 16 1994  
Patrick Nowak, Director MDOT

  
Date 11-18-94  
Roland Harmes, Director MDNR

  
Date 11-3-94  
William W. Wright, Study Director  
Saginaw Metropolitan Area Transportation Study

**State Memorandum of Agreement  
between  
Michigan Departments of Transportation and Natural Resources**

**WHEREAS**, the Clean Air Act Amendments of 1990 require that each state develop a plan to assure that transportation projects, programs, and plans conform to air quality plans required under Section 110; and

**WHEREAS**, the U.S. Environmental Protection Agency issued rules on November 24, 1993 describing the required content of Michigan's State Transportation Conformity Air Quality SIP Revision; and

**WHEREAS**, the Michigan Departments of Transportation and Natural Resources, have worked together to develop a Statewide Transportation Conformity Air Quality SIP Revision for the Michigan nonattainment areas; and

**WHEREAS**, the Michigan Departments of Transportation and Natural Resources and the Michigan Attorney General's Office recognize and agree that the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201 MSA 14.528 (201) has full legal effect to insure enforceability and compel compliance with the Michigan Transportation Conformity Air Quality SIP Revision.

**NOW THEREFORE BE IT RESOLVED**, the Michigan Department of Natural Resources, and the Michigan Department of Transportation adopt the attached document entitled the "Michigan Transportation Conformity Air Quality SIP Revision";

**FURTHER BE IT RESOLVED**, that the Michigan Departments of Transportation and Natural Resources agree to implement the processes and procedures as described in the "Michigan Transportation Conformity Air Quality SIP Revision", in cooperation with the State MPOs and other agencies herein described within the Michigan nonattainment areas, and consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

**ATTEST:**

  
\_\_\_\_\_  
Patrick M. Nowak, Director MDT      Date NOV 16 1994

  
\_\_\_\_\_  
Roland Harmes, Director MDNR      Date 11-18-94

## **Chapter 2: Legal Requirements**

### **Clean Air Act Amendments**

#### History of Conformity:

Conformity provisions first appeared in the Clean Air Act Amendments of 1977 (Pub. L. 95-95). Although these provisions did not define conformity, they provided that no Federal department "shall (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit, or (4) approve any activity which does not conform to a [State Implementation Plan] after it has been approved or promulgated." Assurance of conformity was an affirmative responsibility of the head of each Federal agency. In addition, no MPO could approve any transportation project, program, or plan which did not conform to a State or Federal Implementation Plan.

Following enactment of the 1977 Amendments, USDOT consulted with EPA to develop conformity procedures for programs administered by FHWA and the Urban Mass Transportation Administration (now FTA). The June 14, 1978 "Memorandum of Understanding Regarding Integration of Transportation and Air Quality Planning" provided EPA an opportunity to jointly review and comment on the conformity of transportation plans and TIPs.

In April 1980, EPA published an advance notice of proposed rulemaking on conformity (45 FR 21590, April 1, 1980). EPA maintained that the Congressional intent of Clean Air Act §176(c) was to prevent Federal actions from causing a delay in the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). However, no further rulemaking action was taken. In June 1980 EPA and DOT jointly issued a guidance document entitled "Procedures for Conformance of Transportation Plans, Programs and Projects with Clean Air Act State Implementation Plans." This guidance established that in nonattainment and maintenance areas (those experiencing violations of the National Ambient Air Quality Standards (NAAQS) and required to develop air quality maintenance plans under 40 CFR part 51, Subpart D), conformity determinations must be documented as a necessary element of all certifications, TIP reviews, and environmental impact statement findings. It was necessary to make certifications that the planning process had been conducted according to a continuous, cooperative, and comprehensive transportation planning process and consistent with Clean Air Act requirements.

Transportation plans and programs were considered to conform with the SIP if they did not adversely affect the transportation control measures (TCMs) in the SIP, and if they contributed to reasonable progress in implementing those TCMs. A transportation project would conform if it were a TCM from the SIP, came from a conforming TIP, or did not adversely affect the TCMs in the SIP.

Subsequently, USDOT developed and issued an interim final rule (46 FR 8426, January 26, 1981) based upon the joint guidance. USDOT established this rule to meet its obligations under §176(c) of the Clean Air Act, and the rule was put into effect immediately upon

publication. It amended 23 CFR part 770 (FHWA Air Quality Guidelines) and added 49 CFR part 623 (UMTA Air Quality Conformity and Priority Procedures).

The rule used the joint guidance's definition of conformity, interpreting conformity in the context of TCMs rather than emissions budgets or air quality analysis. Compliance with the conformity requirements was to be demonstrated as part of the planning and National Environmental Policy Act (NEPA) processes.

### Conformity Under the Clean Air Act As Amended in 1990

In addition to adding specific provisions regarding the conformity of transportation actions, the Clean Air Act Amendments of 1990 expand the scope and content of the conformity provisions by defining conformity to an implementation plan to mean "conformity to the plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and that such activities will not (i) cause or contribute to any new violation of any standards in any area; (ii) increase the frequency or severity of any existing violation of any standard in any area; or (iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area."

The Clean Air Act Amendments of 1990 emphasize reconciling the estimates of emissions from transportation plans and programs with the implementation plan, rather than simply providing for the implementation of TCMs. This integration of transportation and air quality planning is intended to protect the integrity of the implementation plan by ensuring that its growth projections are not exceeded without additional measures to counterbalance the excess growth, that progress targets are achieved, and that air quality maintenance efforts are not undermined.

## **Enforceability**

The CAAA requires that all State Implementation Plan revisions shall be legally enforceable under state law. The USEPA transportation conformity regulations requires that this SIP revision "shall address all requirements of subpart (T) in a manner which gives them full legal effect" and that "each state and participating agencies should jointly develop their own legally enforceable state transportation conformity procedures". It further states that "the USEPA concludes that the appropriate form of the state transportation conformity procedures depends upon the requirements of local law, so long as the selected form complies with all CAAA requirements for adoption", it further states "that the USEPA will accept State transportation conformity procedures in any form provided that the State can demonstrate enforceability to USEPA's satisfaction" and "as a matter of State law, the State has adequate authority to compel compliance with the requirements of the State Transportation Conformity Procedures". Michigan currently has two legal instruments to ensure compliance with all ISTEA (23 CFR part 450 & 49 CFR part 613) and CAAA (40 CFR part 50) legislation that require enforceability for the Michigan Transportation Conformity Air Quality SIP Revision. They are:

### **1. State Legislative Authority**

ISTEA and the CAAA give the Metropolitan Planning Organizations (MPO) in cooperation with MDOT, and in consultation with MDNR, the authority to make Transportation Plan and Transportation Improvement Program air quality conformity determinations. The actions of any Michigan public agency may be challenged by any citizen and/or group under existing state statutes. Transportation conformity is enforceable through the Michigan Environmental Protection Act (MEPA), 1970 PA 127, MCL 691.1201, [M.S.A. 14.528 (201)].

MEPA provides:

- (a). That the Attorney General, any political subdivision of the state, any instrumentality or agencies of the state or any person, partnership, corporation of other legal entity may bring an action in circuit court where a violation of the CAAA requirements has occurred or is likely to occur, for declaratory and equitable relief.
- (b). That in determining whether a violation has occurred or is likely to occur, the court may adopt the standards set forth in the CAAA and the state's implementation plan or the court may adopt a more stringent standard.
- (c). That in order to establish a violation under MEPA, the plaintiff must show that the conduct of the defendant has or is likely to pollute, impair or destroy the air, water, or other natural resources or the public trust therein.
- (d). That the court may grant temporary and permanent equitable relief, or may impose conditions on the defendant that are required to protect the air, water,

and other natural resources or the public trust therein from pollution, impairment, or destruction.

**2. Memorandum of Agreement (MOA)**

A Memorandum of Agreement, with all of the affected agencies or entities involved, will bind each party to the Transportation Conformity Air Quality SIP Revision, stating each agency's roles and responsibilities in the transportation conformity process; and that each party agrees to comply with the requirements of the federal transportation conformity rule and the Michigan Transportation Conformity Air Quality SIP Revision.

The MOA represents the highest level of inter-agency cooperation. It is included in the submittal to attest to adherence to the process by all affected parties as required by 40 CFR part 51, 23 CFR part 450 and 49 CFR part 613.

The State of Michigan submits to USEPA that for the reasons and statutory authorities cited in this section, the Michigan Transportation Conformity Air Quality SIP Revision has full legal effect and enforceability under Michigan law and existing state and federal procedures.

### **Chapter 3:**

## **PROCESS FOR TRANSPORTATION CONFORMITY DETERMINATION SUMMARY**

MPO, MDNR, AND MDOT agree to implement the following process each time a conformity determination is necessary for either the development of a new or an amendment to a TP or the TIP. As the lead local air quality planning agency in Michigan, the MPOs will be responsible for managing and facilitating the conformity SIP revision process within their respective MABs. The following process is subject to modification depending upon the scheduling of amendments to either the TIP or the TP

**STEP 1.** The MPO will begin working with its committee assigned to develop the TIP for identification of projects that will be included in the TP or TIP. The Committee will include a representative from transportation operating agencies, MDOT and the MDNR. In non-MPO areas, transportation providers will identify projects through existing processes.

During this time, the public involvement process for the development of TIPs and TPs required under 23 CFR 450 will also begin.

**STEP 2.** Relevant data regarding the projects and plans will be collected. In addition, the transportation network that will be included in the analysis will be determined in collaboration with the committee assigned to TIP development and transportation providers in non-MPO areas.

**STEP 3.** The MPOs or MDOT will complete the technical analysis for the TIP and or the TP. The MPO, MDNR, and MDOT staff will review the results of the conformity analysis. Informal discussions will be initiated between the technical staffs of these three organizations with input from FHWA, FTA and EPA to determine if there are any differences in interpretations of the conformity analysis results through the Inter-agency Work Group (IAWG). The participants on the IAWG are representatives from the Departments of Transportation and Natural Resources, Federal Highway Administration, and MPO staff. Their purpose is listed under IAWG Roles and Responsibilities contained within Chapter 4 of this document. Public involvement will be solicited using the procedure required under the 23 CFR 450.

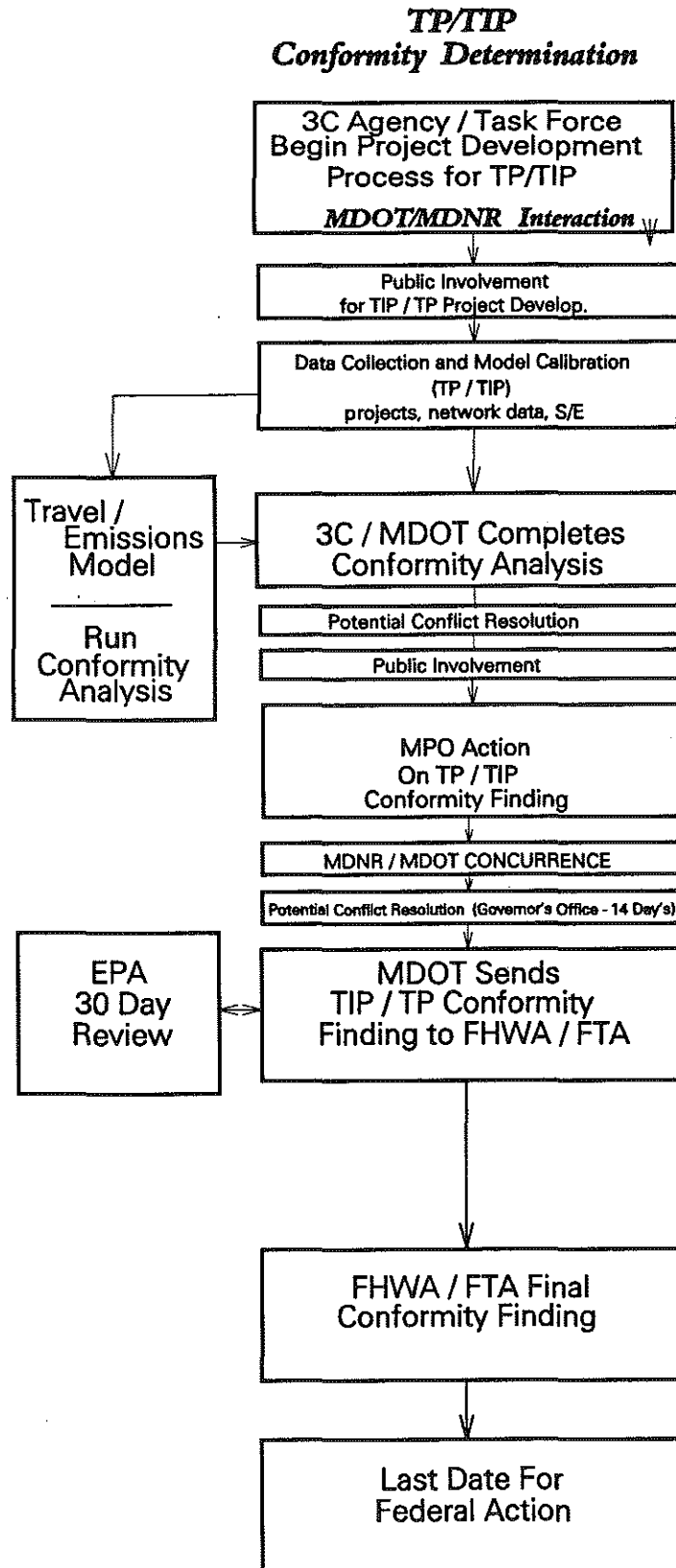
**STEP 4.** The MPO will seek policy action endorsing the conformity finding from its appropriate committee. The MPOs will transmit their policy level action to MDOT per 23 CFR part 450 and 49 CFR part 613. The conformity finding will be submitted to MDNR by MDOT for review and comment. If the MDNR does not agree with the conformity finding, they will have 14 days within which to bring this conflict to the Governor's office. This conflict resolution process will be implemented consistent with the EPA rule for Transportation Conformity in 40 CFR Part 51, as outlined in Chapter 4, Implementation of Transportation Conformity Air Quality SIP Revision.

- STEP 5.** MDOT will send the Transportation Conformity finding to the FHWA/FTA for review. The FHWA will forward the conformity finding to the Region V office of USEPA for a 30 day review and comment period.
- STEP 6.** After EPA review, the FHWA/FTA will make a final finding on conformity. The final Transportation Conformity finding by FHWA/FTA will be sent to MDOT.
- STEP 7.** MDOT will notify the MPO and MDNR of the final conformity finding made by the FHWA/FTA.

The following pages depict the process flows for various nonattainment scenarios in the State of Michigan.



Chapter 3:  
Transportation Conformity Determination Process



## **Chapter 4: Implementation of Transportation Conformity Air Quality SIP Revision**

### **Agency Roles and Responsibilities**

#### **INTRODUCTION**

In the process of developing a Air Quality Conformity SIP submittal, the Inter-agency Work Group (IAWG) began listing various tasks that would be a part of the Transportation Conformity Air Quality State Implementation Plan Revision. After listing these tasks, the next step was to determine the best distribution of roles and responsibilities for the various organizations involved in conformity determinations. It was then decided to include a brief discussion of the roles and responsibilities in the conformity plan for two key reasons:

1. As a binding agreement between the agencies regarding their respective responsibilities with regard to conformity determinations, and;
2. As an explanation to other stakeholders and the public of where responsibility rests.

Accordingly, the following sections generally describe the roles and responsibilities of the organizations involved in conformity determinations.

#### **MPO Roles and Responsibilities:**

1. **Technical analysis: Run emissions and transportation models.**

The MPO and MDOT are jointly responsible, in varying degrees across the State, for the development and application of transportation models as part of the MPO responsibilities under the 23 CFR part 450 and 49 CFR part 613. This includes the forecasting of travel based on local forecast of growth and development.

This responsibility will continue as part of the conformity determination process. Specifically, the MPO, or MDOT where applicable, will run the most recent EPA model to estimate emission rates. That information will be used in combination with transportation modeling done as required under the 23 CFR part 450 and 49 CFR part 613. The technical analysis will be conducted in coordination with MDOT. This method will promote modeling consistency in the different urban areas of the state.

2. **Obtain consensus on State Implementation Plan revision within MAB.**

Preparation of the Transportation Conformity Air Quality State Implementation Plan Revision necessitates the merging of transportation and air quality issues. One of the responsibilities of the MPO is to obtain consensus within the MAB for the Transportation Conformity Air Quality SIP submittal and any necessary revisions. The consensus obtained is reflected in the resolution in the Appendix of this report.

3. **Implement public involvement process.**  
A TP or TIP prepared under 23 CFR part 450 and 49 CFR part 613 must be conducted in an open process involving the public. The MPO will use the identical process for conducting conformity determinations of both the TP and the TIP. This process is described in Chapter 4 - Implementation of the Transportation Conformity Air Quality SIP Revision, of this report.
4. **Identification of all projects for inclusion in plans, programs and project conformity determinations.**  
Consistent with the requirements of both 23 CFR part 450 and 49 CFR part 613 and CAAA 40 CFR part 51, the MPO will develop a list of all projects and programs that need to be included in conformity determinations. This will involve the coordination and facilitation of all three levels of government, including the FHWA, the MDOT and local road and transit agencies within the MPO area. To the extent possible, this will also include private projects of regional significance consistent with the definitions used in this conformity plan.
5. **Develop transportation planning policies and insure local agencies compliance with 23 CFR part 450 and 40 CFR part 51.**  
The MPO is responsible for developing transportation planning policies which meet the requirements of 23 CFR part 450, 49 CFR part 613, and 40 CFR part 51. It is also the responsibility of the MPO to work with local units of governments to ensure that there is a broad understanding of the conformity requirements and in facilitating compliance with those requirements. This will be accomplished through the normal MPO process which includes committees of the MPO that are integral to the development of projects for the TIP and TP.
6. **Tracking projects in conforming transportation improvement program and transportation plan.**  
By definition, conformity determinations depend on the actual implementation and actual mix of projects in the conforming TIP or TP. Accordingly the MPO has developed a system for tracking those projects up to the time of contracts being let. Projects proposed to be included in either the TIP or the TP are placed in a database and periodically reviewed to determine if project specifics have been revised and if projects are being implemented. This process is important to the development of accurate baseline and action networks for conformity analysis.
7. **Education of stakeholders in Michigan.**  
Using the normal committee process of the MPO, various stakeholders in the MPO area will be educated on the conformity requirements of the CAAA and of the Michigan Transportation Conformity Air Quality State Implementation Plan Revision. By necessity, this process is well underway as part of the preparation of this conformity plan. The MPO's committee responsible for TIP development, for transportation issues and its executive committee made up of local elected officials have been part

of the Transportation Conformity Air Quality SIP Revision development and process. This process is considered an ongoing responsibility of the MPO in cooperation with MDOT and MDNR.

8. **Documentation of conformity determinations.**

The MPO and/or MDOT will be responsible for the preparation of all necessary documentation for any conformity determinations on either the TP or the TIP. There will be to levels of documentation. Chapter 4 of this report describes the documentation the MPO will keep on file for review by any interested agency. Section 4 also describes documentation which will be submitted to the MDOT and the FHWA for each conformity determination. The MPO/MDOT will be the keeper of this information and be responsible for its accuracy.

9. **Submittal of conformity determinations.**

Upon completion, conformity determinations will be submitted by the MPO to both the MDOT and the MDNR. This will be followed with action by the policy body of the MPO. It should be noted however, that both the MDOT and the MDNR will be involved from the beginning to the end of the conformity determination process.

10. **Enter into memorandum of agreement.**

Following implementation of the CAAA of 1990, the moderate nonattainment MPOs entered into a MOU describing general agency responsibilities with both MDNR and MDOT to develop revisions to the SIP. By virtue of their agreement, the MDNR, the MDOT and the MPO have established a much more specific inter-agency agreement with regard to conformity as required by 40 CFR part 51. The overall MOU, however, continues as a valid agreement describing the overall process for the various agencies to work together on transportation air quality matters.

11. **Summarize meetings of inter-agency work groups.**

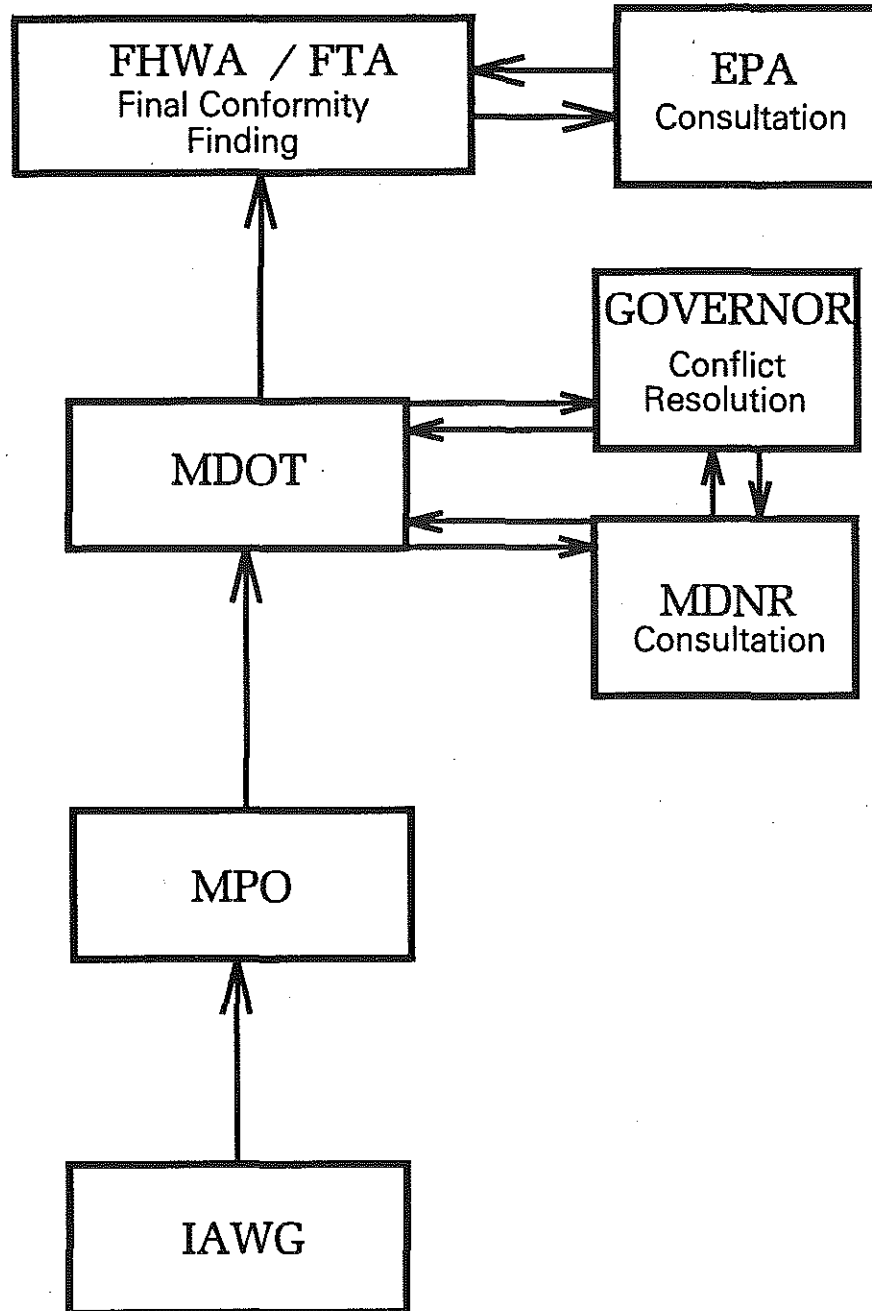
As described in Chapter 4 the IAWG will work together from the beginning to the end of each conformity determination. The MPO will be responsible for the documentation of any IAWG discussions as well as any comments received in each conformity determination process.

12. **Coordination with Non-MPO areas.**

In nonattainment areas where the MPO boundary does not extend to the nonattainment area boarders county line, the MPOs in coordination with MDOT will coordinate transportation conformity activities with non-MPO transportation providers, and local air quality agencies where appropriate, as described in the Non-MPO Roles and Responsibilities Section of this document.

# TRANSPORTATION CONFORMITY PROCESS ( MPO only ) within the MAB

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## **Non-MPO areas in nonattainment counties Roles and Responsibilities**

### **INTRODUCTION**

#### **Process**

In nonattainment areas where MPO boundaries do not extend to the county line, a process will be developed by the MPO, non-MPO transportation providers and air quality agencies outside the MPO boundary, to review, discuss and coordinate transportation conformity related matters for the entire non-attainment area. To the extent possible, existing processes, agreements, and MOUs will be used or combined to accomplish area-wide cooperation. The organizational structure, roles and responsibilities of this local process will be established, documented, and agreed to by the affected transportation providers in the nonattainment area as required by 23 CFR part 450; Section 450.310. MDOT and MDNR will disseminate information on transportation conformity to affected local transportation providers through this process.

This process will be implemented through the formation of a Regional Conformity Committee (RCC). The RCC will include at least MDOT, the MDNR, the MPOs, transportation providers and air quality agencies outside the MPO boundaries. The RCC may consist of, but is not limited to the following agencies within a nonattainment area:

- MPOs
- Rural ISTEA Task Force Members
- Cities and Villages under 50,000
- County Road Commissions
- Local and County Planning Commissions
- Local Air Quality Agencies
- State Planning and Development Regions
- Transit Agencies
- MDOT & MDNR
- FHWA/FTA

(transportation providers in the nonattainment area may delegate their authority to another agency within the area by formal agreement)

RCC decisions (when associated with an MPO) will then be reviewed by the Inter-agency Work Group (IAWG). The IAWG for these areas will consist of MDOT, MDNR, FHWA, MPOs, and a representative from the non-MPO portion of the nonattainment area. RCC meetings may be combined with IAWG meetings as needed or as requested by the participants. RCCs not associated with a MPO will forward decisions and any conflicts directly to MDOT.

Decisions made by the RCC and IAWG will be considered recommendations. These recommendations will be reviewed by MPOs within their boundaries, and by transportation

providers/implementing agencies outside the MPO boundaries within the nonattainment area. Project scheduling, phasing, and implementation decisions affected by conformity findings, outside of MPO areas, will be the responsibility of the funding agency and/or transportation provider. Transportation conformity decisions made by MPOs within their boundaries, and transportation providers/implementing agencies outside the MPO boundaries, will be transmitted to MDOT and processed as required by 23 CFR part 450 (see attached flow chart).

1. **Coordination of the transportation conformity process in areas outside MPO planning boundaries.**

The transportation conformity process in areas outside of the MPO planning boundaries will be coordinated by MDOT, in consultation with MDNR, transportation providers, air quality agencies in those areas, and MPOs where applicable. The development and implementation of the Transportation Conformity Air Quality SIP MOA in the non-MPO areas is the responsibility of MDOT and MDNR. The RCC will utilize existing Transportation/Air Quality processes wherever possible.

2. **Technical Analysis.**

MDOT will run transportation and emission models with transportation network, social/economic, environmental and energy data provided by the local agencies, and as required by 23 CFR part 450, 49 CFR part 613 and 40 CFR part 40. MDOT is responsible for the transportation conformity analysis and finding for non-MPO portions of nonattainment areas. MDOT will also document and transmit the air quality conformity analysis and findings to the FHWA/FTA, as one nonattainment area conformity determination, per requirements of 23 CFR part 450, 49 CFR part 613 and 40 CFR part 51.

3. **Project Identification.**

Identification of all projects for inclusion in the TP and the TIP conformity analysis will be coordinated by MDOT, in cooperation with the RCC.

4. **Public Involvement Process (P/I).**

A public meeting will be held in the nonattainment area to review all transportation projects and transportation conformity issues for the entire area when a new transportation plan and/or program is developed. Individual project level P/I will be conducted according to statewide P/I processes, MPO P/I plans, and the P/I requirements of local implementing agencies.

5. **Project tracking.**

MDOT, in cooperation with local transportation providers and the RCC, will track projects in the conforming Statewide TIP and TP for the non-MPO area.

6. **Education of stakeholders.**

Education of stakeholders in the area will be coordinated by MDOT and the MDNR in cooperation with local air quality agencies and transportation providers through existing nonattainment area processes.

**Rural Nonattainment Counties**

In non-attainment counties without MPOs, the transportation conformity process, roles, and responsibilities as described above will apply, without MPO involvement. The RCC will be formed to implement the applicable sections of the Transportation Conformity Air Quality SIP revision. The RCC will include MDOT, MDNR, local transportation providers, and local air quality agencies where appropriate. MDOT and MDNR will disseminate information on transportation conformity through this process. To the extent possible, existing processes, agreements, and MOUs will be used or combined to accomplish area-wide cooperation.

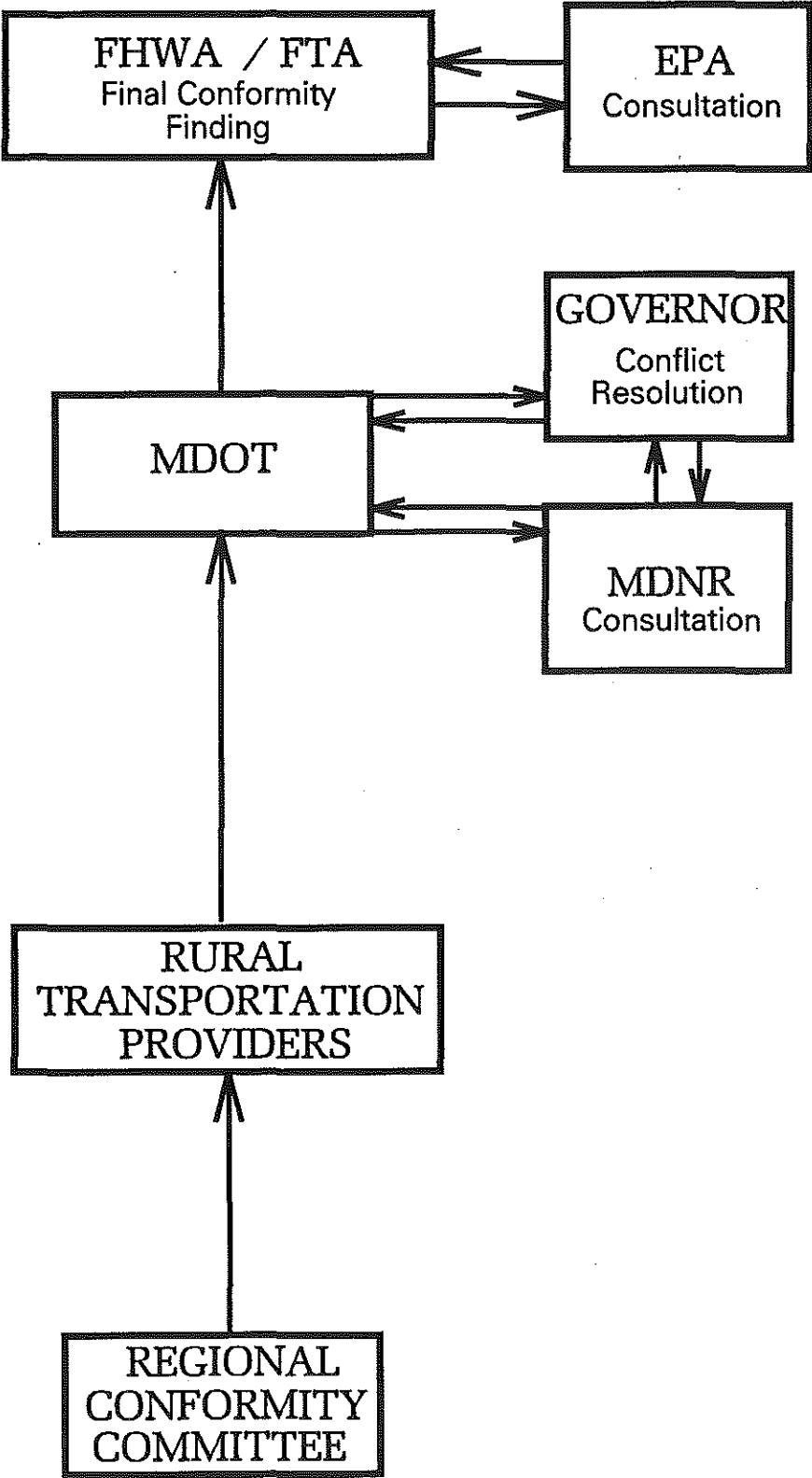


# TRANSPORTATION CONFORMITY PROCESS

(rural counties)

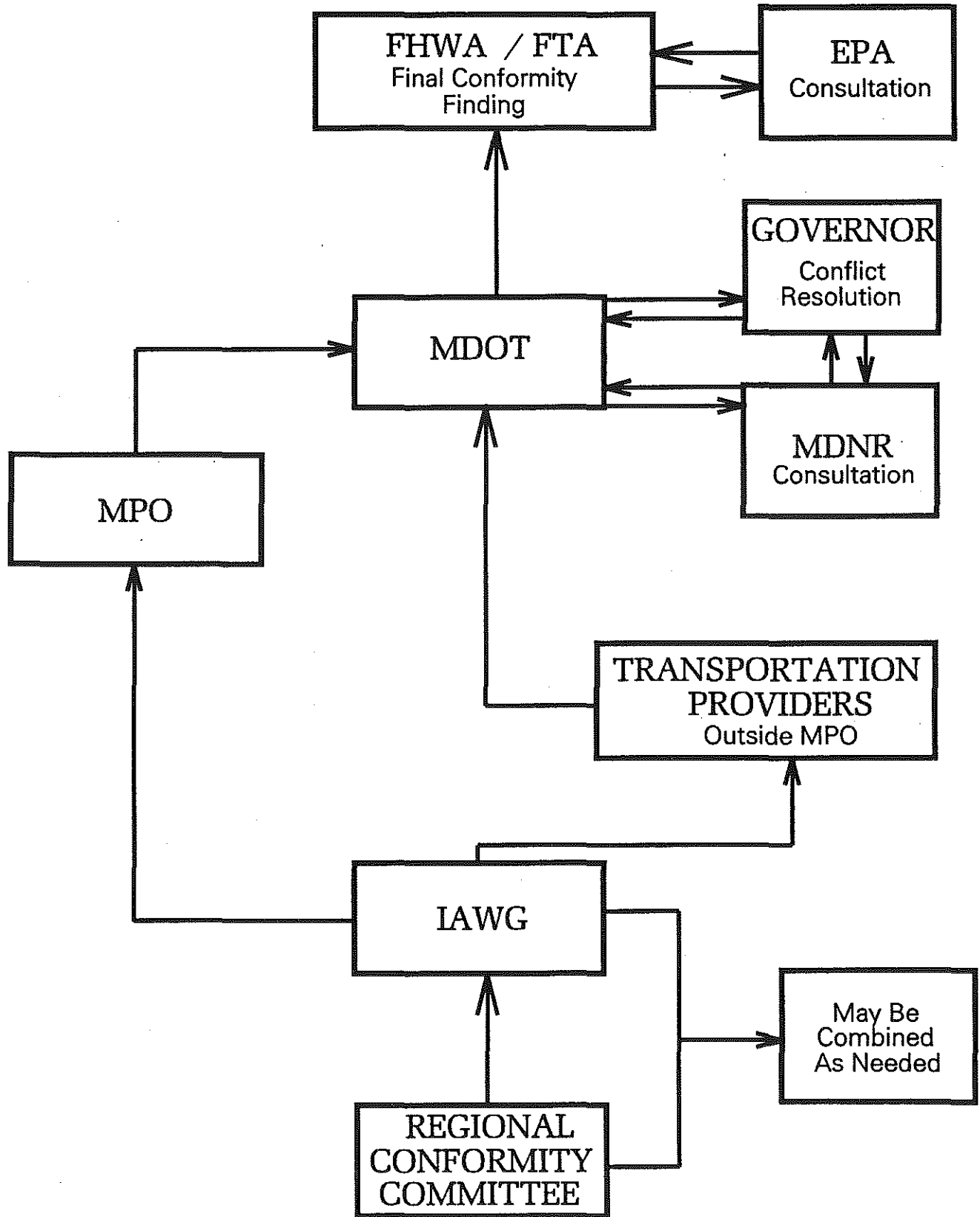
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Figure 4



# TRANSPORTATION CONFORMITY PROCESS

(MPO/Non-MPO areas combined)



## **MDOT Roles and Responsibilities:**

1. **Lead in developing Transportation Conformity Air Quality SIP process and development of necessary inter-agency agreement.**

As the lead State agency, the MDOT will assure that there are regular meetings with the FHWA, MDNR and the MPOs and RCCs. It will also supply sufficient comment on any and all work to be submitted in the Transportation Conformity Air Quality SIP Revision. MDOT will provide the necessary technical and staff support to ensure all necessary data and document drafts and final submission are prepared in a timely manner consistent with the time table agreed upon by the IAWG.

2. **Review, comment and assist in transportation and air quality MPO work.**

In keeping with 23 CFR part 450 and 49 CFR part 613 requirements as well as 23 CFR part 51 requirements, all TIPs, TPs and their amendments will continue to be reviewed, supported and amended by the MDOT. MDOT will also in doing so, keep the MPO and non-MPO transportation providers informed of the effect conformity determinations will have on future projects, TPs and TIPs.

3. **Coordinate transportation conformity air quality SIP revision submittal components for MDNR.**

Once compilation of the conformity SIP revision is complete, the MDOT will submit it and all necessary documents to the MDNR for their concurrence on process and findings. MDNR will submit the conformity SIP revision to USEPA for final approval.

4. **Seek consensus and address concerns between MDOT and MDNR.**

After the completion of the Transportation Conformity Air Quality SIP revision, the MDOT will continue to consult with MDNR. Any areas that are at an impasse, will be handled by the documented conflict resolution strategy contained in this document.

5. **Submit TP/TIP conformity determination to FHWA/FTA.**

Once a determination for conformity has been completed for TPs and TIPs, MDOT will forward those findings and the actual plans to FHWA/FTA for their final conformity finding.

6. **Facilitate the formation and assure the continuation of inter-agency workgroup.**

As the lead agency for completion of the Transportation Conformity Air Quality SIP revision, MDOT will facilitate the formation of the inter-agency work group. This group shall consist of representation from the MDOT and MDNR, the MPO, FHWA/FTA and USEPA. MDOT will make every effort to expedite all conformity findings and the process of the SIP revision from its inception to submittal to USEPA, through the IAWG consultation process.

7. **Technical analysis: Run emissions and transportation models.**

The MPO and MDOT are jointly responsible, in varying degrees across the State, for the development and application of transportation models as part of the MPO responsibilities under the 23 CFR part 450 and 49 CFR part 613. This includes the forecasting of travel based on local forecast of growth and development. MDOT is responsible for the transportation conformity analysis and finding for non-MPO portions of nonattainment areas.

This responsibility will continue as part of the conformity determination process. Specifically, the MPO or MDOT where applicable will run the most recent EPA model to estimate emission rates. That information will be used in combination with transportation modeling done as required under the 23 CFR part 450 and 49 CFR part 613. The technical analysis will be conducted in coordination between MDOT and the MPOs in varying degrees. This method will promote modeling consistency in the different urban areas of the state. In addition, MDOT will be responsible for transportation and emissions model runs for nonattainment areas outside MPO-MABs.

## **MDNR Roles and Responsibilities**

1. **Submit SIP submittal for conformity process and any other revisions to EPA.**

The MDNR will ensure that the Transportation Conformity Air Quality SIP revision(s) is submitted to USEPA by the legal deadlines.

2. **Provide MPO with air quality Technical Assistance upon request.**

The MDNR will provide the MPO with air quality policy and technical assistance upon request. The MDNR will foster communications through its participation on 3C MPO committees, RCCs and transportation conformity IAWGs.

3. **Assess consistency of conformity determinations with SIP goals and objectives through the participation of MPO committees, RCCs as well as the IAWG.**

As the state agency responsible for air quality planning, implementation and enforcement, the MDNR will ensure that the Transportation Conformity Air Quality SIP Revision(s) is consistent with air quality policy and CAAA goals; and specifically, it will provide guidance for the development of the Transportation Conformity Air Quality SIP Revision to uphold the requirements of Section 176(c) of the Federal Clean Air Act, as amended (42 U.S.C. 7521(a)) and the Michigan Air Pollution Act 348 of 1965 as amended.

4. **Comment on conformity determinations for the TIP and TP.**

In its review of programs, and plan level conformity determinations, the MDNR will assess the consistency of the conformity determinations with SIP goals and objectives. The MDNR will encourage, through participation on MPO committees, RCCs, as well as the transportation conformity IAWG, that consistency is maintained early in the transportation planning process. As part of its responsibility as the state's air quality planning agency, and as a member of the Transportation Conformity Inter-agency Work groups, the MDNR will provide written comments on draft and final conformity determinations for transportation programs, and plans. Comments will also be provided on amendments to the transportation programs and plans related to exempt projects.

5. **Hold Public hearing on SIP revision submittals.**

The MDNR will provide for a 30 day public notice period and hearing for the proposed Transportation Conformity Air Quality SIP revision(s) under the authority of the Air Pollution Act( 348) and in compliance with the public hearing provision and requirements for SIP revisions under 40 CFR Part 51. The MDNR will prepare the response to public comments as part of the SIP revision(s) submittal.

## **USEPA - Region V Roles and Responsibilities**

1. **Approval of SIP conformity revision with comments from FHWA/FTA.**  
USEPA will review the required conformity SIP revision submittal in accordance with the procedures set forth in the Final Transportation Conformity Rule, 40 CFR part 51, and rule on the conformity submittal consistent with the requirements in Section 120 (k) of the CAAA.
2. **Review and comment on TP/TIP conformity determination within 30 days of receipt from FHWA/FTA.**  
USEPA will use the criteria set forth in the Final Transportation Conformity Rule, 40 CFR part 51 as the basis for the conformity reviews. USEPA will continue to use the USEPA/FTA/FHWA Region V coordination procedures during the review of the TIP/TP.
3. **Provide timely guidance on policy and technical issues and ideas.**  
USEPA will continue to provide guidance on policy and technical issues as needed to aid with the analysis and certification of conformity to the applicable SIP. USEPA will also continue to inform the interested parties of upcoming changes to the mobile sources emissions factor models and distribute these models as updates become available.

## **FHWA/FTA Roles and Responsibilities**

1. **Make the final conformity determinations in a timely manner for MPO TIP/TP.**

The FHWA and the FTA will jointly review the conformity analyses of transportation plans and TIPs performed by the State and/or MPOs to assess compliance with the requirements of 40 CFR part 51. Based on this review and on consultation with the Environmental Protection Agency (EPA), the FHWA and FTA will jointly determine that the TPs and TIPs conform to the State SIP. TPs or TIPs which cannot be found to conform will be returned to the State for further analysis.

2. **Seek consensus of USEPA.**

Through the process defined in the Region V Inter-agency Agreement, the FHWA and FTA will provide EPA with a thirty day comment period prior to making a conformity finding on a TP or TIP or their amendments which includes nonexempt projects. The FHWA and FTA will seek consensus with EPA by answering questions, providing timely information, and considering the views of EPA when making conformity findings.

3. **Provide timely guidance on air quality policy and technical issues.**

The FHWA and FTA will provide timely guidance on air quality policy and technical issues. This will be accomplished through participation in the Inter-agency Work Groups, the defined consultation procedures, special meetings and conferences, and other appropriate ways.

4. **Approval of STIP, and all urban area TIP's.**

The FHWA and FTA will jointly approve the Statewide Transportation Improvement Program (STIP) and major amendments to it in a timely manner. The approval will consider the planning requirements of 23 CFR part 450 and 49 CFR part 613, and the air quality requirements of 40 CFR part 51. The FHWA and FTA will review the process by which urban area TIPs are developed and make a finding on the adequacy of the urban planning process prior to the projects in the TIPs being added to the STIP, per 23 CFR part 450 and 49 CFR part 613.

5. **Review and comment of SIP conformity revisions.**

The FHWA and FTA will jointly review the State's conformity SIP submittal and provide comments to EPA in a timely manner. Through the consultation process being used to develop the conformity SIP revision, FHWA and FTA will have the opportunity to provide input to the SIP revision as it is being developed. This should facilitate the review process and allow comments to be provided in less than the thirty day period provided for in the regulations.

## **Mission Statement of Inter-agency Work Group (IAWG).**

The mission of the IAWG is to work together cooperatively as a project team in developing and completing the Michigan Transportation Conformity Air Quality SIP revision for submittal to the U.S. Environmental Protection Agency (USEPA) by November 24, 1994.

The project team wants to insure that federal, state, and local transportation projects continue to move forward to address the transportation needs of the state consistent with 23 CFR part 450 and 49 CFR part 613 requirements and the adopted air quality plans for the area.

Further, the Inter-agency Workgroup will coordinate the Transportation Conformity Air Quality SIP revision and determination process. Its purpose is to provide adequate communication early in the transportation planning process to insure that the purpose and goals of this conformity revision are met.

The workgroup will also serve as an inter-agency review team to provide concurrence on projects of regional significance, including Transportation Improvement Program (TIP), TIP amendments, Transportation Plan (TP) and TP amendments in conjunction with criteria set forth in 40 CFR part 51, 23 CFR part 450 and 49 CFR part 613 regulations.

The workgroup is a vital part of the overall completion and continuance of the planning process for future horizons. The IAWG realizes the importance of keeping urban areas within the parameters of national standards and is committed to insuring the successful provisions of integrated and conforming transportation networks throughout Michigan. The IAWG will continue to be a forum for the consideration of transportation planning issues in future revisions to the SIP.



## Inter-agency Work Group Roles and Responsibilities

1. Develop organizational roles and responsibilities, goals and objectives, for both the transportation conformity air quality SIP submittal as well as transportation conformity determinations, and all procedures consistent with 23 CFR part 450, 49 CFR part 613 and 40 CFR part 51.

The IAWG will have representation from the FHWA/FTA, MDNR, MDOT, MPO staff and other agencies where agreed to by the primary participants. The IAWG will define the roles each agency will play in the completion of the Transportation Conformity Air Quality SIP Revision, and subsequent submittals, and further conformity determination on TIPs, TPs and their amendments. Additional milestones and objectives are further outlined in the mission statement for the IAWG. The IAWG will also address other related transportation conformity matters, including but not limited to TCMs, border issues, regionally significant projects and all necessary documentation.

2. Apply definition of regionally significant projects for the TP/TIP conformity analysis.

In consultation with the federal regulations, the IAWG will propose a definition for regionally significant that will be consistent with the federal definition and applicable to the state of Michigan.

3. Project tracking.

Any change in project scope that will have a significant air quality impact will be brought before the IAWG so that a determination may occur to as the overall impact on applicable air quality standards.

4. Determination of exempt projects.

The IAWG will examine the federally generated list of exempt projects, and determine the applicability of them for Michigan, as well as any proposed projects generated in the State that attempt to qualify for exempt status, shall be reviewed by the IAWG.

5. PM-10

In PM-10 nonattainment or maintenance areas, the IAWG will review all projects proposed for their inclusion in the air quality analysis. Selection of appropriate modelling procedures and parameters will be part of the discussion.

6. IAWG may hear concerns from non-IAWG members.

During the preparation of transportation air quality related materials, the IAWG will receive input from interested parties and respond with comments.

7. **Coordination between the IAWG and the RCC.**

If seen as beneficial to transportation air quality issues, and at the request of the participants, meetings of the IAWG and the RCC may be combined.

## **Conflict Resolution**

Disagreement or conflicts may occur at any point in the transportation conformity process. It is essential that authority and responsibility for resolving these conflicts be established through this SIP revision. In the Michigan nonattainment areas, there are three basic inter-government scenarios as follows:

1. Single MPO Areas  
Nonattainment area completely within an MPO-MAB. In this scenario, the MPO is the final local decision making entity on transportation conformity conflicts.
2. Joint MPO and Non-MPO Areas  
Nonattainment areas with more than one MPO and/or non-MPO areas (MPO-MAB does not cover entire nonattainment area). In this scenario, the MPO is the final local decision making entity within their MAB; in non-MPO areas, the transportation providers or funding agency is the final local decision making entity on transportation conformity conflicts.
3. Rural Areas  
Nonattainment areas not part of an MPO-MAB (rural counties). In these areas, the transportation providers or funding agency is the final local decision making entity on transportation conformity conflicts.

After local decision is made on a conflict, the transportation conformity finding is forwarded to MDOT. Conflicts involving MDNR and MDOT will ultimately be decided by the Governor or his/her designee. MDOT is responsible for the transportation conformity analysis and finding for non-MPO portions of nonattainment areas. Unresolved conflicts involving MDOT and MDNR, or between MDOT and non-MPO transportation providers will be ultimately decided by the Governor or his/her designee. All conflicts will be resolved before a transportation conformity finding is forward to FHWA/FTA. FHWA/FTA are responsible for the final transportation conformity finding, in consultation with the USEPA, based on the information forwarded from MDOT.

In the event that a conflict arises at any point in the transportation conformity process between any of the parties involved, the following processes will be initiated to resolve the conflict:

1. Single MPO Areas
  - a. The IAWG will review, comment and make recommendations on all transportation conformity matters, prior to final MPO action. IAWG decisions are forwarded to the MPO as a recommendation. If a consensus cannot be reached at the IAWG, any IAWG member may appeal a conflict to the MPO.

- b. Upon review of the IAWG conflict and/or recommendation, the appropriate MPO committee may:
  - (1). Approve the IAWG recommendation and forward the MPO conformity finding to MDOT.
  - (2). Reject the IAWG recommendation; the MPO will then forward their conformity finding to MDOT with a summary of the MPO position on the IAWG conflict or recommendation.
  - (3). Propose a compromise that will be referred back to the IAWG for consideration in a timely manner.
    - (a). If the IAWG agrees with the compromise, it will be forwarded to MDOT by the MPO as part of the MPO conformity finding.
    - (b). If the IAWG cannot reach a consensus, the MPO will forward a local position, with the conformity finding to MDOT.

2. Joint MPO and Non-MPO Areas

- a. The RCC is the forum for initial discussion and conflict resolution on transportation conformity matters, between all MPOs and non-MPO transportation providers within the nonattainment area.
- b. Conflicts not resolved by the RCC will be referred to the IAWG. RCC and IAWG meetings may be combined upon request of the participants. Unresolved RCC & IAWG conflicts and/or recommendations will be forwarded to the responsible MPO within the MAB, and non-MPO transportation providers outside the MAB but within the nonattainment area.
- c. For unresolved conflicts within MABs, follow process outlined in 1(b) above for MPO areas.
- d. Upon review of a RCC and/or IAWG conflict and/or recommendation in non-MPO portions of the nonattainment area, the non-MPO transportation providers or funding agency may:
  - (1). Accept the RCC and/or IAWG recommendation and forward project list to MDOT for inclusion in the transportation conformity analysis.
  - (2). Reject the RCC and/or IAWG recommendation and forward project list to MDOT, with a summary of their position on the RCC and/or IAWG conflict or recommendation, for inclusion in the transportation conformity analysis and subsequent transportation conformity finding.

3. Rural Areas

- a. In nonattainment areas with no MPOs, the RCC is the forum for discussion and conflict resolution on transportation conformity matters.
- b. For unresolved RCC conflicts, follows process outlined in (d), above for joint MPO/non-MPO areas.

4. MDOT and MDNR

Upon receipt of MPO conformity determination including the unresolved conflict, MDOT will review and comment on the MPO action. MDOT will then forward the MPO conformity determination and as well as MDOT position to the MDNR for its review and comments. MDOT is responsible for the transportation conformity analysis and finding for non-MPO portions of nonattainment areas. Unresolved conflicts involving MDOT and MDNR, or between MDOT and non-MPO transportation providers will be ultimately decided by the Governor or his/her designee.

The MDOT and MDNR Directors, or their designees will attempt to resolve the conflict within the 14 day period specified in 51.402(d). If the conflict remains unresolved, the following process, Per 51.402(d) will be initiated: Conflicts among State agencies, or between State agencies and an MPO, shall be escalated to the Governor if they cannot be resolved by the heads of the involved agencies. After the MPO submits its conformity finding to MDOT, MDOT will then notify the MDNR within 10 working days of MDOT's position concerning the conflict. The MDNR will then have 14 days to appeal to the Governor, or request a 14 day extension. If MDNR appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If the MDNR does not appeal to the Governor within 14 calendar days, the MPO or MDOT may proceed with the final conformity determination. The Governor may delegate his/her role in the process, but not to the head of the state or local air agency, state department of transportation, state transportation commission or board, or an MPO.

Upon resolution by the Governor, MDOT will notify the MPO of the Governor's action, and forward the MPO conformity determination and Governor's action to FHWA/FTA, per 23 CFR part 450, 49 CFR part 613 and 40 CFR part 50 for a final conformity determination.

5. FHWA/FTA

Conflicts involving MDOT and MDNR will ultimately be decided by the Governor (per No. 4 above). All conflicts will be resolved at the state level before being forwarded to FHWA/FTA for a final transportation conformity finding, per 23 CFR part 450 and 49 CFR part 613.

## **Public Involvement/Participation**

### **Public Involvement**

Adhering to federal mandates for public participation, and providing a greater level of involvement for the citizens of Michigan, the following is submitted as the public involvement program to address the requirements of 23 CFR part 450, 49 CFR part 613, and 40 CFR part 51.

This public involvement process shall be consistent with the MPO public involvement processes that have been approved by the State. Specifics addressed in local plans include mechanisms used in the process: committee meetings, special meetings, public meetings, print and electronic media and direct mailings.

The planning process is open to all and provides an opportunity for open participation. A cooperative effort among transportation providers and users in the State will be made to ensure that the process provides the opportunity for participation of interested parties.

#### **GOALS AND OBJECTIVES:**

The public involvement process will be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement. The needs of the public will be addressed by fulfillment of the following goals:

1. Provision of public information, which shall include the dissemination of material regarding transportation issues to the public for review.

Significant comments will be addressed through a forum described in the MPO and the state public involvement plans.

It will also provide:

- a. An opportunity for early and continuing public involvement throughout the transportation planning and programming process. This shall include but not be limited to project selection and analysis.
- b. Affected parties of transportation activities will be included and provided with timely information about issues and processes, they shall include: affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs and projects, government decision makers, media and the educational community.

2. Several mechanisms will be used for public input while ensuring that the public has a forum for discussion and a mechanism to provide comments on transportation planning activities.
  - a. Provide reasonable public access to technical and policy information used in the development of the TP and STIP. Information will be made available through State Transportation and development regions and MPOs.
  - b. Available and efficient methods to provide adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to action on the TP and STIP will be initiated for public participation.
  - c. Major comments and revisions expressed by the public shall be responded to in kind and analyzed as to appropriateness for implementation and consideration.
3. Local governments and the MPOs will aid in a pro-active public outreach program. The program will provide an opportunity for interaction in the transportation planning process and will encourage intergovernmental communications.
  - a. The program will seek out and consider the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households which may face challenges accessing employment and other amenities without proper access to transportation modes.
  - b. There will be a periodic review of the effectiveness of the public involvement process to ensure that it provides full and open access, and as appropriate, revisions of the process.

All public comments for regionally significant projects not receiving FHWA/FTA funding or approval which have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a TP or TIP and their amendments will be addressed by the implementing agency. These requirements will work in conjunction with public involvement practices established by 23 CFR part 450 and 49 CFR part 613 and enhance public involvement not only in the creation of TIPs, and TPs, but also in project selections and air quality conformity analysis.

## **DOCUMENTATION**

### **A. Submitted with Conformity Determination**

The MPO and MDOT are jointly responsible, in varying degrees across the State, for the development and application of transportation models as part of the MPO responsibilities under 23 CFR part 450. MDOT will be responsible for transportation and emissions model runs for non-attainment areas outside of MPO boundaries. A conformity determination finding will be submitted when developing or amending either the TP or the TIP. The submission will consist of a written summary of the air quality analysis performed and will include:

1. Regional total emissions by pollutant
2. Summaries of emissions by county
3. Comparisons of emission levels to those in the approved SIP budget; or Action/Base scenarios where applicable.
4. A discussion of any relevant observations or issues
5. Key MOBILE model inputs and assumptions
6. A list of projects included in the air quality analysis
7. Summary of CMAQ projects and air quality benefits of each project. (Where applicable)

In addition to the above analysis, each submission will include the formal MPO action by appropriate committee or similar documentation supporting the conformity determination and a request federal action.

The conformity finding and accompanying documentation will be developed by the MPO with input from both MDOT and MDNR. After formal action from the MPO committee, it will transmit the conformity finding to MDOT for formal transmission to FHWA, FTA and USEPA.

In non-MPO areas, MDOT will be responsible for technical documentation of conformity determinations. This documentation will be coordinated with MPOs where appropriate within nonattainment areas.

### **B. On File at MPO/MDOT**

More detailed documentation of regional TIPs' and TPs' technical conformity analyses will be collected, but not submitted with the conformity analysis. The agency performing the transportation and air quality model runs will maintain all necessary documentation, as determined in consultation with the IAWG.

### **BASELINE V. ACTION SCENARIO IDENTIFICATION**

A listing of completed or under construction projects needed to identify the Baseline



Scenario for that particular year's TIP will be documented. A list is also needed of those projects in the TIP that will be included in the analysis. The following information will also be on file at the MPO or MDOT where applicable:

1. NETWORK EDITING DOCUMENTATION
2. UPDATED NETWORK INVENTORY
3. TRIP TABLE DOCUMENTATION

**C. Assignment Documentation**

The following documentation from emission and transportation models will be on file with MDOT or the MPO as applicable.

1. DEVELOPMENT OF MOBILE EMISSION FACTORS
2. POST PROCESS DOCUMENTATION (of VMT Data and Emissions Estimation)
3. PRODUCT DOCUMENTATION  
Products generated from this entire process will be documented as follows:
  - a. Emissions summary tables.
  - b. Analysis Write-Up.

# CONFORMITY VERBATIM SECTION OF THE LAW

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**SUBPART T - CONFORMITY TO STATE OR FEDERAL IMPLEMENTATION PLANS OF TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS DEVELOPED, FUNDED OR APPROVED UNDER TITLE 23 U.S.C. OR THE FEDERAL TRANSIT ACT**

**§51.390 Purpose.**

The purpose of this subpart is to implement §176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). This subpart sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to §110 and Part D of the CAA.

**§51.392 Definitions.**

Terms used but not defined in this subpart shall have the meaning given them by the CAA, titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other DOT regulations, in that order of priority.

Applicable implementation plan is defined in §302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under §110, or promulgated under §110(c), or promulgated or approved pursuant to regulations promulgated under §301(d) and which implements the relevant requirements of the CAA.

CAA means the Clean Air Act, as amended.

Cause or contribute to a new violation for a project means:

- (1) To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented, or
- (2) To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.

Control strategy implementation plan revision is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (CAA §§182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§192(a) and 192(b), for nitrogen dioxide).

Control strategy period with respect to particulate matter less than 10 microns in diameter (PM<sub>10</sub>), carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), and/or ozone precursors (volatile organic compounds and oxides of nitrogen), means that period of time after EPA approves control strategy implementation plan revisions containing strategies for controlling PM<sub>10</sub>, NO<sub>2</sub>, CO, and/or ozone, as appropriate. This period ends when a State submits and EPA approves a request under §107(d) of the CAA for redesignation to an attainment area.

Design concept means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed-traffic rail transit, exclusive busway, etc.

Design scope means the design aspects which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.

DOT means the United States Department of Transportation.

EPA means the Environmental Protection Agency.

FHWA means the Federal Highway Administration of DOT.

FHWA/FTA project, for the purpose of this subpart, is any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the Federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.

FTA means the Federal Transit Administration of DOT.

Forecast period with respect to a transportation plan is the period covered by the transportation plan pursuant to 23 CFR part 450.

Highway project is an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to: (1) connect logical termini and be of sufficient length to address environmental matters on a broad scope; (2) have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and (3) not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Horizon year is a year for which the transportation plan describes the envisioned transportation system according to §51.404 of this subpart.

Hot-spot analysis is an estimation of likely future localized CO and PM<sub>10</sub> pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Pollutant concentrations to be estimated should be based on the total emissions burden which may result from the implementation of a single, specific project, summed together with future background concentrations (which can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors) expected in the area. The total concentration must be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality.

Incomplete data area means any ozone nonattainment area which EPA has classified, in 40 CFR part 81, as an incomplete data area.

Increase the frequency or severity means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

ISTEA means the Intermodal Surface Transportation Efficiency Act of 1991.

Maintenance area means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under §175A of the CAA, as amended.

Maintenance period with respect to a pollutant or pollutant precursor means that period of time beginning when a State submits and EPA approves a request under §107(d) of the CAA for redesignation to an attainment area, and lasting for 20 years, unless the applicable implementation plan specifies that the maintenance period shall last for more than 20 years.

Metropolitan planning organization (MPO) is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607. It is the forum for cooperative transportation decision-making.

Milestone has the meaning given in §182(g)(1) and §189(c) of the CAA. A milestone consists of an emissions level and the date on which it is required to be achieved.

Motor vehicle emissions budget is that portion of the total allowable emissions defined in a revision to the applicable implementation plan (or in an implementation plan revision which was endorsed by the Governor or his or her designee, subject to a public hearing, and submitted to EPA, but not yet approved by EPA) for a certain date for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles. The applicable implementation plan for an ozone nonattainment area may also designate a motor vehicle emissions budget for oxides of nitrogen (NO<sub>x</sub>) for a reasonable further progress milestone year if the applicable implementation plan demonstrates that this NO<sub>x</sub> budget will be achieved with measures in the implementation plan (as an implementation plan must do for VOC milestone requirements). The applicable implementation plan for an ozone nonattainment area includes a NO<sub>x</sub> budget if NO<sub>x</sub> reductions are being substituted for reductions in volatile organic compounds in milestone years required for reasonable further progress.

National ambient air quality standards (NAAQS) are those standards established pursuant to §109 of the CAA.

NEPA means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq).

NEPA process completion, for the purposes of this subpart, with respect to FHWA or FTA, means the point at which there is a specific action to make a determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA.

Nonattainment area means any geographic region of the United States which has been designated as nonattainment under §107 of the CAA for any pollutant for which a national

ambient air quality standard exists.

Not classified area means any carbon monoxide nonattainment area which EPA has not classified as either moderate or serious.

Phase II of the interim period with respect to a pollutant or pollutant precursor means that period of time after the effective date of this rule, lasting until the earlier of the following: (1) submission to EPA of the relevant control strategy implementation plan revisions which have been endorsed by the Governor (or his or her designee) and have been subject to a public hearing, or (2) the date that the Clean Air Act requires relevant control strategy implementation plans to be submitted to EPA, provided EPA has notified the State, MPO, and DOT of the State's failure to submit any such plans. The precise end of Phase II of the interim period is defined in §51.448 of this subpart.

Project means a highway project or transit project.

Recipient of funds designated under title 23 U.S.C. or the Federal Transit Act means any agency at any level of State, county, city, or regional government that routinely receives title 23 U.S.C. or Federal Transit Act funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.

Regionally significant project means a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.

Rural transport ozone nonattainment area means an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census) and is classified under Clean Air Act §182(h) as a rural transport area.

Standard means a national ambient air quality standard.

Submarginal area means any ozone nonattainment area which EPA has classified as submarginal in 40 CFR part 81.

Transit is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.

Transit project is an undertaking to implement or modify a transit facility or transit-related program; purchase transit vehicles or equipment; or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it must be defined inclusively enough to: (1) connect logical termini and be of sufficient length to address environmental matters on a broad scope; (2)

have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and (3) not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Transitional area means any ozone nonattainment area which EPA has classified as transitional in 40 CFR part 81.

Transitional period with respect to a pollutant or pollutant precursor means that period of time which begins after submission to EPA of the relevant control strategy implementation plan which has been endorsed by the Governor (or his or her designee) and has been subject to a public hearing. The transitional period lasts until EPA takes final approval or disapproval action on the control strategy implementation plan submission or finds it to be incomplete. The precise beginning and end of the transitional period is defined in §51.448 of this subpart.

Transportation control measure (TCM) is any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in §108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this subpart.

Transportation improvement program (TIP) means a staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan, and developed pursuant to 23 CFR part 450.

Transportation plan means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR part 450.

Transportation project is a highway project or a transit project.

#### §51.394     Applicability.

(a) Action applicability.

(1) Except as provided for in paragraph (c) of this section or §51.460, conformity determinations are required for:

(i) The adoption, acceptance, approval or support of transportation plans developed pursuant to 23 CFR part 450 or 49 CFR part 613 by an MPO or DOT;

(ii) The adoption, acceptance, approval or support of TIPs developed pursuant to 23 CFR part 450 or 49 CFR part 613 by an MPO or DOT; and

(iii) The approval, funding, or implementation of FHWA/FTA projects.

(2) Conformity determinations are not required under this rule for individual projects which are not FHWA/FTA projects. However, §51.450 applies to such projects if they are regionally significant.

(b) Geographic Applicability. (1) The provisions of this subpart shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.

(2) The provisions of this subpart apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, and particles with an



aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>).

(3) The provisions of this subpart apply with respect to emissions of the following precursor pollutants:

(i) Volatile organic compounds and nitrogen oxides in ozone areas (unless the Administrator determines under §182(f) of the CAA that additional reductions of NO<sub>x</sub> would not contribute to attainment);

(ii) Nitrogen oxides in nitrogen dioxide areas; and

(iii) Volatile organic compounds, nitrogen oxides, and PM<sub>10</sub> in PM<sub>10</sub> areas if:

(A) During the interim period, the EPA Regional Administrator or the director of the State air agency has made a finding that transportation-related precursor emissions within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT; or

(B) During the transitional, control strategy, and maintenance periods, the applicable implementation plan (or implementation plan submission) establishes a budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

(c) Limitations. (1) Projects subject to this regulation for which the NEPA process and a conformity determination have been completed by FHWA or FTA may proceed toward implementation without further conformity determinations if one of the following major steps has occurred within the past three years: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding, final design, right-of-way acquisition, construction, or any combination of these phases.

(2) A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if no major steps to advance the project have occurred within the past three years.

#### §51.396 Implementation plan revision.

(a) States with areas subject to this rule must submit to the EPA and DOT a revision to their implementation plan which contains criteria and procedures for DOT, MPOs and other State or local agencies to assess the conformity of transportation plans, programs, and projects, consistent with these regulations. This revision is to be submitted by November 25, 1994 (or within 12 months of an area's redesignation from attainment to nonattainment, if the State has not previously submitted such a revision). EPA will provide DOT with a 30-day comment period before taking action to approve or disapprove the submission. A State's conformity provisions may contain criteria and procedures more stringent than the requirements described in these regulations only if the State's conformity provisions apply equally to non-federal as well as Federal entities.

(b) The Federal conformity rules under this subpart and 40 CFR part 93, in addition to any existing applicable State requirements, establish the conformity criteria and procedures necessary to meet the requirements of Clean Air Act section 176(c) until such time as the required conformity implementation plan revision is approved by EPA.

Following EPA approval of the State conformity provisions (or a portion thereof) in a revision to the applicable implementation plan, the approved (or approved portion of the) State criteria and procedures would govern conformity determinations and the Federal conformity regulations contained in 40 CFR part 93 would apply only for the portion, if any, of the State's conformity provisions that is not approved by EPA. In addition, any previously applicable implementation plan requirements relating to conformity remain enforceable until the State revises its applicable implementation plan to specifically remove them and that revision is approved by EPA.

(c) To be approvable by EPA, the implementation plan revision submitted to EPA and DOT under this section shall address all requirements of this subpart in a manner which gives them full legal effect. In particular, the revision shall incorporate the provisions of the following sections of this subpart in verbatim form, except insofar as needed to give effect to a stated intent in the revision to establish criteria and procedures more stringent than the requirements stated in these sections: §§51.392, 51.394, 51.398, 51.400, 51.404, 51.410, 51.412, 51.414, 51.416, 51.418, 51.420, 51.422, 51.424, 51.426, 51.428, 51.430, 51.432, 51.434, 51.436, 51.438, 51.440, 51.442, 51.444, 51.446, 51.448, 51.450, 51.460, and 51.462.

**§51.398 Priority.**

When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among States or other jurisdictions.

**§51.400 Frequency of conformity determinations.**

(a) Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA/FTA projects must be made according to the requirements of this section and the applicable implementation plan.

(b) **Transportation plans.**

(1) Each new transportation plan must be found to conform before the transportation plan is approved by the MPO or accepted by DOT.

(2) All transportation plan revisions must be found to conform before the transportation plan revisions are approved by MPO or accepted by DOT, unless the revision merely adds or deletes exempt projects listed in §51.460. The conformity determination must be based on the transportation plan and the revision taken as a whole.

(3) Conformity of existing transportation plans must be redetermined within 18 months of the following, or the existing conformity determination will lapse:

(i) November 24, 1993;

(ii) EPA approval of an implementation plan revision which:

(A) Establishes or revises a transportation-related emissions budget (as required by CAA §§175A(a), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§192(a) and 192(b), for nitrogen dioxide); or

(B) Adds, deletes, or changes TCMs; and

(iii) EPA promulgation of an implementation plan which establishes or revises a

transportation-related emissions budget or adds, deletes, or changes TCMs.

(4) In any case, conformity determinations must be made no less frequently than every three years, or the existing conformity determination will lapse.

(c) Transportation improvement programs.

(1) A new TIP must be found to conform before the TIP is approved by the MPO or accepted by DOT.

(2) A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by DOT, unless the amendment merely adds or deletes exempt projects listed in §51.460.

(3) After an MPO adopts a new or revised transportation plan, conformity must be redetermined by the MPO and DOT within six months from the date of adoption of the plan, unless the new or revised plan merely adds or deletes exempt projects listed in §51.460. Otherwise, the existing conformity determination for the TIP will lapse.

(4) In any case, conformity determinations must be made no less frequently than every three years or the existing conformity determination will lapse.

(d) Projects. FHWA/FTA projects must be found to conform before they are adopted, accepted, approved, or funded. Conformity must be redetermined for any FHWA/FTA project if none of the following major steps has occurred within the past three years: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates.

#### §51.402 Consultation.

(a) General. The implementation plan revision required under §51.396 shall include procedures for interagency consultation (Federal, State, and local) and resolution of conflicts.

(1) The implementation plan revision shall include procedures to be undertaken by MPOs, State departments of transportation, and DOT with State and local air quality agencies and EPA before making conformity determinations, and by State and local air agencies and EPA with MPOs, State departments of transportation, and DOT in developing applicable implementation plans.

(2) Before the implementation plan revision is approved by EPA, MPOs and State departments of transportation before making conformity determinations must provide reasonable opportunity for consultation with State air agencies, local air quality and transportation agencies, DOT, and EPA, including consultation on the issues described in paragraph (c)(1) of this section.

(b) Interagency consultation procedures: General factors.

(1) States shall provide in the implementation plan well-defined consultation procedures whereby representatives of the MPOs, State and local air quality planning agencies, State and local transportation agencies, and other organizations with responsibilities for developing, submitting, or implementing provisions of an implementation plan required by the CAA must consult with each other and with local or regional offices of EPA, FHWA, and FTA on the development of the implementation plan, the transportation plan, the TIP, and associated conformity determinations.

(2) Interagency consultation procedures shall include at a minimum the general factors listed below and the specific processes in paragraph (c) of this section:

- (i) The roles and responsibilities assigned to each agency at each stage in the implementation plan development process and the transportation planning process, including technical meetings;
- (ii) The organizational level of regular consultation;
- (iii) A process for circulating (or providing ready access to) draft documents and supporting materials for comment before formal adoption or publication;
- (iv) The frequency of, or process for convening, consultation meetings and responsibilities for establishing meeting agendas;
- (v) A process for responding to the significant comments of involved agencies; and
- (vi) A process for the development of a list of the TCMs which are in the applicable implementation plan.

(c) Interagency consultation procedures: Specific processes. Interagency consultation procedures shall also include the following specific processes:

(1) A process involving the MPO, State and local air quality planning agencies, State and local transportation agencies, EPA, and DOT for the following:

- (i) Evaluating and choosing a model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses;
- (ii) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP;

(iii) Evaluating whether projects otherwise exempted from meeting the requirements of this subpart (see §§51.460 and 51.462) should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason;

(iv) Making a determination, as required by §51.418(c)(1), whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

(v) Identifying, as required by §51.454(d), projects located at sites in PM<sub>10</sub> nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM<sub>10</sub> hot-spot analysis; and

(vi) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in §51.460.

(2) A process involving the MPO and State and local air quality planning agencies and transportation agencies for the following:

- (i) Evaluating events which will trigger new conformity determinations in addition to those triggering events established in §51.400; and

(ii) Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas or air basins.

(3) Where the metropolitan planning area does not include the entire nonattainment or maintenance area, a process involving the MPO and the State department of transportation for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area.

(4) A process to ensure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including those by recipients of funds designated under title 23 U.S.C. or the Federal Transit Act, are disclosed to the MPO on a regular basis, and to ensure that any changes to those plans are immediately disclosed;

(5) A process involving the MPO and other recipients of funds designated under title 23 U.S.C. or the Federal Transit Act for assuming the location and design concept and scope of projects which are disclosed to the MPO as required by paragraph (c)(4) of this section but whose sponsors have not yet decided these features, in sufficient detail to perform the regional emissions analysis according to the requirements of §51.452.

(6) A process for consulting on the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys).

(7) A process (including Federal agencies) for providing final documents (including applicable implementation plans and implementation plan revisions) and supporting information to each agency after approval or adoption.

(d) Resolving conflicts. Conflicts among State agencies or between State agencies and an MPO shall be escalated to the Governor if they cannot be resolved by the heads of the involved agencies. The State air agency has 14 calendar days to appeal to the Governor after the State DOT or MPO has notified the State air agency head of the resolution of his or her comments. The implementation plan revision required by §51.396 shall define the procedures for starting of the 14-day clock. If the State air agency appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If the State air agency does not appeal to the Governor within 14 days, the MPO or State department of transportation may proceed with the final conformity determination. The Governor may delegate his or her role in this process, but not to the head or staff of the State or local air agency, State department of transportation, State transportation commission or board, or an MPO.

(e) Public consultation procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of 23 CFR part 450. In addition, these agencies must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a

transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

§51.404 Content of transportation plans.

(a) Transportation plans adopted after January 1, 1995 in serious, severe, or extreme ozone nonattainment areas and in serious carbon monoxide nonattainment areas. The transportation plan must specifically describe the transportation system envisioned for certain future years which shall be called horizon years.

(1) The agency or organization developing the transportation plan may choose any years to be horizon years, subject to the following restrictions:

(i) Horizon years may be no more than 10 years apart.

(ii) The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model.

(iii) If the attainment year is in the time span of the transportation plan, the attainment year must be a horizon year.

(iv) The last horizon year must be the last year of the transportation plan's forecast period.

(2) For these horizon years:

(i) The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land use forecasts, in accordance with implementation plan provisions and §51.402;

(ii) The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities, and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies sufficiently to allow modeling of their transit ridership. The description of additions and modifications to the transportation network shall also be sufficiently specific to show that there is a reasonable relationship between expected land use and the envisioned transportation system; and

(iii) Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.

(b) Moderate areas reclassified to serious. Ozone or CO nonattainment areas which are reclassified from moderate to serious must meet the requirements of paragraph (a) of this section within two years from the date of reclassification.

(c) Transportation plans for other areas. Transportation plans for other areas must meet the requirements of paragraph (a) of this section at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise,

transportation plans must describe the transportation system envisioned for the future specifically enough to allow determination of conformity according to the criteria and procedures of §§51.410 - 51.446.

(d) Savings. The requirements of this section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

§51.406 Relationship of transportation plan and TIP conformity with the NEPA process.

The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project must meet the criteria in §§51.410 - 51.446 for projects not from a TIP before NEPA process completion.

§51.408 Fiscal constraints for transportation plans and TIPs.

Transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450 in order to be found in conformity.

## CONFORMITY DETERMINATIONS: Criteria and Procedures

### §51.410 Criteria and procedures for determining conformity of transportation plans, programs, and projects: General.

(a) In order to be found to conform, each transportation plan, program, and FHWA/FTA project must satisfy the applicable criteria and procedures in §§51.412 - 51.446 as listed in Table 1 in paragraph (b) of this section, and must comply with all applicable conformity requirements of implementation plans and of court orders for the area which pertain specifically to conformity determination requirements. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPs, and FHWA/FTA projects), the time period in which the conformity determination is made, and the relevant pollutant.

(b) The following table indicates the criteria and procedures in §§51.412 - 51.446 which apply for each action in each time period.



Table 1. Conformity Criteria

ALL PERIODS

Action	Criteria
Transportation Plan	§§51.412, 51.414, 51.416, 51.418(b)
TIP	§§51.412, 51.414, 51.416, 51.418(c)
Project (From a conforming plan and TIP)	§§51.412, 51.414, 51.416, 51.418(d),
Project (Not from a conforming plan and TIP)	51.420, 51.424, 51.426

PHASE II OF THE INTERIM PERIOD

Action	Criteria
Transportation Plan	§§51.436, 51.442
TIP	§§51.438, 51.444
Project (From a conforming plan and TIP)	§51.434
Project (Not from a conforming plan and TIP)	§51.434, 51.440, 51.446

### TRANSITIONAL PERIOD

Action	Criteria
Transportation Plan	§§51.428, 51.436, 51.442
TIP	§§51.430, 51.438, 51.444
Project (From a conforming plan and TIP)	§51.434
Project (Not from a conforming plan and TIP)	§§51.432, 51.434, 51.440, 51.446

### CONTROL STRATEGY AND MAINTENANCE PERIODS

Action	Criteria
Transportation Plan	§51.428
TIP	§51.430
Project (From a conforming plan and TIP)	No additional criteria
Project (Not from a conforming plan and TIP)	§51.432

**§51.412 Criteria and procedures: Latest planning assumptions.**

(a) The conformity determination, with respect to all other applicable criteria in §§51.414 - 51.446, must be based upon the most recent planning assumptions in force at the time of the conformity determination. This criterion applies during all periods. The conformity determination must satisfy the requirements of paragraphs (b) through (f) of this section.

(b) Assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. The conformity determination must also be based on the latest assumptions about current and future background concentrations.

(c) The conformity determination for each transportation plan and TIP must discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.

(d) The conformity determination must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.

(e) The conformity determination must use the latest existing information regarding the effectiveness of the TCMs which have already been implemented.

(f) Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by §51.402.

**§51.414 Criteria and procedures: Latest emissions model.**

(a) The conformity determination must be based on the latest emission estimation model available. This criterion applies during all periods. It is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that State or area is used for the conformity analysis. Where EMFAC is the motor vehicle emissions model used in preparing or revising the applicable implementation plan, new versions must be approved by EPA before they are used in the conformity analysis.

(b) EPA will consult with DOT to establish a grace period following the specification of any new model.

(1) The grace period will be no less than three months and no more than 24 months after notice of availability is published in the Federal Register.

(2) The length of the grace period will depend on the degree of change in the model and the scope of re-planning likely to be necessary by MPOs in order to assure conformity. If the grace period will be longer than three months, EPA will announce the appropriate grace period in the Federal Register.

(c) Conformity analyses for which the emissions analysis was begun during the grace period or before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model for transportation plans and TIPs. The previous model may also be used for projects if the analysis was begun during the grace period or before the Federal Register notice of availability, provided no more than three years have passed since the draft environmental document was issued.

**§51.416 Criteria and procedures: Consultation.**

(a) The MPO must make the conformity determination according to the consultation procedures in this rule and in the implementation plan revision required by §51.396, and according to the public involvement procedures established by the MPO in compliance with 23 CFR part 450. This criterion applies during all periods. Until the implementation plan revision required by §51.396 is approved by EPA, the conformity determination must be made according to the procedures in §51.402(a)(2) and §51.402(e). Once the implementation plan revision has been approved by EPA, this criterion is satisfied if the conformity determination is made consistent with the implementation plan's consultation requirements.

**§51.418 Criteria and procedures: Timely implementation of TCMs.**

(a) The transportation plan, TIP, or FHWA/FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan. This criterion applies during all periods.

(b) For transportation plans, this criterion is satisfied if the following two conditions are met:

(1) The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under title 23 U.S.C. or the Federal Transit Act, consistent with schedules included in the applicable implementation plan.

(2) Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.

(c) For TIPs, this criterion is satisfied if the following conditions are met:

(1) An examination of the specific steps and funding source(s) needed to fully implement each TCM indicates that TCMs which are eligible for funding under title 23 U.S.C. or the Federal Transit Act are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and DOT have determined that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area.

(2) If TCMs in the applicable implementation plan have previously been programmed for Federal funding but the funds have not been obligated and the TCMs are behind the schedule in the implementation plan, then the TIP cannot be found to conform if the funds intended for those TCMs are reallocated to projects in the TIP other than TCMs, or if there are no other TCMs in the TIP, if the funds are reallocated to projects in the TIP other than projects which are eligible for Federal funding under ISTEA's Congestion Mitigation and Air Quality Improvement Program.

(3) Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.

(d) For FHWA/FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation

of any TCM in the applicable implementation plan.

**§51.420 Criteria and procedures: Currently conforming transportation plan and TIP.**

There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval. This criterion applies during all periods. It is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and DOT according to the procedures of this subpart. Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by DOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of §51.400.

**§51.422 Criteria and procedures: Projects from a plan and TIP.**

(a) The project must come from a conforming plan and program. This criterion applies during all periods. If this criterion is not satisfied, the project must satisfy all criteria in Table 1 for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of paragraph (b) of this section and from a conforming program if it meets the requirements of paragraph (c) of this section.

(b) A project is considered to be from a conforming transportation plan if one of the following conditions applies:

(1) For projects which are required to be identified in the transportation plan in order to satisfy §51.404, the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility; or

(2) For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with other projects specifically included in the transportation plan.

(c) A project is considered to be from a conforming program if the following conditions are met:

(1) The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions and have not changed significantly from those which were described in the TIP, or in a manner which would significantly impact use of the facility; and

(2) If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, written commitments to implement such measures must be obtained from the project sponsor and/or operator as required by §51.458(a) in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.

## C. CONFORMITY DETERMINATIONS: Emissions Budget

### 51.428 Criteria and procedures: Motor vehicle emissions budget (transportation plan).

(a) The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in §51.464. This criterion may be satisfied if the requirements in paragraphs (b) and (c) of this section are met:

(b) A regional emissions analysis shall be performed as follows:

(1) The regional analysis shall estimate emissions of any of the following pollutants and pollutant precursors for which the area is in nonattainment or maintenance and for which the applicable implementation plan (or implementation plan submission) establishes an emissions budget:

(i) VOC as an ozone precursor;

(ii) NO<sub>x</sub> as an ozone precursor, unless the Administrator determines that additional reductions of NO<sub>x</sub> would not contribute to attainment;

(iii) CO;

(iv) PM<sub>10</sub> (and its precursors VOC and/or NO<sub>x</sub> if the applicable implementation plan or implementation plan submission identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM<sub>10</sub> nonattainment problem or establishes a budget for such emissions); or

(v) NO<sub>x</sub> (in NO<sub>2</sub> nonattainment or maintenance areas);

(2) The regional emissions analysis shall estimate emissions from the entire transportation system, including all regionally significant projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time frame of the transportation plan;

(3) The emissions analysis methodology shall meet the requirements of §51.452;

(4) For areas with a transportation plan that meets the content requirements of §51.404(a), the emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation; and

(5) For areas with a transportation plan that does not meet the content requirements of §51.404(a), the emissions analysis shall be performed for any years in the time span of the transportation plan provided they are not more than ten years apart and provided the analysis is performed for the last year of the plan's forecast period. If the attainment year is in the time span of the transportation plan, the emissions analysis must also be performed for the attainment year. Emissions in milestone years which are between these analysis years may be determined by interpolation.

(c) The regional emissions analysis shall demonstrate that for each of the applicable pollutants or pollutant precursors in paragraph (b)(1) of this section the emissions are less than or equal to the motor vehicle emissions budget as established in the applicable implementation plan or implementation plan submission as follows:

(1) If the applicable implementation plan or implementation plan submission establishes emissions budgets for milestone years, emissions in each milestone year are less

than or equal to the motor vehicle emissions budget established for that year;

(2) For nonattainment areas, emissions in the attainment year are less than or equal to the motor vehicle emissions budget established in the applicable implementation plan or implementation plan submission for that year;

(3) For nonattainment areas, emissions in each analysis or horizon year after the attainment year are less than or equal to the motor vehicle emissions budget established by the applicable implementation plan or implementation plan submission for the attainment year. If emissions budgets are established for years after the attainment year, emissions in each analysis year or horizon year must be less than or equal to the motor vehicle emissions budget for that year, if any, or the motor vehicle emissions budget for the most recent budget year prior to the analysis year or horizon year; and

(4) For maintenance areas, emissions in each analysis or horizon year are less than or equal to the motor vehicle emissions budget established by the maintenance plan for that year, if any, or the emissions budget for the most recent budget year prior to the analysis or horizon year.

**§51.430 Criteria and procedures: Motor vehicle emissions budget (TIP).**

(a) The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in §51.464. This criterion may be satisfied if the requirements in paragraphs (b) and (c) of this section are met:

(b) For areas with a conforming transportation plan that fully meets the content requirements of §51.404(a), this criterion may be satisfied without additional regional analysis if:

(1) Each program year of the TIP is consistent with the Federal funding which may be reasonably expected for that year, and required State/local matching funds and funds for State/local funding-only projects are consistent with the revenue sources expected over the same period; and

(2) The TIP is consistent with the conforming transportation plan such that the regional emissions analysis already performed for the plan applies to the TIP also. This requires a demonstration that:

(i) The TIP contains all projects which must be started in the TIP's time frame in order to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;

(ii) All TIP projects which are regionally significant are part of the specific highway or transit system envisioned in the transportation plan's horizon years; and

(iii) The design concept and scope of each regionally significant project in the TIP is not significantly different from that described in the transportation plan.

(3) If the requirements in paragraphs (b)(1) and (b)(2) of this section are not met, then:

(i) The TIP may be modified to meet those requirements; or

(ii) The transportation plan must be revised so that the requirements in paragraphs (b)(1) and (b)(2) of this section are met. Once the revised plan has been found to

conform, this criterion is met for the TIP with no additional analysis except a demonstration that the TIP meets the requirements of paragraphs (b)(1) and (b)(2) of this section.

(c) For areas with a transportation plan that does not meet the content requirements of §51.404(a), a regional emissions analysis must meet all of the following requirements:

(1) The regional emissions analysis shall estimate emissions from the entire transportation system, including all projects contained in the proposed TIP, the transportation plan, and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time frame of the transportation plan;

(2) The analysis methodology shall meet the requirements of §51.452(c); and

(3) The regional analysis shall satisfy the requirements of §51.428(b)(1), §51.428(b)(5), and §51.428(c).

§51.432 Criteria and procedures: Motor vehicle emissions budget (project not from a plan and TIP).

(a) The project which is not from a conforming transportation plan and a conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in §51.464. It is satisfied if emissions from the implementation of the project, when considered with the emissions from the projects in the conforming transportation plan and TIP and all other regionally significant projects expected in the area, do not exceed the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission).

(b) For areas with a conforming transportation plan that meets the content requirements of §51.404(a):

(1) This criterion may be satisfied without additional regional analysis if the project is included in the conforming transportation plan, even if it is not specifically included in the latest conforming TIP. This requires a demonstration that:

(i) Allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;

(ii) The project is not regionally significant or is part of the specific highway or transit system envisioned in the transportation plan's horizon years; and

(iii) The design concept and scope of the project is not significantly different from that described in the transportation plan.

(2) If the requirements in paragraph (b)(1) of this section are not met, a regional emissions analysis must be performed as follows:

(i) The analysis methodology shall meet the requirements of §51.452;

(ii) The analysis shall estimate emissions from the transportation system, including the proposed project and all other regionally significant projects expected in the nonattainment or maintenance area in the time frame of the transportation plan. The analysis must include emissions from all previously approved projects which were not from a transportation plan and TIP; and



(iii) The emissions analysis shall meet the requirements of §§51.428(b)(1), 51.428(b)(4), and 51.428(c).

(c) For areas with a transportation plan that does not meet the content requirements of §51.404(a), a regional emissions analysis must be performed for the project together with the conforming TIP and all other regionally significant projects expected in the nonattainment or maintenance area. This criterion may be satisfied if:

(1) The analysis methodology meets the requirements of §51.452(c);

(2) The analysis estimates emissions from the transportation system, including the proposed project, and all other regionally significant projects expected in the nonattainment or maintenance area in the time frame of the transportation plan; and

(3) The regional analysis satisfies the requirements of §§51.428(b)(1), 51.428(b)(5), and 51.428(c).

## Conformity Determinations: CO Nonattainment and Maintenance Area

### §51.434 Criteria and procedures: Localized CO violations (hot spots) in the interim period.

(a) Each FHWA/FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criterion applies during the interim and transitional periods only. This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project.

(b) The demonstration must be performed according to the requirements of §51.402(c)(1)(i) and §51.454.

(c) For projects which are not of the type identified by §51.454(a), this criterion may be satisfied if consideration of local factors clearly demonstrates that existing CO violations will be eliminated or reduced in severity and number. Otherwise, a quantitative demonstration must be performed according to the requirements of §51.454(b).

### §51.436 Criteria and procedures: Interim period reductions in ozone and CO areas (transportation plan).

(a) A transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in §51.464. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if a regional emissions analysis is performed as described in paragraphs (b) through (f) of this section.

(b) Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than ten years apart. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.

(c) Define the 'Baseline' scenario for each of the analysis years to be the future transportation system that would result from current programs, composed of the following (except that projects listed in §51.460 and §51.462 need not be explicitly considered):

(1) All in-place regionally significant highway and transit facilities, services and activities;

(2) All ongoing travel demand management or transportation system management activities; and

(3) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming transportation plan and/or TIP; or have completed the NEPA process. (For the first conformity determination on the transportation plan after November 24, 1993, a project

may not be included in the "Baseline" scenario if one of the following major steps has not occurred within the past three years: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates. Such a project must be included in the "Action" scenario, as described in paragraph (d) of this section.)

(d) Define the 'Action' scenario for each of the analysis years as the transportation system that will result in that year from the implementation of the proposed transportation plan, TIPs adopted under it, and other expected regionally significant projects in the nonattainment area. It will include the following (except that projects listed in §51.460 and §51.462 need not be explicitly considered):

(1) All facilities, services, and activities in the 'Baseline' scenario;

(2) Completion of all TCMs and regionally significant projects (including facilities, services, and activities) specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

(3) All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;

(4) The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective;

(5) Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and

(6) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

(e) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios and determine the difference in regional VOC and NO<sub>x</sub> emissions (unless the Administrator determines that additional reductions of NO<sub>x</sub> would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis must be performed for each of the analysis years according to the requirements of §51.452. Emissions in milestone years which are between the analysis years may be determined by interpolation.

(f) This criterion is met if the regional VOC and NO<sub>x</sub> emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the 'Action' scenario are less than the emissions predicted from the 'Baseline' scenario in each analysis year, and if this can reasonably be expected to be true in the periods between the

first milestone year and the analysis years. The regional analysis must show that the 'Action' scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

§51.438 Criteria and procedures: Interim period reductions in ozone and CO areas (TIP).

(a) A TIP must contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in §51.464. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if a regional emissions analysis is performed as described in paragraphs (b) through (f) of this section.

(b) Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The analysis years shall be no more than ten years apart. The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.

(c) Define the 'Baseline' scenario as the future transportation system that would result from current programs, composed of the following (except that projects listed in §51.460 and §51.462 need not be explicitly considered):

(1) All in-place regionally significant highway and transit facilities, services and activities;

(2) All ongoing travel demand management or transportation system management activities; and

(3) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming TIP; or have completed the NEPA process. (For the first conformity determination on the TIP after November 24, 1993, a project may not be included in the "Baseline" scenario if one of the following major steps has not occurred within the past three years: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates. Such a project must be included in the "Action" scenario, as described in paragraph (d) of this section.)

(d) Define the 'Action' scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant projects in the nonattainment area in the time frame of the transportation plan. It will include the following (except that projects listed in §51.460 and §51.462 need not be explicitly considered):

(1) All facilities, services, and activities in the 'Baseline' scenario;

(2) Completion of all TCMs and regionally significant projects (including facilities, services, and activities) included in the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is contained in the applicable implementation plan;

(3) All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;

(4) The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective;

(5) Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and

(6) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

(e) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios, and determine the difference in regional VOC and NO<sub>x</sub> emissions (unless the Administrator determines that additional reductions of NO<sub>x</sub> would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis must be performed for each of the analysis years according to the requirements of §51.452. Emissions in milestone years which are between analysis years may be determined by interpolation.

(f) This criterion is met if the regional VOC and NO<sub>x</sub> emissions in ozone nonattainment areas and CO emissions in CO nonattainment areas predicted in the 'Action' scenario are less than the emissions predicted from the 'Baseline' scenario in each analysis year, and if this can reasonably be expected to be true in the period between the analysis years. The regional analysis must show that the 'Action' scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

§51.440 Criteria and procedures: Interim period reductions for ozone and CO areas (project not from a plan and TIP). A Transportation project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in §51.464. This criterion is satisfied if a regional emissions analysis is performed which meets the requirements of §51.436 and which includes the transportation plan and project in the 'Action' scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the 'Baseline' scenario must include the project with its original design concept and scope, and the 'Action' scenario must include the project with its new design concept and scope.

## Conformity Determinations: PM<sub>10</sub> and NO<sub>2</sub> Nonattainment and Maintenance

### §51.424 Criteria and procedures: Localized CO and PM<sub>10</sub> violations (hot spots).

(a) The FHWA/FTA project must not cause or contribute to any new localized CO or PM<sub>10</sub> violations or increase the frequency or severity of any existing CO or PM<sub>10</sub> violations in CO and PM<sub>10</sub> nonattainment and maintenance areas. This criterion applies during all periods. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project.

(b) The demonstration must be performed according to the requirements of §51.402(c)(1)(i) and §51.454.

(c) For projects which are not of the type identified by §51.454(a) or §51.454(d), this criterion may be satisfied if consideration of local factors clearly demonstrates that no local violations presently exist and no new local violations will be created as a result of the project. Otherwise, in CO nonattainment and maintenance areas, a quantitative demonstration must be performed according to the requirements of §51.454(b).

### §51.426 Criteria and procedures: Compliance with PM<sub>10</sub> control measures.

The FHWA/FTA project must comply with PM<sub>10</sub> control measures in the applicable implementation plan. This criterion applies during all periods. It is satisfied if control measures (for the purpose of limiting PM<sub>10</sub> emissions from the construction activities and/or normal use and operation associated with the project) contained in the applicable implementation plan are included in the final plans, specifications, and estimates for the project.

### §51.442 Criteria and procedures: Interim period reductions for PM<sub>10</sub> and NO<sub>x</sub> areas (transportation plan).

(a) A transportation plan must contribute to emission reductions or must not increase emissions in PM<sub>10</sub> and NO<sub>2</sub> nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if the requirements of either paragraph (b) or (c) of this section are met.

(b) Demonstrate that implementation of the plan and all other regionally significant projects expected in the nonattainment area will contribute to reductions in emissions of PM<sub>10</sub> in a PM<sub>10</sub> nonattainment area (and of each transportation-related precursor of PM<sub>10</sub> in PM<sub>10</sub> nonattainment areas if the EPA Regional Administrator or the director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT) and of NO<sub>x</sub> in an NO<sub>2</sub> nonattainment area, by performing a regional emissions analysis as follows:

(1) Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than ten years apart. The first analysis year shall be no later than 1996 (for NO<sub>2</sub> areas) or four years and six months following the date of designation (for PM<sub>10</sub> areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.

(2) Define for each of the analysis years the "Baseline" scenario, as defined in §51.436(c), and the "Action" scenario, as defined in §51.436(d).

(3) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the "Baseline" and "Action" scenarios and determine the difference between the two scenarios in regional PM<sub>10</sub> emissions in a PM<sub>10</sub> nonattainment area (and transportation-related precursors of PM<sub>10</sub> in PM<sub>10</sub> nonattainment areas if the EPA Regional Administrator or the director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT) and in NO<sub>x</sub> emissions in an NO<sub>2</sub> nonattainment area. The analysis must be performed for each of the analysis years according to the requirements of §51.452. The analysis must address the periods between the analysis years and the periods between 1990, the first milestone year (if any), and the first of the analysis years. Emissions in milestone years which are between the analysis years may be determined by interpolation.

(4) Demonstrate that the regional PM<sub>10</sub> emissions and PM<sub>10</sub> precursor emissions, where applicable, (for PM<sub>10</sub> nonattainment areas) and NO<sub>x</sub> emissions (for NO<sub>2</sub> nonattainment areas) predicted in the 'Action' scenario are less than the emissions predicted from the 'Baseline' scenario in each analysis year, and that this can reasonably be expected to be true in the periods between the first milestone year (if any) and the analysis years.

(c) Demonstrate that when the projects in the transportation plan and all other regionally significant projects expected in the nonattainment area are implemented, the transportation system's total highway and transit emissions of PM<sub>10</sub> in a PM<sub>10</sub> nonattainment area (and transportation-related precursors of PM<sub>10</sub> in PM<sub>10</sub> nonattainment areas if the EPA Regional Administrator or the director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT) and of NO<sub>x</sub> in an NO<sub>2</sub> nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as follows:

(1) Determine the baseline regional emissions of PM<sub>10</sub> and PM<sub>10</sub> precursors, where applicable (for PM<sub>10</sub> nonattainment areas) and NO<sub>x</sub> (for NO<sub>2</sub> nonattainment areas) from highway and transit sources. Baseline emissions are those estimated to have occurred during calendar year 1990, unless the implementation plan revision required by §51.396 defines the baseline emissions for a PM<sub>10</sub> area to be those occurring in a different calendar year for which a baseline emissions inventory was developed for the purpose of developing a control strategy implementation plan.

(2) Estimate the emissions of the applicable pollutant(s) from the entire transportation system, including projects in the transportation plan and TIP and all other regionally significant projects in the nonattainment area, according to the requirements of §51.452. Emissions shall be estimated for analysis years which are no more than ten years apart. The first analysis year shall be no later than 1996 (for NO<sub>2</sub> areas) or four years and six months following the date of designation (for PM<sub>10</sub> areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.

(3) Demonstrate that for each analysis year the emissions estimated in paragraph (c)(2) of this section are no greater than baseline emissions of PM<sub>10</sub> and PM<sub>10</sub> precursors, where applicable (for PM<sub>10</sub> nonattainment areas) or NO<sub>x</sub> (for NO<sub>2</sub> nonattainment areas) from highway and transit sources.

§51.444 Criteria and procedures: Interim period reductions for PM<sub>10</sub> and NO<sub>2</sub> areas (TIP).

(a) A TIP must contribute to emission reductions or must not increase emissions in PM<sub>10</sub> and NO<sub>2</sub> nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if the requirements of either paragraph (b) or paragraph (c) of this section are met.

(b) Demonstrate that implementation of the plan and TIP and all other regionally significant projects expected in the nonattainment area will contribute to reductions in emissions of PM<sub>10</sub> in a PM<sub>10</sub> nonattainment area (and transportation-related precursors of PM<sub>10</sub> in PM<sub>10</sub> nonattainment areas if the EPA Regional Administrator or the director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT) and of NO<sub>x</sub> in an NO<sub>2</sub> nonattainment area, by performing a regional emissions analysis as follows:

(1) Determine the analysis years for which emissions are to be estimated, according to the requirements of §51.442(b)(1).

(2) Define for each of the analysis years the "Baseline" scenario, as defined in §51.438(c), and the "Action" scenario, as defined in §51.438(d).

(3) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the "Baseline" and "Action" scenarios as required by §51.442(b)(3), and make the demonstration required by §51.442(b)(4).

(c) Demonstrate that when the projects in the transportation plan and TIP and all other regionally significant projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM<sub>10</sub> in a PM<sub>10</sub> nonattainment area (and transportation-related precursors of PM<sub>10</sub> in PM<sub>10</sub> nonattainment areas if the EPA Regional Administrator or the director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT) and of NO<sub>x</sub> in an NO<sub>2</sub>



nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as required by §51.442(c)(1)-(3).

§51.446 Criteria and procedures: Interim period reductions for PM<sub>10</sub> and NO<sub>2</sub> areas (project not from a plan and TIP).

A transportation project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM<sub>10</sub> and NO<sub>2</sub> nonattainment areas. This criterion applies during the interim and transitional periods only. This criterion is met if a regional emissions analysis is performed which meets the requirements of §51.442 and which includes the transportation plan and project in the 'Action' scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the transportation plan or TIP, and §51.442(b) is used to demonstrate satisfaction of this criterion, the 'Baseline' scenario must include the project with its original design concept and scope, and the 'Action' scenario must include the project with its new design concept and scope.

## Conformity Determinations: Requirements and Exemptions

### §51.448 Transition from the interim period to the control strategy period.

#### (a) Areas which submit a control strategy implementation plan revision after November 24, 1993.

(1) The transportation plan and TIP must be demonstrated to conform according to transitional period criteria and procedures by one year from the date the Clean Air Act requires submission of such control strategy implementation plan revision. Otherwise, the conformity status of the transportation plan and TIP will lapse, and no new project-level conformity determinations may be made.

(i) The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures for 90 days following submission of the control strategy implementation plan revision, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in paragraph (a)(1) of this section.

(ii) Beginning 90 days after submission of the control strategy implementation plan revision, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.

(2) If EPA disapproves the submitted control strategy implementation plan revision and so notifies the State, MPO, and DOT, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse 120 days after EPA's disapproval, and no new project-level conformity determinations may be made. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.

(3) Notwithstanding paragraph (a)(2) of this section, if EPA disapproves the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (a)(1) of this section shall apply for 12 months following the date of disapproval. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of disapproval unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

#### (b) Areas which have not submitted a control strategy implementation plan revision.

(1) For areas whose Clean Air Act deadline for submission of the control strategy implementation plan revision is after November 24, 1993, and EPA has notified the State, MPO, and DOT of the State's failure to submit a control strategy implementation plan revision, which initiates the sanction process under Clean Air Act sections 179 or 110(m):

(i) No new transportation plans or TIPs may be found to conform beginning 120 days after the Clean Air Act deadline; and

(ii) The conformity status of the transportation plan and TIP shall lapse one year after the Clean Air Act deadline, and no new project-level conformity determinations

may be made.

(2) For areas whose Clean Air Act deadline for submission of the control strategy implementation plan was before November 24, 1993, and EPA has made a finding of failure to submit a control strategy implementation plan revision, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:

(i) No new transportation plans or TIPs may be found to conform beginning March 24, 1994; and

(ii) The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.

(c) Areas which have not submitted a complete control strategy implementation plan revision.

(1) For areas where EPA notifies the State, MPO, and DOT after November 24, 1993, that the control strategy implementation plan revision submitted by the State is incomplete, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:

(i) No new transportation plans or TIPs may be found to conform beginning 120 days after EPA's incompleteness finding; and

(ii) The conformity status of the transportation plan and TIP shall lapse one year after the Clean Air Act deadline, and no new project-level conformity determinations may be made.

(iii) Notwithstanding paragraphs (c)(1)(i) and (ii) of this section, if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (a)(1) of this section shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

(2) For areas where EPA has determined before November 24, 1993, that the control strategy implementation plan revision is incomplete, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:

(i) No new transportation plans or TIPs may be found to conform beginning March 24, 1994; and

(ii) The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.

(iii) Notwithstanding paragraphs (c)(2)(i) and (ii) of this section, if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (d)(1) of this section shall apply

for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

(d) Areas which submitted a control strategy implementation plan before November 24, 1993.

(1) The transportation plan and TIP must be demonstrated to conform according to transitional period criteria and procedures by November 25, 1994. Otherwise, their conformity status will lapse, and no new project-level conformity determinations may be made.

(i) The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures until February 22, 1994, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in paragraph (d)(1) of this section.

(ii) Beginning February 22, 1994, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.

(2) If EPA has disapproved the most recent control strategy implementation plan submission, the conformity status of the transportation plan and TIP shall lapse March 24, 1994, and no new project-level conformity determinations may be made. No new transportation plans, TIPs, or projects may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.

(3) Notwithstanding paragraph (d)(2) of this section, if EPA has disapproved the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (d)(1) of this section shall apply for 12 months following November 24, 1993. The conformity status of the transportation plan and TIP shall lapse 12 months following November 24, 1993, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

(e) Projects. If the currently conforming transportation plan and TIP have not been demonstrated to conform according to transitional period criteria and procedures, the requirements of paragraphs (e)(1) and (2) of this section must be met.

(1) Before a FHWA/FTA project which is regionally significant and increases single-occupant vehicle capacity (a new general purpose highway on a new location or adding general purpose lanes) may be found to conform, the State air agency must be consulted on how the emissions which the existing transportation plan and TIP's conformity determination estimates for the "Action" scenario (as required by §§51.436 - 51.446) compare to the motor vehicle emissions budget in the implementation plan submission or the projected motor vehicle emissions budget in the implementation plan under development.

(2) In the event of unresolved disputes on such project-level conformity determinations, the State air agency may escalate the issue to the Governor consistent with

the procedure in §51.402(d), which applies for any State air agency comments on a conformity determination.

**(f) Redetermination of conformity of the existing transportation plan and TIP according to the transitional period criteria and procedures.**

(1) The redetermination of the conformity of the existing transportation plan and TIP according to transitional period criteria and procedures (as required by paragraphs (a)(1) and (d)(1) of this section) does not require new emissions analysis and does not have to satisfy the requirements of §§51.412 and 51.414 if:

(i) The control strategy implementation plan revision submitted to EPA uses the MPO's modeling of the existing transportation plan and TIP for its projections of motor vehicle emissions; and

(ii) The control strategy implementation plan does not include any transportation projects which are not included in the transportation plan and TIP.

(2) A redetermination of conformity as described in paragraph (f)(1) of this section is not considered a conformity determination for the purposes of §51.400(b)(4) or §51.400(c)(4) regarding the maximum intervals between conformity determinations. Conformity must be determined according to all the applicable criteria and procedures of §51.410 within three years of the last determination which did not rely on paragraph (f)(1) of this section.

**(g) Ozone nonattainment areas.**

(1) The requirements of paragraph (b)(1) of this section apply if a serious or above ozone nonattainment area has not submitted the implementation plan revisions which Clean Air Act §§182(c)(2)(A) and 182(c)(2)(B) require to be submitted to EPA November 15, 1994, even if the area has submitted the implementation plan revision which Clean Air Act §182(b)(1) requires to be submitted to EPA November 15, 1993.

(2) The requirements of paragraph (b)(1) of this section apply if a moderate ozone nonattainment area which is using photochemical dispersion modeling to demonstrate the "specific annual reductions as necessary to attain" required by Clean Air Act §182(b)(1), and which has permission from EPA to delay submission of such demonstration until November 15, 1994, does not submit such demonstration by that date. The requirements of paragraph (b)(1) of this section apply in this case even if the area has submitted the 15% emission reduction demonstration required by Clean Air Act §182(b)(1).

(3) The requirements of paragraph (a) of this section apply when the implementation plan revisions required by Clean Air Act §§182(c)(2)(A) and 182(c)(2)(B) are submitted.

**(h) Nonattainment areas which are not required to demonstrate reasonable further progress and attainment.** If an area listed in §51.464 submits a control strategy implementation plan revision, the requirements of paragraphs (a) and (e) of this section apply. Because the areas listed in §51.464 are not required to demonstrate reasonable further progress and attainment and therefore have no Clean Air Act deadline, the provisions of paragraph (b) of this section do not apply to these areas at any time.

**(i) Maintenance plans.** If a control strategy implementation plan revision is not submitted to EPA but a maintenance plan required by Clean Air Act §175A is submitted to EPA, the requirements of paragraph (a) or (d) of this section apply, with the maintenance plan submission treated as a "control strategy implementation

plan revision" for the purposes of those requirements.

**§51.450 Requirements for adoption or approval of projects by recipients of funds designated under title 23 U.S.C. or the Federal Transit Act.**

No recipient of federal funds designated under title 23 U.S.C. or the Federal Transit Act shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless there is a currently conforming transportation plan and TIP consistent with the requirements of §51.420 and the requirements of one of the following paragraphs (a) through (e) are met:

(a) The project comes from a conforming plan and program consistent with the requirements of §51.422;

(b) The project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility;

(c) During the control strategy or maintenance period, the project is consistent with the motor vehicle emissions budget(s) in the applicable implementation plan consistent with the requirements of §51.432;

(d) During Phase II of the interim period, the project contributes to emissions reductions or does not increase emissions consistent with the requirements of §51.440 (in ozone and CO nonattainment areas) or §51.446 (in PM<sub>10</sub> and NO<sub>2</sub> nonattainment areas); or

(e) During the transitional period, the project satisfies the requirements of both paragraphs (c) and (d) of this section.

**§51.452 Procedures for determining regional transportation-related emissions.**

(a) General requirements.

(1) The regional emissions analysis for the transportation plan, TIP, or project not from a conforming plan and TIP shall include all regionally significant projects expected in the nonattainment or maintenance area, including FHWA/FTA projects proposed in the transportation plan and TIP and all other regionally significant projects which are disclosed to the MPO as required by §51.402. Projects which are not regionally significant are not required to be explicitly modeled, but VMT from such projects must be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.

(2) The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date(s) until such time as implementation has been assured. If the TCM has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.

(3) Emissions reduction credit from projects, programs, or activities which require a regulation in order to be implemented may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction. Adopted regulations are required for demand management strategies for reducing emissions which are not specifically identified in the applicable implementation plan, and for control programs which are external to the transportation system itself, such as tailpipe or evaporative emission standards, limits on gasoline volatility, inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel. A regulatory program may also be considered to be adopted if an opt-in to a Federally enforced program has been approved by EPA, if EPA has promulgated the program (if the control program is a Federal responsibility, such as tailpipe standards), or if the Clean Air Act requires the program without need for individual State action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.

(4) Notwithstanding paragraph (a)(3) of this section, during the transitional period, control measures or programs which are committed to in an implementation plan submission as described in §§51.428 - 51.432, but which has not received final EPA action in the form of a finding of incompleteness, approval, or disapproval may be assumed for emission reduction credit for the purpose of demonstrating that the requirements of §§51.428 - 51.432 are satisfied.

(5) A regional emissions analysis for the purpose of satisfying the requirements of §§51.436 - 51.440 may account for the programs in paragraph (a)(4) of this section, but the same assumptions about these programs shall be used for both the "Baseline" and "Action" scenarios.

(b) Serious, severe, and extreme ozone nonattainment areas and serious carbon monoxide areas after January 1, 1995. Estimates of regional transportation-related emissions used to support conformity determinations must be made according to procedures which meet the requirements in paragraphs (b)(1) through (5) of this section.

(1) A network-based transportation demand model or models relating travel demand and transportation system performance to land-use patterns, population demographics, employment, transportation infrastructure, and transportation policies must be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess the following attributes:

(i) The modeling methods and the functional relationships used in the model(s) shall in all respects be in accordance with acceptable professional practice, and reasonable for purposes of emission estimation;

(ii) The network-based model(s) must be validated against ground counts for a base year that is not more than 10 years prior to the date of the conformity determination. Land use, population, and other inputs must be based on the best available information and appropriate to the validation base year;

(iii) For peak-hour or peak-period traffic assignments, a capacity sensitive assignment methodology must be used;

(iv) Zone-to-zone travel times used to distribute trips between origin and destination pairs must be in reasonable agreement with the travel times which result from the process of assignment of trips to network links. Where use of transit currently is

anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits;

(v) Free-flow speeds on network links shall be based on empirical observations;

(vi) Peak and off-peak travel demand and travel times must be provided;

(vii) Trip distribution and mode choice must be sensitive to pricing, where pricing is a significant factor, if the network model is capable of such determinations and the necessary information is available;

(viii) The model(s) must utilize and document a logical correspondence between the assumed scenario of land development and use and the future transportation system for which emissions are being estimated. Reliance on a formal land-use model is not specifically required but is encouraged;

(ix) A dependence of trip generation on the accessibility of destinations via the transportation system (including pricing) is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available;

(x) A dependence of regional economic and population growth on the accessibility of destinations via the transportation system is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available; and

(xi) Consideration of emissions increases from construction-related congestion is not specifically required.

(2) Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled shall be considered the primary measure of vehicle miles traveled within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. A factor (or factors) shall be developed to reconcile and calibrate the network-based model estimates of vehicle miles traveled in the base year of its validation to the HPMS estimates for the same period, and these factors shall be applied to model estimates of future vehicle miles traveled. In this factoring process, consideration will be given to differences in the facility coverage of the HPMS and the modeled network description. Departure from these procedures is permitted with the concurrence of DOT and EPA.

(3) Reasonable methods shall be used to estimate nonattainment area vehicle travel on off-network roadways within the urban transportation planning area, and on roadways outside the urban transportation planning area.

(4) Reasonable methods in accordance with good practice must be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network model.

(5) Ambient temperatures shall be consistent with those used to establish the emissions budget in the applicable implementation plan. Factors other than temperatures, for example the fraction of travel in a hot stabilized engine mode, may be modified after interagency consultation according to §51.402 if the newer estimates incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.

(c) Areas which are not serious, severe, or extreme ozone nonattainment areas or



serious carbon monoxide areas, or before January 1, 1995.

(1) Procedures which satisfy some or all of the requirements of paragraph (a) of this section shall be used in all areas not subject to paragraph (a) of this section in which those procedures have been the previous practice of the MPO.

(2) Regional emissions may be estimated by methods which do not explicitly or comprehensively account for the influence of land use and transportation infrastructure on vehicle miles traveled and traffic speeds and congestion. Such methods must account for VMT growth by extrapolating historical VMT or projecting future VMT by considering growth in population and historical growth trends for vehicle miles travelled per person. These methods must also consider future economic activity, transit alternatives, and transportation system policies.

(d) Projects not from a conforming plan and TIP in isolated rural nonattainment and maintenance areas. This paragraph applies to any nonattainment or maintenance area or any portion thereof which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP (because the nonattainment or maintenance area or portion thereof does not contain a metropolitan planning area or portion of a metropolitan planning area and is not part of a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area which is or contains a nonattainment or maintenance area).

(1) Conformity demonstrations for projects in these areas may satisfy the requirements of §§51.432, 51.440, and 51.446 with one regional emissions analysis which includes all the regionally significant projects in the nonattainment or maintenance area (or portion thereof).

(2) The requirements of §51.432 shall be satisfied according to the procedures in §51.432(c), with references to the "transportation plan" taken to mean the statewide transportation plan.

(3) The requirements of §§51.440 and 51.446 which reference "transportation plan" or "TIP" shall be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the nonattainment or maintenance area (or portion thereof).

(4) The requirement of §51.450(b) shall be satisfied if:

(i) The project is included in the regional emissions analysis which includes all regionally significant highway and transportation projects in the nonattainment or maintenance area (or portion thereof) and supports the most recent conformity determination made according to the requirements of §§51.432, 51.440, or 51.446 (as modified by paragraphs (d)(2) and (d)(3) of this section), as appropriate for the time period and pollutant; and

(ii) The project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.

(e) PM<sub>10</sub> from construction-related fugitive dust.

(1) For areas in which the implementation plan does not identify construction-related fugitive PM<sub>10</sub> as a contributor to the nonattainment problem, the fugitive PM<sub>10</sub> emissions associated with highway and transit project construction are not required to be considered

in the regional emissions analysis.

(2) In PM<sub>10</sub> nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM<sub>10</sub> as a contributor to the nonattainment problem, the regional PM<sub>10</sub> emissions analysis shall consider construction-related fugitive PM<sub>10</sub> and shall account for the level of construction activity, the fugitive PM<sub>10</sub> control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

§51.454 Procedures for determining localized CO and PM<sub>10</sub> concentrations (hot-spot analysis).

(a) In the following cases, CO hot-spot analyses must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR part 51 Appendix W ("Guideline on Air Quality Models (Revised)" (1988), supplement A (1987) and supplement B (1993), EPA publication no. 450/2-78-027R), unless, after the interagency consultation process described in §51.402 and with the approval of the EPA Regional Administrator, these models, data bases, and other requirements are determined to be inappropriate:

(1) For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of current violation or possible current violation;

(2) For those intersections at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new project in the vicinity;

(3) For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the highest traffic volumes;

(4) For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the worst Level-of-Service; and

(5) Where use of the "Guideline" models is practicable and reasonable given the potential for violations.

(b) In cases other than those described in paragraph (a) of this section, other quantitative methods may be used if they represent reasonable and common professional practice.

(c) CO hot-spot analyses must include the entire project, and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors.

(d) PM<sub>10</sub> hot-spot analysis must be performed for projects which are located at sites at which violations have been verified by monitoring, and at sites which have essentially identical vehicle and roadway emission and dispersion characteristics (including sites near one at which a violation has been monitored). The projects which require PM-10 hot-spot analysis shall be determined through the interagency consultation process required in §51.402. In PM-10 nonattainment and maintenance areas, new or expanded bus and rail

terminals and transfer points which increase the number of diesel vehicles congregating at a single location require hot-spot analysis. DOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels. The requirements of this paragraph for quantitative hot-spot analysis will not take effect until EPA releases modeling guidance on this subject and announces in the Federal Register that these requirements are in effect.

(e) Hot-spot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.

(f) PM<sub>10</sub> or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are written commitments from the project sponsor and/or operator to the implementation of such measures, as required by §51.458(a).

(g) CO and PM<sub>10</sub> hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

§51.456 Using the motor vehicle emissions budget in the applicable implementation plan (or implementation plan submission).

(a) In interpreting an applicable implementation plan (or implementation plan submission) with respect to its motor vehicle emissions budget(s), the MPO and DOT may not infer additions to the budget(s) that are not explicitly intended by the implementation plan (or submission). Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to the MPO and DOT in the emission budget for conformity purposes, the MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans (or submissions) which demonstrate that after implementation of control measures in the implementation plan:

(1) Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone;

(2) Emissions from all sources will result in achieving attainment prior to the attainment deadline and/or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment; or

(3) Emissions will be lower than needed to provide for continued maintenance.

(b) If an applicable implementation plan submitted before November 24, 1993, demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that "safety margin," the State may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the Governor and has been subject to a public hearing, may be used for the purposes of transportation conformity before it is approved by EPA.

(c) A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan (or implementation plan submission) allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, without a SIP revision or a SIP which establishes mechanisms for such trades.

(d) If the applicable implementation plan (or implementation plan submission) estimates future emissions by geographic subarea of the nonattainment area, the MPO and DOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan (or implementation plan submission) explicitly indicates an intent to create such subarea budgets for the purposes of conformity.

(e) If a nonattainment area includes more than one MPO, the SIP may establish motor vehicle emissions budgets for each MPO, or else the MPOs must collectively make a conformity determination for the entire nonattainment area.

§51.458 Enforceability of design concept and scope and project-level mitigation and control measures.

(a) Prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under title 23 U.S.C. or the Federal Transit Act, FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM<sub>10</sub> or CO impacts. Before making conformity determinations written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and scope which is used in the regional emissions analysis required by §§51.428 - 51.432 and §§51.436 - 51.440 or used in the project-level hot-spot analysis required by §§51.424 and 51.434.

(b) Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(c) The implementation plan revision required in §51.396 shall provide that written commitments to mitigation measures must be obtained prior to a positive conformity determination, and that project sponsors must comply with such commitments.

(d) During the control strategy and maintenance periods, if the MPO or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the requirements of §§51.424, 51.428, and 51.430 are satisfied without the mitigation or control measure, and so notifies the agencies involved in the interagency consultation process required under §51.402. The MPO and DOT must confirm that the transportation plan and TIP still satisfy the requirements of §§51.428 and 51.430 and that the project still satisfies the requirements of §51.424, and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid.

**§51.460 Exempt projects.**

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 are exempt from the requirement that a conformity determination be made. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 is not exempt if the MPO in consultation with other agencies (see §51.402(c)(1)(iii)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs must ensure that exempt projects do not interfere with TCM implementation.

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**Table 2. - Exempt Projects**

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**SAFETY**

Railroad/highway crossing  
Hazard elimination program  
Safer non-Federal-aid system roads  
Shoulder improvements  
Increasing sight distance  
Safety improvement program  
Traffic control devices and operating assistance other than signalization projects  
Railroad/highway crossing warning devices  
Guardrails, median barriers, crash cushions  
Pavement resurfacing and/or rehabilitation  
Pavement marking demonstration  
Emergency relief (23 U.S.C. 125)  
Fencing  
Skid treatments  
Safety roadside rest areas  
Adding medians  
Truck climbing lanes outside the urbanized area  
Lighting improvements  
Widening narrow pavements or reconstructing bridges (no additional travel lanes)  
Emergency truck pullovers

**MASS TRANSIT**

Operating assistance to transit agencies  
Purchase of support vehicles  
Rehabilitation of transit vehicles<sup>1</sup>  
Purchase of office, shop, and operating equipment for existing facilities  
Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.)  
Construction or renovation of power, signal, and communications systems  
Construction of small passenger shelters and information kiosks  
Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures)  
Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way  
Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet<sup>1</sup>  
Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR

**AIR QUALITY**

Continuation of ride-sharing and van-pooling promotion activities at current levels  
Bicycle and pedestrian facilities

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Table 2 (con't)

**OTHER**

Specific activities which do not involve or lead directly to construction, such as:

Planning and technical studies

Grants for training and research programs

Planning activities conducted pursuant to titles 23 and 49 U.S.C

Federal-aid systems revisions

Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action

Noise attenuation

Advance land acquisitions (23 CFR 712 or 23 CFR 771)

Acquisition of scenic easements

Plantings, landscaping, etc.

Sign removal

Directional and informational signs

Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities)

Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes

---

<sup>1</sup>In PM<sub>10</sub> nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.

**§51.462 Projects exempt from regional emissions analyses.**

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO or PM<sub>10</sub> concentrations must be considered to determine if a hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO in consultation with other agencies (see §51.402(c)(1)(iii)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason.

Table 3. - Projects Exempt From Regional Emissions Analyses

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Intersection channelization projects  
Intersection signalization projects at individual intersections  
Interchange reconfiguration projects  
Changes in vertical and horizontal alignment  
Truck size and weight inspection stations  
Bus terminals and transfer points

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§51.464 Special provisions for nonattainment areas which are not required to demonstrate reasonable further progress and attainment.

(a) Application. This section applies in the following areas:

- (1) Rural transport ozone nonattainment areas;
- (2) Marginal ozone areas;
- (3) Submarginal ozone areas;
- (4) Transitional ozone areas;
- (5) Incomplete data ozone areas;
- (6) Moderate CO areas with a design value of 12.7 ppm or less; and
- (7) Not classified CO areas.

(b) Default conformity procedures. The criteria and procedures in §§51.436 - 51.440 will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in lieu of the procedures in §§51.428 - 51.432, except as otherwise provided in paragraph (c) of this section.

(c) Optional conformity procedures. The State or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the State must submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in §§51.428 - 51.432 apply in lieu of the procedures in §§51.436 - 51.440.



Chapter 5: Appendix - A

**MPO RESOLUTION**

**Approving the Transportation Conformity Air Quality SIP Revision for Michigan's  
Transportation Improvement Programs, Transportation Plans, and Projects.**

**WHEREAS,** The (MPO) agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the Transportation conformity air quality Rule;

**WHEREAS,** It is the suggestion of this committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from this (MPO);

**WHEREAS,** Upon acceptance of this document by the USEPA, it shall herewith be considered agency policy consistent with federal law in addressing transportation conformity issues in the state of Michigan;

**NOW THEREFORE BE IT RESOLVED,** That we agree that the collaborative efforts of this (MPO), the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with (MPO) policy and authorize (officer/staff) as its designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.

**FURTHER BE IT RESOLVED,** That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the (MPO) MAB, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613).

**ATTEST:**

\_\_\_\_\_ Date \_\_\_\_\_  
Committee Clerk, Signature Agency

**MPO RESOLUTION**

**Approving the Transportation Conformity Air Quality SIP Revision for Michigan's  
Transportation Improvement Programs, Transportation Plan, and Projects.**

**WHEREAS**, the Saginaw Metropolitan Area Transportation Study (SMATS) agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR Part 51 the Transportation Conformity Air Quality Rule;

**WHEREAS**, it is the suggestion of this committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from SMATS;

**WHEREAS**, upon acceptance of this document by the United States Environmental Protection Agency, it shall herewith be considered SMATS policy consistent with federal law in addressing transportation conformity issues in the State of Michigan;

**NOW THEREFORE BE IT RESOLVED**, that we agree that the collaborative efforts of SMATS, the Michigan Department of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with SMATS policy and authorize William W. Wright as its designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.

**FURTHER BE IT RESOLVED**, that the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within SMATS Metropolitan Area Boundary, in compliance with the United States Clean Air Act Amendments, specifically 40 CFR Part 51, and being consistent with Intermodal Surface Transportation Efficiency Act (23 CFR Part 450 and 49 CFR Part 613).

**ATTEST:**

William W. Wright  
William W. Wright, Study Director

Date: 11-2-94

## **KALAMAZOO AREA TRANSPORTATION STUDY RESOLUTION**

### **Approving the Transportation Conformity Air Quality SIP Revision for Michigan's Transportation Improvement Programs, Transportation Plans, and Projects.**

**WHEREAS, The Kalamazoo Area Transportation Study, Metropolitan Planning Organization for the Kalamazoo metropolitan area, agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the Transportation conformity air quality Rule;**

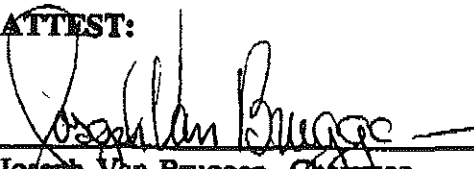
**WHEREAS, It is the suggestion of the Policy Committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from the Kalamazoo Area Transportation Study;**

**WHEREAS, Upon acceptance of this document by the USEPA, it shall herewith be considered Kalamazoo Area Transportation Study policy consistent with federal law in addressing transportation conformity issues in the state of Michigan;**

**NOW THEREFORE BE IT RESOLVED, That the Policy Committee agrees that the collaborative efforts of the Kalamazoo Area Transportation Study, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with Kalamazoo Area Transportation Study policy and authorize the Chairman of the Policy Committee, as its designated representative, to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.**

**FURTHER BE IT RESOLVED, That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the Kalamazoo MAB, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613).**

**ATTEST:**

  
\_\_\_\_\_ Date November 8, 1994

Joseph Van Bruggen, Chairman

Kalamazoo Area Transportation Study Policy Committee

Metropolitan Planning Organization for the Kalamazoo metropolitan area

P. O. Box 2826  
Kalamazoo, Michigan 49003  
Phone (616) 343-0766



**KALAMAZOO AREA TRANSPORTATION STUDY**

REGION 2 PLANNING COMMISSION  
RESOLUTION

Approving the Transportation Conformity Air Quality SIP Revision  
for Michigan's Transportation Improvement Programs, Transportation  
Plans, and Projects

WHEREAS, the Region 2 Planning Commission, as the designated metropolitan planning organization for the Jackson Area Comprehensive Transportation Study (JACTS), agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51, the Transportation Conformity Air Quality Rule;


WHEREAS, it is the recommendation of the Region 2 Planning Commission the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance;

WHEREAS, upon acceptance of this document by the United States Environmental Protection Agency, it shall herewith be considered Region 2 Planning Commission policy consistent with the federal law in addressing transportation conformity issues in the state of Michigan;

NOW THEREFORE BE IT RESOLVED, that we agree that the collaborative efforts of the Region 2 Planning Commission, the Michigan Department of Transportation, the Michigan Department of Natural Resources, the Federal Highway Administration, the Federal Transit Administration and the United States Environmental Protection Agency comply with Region 2 Planning Commission policy and authorize Chair Elwin M. Johnson as its designated representative to enter into a Memorandum of Agreement with the Michigan Department of Transportation and the Michigan Department of Natural Resources.

FURTHER BE IT RESOLVED, that the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the JACTS Metropolitan Area Boundary, in compliance with the U.S. Clean Air Act Amendments, specifically 40 CFR part 51, and being consistent with the Intermodal Surface Transportation Efficiency Act of 1991, 23 CFR part 450 and 49 CFR part 613.

ATTEST:



Ireno Busato, Secretary  
Region 2 Planning Commission

Date \_\_\_\_\_



Serving Business  
and Government

## Southwestern Michigan Commission

185 East Main St., Suite 701, Benton Harbor, MI 49022-4440

616/925-1137 · FAX 616/925-0288

### MPO RESOLUTION

Approving the Transportation Conformity Air Quality SIP Revision for Michigan's Transportation Improvement Programs, Transportation Plans, and Projects.

**WHEREAS**, The Southwestern Michigan Commission agrees that the pages contained in this document represent their best efforts to comply with 40 CFR part 51 the Transportation Conformity Air Quality Rule;

**WHEREAS**, It is the suggestion of the Regional Issues Committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from the Southwestern Michigan Commission;

**WHEREAS**, Upon acceptance of this document by the USEPA, it shall herewith be considered Southwestern Michigan Commission policy consistent with federal law in addressing transportation conformity issues in the state of Michigan;

**NOW THEREFORE BE IT RESOLVED**, That we agree that the collaborative efforts of the Southwestern Michigan Commission, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with Southwestern Michigan Commission policy and authorize the Chair as its designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.

**FURTHER BE IT RESOLVED**, That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the Southwestern Michigan Commission's Metropolitan Area Boundary, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613).

ATTEST:

Date 10/25/94

CHAIR, SOUTHWESTERN MICHIGAN COMMISSION

Metropolitan Planning Organization (MPO) for the Niles and Benton Harbor/St. Joseph Urbanized Areas

Bay City Area Transportation Study (BCATS) Resolution

Approving the Transportation Conformity Air Quality SIP Revision for Michigan's Transportation Improvement Programs, Transportation Plans, and Projects.

WHEREAS, the BCATS agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the Transportation Conformity Air Quality Rule;


WHEREAS, It is the suggestion of this committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from BCATS;

WHEREAS, Upon acceptance of this document by the USEPA, it shall herewith be considered BCATS policy consistent with federal law in addressing transportation conformity issues in the state of Michigan;

NOW THEREFORE BE IT RESOLVED, That we agree that the collaborative efforts of BCATS, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with BCATS policy and authorize the BCATS Chairman as its designated representative to enter into a Memorandum of Agreement with the MDOT and MDNR.

FURTHER BE IT RESOLVED, That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the BCATS metropolitan area boundary, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613).

ATTEST:

 11-2-84  
\_\_\_\_\_  
Gary M. Stanley Date  
BCATS Secretary

**RESOLUTION  
OF THE  
BATTLE CREEK AREA TRANSPORTATION STUDY**

**APPROVING THE TRANSPORTATION CONFORMITY AIR QUALITY  
SIP REVISION FOR MICHIGAN'S TRANSPORTATION IMPROVEMENT  
PROGRAMS, TRANSPORTATION PLANS, AND PROJECTS**

**WHEREAS,** The Battle Creek Area Transportation Study Policy Committee agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 of the Transportation Conformity Air Quality Rule;

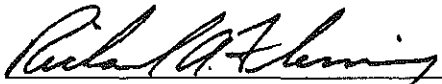
**WHEREAS,** It is the intention of the Committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from the Battle Creek Area Transportation Study Policy Committee;

**WHEREAS,** Upon acceptance of this document by the USEPA, it shall herewith be considered agency policy consistent with federal law in addressing transportation conformity issues in the State of Michigan;

**NOW THEREFORE BE IT RESOLVED,** That we agree that the collaborative efforts of the Battle Creek Area Transportation Study, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit administrations and the United States Environmental Protection Agency comply with Battle Creek Area Transportation Study policy and we authorize Richard A. Fleming, Policy Committee Chair, as its designated representative to enter into a Memorandum of Agreement with the State's Departments of Transportation and Natural Resources.

**FURTHER BE IT RESOLVED,** That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the Battle Creek Area Transportation Study Metropolitan Area Boundary, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613)

Adopted October 26, 1994



Richard A. Fleming, Chair BCATS Policy Committee



Planning for People

# Tri-County Regional Planning Commission

913 West Holmes-Suite 201  
Lansing, Michigan 48910  
Telephone (517) 393-0342  
Fax (517) 393-4424

## OFFICERS

**CHAIRPERSON**  
John Czarnecki

**VICE-CHAIRPERSON**  
Richard Hawks

**TREASURER**  
J. William Hawes

**SECRETARY**  
Paul Novak

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Tony Benavides  
Connie Burgess  
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Joseph Drolett  
Michael B. Farrell  
Alvin House  
Ralph Monsma  
John W. Moore, Jr.  
Marsha Small  
Mary Stid  
Dirck Terwilliger  
Marietta White

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David C. Hollister

**COUNTY BOARD  
CHAIRPERSONS**  
Robert Dittmer  
Leonard Peters  
Jean McDonald

**EXECUTIVE DIRECTOR**  
Jon W. Coleman

## RESOLUTION

Approving the Transportation Conformity Air Quality SIP Revision for Michigan's Transportation Improvement Programs, Transportation Plans, and Projects.

WHEREAS, the Tri-County Regional Planning Commission agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the transportation conformity air quality rule;

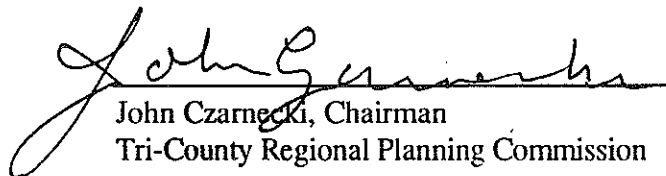
WHEREAS, it is the suggestion of this committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from the Tri-County Regional Planning Commission;

WHEREAS, upon acceptance of this document by the USEPA, it shall herewith be considered Tri-County Regional Planning Commission policy consistent with federal law in addressing transportation conformity issues in the state of Michigan;

NOW THEREFORE BE IT RESOLVED, that we agree that the collaborative efforts of the Tri-County Regional Planning Commission, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with the Tri-County Regional Planning Commission policy and authorize the Commission's Executive Director as its designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.

FURTHER BE IT RESOLVED, that the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP revision within the Tri-County Regional Planning Commission MAB, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613).

ATTEST:

  
John Czarnecki, Chairman  
Tri-County Regional Planning Commission

Date 10/26/94



## RESOLUTION

Approving the Transportation Conformity Air Quality SIP Revision for Michigan's Transportation Improvement Programs, Transportation Plans, and Projects.

**WHEREAS**, The Genesee County Metropolitan Alliance agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the Transportation Conformity Air Quality Rule;


**WHEREAS**, It is the suggestion of this committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from the Genesee County Metropolitan Alliance;

**WHEREAS**, Upon acceptance of this document by the USEPA, it shall herewith be considered Genesee County Metropolitan Alliance policy consistent with federal law in addressing transportation conformity issues in the State of Michigan;

**NOW THEREFORE BE IT RESOLVED**, That we agree that the collaborative efforts of this Genesee County Metropolitan Alliance, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with Genesee County Metropolitan Alliance policy and authorize Ralph Diehl, Chairperson as its designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.

**FURTHER BE IT RESOLVED**, That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the Genesee County Metropolitan Alliance MAB, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613).

**ATTEST:**

  
\_\_\_\_\_  
Ralph Diehl, Chairperson  
Genesee County Metropolitan Alliance

Date Nov. 2-1994

**MPO RESOLUTION**

**Approving the Transportation Conformity Air Quality SIP Revision for Michigan's  
Transportation Improvement Programs, Transportation Plans, and Projects.**

**WHEREAS, The West Michigan Shoreline Regional Development Commission agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the Transportation conformity air quality Rule;**

**WHEREAS, It is the suggestion of this committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from this (MPO);**

**WHEREAS, Upon acceptance of this document by the USEPA, it shall herewith be considered West Michigan Shoreline Regional Development Commission policy consistent with federal law in addressing transportation conformity issues in the state of Michigan;**

**NOW THEREFORE BE IT RESOLVED, That we agree that the collaborative efforts of the West Michigan Shoreline Regional Development Commission, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with the West Michigan Shoreline Regional Development Commission's policy and authorize its Executive Director as its designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.**

**FURTHER BE IT RESOLVED, That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the West Michigan Shoreline Regional Development Commission MAB, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEA (23 CFR part 450 and 49 CFR part 613).**

**ATTEST:**

 Date 10/19/94  
Sandeep Dey, Executive Director  
West Michigan Shoreline Regional Development Commission



**Macatawa Area  
Coordinating Council**

A Cooperative Effort Among Units of Government

**MACATAWA AREA COORDINATING COUNCIL**

**RESOLUTION**

Approving the Transportation Conformity Air Quality SIP Revisions for Michigan's  
Transportation Improvement Programs, Transportation Plans, and Projects

**Policy Board**

- Richard Vander Broek, Chair
- Leroy Dell, Vice-Chair
- Ann Query
- Edward Berghorst
- Gene Berghorst
- Jerome Bush
- Luciano Hernandez
- Al Hoekman
- Lester Hoogland
- Vern Johnson
- Dai McBurrows
- Al McGeehan
- Phil Quade
- Stu Visser
- John Vogelzang

**WHEREAS,** The Macatawa Area Coordinating Council (MACC) agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the Transportation Conformity Air Quality rule;

**Committee Chairs:**

**Land Use/Environmental:**  
Richard Vander Broek

**WHEREAS,** It is the suggestion of this committee that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from the Macatawa Area Coordinating Council;

**Housing/Quality of Life:**  
Ann Query

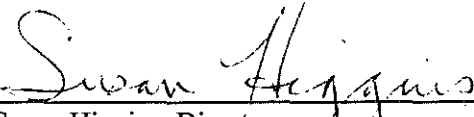
**WHEREAS,** Upon acceptance of this document by the U.S. Environmental Protection Agency, it shall herewith be considered MACC policy consistent with federal law in addressing transportation conformity issues in the State of Michigan;

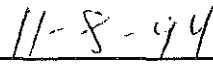
**Transportation:**  
Leroy Dell

**NOW THEREFORE BE IT RESOLVED,** That we agree that the collaborative efforts of the Macatawa Area Coordinating Council, the Michigan Departments of Transportation and natural Resources, the Federal Highway and Transit Administrations and the U.S. Environmental Protection Agency comply with MACC policy and authorize the Chairman of the MACC Policy Committee (Leroy Dell) as it's designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources;

**FURTHER BE IT RESOLVED,** that the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the Macatawa Area Coordinating Council MAB, in compliance with the U.S. Clean Air Act, and the U.S. Environmental Protection Agency's conformity rule, consistent with the planning provisions of the Intermodal Surface Transportation Efficiency Act of 1991 - 23 CFR part 450 and 49 CFR part 613.

**ATTEST:**

  
\_\_\_\_\_  
Susan Higgins, Director  
Macatawa Area Coordinating Council

  
\_\_\_\_\_  
Date



**GRAND VALLEY METRO COUNCIL**

ALPINE CHARTER TOWNSHIP • BYRON TOWNSHIP • CEDAR SPRINGS • EAST GRAND RAPIDS • GAINES CHARTER TOWNSHIP  
GRAND RAPIDS • GRANDVILLE • HUDSONVILLE • KENT COUNTY • KENTWOOD • PLAINFIELD CHARTER TOWNSHIP • ROCKFORD

**MPO RESOLUTION**

Approving the Transportation Conformity Air Quality SIP Revision for Michigan's  
Transportation Improvement Programs, Transportation Plans, and Projects.

**WHEREAS**, Grand Valley Metropolitan Council agrees that the pages contained in this document represent their best efforts in compliance with 40 CFR part 51 the transportation conformity air quality rule;

**WHEREAS**, it is suggested that the "Transportation Conformity Air Quality SIP Revision" receive full organizational backing and compliance from the Grand Valley Metropolitan Council;

**WHEREAS**, upon acceptance of this document by the USEPA, it shall herewith be considered agency policy consistent with federal law in addressing transportation conformity issues in the state of Michigan;

**NOW, THEREFORE, BE IT RESOLVED**, that we agree that the collaborative efforts of the Grand Valley Metropolitan Council, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations, and the United States Environmental Protection Agency comply with Grand Valley Metropolitan Council policy and authorize Nyal Deems, Chair, as its designated representative to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.

**FURTHER BE IT RESOLVED**, that the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the Grand Valley Metropolitan Council MAB, in compliance with the U.S. CAAA, specifically 40 CFR part 51, and being consistent with ISTEPA (23 CFR part 450 and 49 CFR part 613).

**GRAND VALLEY METROPOLITAN COUNCIL**

  
\_\_\_\_\_  
Nyal Deems, Chair, Grand Valley Metropolitan Council

Date November 3, 1994



# **SEMCOG**

## **Southeast Michigan Council of Governments RESOLUTION**

### **The Michigan Transportation Conformity Air Quality State Implementation Plan Revision**


**WHEREAS**, The Southeast Michigan Council of Governments (SEMCOG) agrees that the pages contained in this document represent our best effort in compliance with 40 CFR part 51, the Transportation Conformity Air Quality Rule; and

**WHEREAS**, SEMCOG, as the Metropolitan Planning Organization (MPO) for Southeast Michigan, intends to give full organizational backing and compliance to the "Transportation Conformity Air Quality SIP Revision" ; and

**WHEREAS**, Upon acceptance of this document by the U.S. Environmental Protection Agency (USEPA), it shall herewith be considered SEMCOG policy consistent with federal law in addressing transportation conformity issues in the State of Michigan;

**NOW THEREFORE BE IT RESOLVED**, That SEMCOG agrees that the collaborative efforts of SEMCOG, the Michigan Departments of Transportation and Natural Resources, the Federal Highway and Transit Administrations and the United States Environmental Protection Agency comply with SEMCOG policy and authorize SEMCOG's Executive Director, as its designated representative, to enter into a Memorandum of Agreement with the State's Department of Transportation and Natural Resources.

**FURTHER BE IT RESOLVED**, That the agencies agree to implement the process and procedures included in the Michigan Transportation Conformity Air Quality SIP Revision within the SEMCOG seven county area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne Counties) in compliance with the Clean Air Act Amendments of 1990, specifically 40 CFR part 51, and being consistent with the Intermodal Surface Transportation Efficiency Act (23CFR part 450 and 49 CFR part 613).

ATTEST:   
Committee Clerk, Signature Agency

DATE: 7-12-94

**The Michigan Transportation Conformity  
Air Quality  
State Implementation Plan (SIP)  
Revision**

**Supplemental Information**



*Prepared by:*

*Michigan Department of Natural Resources  
4th Floor, Stevens T. Mason Building  
P.O. Box 30028  
Lansing, Michigan 48090*

*and*

*Michigan Department of Transportation  
State Transportation Building  
425 West Ottawa Street  
P.O. Box 30050  
Lansing, MI 48909*

**November, 1994**

**MICHIGAN TRANSPORTATION CONFORMITY AIR QUALITY  
STATE IMPLEMENTATION PLAN (SIP) REVISION**

**SUPPLEMENTAL INFORMATION**

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**A. NOTICE OF AIR POLLUTION PUBLIC  
COMMENT AND HEARING**

- **LETTERS TO PUBLICATIONS**
- **NOTICE OF PUBLICATION**
- **AFFIDAVITS OF PUBLICATION**



STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF NATURAL RESOURCES

Stevens T. Mason Building, P.O. Box 30028, Lansing, MI 48909

ROLAND HARMES, Director

NATURAL RESOURCES  
COMMISSION

JERRY C. BARTNIK  
LARRY DEVUYST  
PAUL EISELE  
JAMES HILL  
DAVID HOLLI  
JOEY M. SPANO  
JORDAN B. TATTER

September 6, 1994

Lansing State Journal  
120 East Lenawee  
Lansing, Michigan 48919

Attention: Classified Advertising Manager

Please publish the attached one-column legal notice on Friday, September 16, 1994. It is important that the notice be printed in your newspaper by that date to comply with state and federal laws.

Please bill the Air Quality Division, Michigan Department of Natural Resources, P.O. Box 30028, Lansing, Michigan, 48909. Also, please include in your billing your federal tax exemption number which is needed to process the payment.

We would appreciate your sending two tear sheets as proof of publication to this office as soon as possible following its printing, since it is important that we have this for the records by October 21, 1994.

Thank you for your cooperation. If you have any questions, please contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Halbeisen".

Mary Ann Halbeisen  
Secretary  
Air Quality Division  
(517) 373-7069  
(517) 373-1265 (FAX)

Enclosure

cc: Debbie Beers  
Wendy Fitzner



STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF NATURAL RESOURCES

Stevens T. Mason Building, P.O. Box 30028, Lansing, MI 48909

ROLAND HARMES, Director

NATURAL RESOURCES  
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PAUL EISELE  
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DAVID HOLLI  
JOEY M. SPANO  
JORDAN B. TATTER

September 6, 1994

Detroit Legal news  
2001 West Lafayette  
Detroit, Michigan 48216

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Secretary  
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Enclosure

cc: Debbie Beers  
Wendy Fitzner



STATE OF MICHIGAN



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JORDAN B. TATTER

September 6, 1994

The Grand Rapids Press  
Press Plaza  
Vendenberg Center  
Grand Rapids, Michigan 49503

Attention: Classified Advertising Manager

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Please bill the Air Quality Division, Michigan Department of Natural Resources, P.O. Box 30028, Lansing, Michigan, 48909. Also, please include in your billing your federal tax exemption number which is needed to process the payment.

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Secretary  
Air Quality Division  
(517) 373-7069  
(517) 373-1265 (FAX)

Enclosure

cc: Debbie Beers  
Wendy Fitzner



NOTICE OF PUBLIC HEARING

The staff of the Air Quality Division will accept public comments until October 21, 1994, and will hold a public hearing on October 21, 1994 to afford all interested citizens an opportunity to comment on Michigan's Transportation Conformity State Implementation Plan (SIP) revision. The SIP revision implements §176(c) of the Clean Air Act (CAA), 23 U.S.C. 109(j), and the requirements specified by Chapter 40 of the Code of Federal Regulations, Part 51, Subpart T. The document sets forth policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects to an applicable implementation plan pursuant to §110 and Part D of the CAA. The SIP is applicable to those actions occurring in federal criteria pollutant nonattainment and maintenance areas. These areas in Michigan include: Battle Creek Metropolitan Statistical Area (MSA), Benton Harbor MSA, Detroit-Ann Arbor MSA, Flint MSA, Grand Rapids MSA, Jackson MSA, Kalamazoo MSA, Lansing-East Lansing MSA, Muskegon MSA, and Saginaw-Bay City-Midland MSA, and the counties of Allegan, Barry, Branch, Cass, Gratiot, Hillsdale, Huron, Ionia, Lapeer, Lenawee, Montcalm, Saint Joseph, Sanilac, Shiawasee and Van Buren.

The hearing will be held at the Law Building Auditorium, 525 West Ottawa Street, Lansing, Michigan. The hearing will convene at 1:00 p.m.

Copies of the Transportation Conformity SIP revision are available for inspection at the locations listed below. Additional viewing locations and copies may be obtained by writing or calling the Air Quality Division of the Department of Natural Resources in Lansing.

- LANSING: Air Quality Division, Department of Natural Resources, Stevens T. Mason Building, 4th floor, 530 West Allegan (Phone 517-335-2390).  
Urban Planning Section, Department of Transportation, 425 West Ottawa Street (Phone: 517-373-9054).
- DETROIT: Southeast Michigan Council of Governments, Edison Plaza Building, 660 Plaza Drive (Phone: 313-961-4266).
- LIVONIA: Air Quality Division, Department of Natural Resources, 38980 Seven Mile Road (Phone: 313-953-0248).
- GRAND RAPIDS: Air Quality Division, Department of Natural Resources, State Office Building, 6th floor, 350 Ottawa, NW (Phone: 616-456-5071).

All persons are encouraged to participate and present their views on the Transportation Conformity SIP revision. Persons wishing to make statements are requested to submit written copies for the hearing record. Anyone unable to appear may submit a written statement by October 21, 1994, to the Department of Natural Resources, Air Quality Division, P.O. Box 30028, Lansing, Michigan 48909, to the attention of Wendy Fitzner, Strategy Development Unit. Persons needing accommodations for effective participation in the meeting should contract the Air Quality Division at 517-335-2390 a week in advance to request mobility, visual, hearing or other assistance.

MICHIGAN DEPARTMENT OF NATURAL RESOURCES  
Dennis M. Drake, Acting Chief  
Air Quality Division

# AFFIDAVIT OF PUBLICATION

## NOTICE OF PUBLIC HEARING

To comment on Michigan's Transportation Conformity State Implementation Plan (SIP)

STATE OF MICHIGAN, }  
County of Wayne } ss.

BRADLEY L. THOMPSON, being duly sworn, deposes and says the annexed printed copy of a notice was taken from the **Detroit Legal News**, a newspaper printed and circulated in said State and County, and that said notice was published in said newspaper on the

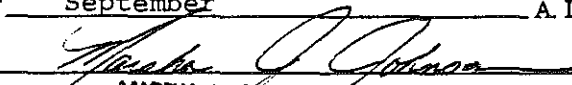
September 16,

A. D. 19<sup>94</sup>, that as principal clerk of the printers of said newspaper he knows well the facts stated herein.

  
Bradley L. Thompson

Subscribed and sworn to before me this 16th

day of September A. D. 19 94

  
MARSHA J. JOHNSON  
Notary Public, Wayne County, MI  
My Commission Expires Dec. 5, 1994

### PRINTER'S BILL

7 folios 1 times \$ 104.25

DETROIT LEGAL NEWS

10/21/94

### NOTICE OF PUBLIC HEARING

The staff of the Air Quality Division will accept public comments until October 7, 1994, and will hold a public hearing on October 21, 1994 to afford all interested citizens an opportunity to comment on Michigan's Transportation Conformity State Implementation Plan (SIP) revision. The SIP revision implements §178(c) of the Clean Air Act (CAA), 23 U.S.C. 109(j), and the requirements specified by Chapter 40 of the Code of Federal Regulations, Part 51, Subpart T. The document sets forth policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects to an applicable implementation plan pursuant to §1 and Part D of the CAA. The SIP is applicable to those actions occurring in federal criteria pollutant nonattainment and maintenance areas. These areas in Michigan include: Battle Creek Metropolitan Statistical Area (MSA), Benton Harbor MSA, Detroit-Ann Arbor MSA, Flint MSA, Grand Rapids MSA, Jackson MSA, Kalamazoo MSA, Lansing-East Lansing MSA, Muskegon MSA, and Saginaw-Bay City-Midland MSA, and the counties of Allegan, Barry, Branch, Cass, Genesee, Hillsdale, Huron, Ionia, Lapeer, Lenawee, Montcalm, Saint Joseph, Sanilac, Shiawassee and V. Buren.

The hearing will be held at the Law Building Auditorium, 525 West Ottawa Street, Lansing, Michigan. The hearing will convene at 1:00 p.m.

Copies of the Transportation Conformity SIP revision are available for inspection at the locations listed below. Additional viewing locations and copies may be obtained by writing or calling the Air Quality Division of the Department of Natural Resources, Lansing.

LANSING: Air Quality Division, Department of Natural Resources, Stevens Mason Building, 4th floor, 530 West Allegan (Phone 517-335-2390).

URBAN PLANNING SECTION, Department of Transportation, 425 West Ottawa Street (Phone: 517-373-9054).

DETROIT: Southeast Michigan Council of Governments, Edison Plaza Building, 660 Plaza Drive (Phone: 313-961-4266).

LIVONIA: Air Quality Division, Department of Natural Resources, 38980 Seven Mile Road (Phone: 313-953-0248).

GRAND RAPIDS: Air Quality Division, Department of Natural Resources, St. Office Building, 6th floor, 350 Ottawa, NW (Phone: 616-456-5071).

All persons are encouraged to participate and present their views on the Transportation Conformity SIP revision. Persons wishing to make statements are requested to submit written copies for the hearing record. Anyone unable to appear may submit a written statement by October 21, 1994, to the Department of Natural Resources, Air Quality Division, P.O. Box 30028, Lansing, Michigan 48909, to the attention of Werner Fitzner, Strategy Development Unit. Persons needing accommodations for effective participation in the meeting should contact the Air Quality Division at 517-335-2399 one week in advance to request mobility, visual, hearing or other assistance.

MICHIGAN DEPARTMENT OF NATURAL RESOURCES  
DENNIS M. DRAKE, Acting Chief  
Air Quality Division  
(9/16 -

Mary Ann

**NOTICE OF  
PUBLIC HEARING**

The staff of the Air Quality Division will accept public comments until October 21, 1994, and will hold a public hearing on October 21, 1994 to afford all interested citizens an opportunity to comment on Michigan's Transportation Conformity State Implementation Plan (SIP) revision. The SIP revision implements 5176(c) of the Clean Air Act (CAA), 23 U.S.C. 109(j), and the requirements specified by Chapter 40 of the Code of Federal Regulations, Part 51, Subpart T. The document sets forth policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects to an applicable implementation plan pursuant to 5110 and Part D of the CAA. The SIP is applicable to those actions occurring in federal criteria pollutant nonattainment and maintenance areas. These areas in Michigan include: Battle Creek Metropolitan Statistical Area (MSA), Benton Harbor MSA, Detroit-Ann Arbor MSA, Flint MSA, Grand Rapids MSA, Jackson MSA, Kalamazoo MSA, Lansing-East Lansing MSA, Muskegon MSA, and Saginaw-Bay City-Midland MSA, and the counties of Allegan, Barry, Branch, Cass, Gratiot, Hillsdale, Huron, Ionia, Lapeer, Lenawee, Montcalm, Saint Joseph, Sanilac, Shiawassee and Van Buren.

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**MICHIGAN DEPARTMENT OF  
NATURAL RESOURCES**  
Dennis M. Drake, Acting Chief  
Air Quality Division

Air Quality Division

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NOTICE OF PUBLIC HEARING

The staff of the Air Quality Division will accept public comments until October 21, 1994, and will hold a public hearing on October 21, 1994 to afford all interested citizens and opportunity to comment on Michigan's Transportation Conformity State Implementation Plan (SIP) revision. The SIP revision implements 176 (c) of the Clean Air Act (CAA), 23 U.S.C. 109 (j), and the requirements specified by Chapter 40 of the Code of Federal Regulations, Part 51, Subpart T. The document sets forth policy, criteria, and procedures for demonstration and assuring conformity of transportation plans, programs, and projects to an applicable implementation plan pursuant to 110 and Part D of the CAA. The SIP is applicable to those actions occurring in Federal criteria pollutant nonattainment and maintenance areas. These areas in Michigan include: Battle Creek Metropolitan Statistical Area (MSA), Benton Harbor MSA, Detroit-Ann Arbor MSA, Flint MSA, Grand Rapids MSA, Jackson MSA, Kalamazoo L MSA, Lansing-East Lansing MSA,

RECEIVED

SEP 23 1994

AIR QUALITY DIV

## **B. PUBLIC HEARING DOCUMENTATION**

- **HEARING OFFICER OPENING STATEMENT**
- **STAFF REPORT**
- **RECORD OF ATTENDANCE**



## Opening Statement

By: Jerry Avery Hearing Officer  
Michigan Department of Natural Resources

### **SUBJECT: TRANSPORTATION CONFORMITY SUBMITTAL TO THE MICHIGAN STATE IMPLEMENTATION PLAN**

Good morning My name is Jerry Avery of the Michigan Department of Natural Resources Air Quality Division. I am chairperson of this public hearing today. Seated with me is Wendy Fitzner of the Strategy Development Unit in the Air Quality Division.

This is a public hearing for a revision to the Michigan State Implementation Plan, or SIP, to implement Transportation Conformity criteria and procedures in areas in the state which are classified as nonattainment or maintenance of the national air quality standards. Areas designated nonattainment for carbon monoxide include portions of Macomb, Oakland and Wayne and areas designated nonattainment for ozone include: Battle Creek Metropolitan Statistical Area (MSA), Benton Harbor MSA, Detroit-Ann Arbor MSA, Flint MSA, Grand Rapids MSA, Jackson MSA, Kalamazoo MSA, Lansing-East Lansing MSA, Muskegon MSA, and Saginaw-Bay City-Midland MSA, and the counties of Allegan, Barry, Branch, Cass, Gratiot, Hillsdale, Huron, Ionia, Lapeer, Lenawee, Montcalm, Saint Joseph, Sanilac, Shiawasee, and Van Buren.

The hearing will begin with my reading this prepared statement into the hearing record. I will then call on Wendy Fitzner who will review the State Implementation Plan submittal for Transportation Conformity. Following Wendy's presentation, I will provide opportunity for statements by the audience. I ask that everyone please fill out a registration card, and indicate on the card if you would like to comment. I will call on you individually in the order that I have received the registration cards. If you have not filled out a card, I ask that you do so now and bring the card to me.

This public hearing was scheduled by the Department of Natural Resources under authority of Act 348 of the Public Acts of 1965, as amended, which is better known as the Air Pollution Act. This hearing is further in compliance with the public hearing provisions and procedural requirements of the 40th Code of Federal Regulations, Part 51, Subpart F.

The purpose of this hearing is to receive your testimony, evidence, and views on the revision to the SIP. This hearing is further being recorded and a verbatim transcript will be available upon request at the Air Quality Division office in Lansing.

An official notice of public hearing was prepared and distributed for publication in the Grand Rapids Press, the Detroit Legal News and the Lansing State Journal. Affidavits of publication from these newspapers to which the legal notice was mailed will be made a part of the official public hearing record. The hearing notice and the SIP revision were made available to numerous groups, associations, governmental entities, firms and individuals.

Copies of the notice of hearing and the Transportation Conformity SIP revision were available at the Grand Rapids, Livonia Air Quality District Offices, the Lansing Capital Complex Office, the office of the Southeast Michigan Council of Governments in Detroit, and at 12 other Council of Government offices located in Michigan. Additional copies are available here today.

I would like to ask that your testimony be brief and to the point and if you have a prepared statement or written comments, please leave a copy with me.

All oral testimony and written comments which are received regarding the Transportation Conformity SIP revision, from the date the notice of public hearing was published until 5:00 p.m. today, the close of the public comment period, will be made a part of this hearing record.

I will now call on Wendy, who will briefly summarize the Transportation Conformity revision to the Michigan State Implementation Plan.

**STAFF REPORT FOR THE  
TRANSPORTATION CONFORMITY SIP REVISION  
(October 21, 1994)**

Conformity is a concept that was developed to maintain the integrity of the State Implementation Plan (SIP). It was first introduced in the Clean Air Act Amendments of 1977, but was drastically strengthened in the 1990 Amendments. The Clean Air Act Amendments of 1990 (CAAA) require that no federal action take place which does not conform with the purpose of the SIP. The purpose of the SIP, as defined by the CAAA, is to eliminate or reduce the severity and number of violations of the national ambient air quality standards (NAAQS) and to achieve expeditious attainment of the standard. To achieve this end, Section 176(c) of the CAAA provides that "No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to an implementation plan after it has been approved or promulgated under section 110". Activities must be assessed to ensure that they do not 1) cause or contribute to any new violation of the national ambient air quality standards (NAAQS), 2) increase frequency or severity of existing violations, or 3) delay timely attainment or required emission reductions in any area.

To meet these requirements, the United States Environmental Protection Agency promulgated a rule containing criteria and procedures to implement transportation conformity. Transportation conformity, applies specifically to short and long term transportation projects, plans, and programs, and includes such federally sponsored actions as building new roads, adding additional lanes to existing roads, or expanding transit fleets. It also includes nonfederal actions which are determined to be regionally significant. Projects proposed for a region are included in a 3-year and 20-year plan and the emissions are analyzed together, to determine their cumulative emissions impact. The emissions must be compared to the SIP control strategies and emission goals to ensure that they are consistent or "conform" to the emissions inventory upon which the plan is developed.

The regulation requires states to adopt these emission analysis criteria and procedures into the State Implementation Plan. Additionally, the regulation requires the states to adopt a legally enforceable process for interagency consultation, conflict resolution, public review, and documentation.

This SIP revision sets forth the required policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects to the SIP. Half of the document covers the verbatim specifications regarding conformity determinations while the other half consists of the interagency cooperative process. The Michigan-specific portion of the SIP (the non-verbatim portion) is covered in four chapters. Chapter 1 is the Introduction, which includes an executive summary, interagency mission statement, and Memorandums of Agreements (MOAs). Chapter 2 contains the Legal Requirements of the SIP. Chapter 3 consists of the Process for Development of

Transportation Conformity Determinations. Finally, Chapter 4 contains the state procedures for Implementation of Transportation Conformity SIP Revision, which includes roles and responsibilities of the affected responsible agencies, conflict resolution procedures, provisions for public involvement and documentation. The SIP is written so as to apply to all the various planning structures in Michigan's nonattainment area. For example, roles and responsibilities are specified for nonattainment areas covered by Metropolitan Planning Organizations (MPOs), areas with both MPOs and nonMPOs, and areas without MPOs. The document provides substantial flexibility to accommodate special project considerations and any changes in agency status.

This document represents a collaborative effort between the Departments of Natural Resources and Transportation, Metropolitan Planning Associations throughout Michigan's nonattainment areas, the Federal Highway Administration, and through consultation with the Environmental Protection Agency. The final SIP revision submittal will contain signed resolutions and memorandums of agreement between the State and local agencies involved in determining conformity and which will contain commitments to implement the procedures laid out in the SIP. Currently the SIP applies to the following ozone nonattainment areas in Michigan: Battle Creek Metropolitan Statistical Area (MSA), Benton Harbor MSA, Detroit-Ann Arbor MSA, Flint MSA, Grand Rapids MSA, Jackson MSA, Kalamazoo MSA, Lansing-East Lansing MSA, Muskegon MSA, and Saginaw-Bay City-Midland MSA, and the counties of Allegan, Barry, Branch, Cass, Gratiot, Hillsdale, Huron, Ionia, Lapeer, Lenawee, Montcalm, Saint Joseph, Sanilac, Shiawasee, and Van Buren; and for carbon monoxide, portions of Wayne Oakland, and Macomb counties.

**RECORD OF ATTENDANCE TO THE PUBLIC HEARING FOR THE  
TRANSPORTATION CONFORMITY SUBMITTAL TO THE  
STATE IMPLEMENTATION PLAN**

**Jerry Avery**, Regional Supervisor, Air Quality Division-Region III, Michigan Department of Natural Resources, 7150 Harris Drive, Lansing, MI 48913

**Pamela Boyd**, Transportation Planner, Urban Planning Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

**Gary D. Bulluck**, Transportation Planner, Urban Planning Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

**Jim Cramer**, Urban Transportation/Air Quality Specialist, Federal Highway Administration, 315 W. Allegan, Room 207, Lansing, MI 48933

**Wendy Fitzner**, Environmental Quality Specialist, Strategy Development Unit, Air Quality Division, Department of Natural Resources, P.O. Box 30028, Lansing, MI 48909

**Renee Farnum**, Unit Supervisor, Urban Planning Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

**Tom Johnson**, Transportation Planner, Urban Planning Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

**Mary Maupin**, Environmental Quality Specialist, Strategy Development Unit, Air Quality Division, Department of Natural Resources, P.O. Box 30028, Lansing, MI 48909

**Dal McBurrows**, Unit Supervisor, Urban Planning Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

**Tony Milo**, Deputy Director, Michigan Asphalt Paving Association, 835 Louisa Street, Suite 208, Lansing MI 48911

**Peter Ollila**, Michigan Department of Transportation Environmental Coordinator, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

**Marsha Small**, Manager Urban Planning Section, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

**John Wakin**, Transportation Planner, Urban Planning Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, MI 48909

## **C. COMMENTS AND RESPONSES**

- **DNR RESPONSE TO PUBLIC COMMENTS**
- **ADDITIONAL CHANGES TO DRAFT DOCUMENT**

## DNR RESPONSE TO PUBLIC COMMENTS

No comments were provided at the public hearing held on October 21, 1994. Only one comment was received by the Air Quality Division during the public comment period, as follows:

**Comment** The language in the draft MPO Resolution--"Upon acceptance of this document by the USEPA, it shall herewith be considered agency policy superseding federal law in addressing transportation conformity issues in the state of Michigan"--is unclear. First, which agency's has this policy and second, how can a policy supersede federal law? (21 Sept. 1994 from Bay City, SEMCOG, BCATS)

**Answer.** The agency referenced is the MPO which is passing this resolution and which is attested by the MPO Committee Clerk. The conformity regulation is adopted in both 40 CFR part 51 and part 93. Part 51 concerns SIP revisions and requirements and part 93 concerns federal requirements. The two regulations are identical except part 51 discusses the requirement to adopt the rule into the SIP. Until the rule becomes state law, the federal requirement under part 93 is applicable. Upon adoption of state law and approval as a SIP revision by EPA, the regulation becomes a state requirement. It is also enforceable by EPA because the SIP becomes federal law and is enforceable by EPA.

A wording change has been made to simplify and clarify the indent of this regulation. The correction reads: ".. it shall herewith be considered (MPO) policy consistent with federal law..." The resolutions signed by the MPOs includes this change.

STATE OF MICHIGAN

TRANSPORTATION  
COMMISSION

BARTON W. LA BELLE  
RICHARD T. WHITE  
ROBERT M. ANDREWS  
JACK L. GINGRASS  
JOHN C. KENNEDY  
IRVING J. RUBIN  
LH 0-0 (3/93)



JOHN ENGLER, GOVERNOR

DEPARTMENT OF TRANSPORTATION

TRANSPORTATION BUILDING, 425 WEST OTTAWA POST OFFICE BOX 30050, LANSING, MICHIGAN 48909  
PHONE: (517) 373-2090 TDD: (517) 373-0012 FAX: (517) 373-0167

PATRICK M. NOWAK, DIRECTOR

October 25, 1994

Ms. Wendy Fitzner  
Air Quality Division  
Department of Natural Resources  
P.O. Box 30028  
Lansing, Michigan 48909

Dear Ms. Fitzner:

The following represents changes to the Michigan Transportation Conformity Air Quality SIP Revision as of the close of the public comment period: .

Correction 1:

Chapter 4 - Implementation of Transportation Conformity Air Quality SIP Revision  
Non-MPO areas in non-attainment counties Roles and Responsibilities, page 14.

Under role #2. Technical Analysis.

- MDOT will run transportation and emission models with Transportation Network, Social/Economic, Environmental and Energy data provided by the local agencies, and as required by 23 CFR part 450, 49 CFR part 613 and 40 CFR part 40. *MDOT is responsible for the transportation conformity analysis and finding for non-MPO portions of non-attainment areas.* MDOT will also document and transmit the air quality conformity analysis and findings to the FHWA/FTA, as one non-attainment area conformity determination, per requirements of 23 CFR part 450, 49 CFR part 613 and 40 CFR part 51

The sentence in italics was added to further define the role of MDOT in these areas. This exact sentence was copied from Conflict Resolution PG 26 #4 MDOT and MDNR.

Correction 2:

MDOT Roles and Responsibilities, page 17.



Ms. Wendy Fitzner  
Page 2  
October 25, 1994

Under role #7: Technical analysis: Run emissions and transportation models.

- The MPO and MDOT are jointly responsible, in varying degrees across the State, for the development and application of transportation models as part of the MPO responsibilities under the 23 CFR part 450 and 49 CFR part 613. This includes the forecasting of travel based on local forecast of growth and development. *MDOT is responsible for the transportation conformity analysis and finding for non-MPO portions of non-attainment areas.*

The sentence in italics was added to provide consistency in statements made in previous portions of the document. This exact sentence was copied from Conflict Resolution page 26 #4 MDOT and MDNR.

Correction 3:

Cover page of the document.

Closing paragraph reads:

- Preparation of this document was completed in a collaborative effort of the Federal Highway Administration, Michigan Department of Transportation and the Michigan Department of Natural Resources, and the U. S. Environmental Protection Agency and *Metropolitan* Planning Organizations.

The word Municipal was changed to Metropolitan to maintain consistency throughout the document.

If there are any questions regarding the changes, please feel free to contact me, or John Watkin at (517) 335-2972.

Sincerely,



Dalrois McBurrows, Supervisor  
TMA/Air Quality Units

**D. COMPLETENESS REVIEW CHECKLIST**

## SIP SUBMITTAL COMPLETENESS REVIEW

### Administrative Materials

- 1) **A formal letter of submittal from the Governor or designee requesting EPA approval of the revision.**

Cover letter from Roland Harmes, Director of the DNR to Valdas Adamkus, EPA Region V Administrator requesting approval of the SIP. Authority for submitting SIPs has been delegated to the Director of the Department of Natural Resources from the Governor of Michigan.

- 2) **Evidence that the State has adopted the revision in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter document) in final form. That evidence should include the date of adoption or final issuance as well as the effective date of the revision, if different from the adoption/issuance date.**

Copies of the 13 Metropolitan Planning Organization (MPO) signed resolutions and 14 Memorandum of Agreements (MOAs), along with a description of the Michigan Environmental Protection Act (MEPA) enforcement mechanisms are included in the SIP revision.

- 3) **Evidence that the State has the necessary legal authority under State law to adopt and implement the revision.**

Act 348, Section 5 allows the Department of Natural Resources to prepare and develop a comprehensive plan for the control or abatement of air pollution. Additionally, see response to item 2, above

- 4) **A copy of the actual regulation, or document submitted for approval and incorporation by reference into the SIP, including indication of the changes made to the existing approved SIP, where applicable. The submittal should be a copy of the official State regulation/document signed, stamped, dated by the appropriate State official indicating that it is fully enforceable by the State. The effective date of the regulation/document should, whenever possible, be indicated in the document itself.**

Copies of the 13 Metropolitan Planning Organization (MPO) signed resolutions and 14 Memorandum of Agreements (MOAs), along with a description of the Michigan Environmental Protection Act (MEPA) enforcement mechanisms are included in the SIP revision.

- 5) **Evidence that the State followed all of the requirements of its Administrative Procedures Act (or equivalent) in conducting and completing the adoption/issuance of the revision.**

See the affidavit of publication from the newspaper which published the notice of public hearing and the notice of public hearing.. (Section A)

- 6) **Evidence that Public Notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice.**

See the affidavit of publication from the newspaper which published the public hearing notice and the notice of public hearing. (Section A)

- 7) **Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's Administrative Procedures Act (or equivalent), if applicable.**

See the attached Opening Statement, Staff Presentation, and Record of Attendance. (Section B)

- 8) **Compilation of public comments and the State's response thereto.**

Refer to the attached Comments and Response on the draft Transportation Conformity SIP Revision. (Section C)