
**MEMORANDUM OF UNDERSTANDING
AMONG
INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
INDIANA DEPARTMENT OF TRANSPORTATION
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
FEDERAL HIGHWAY ADMINISTRATION
FEDERAL TRANSIT ADMINISTRATION
FOR
PROCESS AND PROCEDURES FOR THE COORDINATION OF TRANSPORTATION
AND TRANSPORTATION RELATED AIR QUALITY PLANNING INCLUDING THE
CONSULTATION AND DETERMINATION OF TRANSPORTATION CONFORMITY
PER
40 CFR PARTS 51 and 93 AND 23 CFR PART 450.310 (c)**

Introduction

The Clean Air Act (CAA) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) require evaluation of transportation plans, programs and projects for areas that are in nonattainment/maintenance of the National Ambient Air Quality Standards (NAAQS) to ensure consistency with air quality planning efforts. The agencies that work in these areas, which include air quality, transportation, metropolitan planning organizations, transit and local governments, must work together to perform this evaluation.

Certain activities, such as development of new or amended transportation plans (TP) or transportation improvement programs (TIP) or new projects in rural areas require that a conformity determination be made. 40 CFR Part 93.104 specifies the types of activities that require a conformity determination and the frequency of conformity determinations.

This document establishes a detailed interagency consultation process among the Indiana Department of Environmental Management (IDEM), the Indiana Department of Transportation (INDOT), the United States Environmental Protection Agency (US EPA), the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA) for the purpose of evaluating the conformity of the transportation plans, improvement programs and projects for the State of Indiana with the requirements of the federal Clean Air Act Amendments and the State Implementation Plan (SIP).

The United States Environmental Protection Agency and the United States Department of Transportation have promulgated regulations at 40 CFR Parts 51 and 93, 23 CFR Part 450, and 49 CFR Part 613 respectively describing the procedures to be used in the consultation process. Attached hereto and incorporated herein this agreement are the Interagency Consultation Group Conformity Consultation Guidance (Appendix A) which details the roles and responsibilities of conformity stakeholders as well as metropolitan planning organization resolutions (Appendix B) that formally

adopt the Interagency Consultation Group Conformity Consultation Guidance document into each Metropolitan Planning Organization (MPO) transportation conformity protocol. The signatories to this agreement agree to follow the individual MPO transportation conformity protocols and abide by the consultation procedures in the adopted resolution.

To satisfy the requirements of Clean Air Act section 176(c)(4)(E), the implementation plan revision must address the following three requirements of Part 93, Subpart A: (1) 40 CFR 93.105, which addresses consultation procedures, (2) 40 CFR 93.122(a)(4)(ii), which states that conformity SIPs must require written commitments to control measures prior to a conformity determination if the control measures are not included in a MPO's transportation plan and transportation improvement program, and that such commitments be fulfilled; and (3) 40 CFR 93.125(c), which states that conformity SIPs require written commitments to mitigation measures prior to a project-level conformity determination, and that project sponsors comply with such commitments. Following US EPA approval of this Memorandum of Understanding (MOU) and the MPO resolutions which address consultation in each MPO area, as a revision to the SIP, conformity determinations shall be conducted in accordance with the approved SIP as well as federal conformity rules that are not addressed by this document.

This MOU identifies the interagency consultation process for the review and determination of conformity of transportation related plans, programs and projects for State of Indiana nonattainment and maintenance areas and also for hotspot analysis.. It describes where opportunity for public involvement is to be provided in the process. It details the process to be used by the affected agencies in the development of transportation control measures and provides a process for the resolution of conflicts among the affected agencies.

I. Definitions

AQCA - Air Quality Conformity Analysis
FHWA - Federal Highway Administration
FONSI - Finding of No Significant Impact
FTA - Federal Transit Administration
HPMS - Highway Performance Monitoring System
ICG - Interagency Consultation Group
IDEM - Indiana Department of Environment Management
INDOT- Indiana Department of Transportation
INSTIP - Indiana Statewide Transportation Improvement Program
LOS - Level of Service
MPO - Metropolitan Planning Organization
MVEB - Motor Vehicle Emissions Budget
NEPA - National Environmental Policy Act
ROD - Record of Decision
SIP - State Implementation Plan
TCM - Transportation Control Measures
TDM - Travel Demand Model
TIP - Transportation Improvement Program
TP - Transportation Plan

US DOT - United States Department of Transportation
US EPA - United States Environmental Protection Agency
VMT - Vehicle Miles Traveled

II. Affected Agencies

For purposes of this document, the "affected agencies" shall refer to the following entities:

The designated point of contact for each affected agency is listed below the agency name.

1. The Indiana Department of Environmental Management (IDEM);
Commissioner or Designee
2. The Indiana Department of Transportation (INDOT);
Commissioner or Designee
3. The United States Environmental Protection Agency (US EPA), Region 5;
Administrator or Designee
4. The Federal Highway Administration (FHWA), Indiana Division Office;
Administrator or Designee
5. The Federal Transit Administration (FTA), Region 5;
Administrator or Designee

III. General procedures for Transportation Conformity Consultation

Overview

These procedures outlined in this document implement the interagency consultation process as required in 93.105(b) for Indiana isolated rural nonattainment/maintenance areas, and include procedures to be undertaken by the Indiana Department of Transportation (INDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Indiana Department of Environmental Management (IDEM), and US EPA before making project level conformity determinations.

Transportation conformity is the process to assess the compliance of a Transportation Plan (TP), Transportation Improvement Program (TIP), or transportation project with the air quality State Implementation Plan (SIP). A conformity determination is based on the conformity regulations in 40 CFR Part 93 and consistency between the applicable emissions budgets of the TP and/or the TIP with the SIP.

Additional details on consultation are contained in the Indiana guidance document on transportation conformity "Interagency Consultation Group Conformity Consultation Guidance, August 2007." This guidance document provides detailed guidance on conformity consultation and procedures but is

not legally binding. Only the procedures approved into the State Implementation Plan (SIP) as part of this MOU are legally binding.

a. Interagency Consultation Group

To conduct consultation, staff involved in conformity issues for their respective agencies shall participate in an air quality conformity task force, hereafter referred to as the "Interagency Consultation Group." The Interagency Consultation Group (ICG) is open to all interested agencies, but typically includes, as a minimum, staff of:

- Federal agencies: FHWA, US EPA, FTA
- State Agencies: INDOT, IDEM

The INDOT shall maintain a directory for the current membership agencies of the ICG. The ICG agencies shall establish the practice of having at least one staff member who can serve as an alternate contact if the primary contact is unavailable. These agencies are responsible to notify ICG upon individual contact or alternate contact changes.

b. Initial Interagency Consultation Group Meeting

The INDOT is responsible for initiating the ICG consultation when a new conformity demonstration is being initiated in an isolated rural nonattainment/maintenance area. Often INDOT utilizes consultants to assist with project development, and so the following INDOT activities may be coordinated by consultant staff working on behalf of INDOT.

The Initial ICG Meeting (typically a conference call) shall include, but not be limited to, all of the agencies listed above. The INDOT shall schedule conference calls for a time that is acceptable to all other ICG representatives. The purpose of the Initial ICG Meeting is to establish consensus regarding the project level conformity demonstration schedule, latest planning assumptions, and analysis methodology. If a previous conformity demonstration was made, the ICG may reaffirm the existing practices. The INDOT shall provide the ICG with the necessary items as soon as possible prior to the conference call. The INDOT shall respond verbally or by email to all questions and comments from the ICG members.

The INDOT shall prepare initial Meeting Minutes to document agency concurrence regarding items and all decisions made during the initial consultation meeting. The INDOT shall forward these Meeting Minutes and the Project List to the ICG as soon as reasonably possible. The INDOT can follow-up with ICG representatives as needed during the consultation period to clarify outstanding issues. The INDOT shall schedule a follow-up meeting if needed (i.e. agency concurrence can not be reached). The INDOT shall also schedule a meeting if any ICG member(s) call a meeting of this group to discuss issues under the purview of the ICG as described below, including whether certain events would trigger the need to make a new project level conformity determination. The INDOT shall be responsible for preparing and distributing the Meeting Minutes from that meeting.

Persons of any organizational level in the member agencies may attend meetings of the ICG.

All meetings of the ICG shall be open to the public.

Meeting frequency shall be as needed, unless there is consensus among the federal and state transportation agencies and air quality agencies to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). In most cases, consultation shall be via conference call and/or email unless the ICG decides that certain items may require a face-to-face meeting and could not be handled via conference call or email.

c. Affected Agency Responsibilities

IDEM is the state agency responsible for air quality planning. Associated responsibilities of IDEM include the identification of the various sources of air pollutants, including mobile sources, and the development of the SIP. The SIP outlines the control strategies for maintaining and improving air quality.

INDOT is the state agency responsible for transportation planning and project implementation, and is a key stakeholder in statewide transportation planning and conformity processes. INDOT also develops the Indiana statewide transportation improvement plan (INSTIP) that encompasses the TIPs of all Indiana metropolitan planning organizations (MPO).

US EPA is the federal agency responsible for reviewing and approving the SIP. US EPA is also a participant in the regional transportation planning and conformity processes, and provides comment to US DOT (FHWA & FTA) regarding a regional conformity analysis at state and local levels prior to US DOT making a conformity determination.

FHWA and FTA are the federal agencies responsible for approving the INSTIP. FHWA and FTA are active participants in the regional transportation planning and conformity processes, and are responsible for making a formal conformity determination regarding Transportation Plans and Transportation Improvement Programs at the state and local levels.

d. Affected Agency Roles

40 CFR 93.105 (b)(2)(i) require roles and responsibilities to be addressed as part of the consultation SIP. As such, the following are the expected participation of key agencies in project level conformity demonstration development and review.

Agency	Roles
INDOT	<ul style="list-style-type: none">• Runs Statewide travel demand model (TDM)• Prepares NEPA and AQCA document for isolated rural nonattainment/maintenance areas• Manages public review and comment period• Provides a final copy of AQCA document to ICG agencies• Maintains and manages conformity process schedule

Agency	Roles
IDEM	<ul style="list-style-type: none"> • Develops motor vehicle emissions budgets (MVEBs) • Creates and develops state implementation plans (SIPs) • Develops SIP emission factors using the most current US EPA approved emissions model (or delegates responsibility as agreed with other appropriate ICG parties) • Provides draft copy of MVEB and SIPs to ICG for review and comment • Reviews AQCA and comments within the allotted time
FHWA	<ul style="list-style-type: none"> • Coordinates federal review process of the conformity determination • Facilitate additional consultation as necessary if adverse comments are received during consultation • Monitors INDOT project level conformity process schedule • Assists other ICG parties with commitment follow-up • Provides technical guidance and advice on conformity • Reviews conformity documentation • Issues United States Department of Transportation (US DOT) conformity determination letter
FTA	<ul style="list-style-type: none"> • Reviews conformity documentation • Reviews AQCA and comments within the allotted time
US EPA	<ul style="list-style-type: none"> • Promulgates conformity regulations • Approves the SIP and motor vehicle emissions budgets (MVEBs) • Provides technical advice and guidance on conformity • Reviews conformity determination • Reviews final AQCA and submits a recommendation for conformity finding letter

e. Consultation on Project Level Conformity Analysis in Rural Nonattainment/Maintenance Areas

INDOT shall consult with the ICG on the assumptions and approach to the project level conformity analysis during the preparation of the AQCA document. INDOT shall consult with the ICG, at a minimum, on the following topics:

- Identification of exempt projects (by list or reference)
- Discussion of which activities trigger a conformity analysis (93.105(c)(2)(1))
- Identification of projects included in each analysis scenario
- Travel demand modeling description (assumptions, methods, geographical and functional classification coverage and VMT Summary Table for various analysis years)
- Discussion of data collection efforts and statewide travel demand model development (93.105(c)(6))
- Description of the emissions modeling (emissions model used, methodology, assumptions, and sample input/output printouts)
- Description of post process analysis (including off-network VMT)
- Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 113.118(a) and 93.119(d) showing that required conformity tests were met

- Discussion of other relevant observations or issues
- An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs (if applicable)

f. Distribution of Final Documents as Required by 93.105(c)(7)

After INDOT has addressed all outstanding ICG and public comments on the draft AQCA, INDOT shall forward the final conformity analysis and documentation to FHWA and the ICG for a federal conformity finding determination. FHWA shall initiate formal consultation and shall provide 30 days for written comments from the ICG members. Once FHWA has assured that all outstanding ICG conformity consultation issues have been satisfactorily addressed, FHWA shall issue the conformity determination. The conformity determination may be issued in the form of a letter, or as part of the formal NEPA approval (Finding of No Significant Impact (FONSI) or Record of Decision (ROD)). FHWA shall provide a copy of the conformity determination to ICG members.

IV. State Implementation Plan (SIP) Consultation Process

IDEM has responsibility for developing state implementation plans (SIPs) and, as such, needs to assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIPs. The SIP will normally be developed independently of the ICG. However, all ICG agencies shall be provided with information and opportunity to participate in the development of the SIP with a focus on the setting of emission budgets and developing Transportation Control Measures (TCMs, if appropriate). Public involvement shall be in accordance with IDEM's public involvement procedures. Key documents shall be posted on IDEM's website. SIP development will normally cover inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

IDEM may request that INDOT provide travel activity data for isolated rural nonattainment/maintenance areas for use in developing the on-road motor vehicle emissions inventory. If new transportation control strategies or TCMs are necessary to achieve and/or maintain federal air quality standards, IDEM may request that INDOT evaluate potential new measures for isolated rural nonattainment/maintenance areas. The ICG shall be convened to discuss possible TCMs for inclusion in the SIP. This SIP and consultation process shall define the motor vehicle emissions budget (MVEB), and its various components, that will be used for future conformity determinations of the TP and TIP. Before the draft SIP begins the public review process, the ICG shall have an opportunity to review and comment on the proposed MVEB.

IDEM shall circulate the draft SIP for public review, and all comments shall be addressed. IDEM shall then transmit the adopted submittal, along with the public notice, public hearing transcript and a summary of comments and responses, to the US EPA.

V. Development of Transportation Control Measures (TCM)

The affected agencies shall jointly identify and select reasonably available TCMs to reduce mobile source emissions. IDEM shall make final determination of any TCMs to be included within the SIP.

VI. Monitoring of Transportation Control Measures (TCMs)

The periodic conformity analyses for isolated rural nonattainment/maintenance areas will include updates of the implementation of TCMs in the applicable SIP. The ICG may request more frequent updates, as needed.

As part of a new conformity demonstration in an isolated rural nonattainment/maintenance area, INDOT shall document the status of TCMs that have not been completed, by comparing progress to the implementation steps in the SIP. Where TCM emissions reductions are included as part of the MVEB, INDOT shall also estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a TCM, INDOT shall describe the steps being undertaken to overcome these obstacles, including means to ensure that funding agencies are giving TCMs maximum priority. INDOT may recommend substitution to ICG of a new TCM for all or a portion of an existing TCM that is experiencing implementation difficulties as detailed in Section VIII of this document.

VII. Tracking Implementation of TCMs (40 CFR 93.105 (c)(iv))

The affected agencies shall work together to identify steps and actions being taken to secure approval or funding for any delayed TCMs in the SIP so that they receive maximum priority for implementation. If further delay is encountered, the affected agencies shall consider whether a SIP revision is necessary to remove or replace the TCMs with other emission reduction measures. TCMs that are delayed shall follow the criteria in accordance to 40 CFR 93.105(c)(1)(iv) & 93.113.

VIII. Substitution of TCMs in the SIP

After consultation with the ICG, INDOT may recommend to IDEM the substitution of a new TCM in the SIP to overcome implementation difficulties with an existing TCM(s). IDEM shall consider INDOT recommendation and make final determination on any TCM substitutions within SIP. The substitution shall take place in accordance with SAFETEA-LU (Public Law 109-59) TCM Substitution Procedures, and provide for full public involvement.

IX. Provision for Written Commitments Required by 40 CFR 93.122(a)(4)(ii) and 93.125(c)

As set forth in 40 CFR 93.122(a)(4)(ii), emission reduction credit from control measures that are not included in the SIP and that do not require a regulatory action in order to be implemented may not be included in the project level conformity demonstration unless the NEPA document includes written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to control measures must be obtained prior to a conformity determination and the written commitments must be fulfilled. Consultation on these

commitments shall take place as a part of the consultation process prior to the conformity analysis and determination.

As set forth in 40 CFR 93.125(c), prior to determining that a transportation project is in conformity, the recipient of funds designated under title 23 U.S.C. or the Federal Transit Laws, 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 CO, PM₁₀, or PM_{2.5} impacts. Before a conformity determination is made, written commitments must also be obtained for project-level mitigation or control measures which are conditions for making the project level conformity determination are included in the project design concept and scope which is used in the regional emissions analysis required by 40 CFR 93.118 and 119 or used in the project-level hot-spot analysis required by 40 CFR 93.116. Consultation on these commitments shall take place as a part of the consultation process prior to the conformity analysis and determination.

X. Other Interagency Consultation Group Processes and Procedures

Interagency consultation procedures for specific conformity issues are described below:

a. Defining regionally significant projects (40 CFR 93.105 (c) (1) (ii))

Regionally significant projects are defined as transportation projects (other than an exempt project) that are on a facility which serves regional transportation needs and would normally be included in the coded network for the statewide transportation demand forecast model, including at a minimum all principal arterial highways. INDOT's travel model roadway network may also include other types of facilities for reasons of functionality or connectivity that would not normally be considered regionally significant. INDOT shall periodically review with the ICG the types of facilities and projects that are coded in the network but which INDOT recommends should not be classified as regionally significant (and which therefore would not trigger a new NEPA conformity demonstration before they could be amended into the Indiana Statewide Transportation Improvement Program (INSTIP)). INDOT shall document the decisions of the ICG for future reference. The ICG shall also discuss and decide that projects would not be found regionally significant according to the modeling definition above, but should be treated as regionally significant for conformity purposes. This consultation shall take place prior to the beginning of the conformity modeling analysis.

b. Determination of significant change in project design concept and scope (40 CFR 93.105 (c) (4) and (5))

INDOT shall consider a significant change in design concept and scope to be one that would alter the coding of the project in the statewide travel demand model. When a project(s) has a change in design concept and scope from that assumed in the most recent conformity demonstration, INDOT shall initiate an update of the conformity demonstration as part of a NEPA reevaluation.

c. Determining if exempt projects should be treated as non-exempt (40 CFR 93.105 (c) (iii))

INDOT shall identify all Statewide Transportation Plan and INSTIP projects in the isolated rural nonattainment area that meet the definition of an exempt project, as defined in the conformity regulations. INDOT shall provide a list of exempt projects to the ICG for review prior to releasing the project level NEPA conformity demonstration for public comment. If any member of the ICG believes an exempt project has potentially adverse emission impacts or interferes with TCM implementation, they can bring their concern to the ICG for review and resolution. If it is determined by the ICG that the project should be considered non-exempt, INDOT shall make appropriate changes to the conformity analysis, as required.

d. Treatment of non-FHWA/FTA regionally significant projects (40 CFR 93.105(c)(4))

Any recipient of federal funding is required to disclose to INDOT the design concept and scope of regionally significant projects that do not use FHWA or FTA funds. INDOT shall request that local agencies identify all such projects prior to conducting a new project level conformity analysis for an isolated rural nonattainment area. As part of the conformity demonstration, INDOT shall include a written response to any substantive comment received about whether projects of this type are adequately accounted for in the regional emissions analysis.

e. Projects that can advance during a conformity lapse

In the event of a conformity lapse in an isolated rural non-attainment/maintenance area, INDOT shall consult with the ICG to identify projects that may move forward.

f. Events that Trigger a New Conformity Determination (40 CFR 93.105 (c)(2)(i) & 93.104)

The affected agencies shall work together to evaluate activities that may require a conformity determination. 40 CFR 93.102 (Applicability) provides a list of activities that require a new conformity determination.

g. Consideration of Regionally Significant Projects (40 CFR 93.105 (c)(4) & (c)(1)(ii))

After ICG consultation, the affected agencies shall decide which projects are regionally significant and to be included in the transportation model. INDOT or the MPO shall highlight all regionally significant added capacity projects within the regional emissions analysis. All federally funded and nonfederally funded regionally significant projects are to be incorporated into the appropriate local and statewide TPs and TIPs.

h. Consultation for Evaluating Whether Project(s) Shall Be Exempt Vs. Non-Exempt (40 CFR 93.105(c)(1)(iii))

The affected agencies shall evaluate whether projects otherwise exempt from conformity (40 CFR 93.126 and 93.127) should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason.

i. Project Tracking and Conformity Update (23 CFR 450.324 (n)(2))

The affected agencies shall evaluate federal and non federal projects in the TPs and TIPs periodically to determine if the projects' design and scope have been revised and whether the projects are on schedule for implementation. Changes in the design concept, scope, or schedule for any project shall require a new emissions analysis for the next conformity determination.

XI. Project Level Conformity Determination When New Regional Analysis is Required

a. Consultation Structure and Process

Project level conformity demonstrations in isolated rural nonattainment/maintenance areas that require a new regional emission analysis shall be developed through the ICG. The INDOT is responsible for convening meetings of the ICG.

Once a preferred alternative has been identified as part of the National Environmental Policy Act (NEPA) project development process, the INDOT shall develop a schedule for key activities and meetings leading up to issuance of the associated conformity determination and NEPA project approval. In developing the project level air quality conformity analysis (AQCA), the INDOT brings important AQCA issues to the ICG for discussion and feedback. The INDOT is responsible for transmitting all materials used for these discussions to the ICG prior to the meetings, or on occasion, may distribute materials at the meetings. All materials that are relevant to interagency consultation shall be transmitted to the ICG for discussion and feedback. Similar consultation shall occur with NEPA reevaluations if a new regional analysis is required. It should be noted that NEPA reevaluations requiring a new regional conformity demonstration are few and infrequent.

If the preferred alternative was included in a previous conformity demonstration, there is no need to update the conformity demonstration as long as INDOT affirms the following in the NEPA document: (1) the current scope of each non-exempt project in the isolated rural nonattainment/maintenance area is consistent with the design concept and scope of the projects that were modeled in the most recent conformity demonstration, (2) the open-to-traffic date of each non-exempt project in the isolated rural nonattainment area is consistent with the open-to-traffic dates in the most recent conformity demonstration, (3) that the previous emissions analysis meets the requirements of 40 CFR 93.118 & 119 and demonstrates conformity.

Public involvement in the development of the NEPA document shall be provided in accordance with the INDOT Public Involvement Manual which was developed in accordance with 23 CFR 450 and 23 CFR 771.

b. Localized CO, PM₁₀, and PM_{2.5} Hot Spot Project Level Consultation

Hot-spot analysis is defined in 40 CFR 93.101 as an estimation of likely future localized CO, PM₁₀, and PM_{2.5} pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and

highway or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality. Such an analysis is a means of demonstrating that a transportation project meets the CAA conformity requirements to support state and local air quality goals with respect to potential localized air quality impacts (40 CFR 93.116).

ICG consultation on project level conformity hereby incorporates the criteria and requirements under Section C I-X. Specifically, the interagency consultation group, roles and responsibilities and consultation structure and process and distribution of final documents shall be followed.

Also, as required by 40 CFR 93.105 (c) (4) and (5): INDOT shall consider a significant change in design concept and scope to be one that would alter the coding of the project in the statewide travel demand model. When a project(s) has a change in design concept and scope from that assumed in the most recent conformity demonstration, INDOT shall initiate an update of the conformity demonstration as part of a NEPA reevaluation.

To meet statutory requirements, the Transportation Conformity Rule requires PM hot spot analyses to be performed for projects of air quality concern located in PM_{2.5} nonattainment or maintenance areas. The focus of the rule is on what are called projects of air quality concern. These are certain highway and transit projects that involve significant levels of diesel traffic and require a hot spot analysis. These project types are defined in 40 CFR 93.123(b)(1) as the following:

- New highway projects that have a significant number of diesel vehicles, and expanded highway projects that have a significant increase in the number of diesel vehicles;
- Projects affecting intersections that are at level of service (LOS) D, E, or F with a significant number of diesel vehicles, or those that will change to LOS D, E, or F because of increased traffic volumes from a significant number of diesel vehicles related to the project;
- New bus and rail terminals and transfer points that have a significant number of diesel vehicles congregating at a single location;
- Expanded bus and rail terminals and transfer points that significantly increase the number of diesel vehicles congregating at a single location.
- Projects in or affecting locations, areas, or categories of sites which are identified in the applicable PM₁₀, and PM_{2.5} applicable implementation plan or implementation plan submission, as appropriate, as sites of violation or possible violation.

The objective of the hot spot analysis is to make certain that the proposed transportation project will not cause or worsen a violation of the NAAQS. All projects located in PM nonattainment or maintenance areas that have federal funding or approval must be classified as one of the following:

- Exempt: projects that are exempt from air conformity are also exempt from hot spot analysis.
- Projects Not of Air Quality Concern: if a project does not meet the criteria to be classified as exempt, INDOT shall determine if the project is of air quality concern. If INDOT is not sure if the project is of air quality concern, INDOT shall consult with US EPA, US DOT, and IDEM to determine the correct classification.
- Projects of Air Quality Concern: if a project is determined to be a project of air quality concern, INDOT shall consult with FHWA, IDEM, US EPA and others as appropriate to

prepare the hot-spot conformity demonstration. US DOT shall consult with the above agencies to assure all hot-spot conformity demonstration issues have been addressed prior to providing an opportunity for public comment (per the approved INDOT Public Involvement Manual). Once US DOT determines that all applicable requirements have been addressed (including those listed above for MPO and isolated rural non-attainment areas), US DOT will be able to issue the project level hot-spot conformity determination, as part of the overall project level conformity finding. The US DOT conformity finding will be issued either as a separate letter or be included as part of the NEPA approval (FONSI or ROD).

If the project will require a qualitative hot spot analysis, the March 2006 US EPA/FHWA Guidance document "Transportation Conformity Guidance for Qualitative Hot spot Analyses in PM2.5 and PM10 Nonattainment and Maintenance Areas" should be referenced for more information. This March 2006 US EPA/FHWA Guidance document may be superseded at some point in the future and all affected agencies should reference this revised document at that time for more information.

XII. Public Involvement (Consultation) (40 CFR 93.105(e))

The adopted IDEM and INDOT public involvement procedures detail the methods used to solicit public comments throughout the urban transportation planning and conformity processes. The public involvement plan for IDEM, titled the "Guide for Citizen Participation," can be found online at <http://www.state.in.us/idem/5803.htm>. The public involvement plan for INDOT, titled the "INDOT Public Involvement Procedures," can be found online at <http://www.in.gov/indot/files/NEPAPIPceduresPresentation.pdf>. In accordance with 23 CFR 450.316(b)(1)(I), any modification to these procedures requires a minimum public comment period of 45 days before the public involvement process is formally modified.

The public consultation process shall be consistent with the above referenced public involvement procedures.

The transportation planning and conformity consultation processes shall be open to all and provide an opportunity for open participation. A cooperative effort among the affected agencies, transportation stakeholders, and the public shall be made to ensure that the process provides the opportunity for participation of all interested parties.

There shall be a periodic review of the effectiveness of the public involvement process to ensure that it provides full and open access, and if necessary, revisions to the process shall be made.

All public comments for regionally significant projects not receiving FHWA and/or FTA funding or approval which have not been properly reflected in the emissions analysis supporting a proposed conformity finding for the INSTIP or statewide transportation plan and their amendments shall be addressed in writing by INDOT. These requirements shall work in conjunction with public involvement practices established by 23 CFR part 450, and enhance public involvement not only in the creation of the INSTIP and statewide transportation plan, but also in project selection and air quality conformity analysis.

XIII. Resolving conflicts (40 CFR 93.105(d))

40 CFR 93.105(d) describes the process for resolving conflicts related to conformity determinations. Should IDEM have specific concerns regarding INDOT's conformity determination IDEM shall notify INDOT, as well as the ICG, of its concerns in writing. Staff of IDEM and INDOT shall act in good faith to resolve the conflict in a manner acceptable to all parties. If the staff is unsuccessful, the Senior Management within IDEM and INDOT shall act to resolve differences in a manner acceptable to all parties. INDOT shall be responsible for responding to IDEM's concerns in writing. Once IDEM receives a letter(s) of response from INDOT, and should IDEM determine that the letter(s) of response does not adequately resolve IDEM's concerns, IDEM shall have fourteen days from the date identified by the post mark on the letter(s) of response to appeal to the Governor. If IDEM does not appeal within this fourteen day timeframe, INDOT may proceed with the final conformity determination. If IDEM appeals to the Governor, then the conformity determination must have the concurrence of the Governor before it is accepted as final.

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List of signatories appearing on separate pages:

Thomas W. Easterly, Commissioner
Indiana Department of Environmental Management

Michael W. Reed, Commissioner
Indiana Department of Transportation

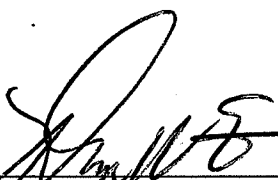
Bharat Mathur, Acting Regional Administrator
United States Environmental Protection Agency - Region 5

Robert F. Tally, Jr., Division Administrator
Federal Highway Administration - Indiana Division

Marisol Simon, Regional Administrator
Federal Transit Administration - Region 5

**MEMORANDUM OF UNDERSTANDING
AMONG
INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
INDIANA DEPARTMENT OF TRANSPORTATION
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
FEDERAL HIGHWAY ADMINISTRATION
FEDERAL TRANSIT ADMINISTRATION
FOR
PROCESS AND PROCEDURES FOR THE COORDINATION OF TRANSPORTATION
AND TRANSPORTATION RELATED AIR QUALITY PLANNING INCLUDING THE
CONSULTATION AND DETERMINATION OF TRANSPORTATION CONFORMITY
PER
40 CFR PARTS 51 and 93 AND 23 CFR PART 450.310 (c)**

Note: Signatures appear on separate and multiple pages

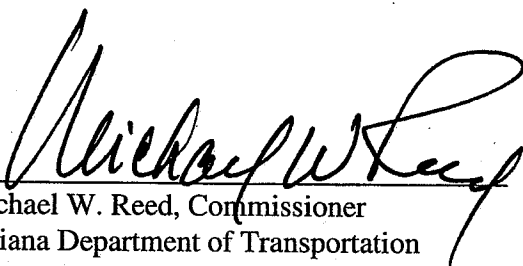


Thomas W. Easterly, Commissioner
Indiana Department of Environmental Management

Date: 10/27/2009

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Michael W. Reed, Commissioner
Indiana Department of Transportation

Date: 9/1/09

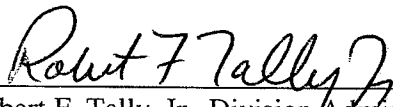
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 Date: 6/29/09
Bharat Mathur, Acting Regional Administrator
United States Environmental Protection Agency - Region 5

**MEMORANDUM OF UNDERSTANDING
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INDIANA DEPARTMENT OF TRANSPORTATION
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Note: Signatures appear on separate and multiple pages


Robert F. Tally, Jr., Division Administrator
Federal Highway Administration - Indiana Division

Date: 6/10/2009

**MEMORANDUM OF UNDERSTANDING
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INDIANA DEPARTMENT OF TRANSPORTATION
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40 CFR PARTS 51 and 93 AND 23 CFR PART 450.310 (c)**

Note: Signatures appear on separate and multiple pages



Marisol Simon, Regional Administrator
Federal Transit Administration - Region 5

Date: 6-13-2009



**Interagency Consultation Group
Conformity Consultation Guidance**
August 2007

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I. Purpose

These Procedures are intended to provide Metropolitan Planning Organizations (MPOs) and other interagency consultation group parties a guide to the Transportation Conformity process as required by Section 176 of the Clean Air Act.

These Procedures are meant to be a living document that can be changed as the ICG identifies improvements that should be made to the transportation air quality conformity process.

This document will be maintained by the Indiana Department of Environmental Management (IDEM), but is the product of the Interagency Consultation Group (ICG) which includes, but is not limited to, the Federal Highway Administration (FHWA), United States Environmental Protection Agency (EPA), Federal Transit Administration (FTA), IDEM, Indiana Department of Transportation (INDOT) and the Indiana MPOs.

Transportation Conformity is the general term used to describe the 1990 provisions of the Clean Air Act (CAA) which requires transportation planning documents produced by MPOs to conform to the air quality goals established by a State Implementation Plan (SIP). "Conformity" to the purpose of the SIP ensures that transportation plans and programs will not cause new air quality violations, worsen existing violations, or delay timely attainment of the National Ambient Air Quality Standards (NAAQS). Ongoing coordination and communication between Federal, State and local transportation and air quality agencies is vital to ensuring an efficient technically sound transportation conformity process.

II. Legislation and Regulations

23 USC 134 – Metropolitan Planning

23 USC 135 – Statewide Planning

23 CFR 450 – Planning and Assistance Standards

40 CFR 51 – Requirements for Preparation, Adoption and Submission of Implementation Plans

40 CFR 93 – Determining Conformity of Federal Actions to State or Federal Implementation Plans

42 USC 7506 – Limitations on Certain Federal Assistance

49 USC 53 – Mass Transportation

III. Definitions

AQCA - Air Quality Conformity Analysis
EPA - United States Environmental Protection Agency
FHWA - Federal Highway Administration
FTA - Federal Transit Administration
HPMS - Highway Performance Monitoring System
ICG - Interagency Consultation Group
IDEM - Indiana Department of Environment Management
INDOT- Indiana Department of Transportation
INSTIP - Indiana Statewide Transportation Improvement Program
MPO - Metropolitan Planning Organization
MVEB - Motor Vehicle Emissions Budget
NEPA - National Environmental Policy Act
POAQC - Project of Air Quality Concern
SIP - State Implementation Plan
TCMs - Transportation Control Measures
TDM - Travel Demand Model
TIP - Transportation Improvement Program
TP - Transportation Plan
TSM – Transportation System Management
USDOT - United States Department of Transportation
VMT - Vehicle Miles Traveled

IV. Conformity Task Timeline

The following charts describe the general tasks and timelines required in making an air quality conformity demonstration for a full Transportation Plan update/extensive amendment and for a minor TP/TIP amendment. These charts are meant to be illustrative in nature and provide an estimate of the time needed for each step in the process. The actual time to complete each of these tasks will vary from MPO to MPO and will be presented to the ICG during the initial consultation meeting. The MPOs should utilize this template and develop a draft timetable for each MPO TP update or amendment. The ICG should discuss the draft timetable at the Initial ICG Meeting to assure there is consensus regarding the procedural steps and the estimated timeframes/deadlines.

Chart 1.1 – Conformity Procedure Timetable for a full update or extensive amendment

	Days - 0	30	60	90	120	150	180	210	240	270	300
1	Initial ICG Meeting	x									
2	Distribute Final Project List to ICG after 14-Day Consultation Period										
3	Travel Demand Modeling										
4	Emissions Analysis										
5	Develop Draft Air Quality Conformity Analysis and Distribute Draft to ICG										
6	Public Comment Period										
7	Provide Summary/Disposition of Comments										
8	MPO Policy Board Resolution Approval										
9	MPO requests FHWA Formal Conformity Consultation / Distribute to ICG										
10	FHWA Letter to ICG/Formal Conformity Consultation										
11	Formal Comment letters from ICG										
12	USDOT Conformity Determination Letter										

Chart 1.2 - Conformity Procedure Timetable for a minor amendment

	Days - 0	30	60	90	120	150	180
1	Initial ICG Meeting	x					
2	Distribute Final Project List to ICG after 14-Day Consultation Period						
3	Travel Demand Modeling						
4	Emissions Analysis						
5	Develop Draft Air Quality Conformity Analysis and Distribute Draft to ICG						
6	Public Comment Period						
7	Provide Summary/Disposition of Comments						
8	MPO Policy Board Resolution Approval						
9	MPO requests FHWA Formal Conformity Consultation / Distribute to ICG						
10	FHWA Letter to ICG / Formal Conformity Consultation						
11	Formal Comment letters from ICG						
12	USDOT Conformity Determination Letter						

A. Task Timetable Description

1. Initial Interagency Consultation Group (ICG) Meeting

The Initial ICG Meeting (typically a conference call) should include, but not be limited to, the following agencies: the MPO, the local air agency (where appropriate), local transit agency (where appropriate), INDOT, IDEM, FHWA, FTA, and EPA. The MPO should schedule conference calls for a time that is acceptable to the ICG representatives. The ICG agencies should establish the practice of having at least 1 staff member who can serve as an alternate contact if the primary contact is unavailable. The purpose of the Initial ICG Meeting is to establish consensus regarding the update/amendment schedule, latest planning assumptions, and analysis methodology. If there are no changes in latest planning assumptions and analysis methodology, the ICG may reaffirm the existing practices.

The MPO should provide the following items to the ICG a minimum of 7 calendar days prior to the conference call:

- TP update/amendment timetable
 - Determining when the conformity analysis begins for the TP/TIP is a key milestone date that needs to be established. The MPO is required to use the latest planning assumptions and list of projects that are available when the conformity analysis begins unless there is a significant delay in the analysis (40 CFR 93.110).
 - Clarify if a comprehensive amendment will serve as a plan update, and thereby establish a new Plan expiration date (4-year clock). This involves reaffirming and updating as needed, goals, objectives, and latest available estimates/assumptions for population, land use, travel, employment, congestion, and economic activity. If these have not changed, the policy committee should reaffirm the validity of the existing goals, objectives, and assumptions.
- Draft list of INDOT and MPO projects, an indication whether they are exempt or non-exempt, and a list of any regionally significant locally funded projects
- TP horizon year
- Conformity test methodology and analysis years
- MVEB (in applicable SIPs)
- TCMs
- TDM and approved emissions model inputs and assumptions as listed in Appendix 1 and any other applicable Latest Planning Assumptions

For transportation activities which cross the borders of MPOs or nonattainment areas, or where a nonattainment area involves a donut area and/or multiple MPOs, the conformity test methodology should clearly delineate agency responsibilities for modeling, assembly of the AQCA document, public involvement, and how the respective conformity finding(s) will be issued.

The lead MPO is responsible for preparing Meeting Minutes to document agency concurrence regarding the above items and all decisions made during the Meeting. The MPO should forward the Meeting Minutes and the Project List to the ICG approximately 14-days after the conference call. The MPO can follow-up with ICG representatives as needed during the 14-day consultation period to clarify outstanding issues. A follow-up meeting may be needed if concurrence of all agencies is not reached.

TP/TIP amendments that only involve exempt projects can be handled in an expedited fashion. The MPO should forward the project list to the ICG and request comments within 1-week if there are any questions regarding the exempt status of any of the projects. No response will be construed as agency concurrence in the MPO finding that the projects are exempt. The MPO AQCA documentation and/or resolution adopting the exempt amendment should specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

Likewise, there is no need to convene an ICG Meeting if a TP/TIP amendment or update does not require a new regional emissions analysis. The MPO should forward the project list to the ICG, identify which projects are exempt, non-exempt, and/or not regionally significant, confirm that each TIP project is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration, affirm that the open-to-traffic date of each TIP project is consistent with the associated analysis scenario in the most recent regional emissions analysis, confirm that the previous emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119, and establish a deadline for ICG comments (minimum 2-week comment period) on the MPO conformity demonstration. No response will be construed as agency concurrence in the MPO findings. A follow-up meeting may be needed if concurrence of all agencies is not reached. The MPO AQCA document and/or conformity finding/resolution should specifically reference ICG consultation and concurrence in the MPO TIP amendment/update conformity demonstration. The MPO will still need to forward the TIP amendment/update to FHWA and request that FHWA initiate the formal 30-day conformity consultation process. FHWA will initiate formal consultation and, if appropriate, issue the formal conformity finding on behalf of USDOT.

2. Distribute Final Project List to ICG after 14-day Consultation Period

Each MPO Transportation Plan (TP) must be fiscally responsible and each Transportation Improvement Plan (TIP) must be fiscally constrained. The Indiana Statewide Transportation Improvement Plan (INSTIP) should be consistent with the TIPs in order to comply with the regulations in 23 CFR 450.216(b). It is critical that INDOT and the MPO(s) reach consensus regarding the list of INDOT-sponsored projects to be included in the MPO TP, project design concept and scope, and the projected year that each project is expected

to be open to traffic. INDOT jurisdiction projects are fiscally constrained in the context of the INDOT Statewide Transportation Plan, and thus the MPO cannot add INDOT jurisdiction projects other than those listed in the INDOT Statewide TP without prior concurrence from INDOT or identifying an alternate funding source. The draft list of INDOT and MPO TP and/or TIP projects should be presented at the Initial ICG Meeting and finalized within 14-days. Any changes thereafter may need to be addressed in the next TP/TIP update/amendment. MPOs should also identify non-federally funded projects that are considered regionally significant for air quality purposes. Suggested minimum *Regional Significance Guidance* is provided in Appendix 2. An MPO may adopt more restrictive definitions for their MPO area if they like.

After the 14-day INDOT-MPO project list consultation period, the MPO should distribute the Initial ICG Meeting Minutes and project list in final form to the ICG. The project list, at a minimum, should include the following information: MPO/INDOT project identification number(s), project description (clear identification of project termini and design concept and scope), whether the project is exempt or non-exempt, regionally significant or non-regionally significant, and the open-to-traffic year. The Final Project List should also include regionally significant locally funded projects, so they are reflected in the conformity analysis. It is the responsibility of each ICG member to review the Initial ICG Meeting Minutes and Project List, to confirm that they reflect their understanding of the consensus coming out of the Initial ICG Meeting. The MPO should request ICG review and comment and establish a 2-week deadline for said comments. The MPO should issue updated Initial ICG Meeting Minutes and/or Project List in final form after the 2-week comment period, if necessary. A follow-up meeting may be needed if concurrence of all agencies is not reached.

3. Travel Demand Modeling

Once the MPO has issued the Initial ICG Meeting Minutes and Project List in final form, this signifies ICG consensus regarding (1) the latest planning assumptions; (2) TDM inputs, assumptions, and analysis methodology; (3) the applicable conformity test and analysis years, and (4) the list of non-exempt and regionally significant projects that need to be modeled in the respective analysis scenarios. The time needed to complete the modeling can be extensive if the travel demand model needs to be updated to incorporate new census/land use/planning assumptions and additional analysis year model runs are required. It is critical to reach consensus at the beginning stages of the process regarding the latest planning assumptions.

4. Emissions Analysis

It is critical that the ICG establish consensus at the beginning of the process regarding emissions analysis methodology, and that the MPO document this consensus in the Initial ICG Meeting Minutes, to avoid potential time-consuming rework. Some methods are required by law depending on the severity of the pollution in the particular nonattainment area. There may need to be follow-up discussions with IDEM if more recent vehicle fleet mix data is available to assure

the emissions model inputs are properly developed. IDEM has responsibility for developing state implementation plans (SIPs) and, as such, needs to assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIPs. IDEM should follow-up with MPO staff during the 14-day consultation period provided in Step 2 above to assure they support the proposed emissions analysis assumptions and methodology. Once the MPO has issued the Initial ICG Meeting Minutes and Project List in final form, this signifies ICG consensus regarding (1) the latest planning assumptions; (2) emissions model inputs, assumptions, and analysis methodology; (3) the applicable conformity test and analysis years, and (4) the list of non-exempt regionally significant projects that need to be modeled in the respective analysis scenarios. If problems arise, any ICG representative can request that the MPO schedule an ICG Meeting to discuss the concern. If requested, the meeting should be called by the MPO, and notice should be sent to ICG representatives not less than seven calendar days before the meeting.

5. Develop Draft Air Quality Conformity Analysis (AQCA) and Distribute Draft to ICG

The MPO should develop the draft AQCA document to demonstrate conformity for TP/TIP updates and amendments. The draft AQCA should be distributed to the ICG via e-mail or other preferred method for review and comment. The MPO should provide a minimum 2-week comment period and establish a deadline for ICG comments. An ICG representative may request an ICG conformity consultation conference call during the 2-week review period, and the MPO will schedule it as needed.

6. Public Comment Period

The AQCA document should be revised to address ICG comments and be made available to the public via the public participation procedures of the particular MPO.

The MPO may choose to distribute the AQCA document to the ICG at the same time that the Public Comment Period is initiated. In this case, FHWA may require an additional opportunity for public comment if ICG revisions raise new material issues which interested parties could not reasonably have foreseen from the initial public involvement effort.

In the case of rural nonattainment areas outside an MPO area (i.e. areas with no TP or TIP), the project sponsor of a non-exempt project (typically INDOT) should perform all the responsibilities listed above during development of the NEPA document. The project sponsor (or their consultant) is responsible for convening the Initial ICG Meeting and for all work associated with development of the AQCA. The AQCA document should be a stand alone document/conformity demonstration, and be included in the NEPA document either as an appendix or by reference. Public comment on the AQCA should take place during the NEPA public involvement process. Once the AQCA document has been updated to address the summary disposition of public comments, the project sponsor should

forward the AQCA to FHWA and request that FHWA initiate formal conformity consultation. FHWA will make the conformity finding on behalf of USDOT, as part of the final NEPA approval (or NEPA reevaluation, if needed).

In like manner, the project sponsor is responsible for completing the project level PM_{2.5} Hot Spot AQCA for “projects of air quality concern” (POAQC) in PM_{2.5} nonattainment areas. The project sponsor (or their consultant) should convene an Initial ICG Meeting if the project exceeds the thresholds of a POAQC as outlined in EPA’s Final Rule on PM_{2.5} and PM₁₀ Hot Spot Analysis, published in the Federal Register on March 10, 2006. For example, a project may be a POAQC if it involves more than 10,000 trucks in the design year at any given location within the project limits (sum of trucks from both directions at peak interchange/intersection or mainline location). (The conformity rule includes several other criteria for when a project may be a POAQC, including projects affecting congested intersections, bus and rail terminals.) The ICG Meeting should review the truck traffic information, and the increase between the “build” and “no-build” scenarios, to determine if the project is a POAQC, and where applicable, the project sponsor should develop the AQCA document. The AQCA document should be a stand alone document/conformity demonstration, and be included in the NEPA document either as an appendix or by reference. Public comment on the AQCA should take place during the NEPA public involvement process. Once the AQCA document has been updated to address the summary disposition of public comments, the project sponsor should forward the AQCA to FHWA and request that FHWA initiate formal consultation. FHWA will make the conformity finding on behalf of USDOT, as part of the final NEPA approval (or NEPA reevaluation, as needed).

7. Provide Summary/Disposition of Comments

The MPO should demonstrate explicit consideration and response to public input received during the comment period (see Step 6 above) and provide this documentation in the AQCA or separate document to decision-makers.

8. MPO Policy Board Resolution Approval

The MPO Policy Board should approve the TP/TIP update or amendment via formal resolution(s). The resolution(s) should include a formal determination that the requirements of 40 CFR Parts 51 and 93 have been met and the region’s TP and TIP conform.

Per the discussion above in Step 1 regarding exempt TIP amendments, the MPO AQCA document and/or resolution should specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

Likewise, the MPO AQCA document and/or resolution/conformity finding for a TIP amendment or update containing non-exempt projects where a new regional conformity analysis is not warranted, should document ICG concurrence to that effect. Examples of non-exempt TIP amendments that would not require an

additional emissions analysis and subsequent conformity determination include a change in the project cost of a non-exempt project or change in programmed year of a project, so long as the project did not move across analysis years in the TP. If a non-exempt project changes in scope, including removal from the TP in its entirety, or crosses an analysis year, another regional emissions analysis and subsequent conformity determination will be required. Per the discussion above in Step 1, the MPO should forward the draft list of exempt and non-exempt projects (indicating if they are regionally significant or not) to the ICG for review and comment, confirm that each TIP project is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration, and affirm that the open-to-traffic date of each TIP project is consistent with the associated analysis scenario in the current conformity demonstration. The MPO AQCA document and/or resolution should specifically reference ICG consultation and concurrence that a new conformity analysis is not needed to support the MPO conformity finding. The MPO will still need to forward the TIP amendment or update to FHWA, with the associated AQCA document and/or resolution(s), and request that FHWA initiate the formal 30-day consultation process. FHWA will initiate formal consultation and if appropriate, issue the formal conformity finding on behalf of USDOT.

9. MPO requests FHWA Formal Conformity Consultation / Distribute Planning Documents to ICG.

The MPO should request that the FHWA initiate the formal conformity consultation process (ODOT issues this request to FHWA-OH for the Cincinnati MPO). This is typically done by e-mail after the MPO has adopted the TP/TIP update or amendment and issued the associated conformity resolution(s). The MPO is also responsible for providing a copy of the final TP/TIP document(s), AQCA, and resolution(s) to all the members of the ICG so they can initiate their review at the same time FHWA issues the formal letter requesting formal ICG comments. These documents can be transmitted by e-mail, posted on an ftp site, or transmitted via hard copy or CD in the mail. The MPO should verify that all members of the ICG have in fact received all applicable documents.

10. FHWA Letter to ICG / Formal Conformity Consultation.

FHWA will initiate the formal conformity consultation process upon request from the MPO, once the ICG is in receipt of the associated MPO documents and resolution(s). The FHWA letter (transmitted by either regular mail or e-mail) should formally request conformity consultation comments and establish a deadline for ICG comments (minimum 30-day review period should be provided).

In consultation with the ICG, FHWA may request an expedited or concurrent ICG review on a case-by-case basis, so the USDOT conformity finding can be issued within days of MPO TP/TIP update or amendment being adopted. The FHWA letter formally requesting ICG conformity consultation comments should reference the mutually agreed upon deadline for consultation comments, and clearly indicate where the applicable documents may be found.

11. Formal Comment letters from ICG

ICG members (e.g. EPA, IDEM, INDOT, FTA) may submit formal comments either by letter or by e-mail. Generally, if FHWA does not receive a formal comment letter from an ICG member it is assumed that the member has no adverse comments.

12. USDOT Conformity Determination Letter

Once the formal conformity consultation period has ended, FHWA will review ICG comments and determine if USDOT is in a position to issue the federal conformity finding. FHWA will issue the federal conformity finding on behalf of USDOT, once outstanding issues have been addressed, and maintain a copy in Division Office files. The FHWA Chicago Metro Office Planner will ensure that copies of the federal conformity finding are transmitted to the Division Office for filing. The USDOT federal conformity finding letter may be issued by regular mail or by e-mail.

In the case of the Louisville MPO and Cincinnati MPO, the Indiana Division will issue a letter of support to the Kentucky Division Office or Ohio Division Office as appropriate, and the corresponding lead division will issue the USDOT conformity finding. Where differences exist between these procedures and those employed in Ohio or Kentucky, we defer to the judgment of the lead FHWA Division Office.

The TP update or amendment becomes effective the date the USDOT conformity finding is issued. The TIP update or amendment only becomes effective after the USDOT conformity finding is issued, and the FHWA approves the associated TIP update or amendment into the INSTIP.

In rural nonattainment areas where there is no MPO (i.e. areas with no TP or TIP), the federal conformity finding is issued at the time of FHWA approval of the NEPA document for the non-exempt project. Similarly, the project level PM 2.5 Hot Spot federal conformity finding is issued at the time of FHWA approval of the NEPA document for the project of air quality concern.

The conformity demonstration for non-exempt projects in nonattainment areas outside of the MPO planning area, also known as a “donut” area, is typically documented in the MPO AQCA, and found to conform by the associated USDOT conformity finding. In this case, the NEPA document for a non-exempt project in a donut area should affirm that the project is in conformity with the SIP, as per the AQCA in the adjacent MPO area, before the NEPA document can be approved and federal project-level conformity determined. If a project is not in the associated AQCA, then NEPA document approval will be delayed until the next update of the regional conformity analysis, and issuance of the associated USDOT conformity finding.

V. Air Quality Conformity Analysis Structure

The following outline contains the items which should be reported in the AQCA document. This outline is intended to provide consistency in the conformity process

between MPOs to assist the interagency consultation group partners in the review process and to expedite the conformity discussion and ultimate USDOT conformity determination.

The AQCA may be included with the documentation of an updated or amended TP and/or TIP or may be provided separately. In either case, the AQCA should include a written summary of the conformity analysis performed, if appropriate, and provide the following information.

A. For an update or amendment of the TP and/or TIP when a new regional emissions analysis is required.

1. The updated TP and/or TIP project information, and information concerning amended projects;
2. A discussion of the regional emissions analysis, including the following
 - a. Identification of exempt projects (by list or reference);
 - b. Identification of projects included in each analysis scenario;
 - c. Description of the travel demand modeling;
 - (1) Travel demand model used;
 - (2) Methods and assumptions used;
 - (3) Geographic and functional classification coverage; and
 - (4) VMT Summary Table for various analysis years.
 - d. Description of the emissions modeling;
 - (1) Emissions model used;
 - (2) Methodology and assumptions; and
 - (3) Sample input/output printouts, as appropriate.
 - e. Description of post process analysis including off-network VMT;
 - f. Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 93.118(a) and 93.119(d) showing that the required conformity tests were met;
 - g. A discussion of other relevant observations or issues.

3. An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs, if applicable.
4. Documentation of public comments and responses;
5. Action(s) by the MPO adopting the TP and/or TIP and that a finding of conformity with the SIP is demonstrated.

B. For an update of the TP or for an update of the TIP and the associated TP amendment, if appropriate, when a new regional emissions analysis is not required.

If a new regional emissions analysis is required, the TP should be amended and documented per Section V.A above.

1. The updated TP or the updated TIP project information and information concerning the amended TP projects.
2. A demonstration that:
 - a. the TIP contains all projects which should be started in the TIP's timeframe in order to achieve the highway and transit system envisioned by the transportation plan (TP);
 - b. all TIP projects which are regionally significant are included in the TP with design concept and scope adequate to determine their contribution to the TP's regional emissions at the time of the TP conformity determination;
 - c. the design concept and scope of each regionally significant project in the TIP is not significantly different from that described in the plan; and
 - d. the previous regional emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119.

3. An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs.
4. Documentation of public comments and responses, if applicable; and
5. Action(s) by the MPO adopting the TP and/or TIP or amendment(s) and, if applicable, that a finding of conformity with the SIP is demonstrated.

C. For a TP and/or TIP amendment (not update) involving only exempt projects when a new regional emissions analysis is not required.

If a new regional emissions analysis is required, the TP should be amended and documented as outlined in Section V.A above.

1. Reference previous AQCA document and provide information concerning the amended exempt projects;
2. Documentation of public comments and responses, if applicable; and
3. Action(s) by the MPO adopting the exempt amendment(s). The AQCA or resolution should reference the previous AQCA document and note that the ICG concurs that the projects in the amendment are exempt and that a new conformity determination is not needed.

VI. Air Quality Conformity Analysis (AQCA) Procedures

A. Conformity Requirements

Conformity determinations for TPs, TIPs and project-level (NEPA) conformity should meet the frequency requirements of 40 CFR 93.104. USDOT should make a conformity determination at least every four years or when TPs and TIPs are updated or amended. The new plan or TIP conformity determination usually requires a new regional emissions analysis using the latest planning assumptions and emissions models. If four years elapse after a conformity determination has been made, and a new conformity determination is not made within 12 months after that deadline, then conformity will lapse. During a lapse, no new project-level conformity determinations may be made until a new conforming plan or TIP is in place.

If a TIP amendment only involves adding or deleting an exempt project(s) as described in 40 CFR 93.126 or CFR 93.127, a new conformity determination would not be needed. However, this assessment should be part of interagency consultation and subject to the agreed upon consultation process.

Additionally, conformity findings are triggered within 24 months of:

- the effective date of EPA's finding that motor vehicle emissions budgets from an initially submitted control strategy implementation plan or maintenance plan are adequate;
- the effective date of EPA's approval of a SIP that creates or revises a budget that has not yet been used in a conformity determination; and
- the effective date of EPA's promulgation of a Federal Implementation Plan (FIP) which creates or revises a budget.

B. Regionally Significant Projects

A "regionally significant project" is defined by 40 CFR Part 93 as "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.”

Projects that are regionally significant, regardless of funding source, should be included in the regional emissions analysis. The determination of other regionally significant projects for the purposes of regional emissions analysis may vary in accordance with the interagency consultation procedures included in 40 CFR §93.105(c)(1)(ii) of the transportation conformity rule. Regionally significant additions or modifications to the transportation system should be identified and described in the following level of detail per §93.106(a)(2)(ii):

- Additions or modifications to highway segments should identify the design concept and scope sufficiently (e.g. number of lanes in each section, intersections, interchange locations if the facility is limited access) to model travel time under various traffic volumes, consistent with MPO modeling methods,
- Transit facilities, equipment and services proposed for the future should be defined in terms and design concept and scope and operating policies sufficient to model transit ridership, and
- Additions or modifications to the transportation network should be sufficiently described to show a reasonable relationship between forecasted land use and the future transportation system, if applicable.

Suggested minimum *Regional Significance Guidance* can be found in Appendix 2. An MPO can adopt more restrictive thresholds for their MPO area if they like.

C. Public Participation

The metropolitan planning process should include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions and supports early and continuing involvement of the public in developing TPs and TIPs and meets the requirements and criteria established in 23 CFR 450.322 and 450.324.

D. Agency Roles and Responsibilities

The MPO is responsible for scheduling the Initial ICG Meeting prior to each TP/TIP update and/or amendment, and for scheduling other ICG meetings as needed. If problems arise, an ICG representative may request that the MPO schedule an ICG Meeting to discuss the concern. If requested, the meeting should be called by the MPO, and notice should be sent to ICG representatives not less than seven calendar days before the meeting. All other ICG parties should be expected to participate in these meetings, and fulfill duties as agreed upon during ICG meetings.

1. Metropolitan Planning Organization (MPO)

- Schedules and hosts ICG Meetings and prepares associated meeting minutes.
- Runs travel demand model (TDM)
- Updates the TP and TIP

- Prepares Conformity Demonstrations for MPO TP and/or TIP. Responsibilities of the MPO should be mutually agreed upon by the MPO in consultation with other appropriate ICG parties.
- Prepares the AQCA document for MPO nonattainment areas
- Manages public review and comment period
- Transportation Policy Board makes the conformity determination and adopts the TP/TIP
- Provides a final copy of AQCA/TP packages to review agencies
- Maintains and manages conformity process schedule

2. Indiana Department of Transportation (INDOT)

- Runs Statewide travel demand model for non-MPO areas of the State
- Submits INDOT expansion projects to MPO for inclusion in modeling and conformity demonstration in accordance with the established conformity schedule.
- Provides traffic count information, HPMS VMT, and other data, as needed, to the MPO.
- Prepares AQCA for rural nonattainment areas (ozone and PM 2.5), as needed
- Reviews AQCA and comments within the allotted time

3. Indiana Department of Environmental Management (IDEM)

- Develops motor vehicle emissions budgets (MVEBs) in consultation with all other ICG parties
- Creates and develops state implementation plans (SIPs) in consultation with all other ICG parties
- Develop SIP emissions factors using the approved emissions model (or delegates responsibility as agreed with other appropriate ICG parties)
- Reviews AQCA and comments within the allotted time

4. Local Air Quality Agency

- Reviews conformity documentation
- Provides technical guidance and advice
- May develop emissions factors using the appropriate emissions model.

5. Federal Highway Administration (FHWA)

- Coordinates federal review process of the conformity determination
- Facilitate additional consultation as necessary if adverse comments are received during consultation
- Monitors MPO conformity process schedule
- Assists other ICG parties with commitment follow-up
- Provides technical guidance and advice on conformity
- Reviews conformity documentation
- Issues United States Department of Transportation (USDOT) conformity determination letter

6. Federal Transit Administration (FTA)

- Reviews conformity documentation
- Reviews AQCA and comments within the allotted time

7. United States Environmental Protection Agency (EPA)

- Promulgates conformity regulations
- Approves the SIP and motor vehicle emissions budgets (MVEBs)
- Provides technical advice and guidance on conformity
- Reviews conformity determination
- Reviews final AQCA and submits a recommendation for conformity finding letter

E. Conflict Resolution

Pursuant to 40 CFR 93.105(d), conflicts among State agencies or between State agencies and an MPO regarding conformity determinations that cannot be resolved should be submitted to the Governor of the appropriate state for resolution.

Appendix 1 – TDM and Approved Emissions Model Inputs and Assumptions

A. Travel Demand Modeling Inputs and Assumptions*

The main data items that should be addressed / considered when conducting Travel Demand Forecast Modeling are outlined below.

- 1) General
 - a) Software used
 - b) Last model update and validation (baseline) year
 - c) Year(s) Modeled
 - d) Years interpolated (method of interpolation)
 - e) Base year calibration documentation*
- 2) Zones
 - a) Number
 - b) Source of data
- 3) Network
 - a) Facilities Modeled/not modeled
 - b) Network intersection modeling (if applicable)
 - c) Transit/ bike/ pedestrian trip incorporation (if applicable)
- 4) Time Periods
 - a) Season
 - b) Annual Average Weekday
 - c) Time periods during the day
 - d) Adjustment factors used / Explain
- 5) Growth
 - a) Population/Household growth
 - i) Source of data
 - b) Employment Growth
 - i) Source of data
 - c) Urban growth location, form and density
 - i) Source of data
- 6) VMT
 - a) Method of calculation
 - b) HPMS adjustment factors from base year (if applicable)
 - c) Calculation of VMT on facilities not modeled
- 7) Speed
 - a) Use of model speed in approved emissions model
 - i) Model speed calibration

B. Approved Emissions Model Inputs and Assumptions*

The following emissions factors should be addressed / considered when conducting emissions modeling.

- 1) General Info
 - a) Approved Emissions Model Version
 - b) Pollutant(s) being modeled
 - c) Evaluation month or interpolation scheme for annual PM_{2.5} emissions, where applicable
- 2) External Parameters
 - a) Temperatures (min, max)
 - i) Source of data
 - ii) Method of calculating
 - b) Absolute humidity
 - i) Source and Method
 - c) Cloud Cover
 - d) Altitude
 - e) Other
- 3) Programs
 - a) I/M program parameters
 - b) Anti-tampering programs
 - c) Fuel Programs
- 4) Vehicular Parameters
 - a) Vehicle Registration Distribution
 - i) Year of distribution data
 - ii) Source / Method
 - b) Diesel Fraction
 - c) VMT Fractions (fleet mix)
 - d) Other
- 5) VMT Parameters
 - a) VMT Fraction
 - i) Source / Method
 - b) VMT by Facility
 - c) VMT by Hour
- 6) Speed
 - a) Average speed method
 - b) Speed table method
 - c) Speed bin method

Data Needs

- 1) Sample Approved Emissions Model Input Files
 - a) All associated Input Files and external data files
- 2) Sample Approved Emissions Model output Files
- 3) Any data or peripheral software used in the process

C. Emissions Calculations*

The following emissions calculations should be addressed / considered when conducting Transportation Demand Forecast Modeling.

- 1) Emission Analysis Process Description
 - a. Link-by-link - generalized
 - b. Evaporative or Cold Start Emissions removal
- 2) Emissions adjustments
 - a. TCM – Transportation Control Measures
 - b. Diesel Retrofits
- 3) Consistencies with SIP
 - a. Assumptions
 - i. New data available
 - ii. Updates performed pursuant to conformity Latest Planning Assumptions guidance
- 4) Other

*Any data that is voluminous in nature may be included as a separate document if deemed appropriate. This data should be adequately referenced in the air quality conformity analysis. Much of the information is unlikely to change from one AQCA to the next. Much of the information may be available in documentation of the TDM procedures. Updated information should be discussed in the updated AQCA.

Appendix 2 – Regional Significance Guidance

This document is being provided as a guidance resource for local municipalities and project implementers to:

1. Provide information on the regional air quality conformity process
2. Help define what is meant by the term “regionally significant project”
3. Provide guidance on expected project-level informational requirements of local municipalities.

This document does not in any way change, modify, or supersede any regulatory or statutory requirements of the Clean Air Act, Clean Air Act Amendments, or other related federal and state legislation. The final determination on whether a project can be considered regionally significant is reserved by the air quality consultation committee.

MPOs provide the conformity process as a service to local governments. By excluding regionally significant projects from the regional emissions analysis, project implementers may risk a violation of the Clean Air Act, and non-conformity for the regional transportation plan and transportation improvement program.

This guidance is intended to help the MPO and project sponsors to comply with the following federal regulation:

40 CFR Part 93 (Transportation Conformity Rule Amendments: Flexibility and Streamlining; Final Rule)

§93.101 (Definitions) *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 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.;*

§93.105 (Consultation) **(c)** (Interagency Consultation Procedures: Specific Processes) *Interagency consultation procedures shall also include the following specific processes: (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.; and*

§93.121 (Requirements for adoption or approval of projects by other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws.) **(a)** *Except as provided in paragraph (b) of this section, no recipient of Federal funds*

designated under title 23 U.S.C. or the Federal Transit Laws shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one of the following are met: (1) The project was included in the first three years of the most recently conforming transportation plan and TIP (or the conformity determination's regional emissions analysis), even if conformity status is currently lapsed; and the project's design concept and scope have not changed significantly from those analyses; or (2) There is a currently conforming transportation plan and TIP, and a new regional emissions analysis including the project and the currently conforming plan and TIP demonstrates that the transportation plan and TIP would still conform if the project were implemented (consistent with the requirements of §93.118 and/or 93.119 for a project not from a conforming transportation plan and TIP). (b) In isolated rural nonattainment areas and maintenance areas subject to §93.109(g), no recipient...

The MPO transportation network models typically include all roads functionally classified a collector and higher and all interchange ramps. The collectors and some local roads are included to accurately load traffic onto the higher classification roads, including the minor arterials, principal arterials, expressways and interstates. However, inclusion of collectors and local roads in the travel model network does not imply that they are considered regionally significant. All roads functionally classified as Minor Arterial or above should be considered as regionally significant. This includes all freeways, expressways, interchange ramps, principal arterials and minor arterials. All fixed guideway transit services, including commuter rail are regionally significant. Fixed route bus services can also be regionally significant when they offer a significant alternative to regional highway travel.

Transportation projects, whether single or multi-jurisdictional, that modify these facilities can be regionally significant. Individually, projects can be considered as regionally significant when they are above certain thresholds. Collectively, when a series of smaller projects on a regionally significant facility are completed, the overall improvements can be regionally significant.

The minimum definitions that the ICG will use in defining what is and what is not "Regionally Significant" are listed in the following table:

Interstates, Expressways, Toll Roads	
<u>Expansion Type</u>	<u>Regionally Significant when ...</u>
New Segment	Any
Added Through Lanes	Any
Continuous Auxiliary Lanes	> ¼ mile
New Interchanges	Any
Modification of Existing Interchanges	AQ consultation required to determine significance

Principal Arterials	
<u>Expansion Type</u>	<u>Regionally Significant when ...</u>

New Segment	Any
Added Through Lanes	Any
Continuous Auxiliary Lanes	> 1 mile
New Interchanges	Any
Modification of Existing Interchanges	AQ consultation required to determine significance
Separation of existing railroad grade crossings	Not Regionally Significant

Minor Arterials	
<u>Expansion Type</u>	<u>Regionally Significant when ...</u>
New Segment	> 1 Mile
	$\frac{3}{4}$ to 1 mile, AQ consultation required to determine significance
	< $\frac{3}{4}$ Mile, not Regionally Significant
Added Through Lanes	> 1 Mile
	$\frac{3}{4}$ to 1 mile, AQ consultation Required to determine significance
	< $\frac{3}{4}$ mile, not Regionally Significant
Continuous Auxiliary Lanes	> 1 mile
Separation of existing railroad grade crossings	Not Regionally Significant

Rail and Fixed Guide-way Transit	
<u>Expansion Type</u>	<u>Regionally Significant when ...</u>
New Route or Service	Any
Route Extension with Station	> 1 mile
Added track or guide-way capacity	> 1 mile
New Intermediate Station	AQ consultation required to determine significance

Bus and Demand Response Transit	
<u>Expansion Type</u>	<u>Regionally Significant when ...</u>
New Fixed Route	AQ consultation required to determine significance
New Demand Response Service	Not Regionally Significant
Added Service to existing	Not Regionally Significant

New segments or added through lanes on arterials that are also associated with large land development projects may need AQ consultation even if the project is below the threshold in the table. Land development projects can be regionally significant when they have the potential to generate many trips or vehicle-miles of travel. Such developments are incorporated into the regional model during the update of socioeconomic forecasts, at the beginning of the update cycle for a new regional transportation plan. Local agencies should provide their comprehensive plans to the MPO as they're updated, which reflect the known development projects.

Local agencies should proactively include anticipated developments in their comprehensive plans without specific reference to potential high profile private sector developments.

Implementation

At the start of each conformity cycle, the MPO should solicit new project and related development information from all local agencies, so that the analysis uses the latest planning assumptions. Local agencies that wish to precede with transportation improvement projects, regardless of funding sources, should respond to the solicitation to be sure that their projects are included in the regional emissions analysis. Projects that are excluded from the analysis may be delayed until the next conformity cycle (a minimum of six months), when they could be included in the regional emissions analysis. In addition, at the start of each plan update cycle the MPO should request an update of land development that local agencies anticipate, for inclusion in the regional emissions analysis, by including updated population, household and employment data.

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RESOLUTION NO. 08-6

DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION BEING A RESOLUTION OF APPROVAL REGARDING TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL AND PROCEDURES

WHEREAS, the entirety of Delaware County, Indiana is a maintenance area for air quality conformity purposes; and

WHEREAS, the Delaware-Muncie Metropolitan Plan Commission (DMMPC) is the Metropolitan Planning Organization (MPO) for the Muncie Metropolitan Planning Area pursuant to 23 CFR 450 and 49 CFR 613; and

WHEREAS, the Muncie Metropolitan Planning Area covers ninety-seven and four tenths percent (97.4%) of Delaware County, Indiana; and

WHEREAS, the Madison County Council of Governments (MCCOG) is the Metropolitan Planning Organization (MPO) for the Anderson Metropolitan Planning Area pursuant to 23 CFR 450 and 49 CFR 613; and

WHEREAS, the Anderson Metropolitan Planning Area covers approximately two and six tenths percent (2.6%) of Delaware County, Indiana; and

WHEREAS, the DMMPC, the MCCOG and the Indiana Department of Environmental Management (IDEM) are collectively responsible for developing and implementing various portions of the federal air quality plans in the Muncie and Anderson Planning Areas within Delaware County, Indiana; and

WHEREAS, prior to adopting or amending the long-range Transportation Plans (TP) and Transportation Improvement Plans (TIP), the DMMPC and the MCCOG must first determine that these plans and programs conform to the state and federal air quality plan for the Delaware County Air Quality Planning Area (termed the State Implementation Plan, or SIP) using procedures established by the United States Environmental Protection Agency (U.S. EPA); and

WHEREAS, the Interagency Consultation Group (IGC) agencies have prepared a protocol for determining transportation air quality conformity in compliance with Federal regulation entitled: the Interagency Consultation Group Transportation Air Quality Conformity Protocol ("the Protocol"), which includes certain conformity procedural guidelines relating to transportation plans, programs, and projects and the interagency consultation procedures, attached hereto as Attachment A and Attachment B, respectively, and incorporated herein as though set forth at length; and

WHEREAS, the IGC agencies have revised the Protocol to reflect the most recent guidance provided by the U.S. EPA; and

WHEREAS, the adopted Protocol will be submitted to the Indiana Department of Environmental Management (IDEM) for review and subsequent submittal to the United States Environmental Protection Agency (U.S. EPA) for revision of the Indiana State Implementation Plan (SIP).

NOW, THEREFORE, BE IT RESOLVED by the Delaware-Muncie Metropolitan Plan Commission, as follows:

Section 1. That the Delaware-Muncie Metropolitan Plan Commission shall be the agency responsible for transportation conformity analysis for Delaware County, Indiana, and shall make all reasonable and appropriate steps to obtain the information necessary to conduct the analysis in a timely manner as it relates to Transportation Plans and Transportation Improvement Programs..

Section 2. That the Madison County Council of Governments shall provide the DMMPC with all necessary information to conduct the analysis in a timely manner.

Section 3. That the Interagency Consultation Group Transportation Air Quality Conformity Protocol ("the Protocol"), which includes certain conformity procedures relating to transportation plans, programs, and projects and the interagency consultation procedures, attached hereto as Attachment A and Attachment B, respectively, are hereby approved and incorporated herein as though set forth at length.

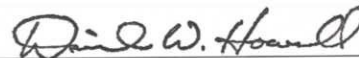
Section 4. That the Protocol to be included in the Conformity SIP is approved for submission to IDEM and to U.S. EPA.

Section 5. That the Delaware-Muncie Metropolitan Plan Commission staff may make minor adjustments, as necessary, to the Protocol in the Conformity SIP in response to IDEM and U.S. EPA comments.

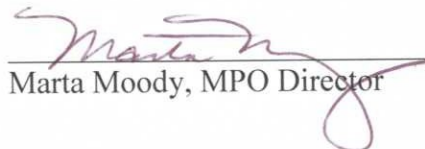
Section 6. This resolution is hereby approved this 8th day of May, 2008.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION (DMMPC)**

By:



David Howell, President



Marta Moody, MPO Director

ATTACHMENT A

DELAWARE COUNTY TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Conformity Procedures

Current federal law does not require that EPA's detailed procedures for determining the conformity of plans, programs and projects be included in a "Conformity SIP". This SIP revision however must include procedures for interagency consultation (Federal, State and local), resolution of conflict and public consultation set forth in 40 CFR 93.105, and provisions for written commitments for control and mitigation measures required by 40 CFR 93.122(a)(4)(ii) and 125(c).

As set forth in CFR 93.122(a)(4)(ii), emission reduction credit from control measures that are not included in the transportation plan and transportation improvement plan and that do not require a regulatory action in order to be implemented may not be included in the emissions study unless the conformity determination includes written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to control measures that are not included in the transportation plan and TIP must be obtained prior to a conformity determination and such commitments must be fulfilled. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

As set forth in 40 CFR 93.125(c), 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 Laws, 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 CO, PM₁₀, or PM_{2.5} impacts. Before a conformity determination is made, 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 are included in the project design concept and scope which is used in the regional emissions analysis required by 40 CFR 93.118 and 119 or used in the project-level hot-spot analysis required by 40 CFR 93.116. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

DELAWARE COUNTY TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Interagency Consultation Procedures

I. Definitions

AQCA - Air Quality Conformity Analysis
FHWA - Federal Highway Administration
FTA - Federal Transit Administration
HPMS - Highway Performance Monitoring System
ICG - Interagency Consultation Group
IDEM - Indiana Department of Environment Management
INDOT - Indiana Department of Transportation
INSTIP - Indiana Statewide Transportation Improvement Program
MCCOG - Madison County Council of Governments
MITS - Muncie Indiana Transit System
MPA - Metropolitan Planning Area
MPO - Metropolitan Planning Organization
MVEB - Motor Vehicle Emissions Budget
NEPA - National Environmental Policy Act
SIP - State Implementation Plan
TCMs - Transportation Control Measures
TDM - Travel Demand Model
TIP - Transportation Improvement Program
TP - Transportation Plan
USDOT - United States Department of Transportation
USEPA - United States Environmental Protection Agency
VMT - Vehicle Miles Traveled

II. General

These procedures implement the interagency consultation process for Delaware County, and include procedures to be undertaken by the Delaware-Muncie Metropolitan Plan Commission (DMMPC), Madison County Council of Governments (MCCOG), Indiana Department of Transportation (INDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), State, EPA and local air and transit agencies (where appropriate), before making transportation conformity determinations on the Transportation Plan (TP) and Transportation Improvement Program (TIP).

Additional details on consultation are contained in the Indiana guidance document on transportation conformity "Interagency Consultation Group Conformity Consultation Guidance, August 2007". This guidance document provides MPOs with detailed guidance on conformity consultation and procedures but it is not legally binding. Only the procedures approved into the State Implementation Plan (SIP) are legally binding.

A. Interagency Consultation Group

To conduct consultation, staff involved in conformity issues for their respective agencies will participate in an Air Quality Conformity Task Force, hereafter referred to as the "Interagency Consultation Group." The Interagency Consultation Group (ICG) is open to all interested agencies, but typically includes staff of:

- Federal agencies: FHWA, EPA, FTA
- State Agencies: INDOT, IDEM
- Regional planning agencies: DMMPC, MCCOG
- Local transit agencies/operators: MITS, New Interurban
- Local air agencies (where appropriate):

The Delaware-Muncie Metropolitan Plan Commission (DMMPC) will maintain a directory for the current membership agencies of the ICG. These agencies are responsible to notify ICG upon individual contact changes.

B. Initial Interagency Consultation Group Meeting

The Initial ICG Meeting (typically a conference call) should include, but not be limited to, all of the agencies listed above. The DMMPC should schedule conference calls for a time that is acceptable to all other ICG representatives. The ICG agencies should establish the practice of having at least 1 staff member who can serve as an alternate contact if the primary contact is unavailable. The purpose of the Initial ICG Meeting is to establish consensus regarding the TP update/amendment schedule, latest planning assumptions, and analysis methodology. If there are no changes, the ICG may reaffirm the existing practices. The ICG should be provided with the necessary items as soon as possible or a minimum of 7 calendar days prior to the conference call.

The TP will be fiscally responsible and the TIP will be fiscally constrained. The Indiana Statewide Transportation Improvement Plan (INSTIP) will be consistent with the TIPs in order to comply with the regulations in 23 CFR 450.216(b). The INDOT and DMMPC will reach consensus regarding the list of INDOT-sponsored projects to be included in the MPO TP, project design concept and scope, and the projected year that each project is expected to be open to traffic. INDOT jurisdiction projects are fiscally constrained in the context of the INDOT Statewide Transportation Plan, and thus the DMMPC will not add INDOT jurisdiction projects other than those listed in the INDOT Statewide Transportation Plan (TP) without prior concurrence from INDOT or identifying an alternate funding source.

The DMMPC will prepare initial Meeting Minutes to document agency concurrence regarding items and all decisions made during the initial consultation meeting. The DMMPC will forward these Meeting Minutes and the Project List to the ICG as soon as reasonably possible. The DMMPC can follow-up with ICG representatives as needed during the consultation period to clarify outstanding issues. The DMMPC will schedule a follow-up meeting if needed (i.e. agency concurrence can not be reached). The DMMPC will also schedule a meeting if any ICG member(s) calls a meeting of this group to discuss issues under the purview of the ICG as described below, including whether certain events would trigger the need to make a new

conformity determination for the Transportation Plan (TP) and Transportation Improvement Program (TIP). The agency requesting the follow-up meeting will be responsible for preparing and distributing the meeting minutes from that meeting.

Persons of any organizational level in the member agencies may attend meetings of the ICG. All meetings of the ICG will be open to the public, but not necessitate official public notification.

Meeting frequency will be as needed, unless there is consensus among the federal and state transportation agencies and air quality agencies to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). The DMMPC will also consult with these agencies to determine which items may not require a face-to-face meeting and could be handled via conference call or email.

III. Consultation for an update or amendment of the Transportation Plan (TP) and/or Transportation Improvement Plan (TIP) when a new regional analysis is required

A. Consultation Structure and Process

TP and/or TIP amendments that require a new regional emission analysis will be developed through the ICG. The DMMPC is responsible for convening meetings of the ICG.

Early in the TP and/or TIP development process, the DMMPC will develop a schedule for key activities and meetings leading up to the adoption of the TP and/or TIP. In developing the draft TP and/or TIP, the DMMPC will bring important TP and/or TIP related issues to the ICG for discussion and feedback. The DMMPC is responsible for transmitting all materials used for these discussions to the ICG prior to the meetings, or on occasion, may distribute materials at the meetings. All materials that are relevant to interagency consultation, such as the TP and/or TIP schedule(s), important TP and/or TIP related issues, and the draft TP and/or TIP, will also be transmitted to the ICG for discussion and feedback. Similar consultation will occur with TP amendments if a new regional analysis is required. It should be noted that amendments to the TP are few and infrequent.

Public involvement in the development of the TP and/or TIP will be provided in accordance with the DMMPC adopted public participation procedures.

Policy decisions and actions pertaining to the TP and/or TIP are the responsibility of the DMMPC and will be made through the DMMPC Administrative Committee and its standing committee structure. The DMMPC staff will respond to all significant comments. The DMMPC will transmit the TP and/or TIP related materials to be discussed at the Transportation Policy Board/Committee meeting(s) to the ICG prior to the meeting, or on occasion, may distribute materials at the meetings. Staff and policy board members of the ICG agencies are also invited to attend and participate in these meetings.

B. Agency Roles and Responsibilities

Expected participation of key agencies in TP and/or TIP development and review, as follows:

AGENCY	ROLES & PARTICIPATION
DMMPC	<ul style="list-style-type: none">• Runs travel demand model (TDM) for the Delaware County nonattainment area• Runs Mobile 6 (or updated version) emissions model in consultation with IDEM• Prepares Conformity Demonstrations for the TP and/or TIP. Responsibilities of the DMMPC should be mutually agreed upon by other appropriate ICG parties• Prepares the AQCA document for the Delaware County nonattainment area• Provides a final copy of the AQCA, TP and/or TIP packages to review agencies• Maintains and manages conformity process schedule
DMMPC & MCCOG	<ul style="list-style-type: none">• Updates/amends the TP and/or TIP in respective MPA's• Manages public review and comment period in respective MPA's• Transportation Policy Board makes the conformity determination and adopts the TP and/or TIP via formal resolution
INDOT	<ul style="list-style-type: none">• Submits INDOT expansion projects to MPO's for inclusion in modeling and conformity demonstration in accordance with the established conformity schedule• Provides traffic count information, HPMS VMT, and other data, as needed, to the MPO's• Reviews AQCA and comments within the allotted time
IDEM	<ul style="list-style-type: none">• Develops motor vehicle emissions budgets (MVEB's) in consultation with all other ICG parties• Creates and develops state implementation plans (SIP's) in consultation with all other ICG parties• Develops SIP emission factors using the approved emissions model (or delegates responsibility as agreed with other appropriate ICG parties)• Reviews AQCA and comments within the allotted time
MITS & New Interurban	<ul style="list-style-type: none">• Reviews conformity documentation
FHWA	<ul style="list-style-type: none">• Coordinates federal review process of the conformity determination• Facilitates additional consultation as necessary if adverse comments are received during consultation• Monitors conformity process schedule• Assists other ICG parties with commitment and follow-up• Provides technical guidance and advice on conformity• Reviews conformity documentation• Issues USDOT conformity determination letter
FTA	<ul style="list-style-type: none">• Reviews conformity documentation• Reviews AQCA and comments within the allotted time
EPA	<ul style="list-style-type: none">• Promulgates conformity regulations• Approves the SIP and motor vehicle emissions budgets (MVEB's)• Provides technical advice and guidance on conformity• Reviews conformity determination• Reviews final AQCA and submits a recommendation for conformity finding letter

C. TP and TIP Consultation Process

1. Consultation on TP and/or TP Amendment Conformity Analysis:

Consultation on the assumptions and approach to the conformity analysis of the TP and/or TP Amendment will occur during the preparation of these documents. As a part of the TP, TP Amendment, and/or TIP development process, the DMMPC should consult with the ICG, at a minimum, on the following topics:

- Identification of exempt projects (by list or reference)
- Identification of projects included in each analysis scenario
- Travel demand modeling description (assumptions, methods, geographical and functional classification coverage and VMT Summary Table for various analysis years)
- Description of the emissions modeling (emissions model used, methodology, assumptions, and sample input/output printouts)
- Description of post process analysis (including off-network VMT)
- Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 113.118(a) and 93.119(d) showing that required conformity tests were met
- Discussion of other relevant observations or issues
- An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs (if applicable)
- Action(s) by the DMMPC adopting the TP and/or TIP and that a finding of conformity with the SIP is demonstrated

2. Consultation and Notification Procedures for Conformity Analysis of TIP and TIP Amendments:

Consultation on the assumptions and approach to the conformity analysis of the TIP or TIP Amendment will occur during the preparation of the draft TIP or TIP Amendment. When preparing a new TIP, the DMMPC will consult with the ICG on the same topics listed for the TP, as well as the additional topics listed below:

- Identification of exempt projects in the TIP
- Identification of exempt projects which should be treated as non exempt
- Determination of projects which are regionally significant (both FHWA/FTA and non FHWA/FTA funded projects)
- Development of an Interim TIP (in the event of a conformity lapse)

3. Consultation Required in Situations Requiring a Conformity Determination, Including But Not Limited To:

- Add a regionally significant project to the TIP when it has already been appropriately accounted for in the regional emissions analysis for the TP
- Add a non-regionally significant project to the TIP
- Add non-exempt, regionally significant project that has not been accounted for in the regional emissions analysis

- Change in non-exempt, regionally significant project that is not consistent with the design concept and scope or the conformity analysis years
- Activities that trigger a new conformity analysis and/or determination such as the effective date of adequate or approved motor vehicle emissions budgets (a new conformity determination must be made within 2 years)

The ICG review of the draft conformity analysis will typically begin during the public review period. The DMMPC will request the FHWA initiate the formal conformity consultation process. This is typically done by e-mail after the MPO has adopted the TP/TIP update or amendment and issued the associated conformity resolution(s). The ICG will respond promptly to the DMMPC staff with any comments. Members of the public can comment on the draft conformity analysis in writing or in person at DMMPC meetings prior to the close of the 30-day public review period.

After the MPO Board approves the final conformity analysis, the DMMPC will provide the final conformity analysis to FHWA for a federal conformity finding determination. FHWA will initiate formal consultation and, if appropriate, issue the formal conformity finding on behalf of USDOT. The TP update or amendment becomes effective the date the USDOT conformity finding is issued. The TIP update or amendment only becomes effective after the USDOT conformity finding is issued, and the FHWA approves the associated TIP update or amendment into the INSTIP. The DMMPC will transmit electronic copies of the final conformity analysis to the ICG members and place a final copy on the MPO's Web site.

4. Limited Consultation Required:

TP/TIP amendments/updates that only involve exempt projects will be handled in an expedited fashion. The DMMPC will forward the project list to the ICG and request comments within 1-week to see if there are any questions regarding the exempt status of any of the projects. No response will be construed as agency concurrence in the finding that the projects are exempt. The AQCA documentation and/or resolution adopting the exempt amendment will specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

Likewise, an ICG Meeting will not be scheduled if a TP/TIP amendment or update does not require a new regional emissions analysis. The DMMPC will forward the project list to the ICG, identify which projects are exempt, non-exempt, and/or not regionally significant, confirm that each project is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration, affirm that the open-to-traffic date of each project is consistent with the associated analysis scenario in the most recent regional emissions analysis, confirm that the previous emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119, and establish a deadline for ICG comments (minimum 2-week comment period) on the conformity demonstration. No response will be construed as agency concurrence. A follow-up meeting may be needed if concurrence of all agencies is not reached. The air quality conformity analysis document and/or conformity finding/resolution will specifically reference ICG consultation and concurrence in the TP/TIP amendment/update conformity demonstration.

IV. State Implementation Plan (SIP) Consultation Process

A. SIP Consultation Structure and Process

IDEM has responsibility for developing state implementation plans (SIPs) and, as such, needs to assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIPs. The SIP will normally be developed independently of the ICG. However, all ICG agencies will be provided with information and opportunity to participate in the development of the SIP with a focus on the setting of emission budgets and developing Transportation Control Measures (TCM) for inclusion, when and if appropriate. IDEM will provide and update schedules for SIP development that will be available to all agencies and the public. Public participation will be in accordance with IDEM's public participation procedures. Key documents will be posted on IDEM's website. SIP development will normally cover inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

IDEM may request the DMMPC to provide the travel activity data used to develop the on-road motor vehicle emissions inventory. If new transportation control strategies are necessary to achieve and/or maintain federal air quality standards, IDEM may request that the DMMPC evaluate potential new measures. This SIP process will define the motor vehicle emissions budget (MVEB), and its various components, that will be used for future conformity determinations of the TP and TIP. Before the draft SIP begins the public review process, the ICG will have an opportunity to review and comment on the proposed MVEB.

IDEM will circulate the draft SIP for public review, and all comments will be responded to in writing prior to adoption of the SIP. IDEM will then transmit the adopted submittal, along with the public notice, public hearing transcript and a summary of comments and responses, to the EPA.

V. Monitoring of Transportation Control Measures (TCMs)

The periodic conformity analyses for the TP and TIP will include updates of the implementation of TCMs in the applicable SIP. The ICG may request more frequent updates, as needed.

As a part of the new conformity analysis for a TP or TIP, the DMMPC will document the status of TCMs that have not been completed, by comparing progress to the implementation steps in the SIP. Where TCM emissions reductions are included as part of the MVEB, the DMMPC will also estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a TCM, the DMMPC will describe the steps being undertaken to overcome these obstacles, including means to ensure that funding agencies are giving these TCM maximum priority. The DMMPC may propose substitution of a new TCM for all or a portion of an existing TCM that is experiencing implementation difficulties (see below).

VI. Substitution of TCMs in the SIP

After consultation with the ICG, the DMMPC may recommend and proceed with the substitution of a new TCM in the SIP to overcome implementation difficulties with an existing TCM(s). The substitution will take place in accordance with the DMMPC's adopted TCM substitution procedures, which provide for full public involvement. In the event of possible discrepancies between the DMMPC's TCM Substitution Procedures and those in SAFETEA-LU (Public Law 109-59), the provisions of SAFETEA-LU will govern.

VII. Other Interagency Consultation Group Processes and Procedures

A. Interagency Consultation Procedures for Specific Conformity Issues:

1. Defining regionally significant projects: Regionally significant projects are defined as a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs and would normally be included in the coded network for the regional transportation demand forecast model, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. The Delaware County travel model roadway network may also include other types of facilities for reasons of functionality or connectivity that would not normally be considered regionally significant. The DMMPC will periodically review with the ICG the types of facilities and projects that are coded in the network but which the DMMPC recommends should not be classified as regionally significant (and which therefore would not trigger a new regional emissions analysis if amended into the TP/TIP). The DMMPC will document the decisions of the ICG for future reference. The ICG will also consider projects that would not be found regionally significant according to the modeling definition above, but should be treated as regionally significant for conformity purposes.
2. Determination of significant change in project design concept and scope: Project sponsors should provide timely notice to the DMMPC of any change in the design concept or scope of any regionally significant project in the TP and/or TIP. The DMMPC will consider a significant change in design concept and scope to be one that would alter the coding of the project in the transportation network associated with the regional travel model. When project(s) have a change in design concept and scope from that assumed in the most recent conformed TP and/or TIP, the DMMPC will not normally consider revisions to the TP and/or TIP if such a revision requires a new regional emissions analysis for the entire TP and/or TIP. The DMMPC will evaluate projects that may be considered to have a change in design concept and scope and will consult with the ICG prior to advising the project sponsor as to how the DMMPC intends to proceed with any request to amend the TP and/or TIP.
3. Determining if exempt projects should be treated as non-exempt: The DMMPC will identify all projects in the TP/TIP that meet the definition of an exempt project, as defined in the Conformity regulations. The DMMPC will provide a list of exempt projects to the ICG for review prior to releasing the draft TP/TIP for public comment. If any member of the ICG believes an exempt project has potentially adverse emission impacts or interferes with TCM implementation, they can bring their concern to the ICG for review and resolution. If it is

determined by the ICG that the project should be considered non exempt, the DMMPC will notify the project sponsor of this determination and make appropriate changes to the conformity analysis, as required.

4. Treatment of non-FHWA/FTA regionally significant projects: Any recipient of federal funding is required to disclose to the DMMPC the design concept and scope of regionally significant projects that do not use FHWA or FTA funds. The DMMPC will request that INDOT and local agencies identify all such projects prior to conducting a new conformity analysis for the TP and/or TIP. As part of the conformity analysis, The DMMPC will also include a written response to any significant comment received about whether any project or projects of this type are adequately accounted for in the regional emissions analysis.
5. Projects that can advance during a conformity lapse. In the event of a conformity lapse, the DMMPC will consult with the ICG to identify projects in the TP and/or TIP that may move forward. The DMMPC will also consult the ICG on the process for preparing an Interim TP and/or TIP.
6. Addressing activities and emissions that cross MPO boundaries: When a regionally significant project that is not exempt is proposed in another MPO's Plan or TIP crosses or is within Delaware County's boundaries, the DMMPC will review the project with the ICG to determine appropriate methods for addressing the emissions impact of the project in the Delaware County conformity analysis, consistent with EPA's conformity regulations.

VIII. Conflict Resolution

Conflicts between State agencies or between State agencies and the DMMPC that arise during consultation will be resolved as follows:

1. A statement of the nature of the conflict will be prepared by the agency with the conflict and agreed to by the ICG.
2. Staff of the affected agencies will meet in a good faith effort to resolve the conflict in a manner acceptable to all parties.
3. If the staff is unsuccessful, the MPO Executive Directors or their designee, Management within state agencies and all other parties to the conflict shall meet to resolve differences in a manner acceptable to all parties.
4. The agency with the conflict will send a letter of intent to proceed with their conformity decision or policy that is the source of the conflict to IDEM and other ICG members. The 14-day clock (see below) starts upon IDEM's receipt of the letter .
5. Following these steps, IDEM has 14 days to appeal to the Governor after INDOT or the DMMPC has notified IDEM that either party plans to proceed with their conformity decision or policy that is the source of the conflict. If IDEM appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If IDEM does

not appeal to the Governor within 14 days, the DMMPC or INDOT 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 the DMMPC.

IX. Public Consultation Procedures

The DMMPC will follow its adopted public participation procedures when making conformity determinations on the DMMPC transportation plans, and programs. These procedures establish a proactive public participation process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the DMMPC at the beginning of the public comment period and prior to taking formal action on a conformity determination for the TP and TIP, consistent with these requirements and those of 23 CFR 450.316(b). Meetings of the ICG are open to the public. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. These agencies shall also provide opportunity for public participation in conformity determinations for projects where otherwise required by law.

The Madison County Council of Governments will follow its adopted public participation procedures when making new conformity determinations in the Anderson Urbanized Area.

A RESOLUTION APPROVING
MPO SPECIFIC TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

WHEREAS, the Evansville Metropolitan Planning Organization is the regional transportation agency for the Evansville MPO Planning Area, which includes Vanderburgh and Warrick Counties in Indiana. Pursuant to 23 CFR 450 and 49 CFR 613; and

WHEREAS, the Evansville Metropolitan Planning Organization and the Indiana Department of Environmental Management (IDEM) are collectively responsible for developing and implementing various portions of the federal air quality plans in the Evansville MPO Planning Area, which includes Vanderburgh and Warrick Counties in Indiana.; and

WHEREAS, prior to adopting or amending the long-range Transportation Plan (TP) and Transportation Improvement Plan (TIP), Evansville MPO must first determine that these plans and programs conform to the state and federal air quality plan for Evansville MPO Planning Area, which includes Vanderburgh and Warrick Counties in Indiana (termed the State Implementation Plan, or SIP) using procedures established by the Environmental Protection Agency (EPA); and

WHEREAS, the Interagency Consultation Group (ICG) has prepared procedures for determining transportation air quality conformity in compliance with Federal regulation entitled: Interagency Consultation Group Transportation Air Quality Conformity procedures ("the procedures"), which includes certain conformity consultation procedures relating to transportation plans, programs, and projects and the interagency consultation procedures, attached hereto as Attachment A and Attachment B, respectively, and incorporated herein as though set forth at length; and

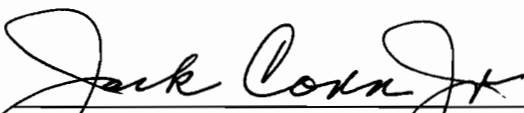
WHEREAS, the ICG has revised the procedures to reflect the most recent guidance provided by the U.S. EPA; and

WHEREAS, the procedures must be submitted to the IDEM for review and subsequent submittal to the United States Environmental Protection Agency (U.S. EPA) for revision of State Implementation Plan (SIP), now therefore be it

RESOLVED, that the procedures to be included in the Conformity SIP are approved for submission to IDEM and to U.S. EPA; and, be it further

RESOLVED, that the Evansville MPO staff may make minor adjustments, as necessary, to the procedures in the Conformity SIP in response to IDEM and U.S. EPA comments, and be it further

ADOPTED by the Policy Committee of the Evansville Metropolitan Planning Organization on this 3rd day of April, 2008.



Mr. Jack Corn, Jr., Chairperson
Evansville Metropolitan Planning Organization
Policy Committee

**The Evansville Metropolitan Planning Organization
TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL**

Conformity Procedures

SUMMARY:

Current federal law does not require that EPA's detailed procedures for determining the conformity of plans, programs and projects be included in a "Conformity SIP". This SIP revision however must include procedures for interagency consultation (Federal, State and local), resolution of conflict and public consultation set forth in 40 CFR 93.105 (consultation procedures are found in Attachment B), and provisions for written commitments for control and mitigation measures required by 40 CFR 93.122(a)(4)(ii) and 125(c) (these commitments are below). This document, when submitted and approved as a SIP revision, gives full legal effect to the following three requirements of the Federal Transportation conformity Rule, 40 CFR part 93 subpart A: (1) 40 CFR 93.105, which addresses consultation procedures, (2) 40 CFR 93.122(a)(4)(ii), which states that conformity SIPs must require written commitments to control measures to be obtained prior to a conformity determination if the control measures are not included in a Metropolitan Planning Organization's transportation plan and transportation improvement program, and that such commitments be fulfilled; and (3) 40 CFR 93.125(c), which states that conformity SIPs must require written commitments to mitigation measures to be obtained prior to a project-level conformity determination, and that project sponsors comply with such commitments. Following EPA approval of this regulation as a revision to the SIP, conformity determinations will be governed by the approved state criteria and procedures as well as any applicable portions of the federal conformity rules that are not addressed by this document.

PROVISIONS FOR Written Commitments Required by 40 CFR 93.122(a)(4)(ii) and 93.125(c):

As set forth in CFR 93.122(a)(4)(ii), emission reduction credit from control measures that are not included in the transportation plan and transportation improvement plan and that do not require a regulatory action in order to be implemented may not be included in the emissions study unless the conformity determination includes written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to control measures that are not included in the transportation plan and TIP must be obtained prior to a conformity determination and that such commitments must be fulfilled. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

As set forth in 40 CFR 93.125(c), 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 Laws, 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 CO, PM₁₀, or PM_{2.5} impacts. Before a conformity determination is made, 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 are included in the project design concept

and scope which is used in the regional emissions analysis required by 40 CFR 93.118 and 119 or used in the project-level hot-spot analysis required by 40 CFR 93.116. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

**The Evansville Metropolitan Planning Organization
TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL**

**Interagency Consultation Group
Procedures**

I. Definitions

AQCA - Air Quality Conformity Analysis
FHWA - Federal Highway Administration
FTA - Federal Transit Administration
HPMS - Highway Performance Monitoring System
ICG - Interagency Consultation Group
IDEM - Indiana Department of Environmental Management
INDOT - Indiana Department of Transportation
INSTIP - Indiana Statewide Transportation Improvement Program
MPO - Metropolitan Planning Organization
MVEB - Motor Vehicle Emissions Budget
NEPA - National Environmental Policy Act
SIP - State Implementation Plan
TCMs - Transportation Control Measures
TDM - Travel Demand Model
TIP - Transportation Improvement Program
TP - Transportation Plan
USDOT - United States Department of Transportation
EPA - United States Environmental Protection Agency
VMT - Vehicle Miles Traveled

II. General

These procedures implement the interagency consultation process as required in 93.105(b) for Evansville Metropolitan Planning Organization (Evansville MPO) Area, and include procedures to be undertaken by the MPO, Indiana Department of Transportation (INDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Indiana Department of Environmental Management, United States Environmental Protection Agency (EPA), local air and transit agencies (where appropriate) and other agencies not listed, before making transportation conformity determinations on the Transportation Plan (TP) and Transportation Improvement Program (TIP).

Additional details on consultation are contained in the Indiana guidance document on transportation conformity “Interagency Consultation Group Conformity Consultation Guidance, August 2007”. This guidance document provides MPOs with detailed guidance on conformity consultation and procedures but is not legally binding. Only the procedures approved into the State Implementation Plan (SIP) are legally binding.

Interagency Consultation Group

To conduct consultation, staff involved in conformity issues for their respective agencies will participate in an Air Quality Conformity Task Force, hereafter referred to as the “Interagency Consultation Group.” The Interagency Consultation Group (ICG) is open to all interested agencies, but typically includes, as a minimum, staff of:

- Federal agencies: FHWA, EPA, FTA
- State Agencies: INDOT, IDEM, other multi-state regional state agencies
- Regional planning agencies: The Evansville MPO
- Local transit agencies (where appropriate):
- Local air agencies (where appropriate):
- Transit operators

The Evansville MPO will maintain a directory for the current membership agencies of the ICG. These agencies are responsible to notify ICG upon individual contact changes.

Initial Interagency Consultation Group Meeting

The Evansville MPO is responsible for initiating the ICG consultation when the TP and/or TIP are to be updated.

The Initial ICG Meeting (typically a conference call) should include, but not be limited to, all of the agencies listed above. The Evansville MPO should schedule conference calls for a time that is acceptable to all other ICG representatives. The ICG agencies should establish the practice of having at least 1 staff member who can serve as an alternate contact if the primary contact is unavailable. The purpose of the Initial ICG Meeting is to establish consensus regarding the TP update/amendment schedule, latest planning assumptions, and analysis methodology. If there are no changes, the ICG may reaffirm the existing practices. The Evansville MPO should provide the ICG with the necessary items as soon as possible prior to the conference call. The Evansville MPO will respond verbally or by email to all questions and comments from the ICG members.

For transportation activities which cross the borders of the Evansville MPO Area or nonattainment areas, or where a nonattainment area involves a donut area and/or multiple MPOs, the conformity test methodology will clearly delineate agency responsibilities for modeling, assembly of the air quality conformity analysis document, public involvement, and how the respective conformity finding(s) will be issued.

The TP will be fiscally responsible and the TIP will be fiscally constrained. The Indiana Statewide Transportation Improvement Plan (INSTIP) will be consistent with the TIPs in order to comply with the regulations in 23 CFR 450.216(b). The INDOT and the Evansville MPO will reach consensus regarding the list of INDOT-sponsored projects to be included in the MPO TP, project design concept and scope, and the projected year that each project is expected to be open to traffic. INDOT jurisdiction projects are fiscally constrained in the context of the INDOT Statewide Transportation Plan, and thus the Evansville MPO will not add INDOT jurisdiction projects other than those listed in the INDOT Statewide Transportation Plan (TP) without prior concurrence from INDOT or identifying an alternate funding source.

The Evansville MPO will prepare initial Meeting Minutes to document agency concurrence regarding items and all decisions made during the initial consultation meeting. The Evansville MPO will forward these Meeting Minutes and the Project List to the ICG as soon as reasonably possible. The Evansville MPO can follow-up with ICG representatives as needed during the consultation period to clarify outstanding issues. The Evansville MPO will schedule a follow-up meeting if needed (i.e. agency concurrence can not be reached). The Evansville MPO will also schedule a meeting if any ICG member(s) request a meeting of this group to discuss issues under the purview of the ICG as described below, including whether certain events would trigger the need to make a new conformity determination for the Transportation Plan (TP) and Transportation Improvement Program (TIP). The agency requesting the follow-up meeting will be responsible for preparing and distributing the meeting minutes from that meeting.

Persons of any organizational level in the member agencies may attend meetings of the ICG. All meetings of the ICG will be open to the public, but not necessitate official public notification.

Meeting frequency will be as needed, unless there is consensus among the federal and state transportation agencies and air quality agencies to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). In most cases, consultation will be via conference call and/or email unless the ICG decides that certain items may require a face-to-face meeting and could not be handled via conference call or email.

III. Consultation for an update or amendment of the Transportation Plan (TP) and/or Transportation Improvement Plan (TIP) when a new regional analysis is required

a. Consultation Structure and Process

TP and/or TIP amendments that require a new regional emission analysis will be developed through the ICG. The Evansville MPO is responsible for convening meetings of the ICG.

Early in the TP and/or TIP development process, the Evansville MPO will develop a schedule for key activities and meetings leading up to the adoption of the TP and/or TIP. In developing the draft TP and/or TIP, the Evansville MPO brings important TP and/or TIP related issues to the ICG for discussion and feedback. The Evansville MPO is responsible for transmitting all materials used for these discussions to the ICG prior to the meetings, or on occasion, may distribute materials at the meetings. All materials that are relevant to interagency consultation, such as the TP and/or TIP schedule(s), important TP and/or TIP related issues, and the draft TP and/or TIP, will also be transmitted to the ICG for discussion and feedback. Similar consultation will occur with TP amendments if a new regional analysis is required. It should be noted that amendments to the TP are few and infrequent.

Public involvement in the development of the TP and/or TIP will be provided in accordance with the Evansville MPO adopted public involvement procedures in accordance with 23 CFR 450.

Policy decisions and actions pertaining to the TP and/or TIP are the responsibility of the Evansville MPO and will be made through MPO Transportation Policy Board/Committee and its standing committee structure. MPO staff will respond to all significant comments. The Evansville MPO will transmit the TP and/or TIP related materials to be discussed at the

Transportation Policy Board/Committee meeting(s) to the ICG prior to the meeting, or on occasion, may distribute materials at the meetings. Staff and policy board members of the ICG agencies are also invited to attend and participate in these meetings.

b. Agency Roles and Responsibilities.

93.105 (b)(2)(i) requires roles and responsibilities to be addressed as part of the consultation SIP. As such, the following are the expected participation of key agencies in TP and/or TIP development and review.

Agency	Roles
The Evansville MPO	<ul style="list-style-type: none"> • Runs travel demand model (TDM) • Updates/amends the RTP and TIP • Prepares Conformity Demonstrations for the RTP and/or TIP. Responsibilities of the MPO should be mutually agreed upon by the MPO in consultation with other appropriate ICG parties. • Prepares the AQCA document for nonattainment areas in the MPO planning area • Manages public review and comment period • Transportation Policy Board makes the conformity determination and adopts the RTP/TIP via formal resolution • Provides a final copy of AQCA, RTP and/or TIP packages to review agencies • Maintains and manages conformity process schedule
INDOT	<ul style="list-style-type: none"> • Runs Statewide travel demand model for non-MPO areas of the State • Submits INDOT expansion projects to MPO for inclusion in modeling and conformity demonstration in accordance with the established conformity schedule. • Provides traffic count information, HPMS VMT, and other data, as needed, to the MPO. • Prepares AQCA for rural nonattainment areas (ozone and PM 2.5), as needed • Reviews AQCA and comments within the allotted time
IDEM	<ul style="list-style-type: none"> • Develops motor vehicle emissions budgets (MVEBs) in consultation with all other ICG parties • Creates and develops state implementation plans (SIPs) in consultation with all other ICG parties • Develop SIP emissions factors using the approved emissions model (or delegates responsibility as agreed with other appropriate ICG parties) • Reviews AQCA and comments within the allotted time
Local Air Agencies	<ul style="list-style-type: none"> • Reviews conformity documentation • Provides technical guidance and advice • May develop emissions factors using the appropriate emissions model.

Agency	Roles
FHWA	<ul style="list-style-type: none"> • Coordinates federal review process of the conformity determination • Facilitate additional consultation as necessary if adverse comments are received during consultation • Monitors MPO conformity process schedule • Assists other ICG parties with commitment follow-up • Provides technical guidance and advice on conformity • Reviews conformity documentation • Issues United States Department of Transportation (USDOT) conformity determination letter
FTA	<ul style="list-style-type: none"> • Reviews conformity documentation • Reviews AQCA and comments within the allotted time
EPA	<ul style="list-style-type: none"> • Promulgates conformity regulations • Approves the SIP and motor vehicle emissions budgets (MVEBs) • Provides technical advice and guidance on conformity • Reviews conformity determination • Reviews final AQCA and submits a recommendation for conformity finding letter

c. Consultation on TP and/or TP Amendment Conformity Analysis

Consultation on the assumptions and approach to the conformity analysis of the TP and/or TP Amendment will occur during the preparation of these documents. As a part of the TP, TP Amendment, and/or TIP development process, the Evansville MPO should consult with the ICG, at a minimum, on the following topics:

- Identification of exempt projects (by list or reference)
- Discussion of which activities trigger a conformity analysis. (93.105(c)(2)(1))
- Identification of projects included in each analysis scenario
- Travel demand modeling description (assumptions, methods, geographical and functional classification coverage and VMT Summary Table for various analysis years)
- Discussion of the most recent travel survey and the need for funding of research and data collection efforts and regional transportation model development (93.105(c)(6))
- Description of the emissions modeling (emissions model used, methodology, assumptions, and sample input/output printouts)
- Description of post process analysis (including off-network VMT)
- Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 113.118(a) and 93.119(d) showing that required conformity tests were met.
- Discussion of other relevant observations or issues.
- An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs (if applicable).
- Action(s) by the Evansville MPO adopting the TP and/or TIP and that a finding of conformity with the SIP is demonstrated.

d. Consultation and Notification Procedures for Conformity Analysis of TIP and TIP Amendments

Consultation on the assumptions and approach to the conformity analysis of the TIP or TIP Amendment will occur during the preparation of the draft TIP or TIP Amendment. When preparing a new TIP, the Evansville MPO will consult with the ICG on the same topics listed for the TP (see Section II.c.), as well as the additional topics listed below:

- Identification of exempt projects in the TIP
- Identification of exempt projects which should be treated as non exempt
- Determination of projects which are regionally significant (both FHWA/FTA and non FHWA/FTA funded projects)
- Development of an Interim TIP (in the event of a conformity lapse)

For TIP Amendments, the Evansville MPO will consult with the ICG as identified below:

Consultation Required in Situations Requiring a Conformity Determination, Including But Not Limited To:

- Add a regionally significant project to the TIP when it has already been appropriately accounted for in the regional emissions analysis for the TP
- Add a non-regionally significant project to the TIP
- Add non-exempt, regionally significant project that has not been accounted for in the regional emissions analysis
- Change in non-exempt, regionally significant project that is not consistent with the design concept and scope or the conformity analysis years
- Activities that trigger a new conformity analysis and/or determination such as the effective date of adequate or approved motor vehicle emissions budgets (a new conformity determination must be made within 2 years),

The ICG review of the draft conformity analysis will typically begin during the public review period. The Evansville MPO will request the FHWA initiate the formal conformity consultation process. This is typically done by e-mail after the MPO has adopted the TP/TIP update or amendment and issued the associated conformity resolution(s). The ICG will respond promptly to the Evansville MPO staff with any comments. Members of the public can comment on the draft conformity analysis in writing or in person at the Evansville MPO meetings prior to the close of the 30-day public review period.

The following process provides for final documents to be provided to all ICG members as required by 93.105(c)(7):

After the MPO Board approves the final conformity analysis, the Evansville MPO will provide the final conformity analysis and documentation to FHWA and the ICG for a federal conformity finding determination. FHWA will initiate formal consultation and will provide 30 days for written comments from the ICG members. If appropriate, FHWA will issue the formal conformity finding on behalf of USDOT. The TP update or amendment becomes effective the date the USDOT conformity finding is issued. The TIP update or amendment only becomes effective after the USDOT conformity finding is issued, and the FHWA approves the associated

TIP update or amendment into the INSTIP. The Evansville MPO will transmit electronic copies of the final conformity analysis to the ICG members and place a final copy on the MPO's Web site.

(e) Limited Consultation Required:

TP/TIP amendments/updates that only involve exempt projects will be handled in an expedited fashion. The Evansville MPO will forward the project list to the ICG and request that any comments be submitted back to the Evansville MPO within 1-week if there are questions regarding the exempt status of any projects. No response from the ICG will be construed as agency concurrence in the finding that the projects are exempt. ICG members who are not available during the 1 week timeframe should appoint a backup to review these proposed amendments or with an out of office message will be given additional time. The AQCA documentation and/or resolution adopting the exempt amendment will specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

Likewise, an ICG Meeting will not be scheduled if a TP/TIP amendment or update does not require a new regional emissions analysis. The Evansville MPO will forward the project list to the ICG, identify which projects are exempt, non-exempt, and/or not regionally significant, confirm that each project is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration, affirm that the open-to-traffic date of each project is consistent with the associated analysis scenario in the most recent regional emissions analysis, confirm that the previous emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119, and establish a deadline for ICG comments (minimum 2-week comment period) on the conformity demonstration. No response will be construed as agency concurrence. ICG members who are not available during the 1 week timeframe should appoint a backup to review these proposed amendments or with an out of office message will be given additional time. A follow-up meeting may be needed if concurrence of all agencies is not reached. The air quality conformity analysis document and/or conformity finding/resolution will specifically reference ICG consultation and concurrence in the TP/TIP amendment/update conformity demonstration.

This section addresses the requirements of 93.105(c)(1)(v).

IV. State Implementation Plan (SIP) Consultation Process

a. SIP Consultation Structure and Process

IDEM has responsibility for developing state implementation plans (SIPs) and, as such, needs to assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIPs. The SIP will normally be developed independently of the ICG. However, all ICG agencies will be provided with information and opportunity to participate in the development of the SIP with a focus on the setting of emission budgets and developing Transportation Control Measures (TCM) for inclusion, when and if appropriate. IDEM will provide and update schedules for SIP development that will be available to all agencies and the public. Public involvement will be in accordance with IDEM's public involvement procedures.

Key documents will be posted on IDEM's website. SIP development will normally cover inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

IDEM may request the Evansville MPO to provide the travel activity data used to develop the on-road motor vehicle emissions inventory. If new transportation control strategies or TCMs are necessary to achieve and/or maintain federal air quality standards, IDEM may request that the Evansville MPO evaluate potential new measures. The ICG will be convened to discuss possible TCMs for inclusion in the SIP. This SIP and consultation process will define the motor vehicle emissions budget (MVEB), and its various components, that will be used for future conformity determinations of the TP and TIP. Before the draft SIP begins the public review process, the ICG will have an opportunity to review and comment on the proposed MVEB.

IDEM will circulate the draft SIP for public review, and all comments will be responded to in writing prior to adoption of the SIP. IDEM will then transmit the adopted submittal, along with the public notice, public hearing transcript and a summary of comments and responses, to the EPA.

V. Monitoring of Transportation Control Measures (TCMs)

The periodic conformity analyses for the TP and TIP will include updates of the implementation of TCMs in the applicable SIP. The ICG may request more frequent updates, as needed.

As a part of the new conformity analysis for the TP or TIP, the Evansville MPO will document the status of TCMs that have not been completed, by comparing progress to the implementation steps in the SIP. Where TCM emissions reductions are included as part of the MVEB, the Evansville MPO will also estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a TCM, the Evansville MPO will describe the steps being undertaken to overcome these obstacles, including means to ensure that funding agencies are giving these TCM maximum priority. The Evansville MPO may propose substitution of a new TCM for all or a portion of an existing TCM that is experiencing implementation difficulties (see below).

VI. Substitution of TCMs in the SIP

After consultation with the ICG, the Evansville MPO may recommend and proceed with the substitution of a new TCM in the SIP to overcome implementation difficulties with an existing TCM(s). The substitution will take place in accordance with MPO's adopted TCM substitution procedures, which provide for full public involvement. In the event of possible discrepancies between MPO's TCM Substitution Procedures and those in SAFETEA-LU (Public Law 109-59), the provisions of SAFETEA-LU will govern.

VII. Other Interagency Consultation Group Processes and Procedures

Interagency consultation procedures for specific conformity issues are described below:

1. Defining regionally significant projects (93.105 (c) (1) (ii): Regionally significant projects are defined as a transportation projects (other than an exempt project) that is on a facility which serves regional transportation needs and would normally be included in the coded network for the regional transportation demand forecast model, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. MPO's travel model roadway network may also include other types of facilities for reasons of functionality or connectivity that would not normally be considered regionally significant. MPO will periodically review with the ICG the types of facilities and projects that are coded in the network but which the Evansville MPO recommends should not be classified as regionally significant (and which therefore would not trigger a new regional emissions analysis if amended into the TP/TIP). The Evansville MPO will document the decisions of the ICG for future reference. The ICG will also discuss and decide that projects would not be found regionally significant according to the modeling definition above, but should be treated as regionally significant for conformity purposes. This consultation will take place prior to the beginning of the conformity modeling analysis.
2. Determination of significant change in project design concept and scope (93.105 (c) (4) and (5): Project sponsors should provide timely notice to Evansville MPO of any change in the design concept or scope of any regionally significant project in the TP and/or TIP. The Evansville MPO will consider a significant change in design concept and scope to be one that would alter the coding of the project in the transportation network associated with the regional travel model. When a project(s) have a change in design concept and scope from that assumed in the most recent conformed TP and/or TIP, the Evansville MPO will consider revisions to the TP and/or TIP if such a revision requires a new regional emissions analysis for the entire TP and/or TIP. The Evansville MPO will evaluate projects that may be considered to have a change in design concept and scope and will consult with the ICG prior to advising the project sponsor as to how the Evansville MPO intends to proceed with any request to amend the TP and/or TIP. Project sponsors should also provide timely notice to the Evansville MPO of any proposed regionally significant projects which should be included in TP/TIP updates prior to the beginning of the conformity analysis and must work with the MPO to provide for the design concept and scope of projects in sufficient detail to allow the MPO to perform the regional emissions analysis.
3. Determining if exempt projects should be treated as non-exempt (93.105 (c) (iii): The Evansville MPO will identify all projects in the TP/TIP that meet the definition of an exempt project, as defined in the Conformity regulations. The Evansville MPO will provide a list of exempt projects to the ICG for review prior to releasing the draft TP/TIP for public comment. If any member of the ICG believes an exempt project has potentially adverse emission impacts or interferes with TCM implementation, they can bring their concern to the ICG for review and resolution. If it is determined by the ICG that the project should be considered non exempt, the Evansville MPO will notify the project sponsor of this determination and make appropriate changes to the conformity analysis, as required.
4. Treatment of non-FHWA/FTA regionally significant projects 93.105(c)(4): Any recipient of federal funding is required to disclose to Evansville MPO the design concept and scope of regionally significant projects that do not use FHWA or FTA funds. The Evansville MPO

will request that INDOT and local agencies identify all such projects prior to conducting a new conformity analysis for the TP and/or TIP. As part of the conformity analysis, the Evansville MPO will also include a written response to any significant comment received about whether any project or projects of this type are adequately accounted for in the regional emissions analysis.

5. Projects that can advance during a conformity lapse: In the event of a conformity lapse, the Evansville MPO will consult with the ICG to identify projects in the TP and/or TIP that may move forward. The Evansville MPO will also consult the ICG on the process for preparing an Interim TP and/or TIP.
6. Addressing activities and emissions that cross MPO boundaries (93.105 (c)(3): When a regionally significant project that is not exempt is proposed in another MPO's Plan or TIP crosses MPO's boundaries, the Evansville MPO will review the project with the ICG to determine appropriate methods for addressing the emissions impact of the project in MPO's conformity analysis, consistent with EPA's conformity regulations.

VIII. Conflict Resolution (93.105 (d))

Conflicts between State agencies or between State agencies and the Evansville MPO that arise during consultation will be resolved as follows:

1. A statement of the nature of the conflict will be prepared by the agency with the conflict and agreed to by the ICG.
2. Staff of the affected ICG agencies will meet in a good faith effort to resolve the conflict in a manner acceptable to all parties.
3. If the staff is unsuccessful, the MPO Executive Directors or their designee, Management within state agencies and all other parties to the conflict shall meet to resolve differences in a manner acceptable to all parties.
4. A fourteen (14) day appeal period will commence on the first normal business day following IDEM's receipt of correspondence (via Certified U.S. Mail and/or other certified delivery) from INDOT or the Evansville MPO that they plan to proceed with their conformity decision or policy in conflict. The appeal period will expire at midnight of the fourteenth (14) calendar day following IDEM's receipt of such notice.
5. Following these steps, IDEM has fourteen (14) days to appeal to the Governor after INDOT or the Evansville MPO has notified IDEM that either party plans to proceed with their conformity decision or policy that is the source of the conflict. If IDEM appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If IDEM does not appeal to the Governor with fourteen (14) days, the Evansville MPO or INDOT 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 the Evansville MPO.

IX. Public Consultation Procedures (93.105 (e))

The Evansville MPO will follow its adopted public involvement procedures, which were developed in accordance with the requirements for public involvement in 23 CFR 450, when making conformity determinations on transportation plans, and programs. These procedures establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the Evansville MPO at the beginning of the public comment period and prior to taking formal action on a conformity determination for the TP and TIP, consistent with these requirements and those of 23 CFR 450.316(a). Meetings of the ICG are open to the public. Any charges imposed for public inspection and copying are consistent with the fee schedule contained in 49 CFR 7.43. The ICG agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

**METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA**

Resolution No. 09-T-009

A RESOLUTION approving the "Transportation Air Quality Conformity Protocol" and the "Interagency Consultation Procedures" for determining the conformity of the Indianapolis Regional Transportation Plan and Indianapolis Regional Transportation Improvement program.

WHEREAS, the Indianapolis Metropolitan Planning Organization is the Metropolitan Planning Organization, hereafter referred to as the IMPO, designated by the Governor of Indiana for the Indianapolis Urbanized Area and its Metropolitan Planning Area (including all or portions of Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby Counties), hereafter collectively referred to as the MPO pursuant to 23 CFR 450 and 49 CFR 613, and;

WHEREAS, the IMPO, the Madison County Council of Governments (MCCOG), the Columbus Metropolitan Planning Organization (CAMPO), the Indiana Department of Transportation (INDOT), and the Indiana Department of Environmental Management (IDEM) are collectively responsible for developing and implementing various portions of the federal air quality plan in the Indianapolis Metropolitan Planning Area; and

WHEREAS, prior to adopting or amending the long-range Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP), the IMPO, MCCOG, CAMPO, INDOT, and IDEM ("the five agencies") must first determine that these plans and programs conform to the state and federal air quality plan for the Indiana Air Quality Nonattainment Area (termed the State Implementation Plan, or SIP) using procedures established by the Environmental Protection Agency (EPA); and

WHEREAS, the five agencies have prepared a protocol for determining transportation air quality conformity in compliance with Federal regulation entitled: "Transportation Air Quality Conformity Protocol" ("the Protocol"), which includes certain conformity procedures relating to transportation plans, programs, and projects and the interagency consultation procedures, attached hereto as Attachment A and Attachment B, respectively, and incorporated herein as though set forth at length; and

WHEREAS, the five agencies have revised the protocol to reflect the most recent guidance provided by the U.S. EPA; and

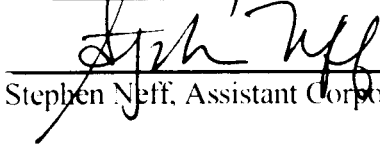
WHEREAS, the Protocol must be submitted to the Indiana Department of Environmental Management (IDEM) for review and subsequent submittal to the United States Environmental Protection Agency (U.S. EPA) for revision of the Indiana Conformity State Implementation Plan (SIP);

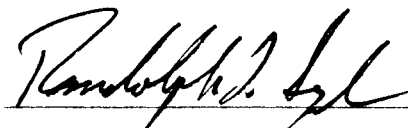
NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission as follows:

- Section 1. That the Indianapolis Metropolitan Planning organization shall be the agency responsible for transportation conformity analysis for the Central Indiana air quality nonattainment areas, and shall make all reasonable and appropriate steps to obtain the information necessary to conduct the analysis in a timely manner as it relates to Transportation Plans and Transportation Improvement Programs.
- Section 2. That the Madison County Council of Governments, the Columbus Metropolitan Planning Organization, and the Indiana Department of Transportation shall provide the Indianapolis Metropolitan Planning Organization with all necessary information to the analysis in a timely manner.
- Section 3 That the Interagency Consultation Group have prepared the Protocol (Attachment A) for determining transportation air quality conformity in compliance with the Federal Regulations entitled: Indiana Transportation Air Quality Conformity Protocol (Attachment A), which includes certain conformity procedural guidelines (Attachment B) relating to transportation plans, programs, and projects.
- Section 4. That the Protocol to be included in the Conformity State Implementation Plan is approved for submission to the Indiana Department of Environmental Management (IDEM) and the United States Environmental Protection Agency (EPA).
- Section 5. That the Indianapolis Metropolitan Planning Organization staff may make minor adjustments, as necessary, to the Protocol in the Conformity State Implementation plan in response to IDEM and EPA comments.

DATE: 3-4-09

APPROVED AS TO LEGAL FORM AND
LEGAL ADEQUACY THIS 25 DAY
OF February, 2009


Stephen Neff, Assistant Corporation Counsel



Randolph L. Snyder, President
Metropolitan Development
Commission

CENTRAL INDIANA TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Conformity Procedures

SUMMARY:

Current federal law does not require that the U.S. Environmental Protection Agency's (EPA) detailed procedures for determining the conformity of plans, programs and projects be included in a "Conformity State Implementation Plan" (SIP). This SIP revision however must include procedures for interagency consultation (Federal, State and local), resolution of conflict and public consultation set forth in 40 CFR 93.105 (consultation procedures are found in Attachment B), and provisions for written commitments for control and mitigation measures required by 40 CFR 93.122(a)(4)(ii) and 125(c) (these commitments are below). This document, when submitted and approved as a SIP revision, gives full legal effect to the following three requirements of the Federal Transportation conformity Rule, 40 CFR part 93 subpart A: (1) 40 CFR 93.105, which addresses consultation procedures, (2) 40 CFR 93.122(a)(4)(ii), which states that conformity SIPs must require written commitments to control measures to be obtained prior to a conformity determination if the control measures are not included in a Metropolitan Planning Organization's transportation plan and transportation improvement program, and that such commitments be fulfilled; and (3) 40 CFR 93.125(c), which states that conformity SIPs must require written commitments to mitigation measures to be obtained prior to a project-level conformity determination, and that project sponsors comply with such commitments. Following EPA approval of this regulation as a revision to the SIP, conformity determinations will be governed by the approved state criteria and procedures as well as any applicable portions of the federal conformity rules that are not addressed by this document.

PROVISIONS FOR Written Commitments Required by 40 CFR 93.122(a)(4)(ii) and 93.125(c):

As set forth in CFR 93.122(a)(4)(ii), emission reduction credit from control measures that are not included in the transportation plan and transportation improvement plan and that do not require a regulatory action in order to be implemented may not be included in the emissions study unless the conformity determination includes written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to control measures that are not included in the transportation plan and transportation improvement program (TIP) must be obtained prior to a conformity determination and that such commitments must be fulfilled. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

As set forth in 40 CFR 93.125(c), 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 Laws, Federal Highway Administration (FHWA), or the Federal Transit Administration (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 Carbon Monoxide (CO), Particulate Matter – 10 microns

(PM₁₀), or Fine Particulate Matter – 2.5 microns (PM_{2.5}) impacts. Before a conformity determination is made, 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 are included in the project design concept and scope which is used in the regional emissions analysis required by 40 CFR 93.118 and 119 or used in the project-level hot-spot analysis required by 40 CFR 93.116. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

CENTRAL INDIANA TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Interagency Consultation Procedures

I. Definitions

AQCA - Air Quality Conformity Analysis
FHWA - Federal Highway Administration
FTA - Federal Transit Administration
HPMS - Highway Performance Monitoring System
ICG - Interagency Consultation Group
IDEM - Indiana Department of Environment Management
INDOT - Indiana Department of Transportation
INSTIP - Indiana Statewide Transportation Improvement Program
MPO - Metropolitan Planning Organization
MVEB - Motor Vehicle Emissions Budget
NEPA - National Environmental Policy Act
SIP - State Implementation Plan
TCMs - Transportation Control Measures
TDM - Travel Demand Model
TIP - Transportation Improvement Program
TP - Transportation Plan
USDOT - United States Department of Transportation
EPA - United States Environmental Protection Agency
VMT - Vehicle Miles Traveled

II. General

These procedures implement the interagency consultation process as required in 93.105(b) for the portions of the Metropolitan Planning Areas of the Columbus Metropolitan Planning Organization (CAMPO), Madison County Council of Governments (MCCOG), and Indianapolis Metropolitan Planning Organization (IMPO), collectively known as the “Metropolitan Planning Organizations” (MPO’s), and include procedures to be undertaken by the MPO’s, Indiana Department of Transportation (INDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Indiana Department of Environmental Management, U.S. Environmental Protection Agency (EPA), local air and transit agencies (where appropriate) and other agencies not listed, before making transportation conformity determinations on the Transportation Plans (TP) and Transportation Improvement Programs (TIP) for each MPO.

Additional details on consultation are contained in the Indiana guidance document on transportation conformity “Interagency Consultation Group Conformity Consultation Guidance, August 2007”. This guidance document provides MPOs with detailed guidance on conformity consultation and procedures but is not legally binding. Only the procedures approved into the State Implementation Plan (SIP) are legally binding.

Interagency Consultation Group

To conduct consultation, staff involved in conformity issues for their respective agencies will participate in an Air Quality Conformity Task Force, hereafter referred to as the “Interagency Consultation Group.” The Interagency Consultation Group (ICG) is open to all interested agencies, but typically includes, as a minimum, staff of:

- Federal agencies: FHWA, EPA, FTA
- State Agencies: INDOT, IDEM, other multi-state regional state agencies
- Regional planning agencies: CAMPO, MCCOG, IMPO
- Indianapolis Public Transit Corporation
- City of Anderson Transit System
- Central Indiana Regional Transportation Authority
- Indianapolis Department of Public Works, Division of Environmental Services

IMPO will maintain a directory for the current membership agencies of the ICG. These agencies are responsible to notify ICG upon individual contact changes.

Initial Interagency Consultation Group Meeting

IMPO is responsible for initiating the ICG consultation when the TP or TIP are to be updated.

The Initial ICG Meeting (typically a conference call) should include, but not be limited to, all of the agencies listed above. IMPO should schedule conference calls for a time that is acceptable to all other ICG representatives. The ICG agencies should establish the practice of having at least one (1) staff member who can serve as an alternate contact if the primary contact is unavailable. The purpose of the Initial ICG Meeting is to establish consensus regarding the TP update/amendment schedule, latest planning assumptions, and analysis methodology. If there are no changes, the ICG may reaffirm the existing practices. Each respective MPO should provide the ICG with the necessary items as soon as possible prior to the conference call. Each MPO will respond verbally or by email to pertinent questions and comments from the ICG members.

Coordination of planning activities is addressed by the February 2005 (as updated) “Central Indiana Nonattainment Area Transportation Agreement”, on which all three Central Indiana MPO’s are signatories.

The TP will be fiscally responsible and the TIP will be fiscally constrained. The Indiana Statewide Transportation Improvement Plan (INSTIP) will be consistent with the TIPs in order to comply with the regulations in 23 CFR 450.216(b). The INDOT, CAMPO, MCCOG, and IMPO will reach consensus regarding the list of INDOT-sponsored projects to be included in the MPO TP, project design concept and scope, and the projected year that each project is expected to be open to traffic. INDOT jurisdiction projects are fiscally constrained in the context of the INDOT Statewide Transportation Plan, and thus CAMPO, MCCOG, and IMPO will not add INDOT jurisdiction projects other than those listed in the INDOT Statewide Transportation Plan (TP) without prior concurrence from INDOT or identifying an alternate funding source.

IMPO will prepare initial Meeting Minutes to document agency concurrence regarding items and all decisions made during the initial consultation meeting. IMPO will forward these Meeting

Minutes and the Project List to the ICG as soon as reasonably possible. IMPO can follow-up with ICG representatives as needed during the consultation period to clarify outstanding issues. IMPO will schedule a follow-up meeting if needed (i.e. agency concurrence can not be reached). IMPO will also schedule a meeting if any ICG member(s) call a meeting of this group to discuss issues under the purview of the ICG as described below, including whether certain events would trigger the need to make a new conformity determination for the Transportation Plan (TP) and Transportation Improvement Program (TIP). The agency requesting the follow-up meeting will be responsible for preparing and distributing the meeting minutes from that meeting.

Persons of any organizational level in the member agencies may attend meetings of the ICG. All meetings of the ICG will be open to the public, but not necessitate official public notification.

Meeting frequency will be as needed, unless there is consensus among the federal and state transportation agencies and air quality agencies to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). In most cases, consultation will be via conference call and/or email unless the ICG decides that certain items may require a face-to-face meeting and could not be handled via conference call or email.

III. Consultation for an update or amendment of the Transportation Plan (TP) and/or Transportation Improvement Plan (TIP) when a new regional analysis is required

a. Consultation Structure and Process

TP and/or TIP amendments that require a new regional emission analysis will be developed through the ICG. IMPO is responsible for convening meetings of the ICG.

Early in the TP and/or TIP development process, IMPO will develop a schedule for key activities and meetings leading up to the adoption of the TP and/or TIP. In developing the draft TP and/or TIP, each MPO brings important TP and/or TIP related issues to the ICG for discussion and feedback. Each MPO is responsible for transmitting all materials used for these discussions to the ICG prior to the meetings, or on occasion, may distribute materials at the meetings. All materials relevant to interagency consultation, such as the TP and/or TIP schedule(s), important TP and/or TIP related issues, and the draft TP and/or TIP, will also be transmitted to the ICG for discussion and feedback. Similar consultation will occur with TP amendments if a new regional analysis is required. It should be noted that amendments to the TP are few and infrequent.

Public involvement in the development of the TP and/or TIP will be provided in accordance with each respective MPO's adopted public involvement procedures in accordance with 23 CFR 450.

Policy decisions and actions pertaining to the TP and/or TIP are the responsibility of CAMPO, MCCOG, and IMPO and will be made through each MPO's Policy Board/Committee and its standing committee structure. Each MPO will respond to all significant comments for their planning area. Each MPO will transmit the TP and/or TIP related materials to be discussed at the Transportation Policy Board/Committee meeting(s) to the ICG prior to the meeting, or on occasion, may distribute materials at the meetings. Staff and policy board members of the ICG agencies are also invited to attend and participate in these meetings.

b. Agency Roles and Responsibilities.

93.105 (b)(2)(i) requires roles and responsibilities to be addressed as part of the consultation SIP. As such, the following are the expected participation of key agencies in TP and/or TIP development and review.

Agency	Roles
IMPO	<ul style="list-style-type: none">• Runs Mobile 6 (or updated version) emissions model in consultation with IDEM (below)• Prepares Conformity Demonstrations for the TP and/or TIP. Responsibilities of the IMPO should be mutually agreed upon by other appropriate ICG parties• Prepares the AQCA document for nonattainment areas• Provides a final copy of AQCA, RTP and/or TIP packages to review agencies• Maintains and manages conformity process schedule
CAMPO, MCCOG, and IMPO	<ul style="list-style-type: none">• Runs travel demand model (TDM) for the nonattainment area (or their respective portions of it) (IMPO and MCCOG only)• Updates/amends the RTP and TIP• Manages public review and comment period• Transportation Policy Board makes the conformity determination and adopts the RTP/TIP via formal resolution
INDOT	<ul style="list-style-type: none">• Submits INDOT expansion projects to MPO's for inclusion in modeling and conformity demonstration in accordance with the established conformity schedule.• Provides traffic count information, HPMS VMT, and other data, as needed, to the MPO's.• Reviews AQCA and comments within the allotted time
IDEM	<ul style="list-style-type: none">• Develops motor vehicle emissions budgets (MVEBs) in consultation with all other ICG parties• Creates and develops state implementation plans (SIPs) in consultation with all other ICG parties• Develop SIP emissions factors using the approved emissions model (or delegates responsibility as agreed with other appropriate ICG parties)• Reviews AQCA and comments within the allotted time
Indianapolis Department of Public Works	<ul style="list-style-type: none">• Reviews conformity documentation• Provides technical guidance and advice
Indianapolis Public Transit Corporation and City of Anderson Transit System	<ul style="list-style-type: none">• Reviews conformity documentation

Agency	Roles
FHWA	<ul style="list-style-type: none"> • Coordinates federal review process of the conformity determination • Facilitate additional consultation as necessary if adverse comments are received during consultation • Monitors conformity process schedule • Assists other ICG parties with commitment and follow-up • Provides technical guidance and advice on conformity • Reviews conformity documentation • Issues United States Department of Transportation (USDOT) conformity determination letter
FTA	<ul style="list-style-type: none"> • Reviews conformity documentation • Reviews AQCA and comments within the allotted time
EPA	<ul style="list-style-type: none"> • Promulgates conformity regulations • Approves the SIP and motor vehicle emissions budgets (MVEBs) • Provides technical advice and guidance on conformity • Reviews conformity determination • Reviews final AQCA and submits a recommendation for conformity finding letter

c. Consultation on TP and/or TP Amendment Conformity Analysis

Consultation on the assumptions and approach to the conformity analysis of the TP and/or TP Amendment will occur during the preparation of these documents. As a part of the TP, TP Amendment, and/or TIP development process, each MPO should consult with the ICG, at a minimum, on the following topics:

- Identification of exempt projects (by list or reference).
- Discussion of which activities trigger a conformity analysis. (93.105(c)(2)(1)).
- Identification of projects included in each analysis scenario.
- Travel demand modeling description (assumptions, methods, geographical and functional classification coverage and VMT Summary Table for various analysis years).
- Discussion of the most recent travel survey and the need for funding of research and data collection efforts and regional transportation model development (93.105(c)(6)).
- Description of the emissions modeling (emissions model used, methodology, assumptions, and sample input/output printouts).
- Description of post process analysis (including off-network VMT).
- Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 113.118(a) and 93.119(d) showing that required conformity tests were met.
- Discussion of other relevant observations or issues.
- An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs (if applicable).
- Action(s) by each MPO adopting the TP and/or TIP and that a finding of conformity with the SIP is demonstrated.

d. Consultation and Notification Procedures for Conformity Analysis of TIP and TIP Amendments

Consultation on the assumptions and approach to the conformity analysis of the TIP or TIP Amendment will occur during the preparation of the draft TIP or TIP Amendment. When preparing a new TIP, each MPO will consult with the ICG on the same topics listed for the TP (see Section II.c.), as well as the additional topics listed below:

- Identification of exempt projects in the TIP
- Identification of exempt projects which should be treated as non exempt
- Determination of projects which are regionally significant (both FHWA/FTA and non FHWA/FTA funded projects)
- Development of an Interim TIP (in the event of a conformity lapse)

For TIP Amendments, each MPO will consult with the ICG as identified below:

Consultation Required in Situations Requiring a Conformity Determination, Including But Not Limited To:

- Add a regionally significant project to the TIP when it has already been appropriately accounted for in the regional emissions analysis for the TP
- Add a non-regionally significant project to the TIP
- Add non-exempt, regionally significant project that has not been accounted for in the regional emissions analysis
- Change in non-exempt, regionally significant project that is not consistent with the design concept and scope or the conformity analysis years
- Activities that trigger a new conformity analysis and/or determination such as the effective date of adequate or approved motor vehicle emissions budgets (a new conformity determination must be made within 2 years),

The ICG review of the draft conformity analysis will typically begin during the public review period. IMPO will request the FHWA initiate the formal conformity consultation process. This is typically done by e-mail after the MPO has adopted the TP/TIP update or amendment and issued the associated conformity resolution(s). The ICG will respond promptly to the MPO staff with any comments. Members of the public can comment on the draft conformity analysis in writing or in person at each MPO's meetings prior to the close of the 30-day public review period.

The following process provides for final documents to be provided to all ICG members as required by 93.105(c)(7):

After the MPO Board approves the final conformity analysis, IMPO will provide the final conformity analysis and documentation to FHWA and the ICG for a federal conformity finding determination. FHWA will initiate formal consultation and will provide 30 days for written comments from the ICG members. If appropriate, FHWA will issue the formal conformity finding on behalf of USDOT. The TP update or amendment becomes effective the date the USDOT conformity finding is issued. The TIP update or amendment only becomes effective after the USDOT conformity finding is issued, and the FHWA approves the associated TIP

update or amendment into the INSTIP. IMPO will transmit electronic copies of the final conformity analysis to the ICG members and each MPO will place a final copy on its respective web site.

(e) Limited Consultation Required:

TP/TIP amendments/updates that only involve exempt projects will be handled in an expedited fashion. Each MPO will forward the project list to the ICG and request that any comments be submitted back to them within 1-week if there are questions regarding the exempt status of any projects. No response from the ICG will be construed as agency concurrence in the finding that the projects are exempt. ICG members who are not available during the 1 week timeframe should appoint a backup to review these proposed amendments or with an out of office message will be given additional time. The AQCA documentation and/or resolution adopting the exempt amendment will specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

Likewise, an ICG Meeting will not be scheduled if a TP/TIP amendment or update does not require a new regional emissions analysis. Each MPO will forward the project list to the ICG, identify which projects are exempt, non-exempt, and/or not regionally significant, confirm 1) that each project is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration; 2) that the open-to-traffic date of each project is consistent with the associated analysis scenario in the most recent regional emissions analysis; 3) that the previous emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119; and 4) establish a deadline for ICG comments (minimum 2-week comment period) on the conformity demonstration. No response will be construed as agency concurrence. ICG members who are not available during the 1 week timeframe should appoint a backup to review these proposed amendments or with an out of office message will be given additional time. A follow-up meeting may be needed if concurrence of all agencies is not reached. The air quality conformity analysis document and/or conformity finding/resolution will specifically reference ICG consultation and concurrence in the TP/TIP amendment/update conformity demonstration.

This section addresses the requirements of 93.105(c)(1)(v).

IV. State Implementation Plan (SIP) Consultation Process

a. SIP Consultation Structure and Process

IDEM has responsibility for developing state implementation plans (SIPs) and, as such, needs to assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIPs. The SIP will normally be developed independently of the ICG. However, all ICG agencies will be provided with information and opportunity to participate in the development of the SIP with a focus on the setting of emission budgets and developing Transportation Control Measures (TCM) for inclusion, when and if appropriate. IDEM will provide and update schedules for SIP development that will be available to all agencies and the public. Public involvement will be in accordance with IDEM's public involvement procedures. Key documents will be posted on IDEM's website. SIP development will normally cover

inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

IDEM may request each MPO to provide the travel activity data used to develop the on-road motor vehicle emissions inventory. If new transportation control strategies or TCMs are necessary to achieve and/or maintain federal air quality standards, IDEM may request that each MPO evaluate potential new measures. The ICG will be convened to discuss possible TCMs for inclusion in the SIP. This SIP and consultation process will define the motor vehicle emissions budget (MVEB), and its various components, that will be used for future conformity determinations of the TP and TIP. Before the draft SIP begins the public review process, the ICG will have an opportunity to review and comment on the proposed MVEB.

IDEM will circulate the draft SIP for public review, and all comments will be responded to in writing prior to adoption of the SIP. IDEM will then transmit the adopted submittal, along with the public notice, public hearing transcript and a summary of comments and responses, to the EPA.

V. Monitoring of Transportation Control Measures (TCMs)

The periodic conformity analyses for the TP and TIP will include updates of the implementation of TCMs in the applicable SIP. The ICG may request more frequent updates, as needed.

As a part of the new conformity analysis for an TP or TIP, each MPO will document the status of TCMs that have not been completed, by comparing progress to the implementation steps in the SIP. Where TCM emissions reductions are included as part of the MVEB, each MPO will also estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a TCM, each MPO will describe the steps being undertaken to overcome these obstacles, including means to ensure that funding agencies are giving these TCM maximum priority. Each MPO may propose substitution of a new TCM for all or a portion of an existing TCM that is experiencing implementation difficulties (see below).

VI. Substitution of TCMs in the SIP

After consultation with the ICG, each MPO may recommend and proceed with the substitution of a new TCM in the SIP to overcome implementation difficulties with an existing TCM(s). The substitution will take place in accordance with MPO's adopted TCM substitution procedures, which provide for full public involvement. In the event of possible discrepancies between MPO's TCM Substitution Procedures and those in SAFETEA (Public Law 109-59), the provisions of SAFETEA will govern.

VII. Other Interagency Consultation Group Processes and Procedures

Interagency consultation procedures for specific conformity issues are described below:

1. Defining regionally significant projects (93.105 (c) (1) (ii): Regionally significant projects are defined as a transportation projects (other than an exempt project) that is on a facility which serves regional transportation needs and would normally be included in the coded network for the regional transportation demand forecast model, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. Each MPO's travel model roadway network may also include other types of facilities for reasons of functionality or connectivity that would not normally be considered regionally significant. Each MPO will periodically review with the ICG the types of facilities and projects that are coded in the network but which they recommend should not be classified as regionally significant (and which therefore would not trigger a new regional emissions analysis if amended into the TP/TIP). IMPO will document the decisions of the ICG for future reference. The ICG will also discuss and decide that projects would not be found regionally significant according to the modeling definition above, but should be treated as regionally significant for conformity purposes. This consultation will take place prior to the beginning of the conformity modeling analysis.
2. Determination of significant change in project design concept and scope (93.105 (c) (4) and (5): Project sponsors should provide timely notice to their respective MPO of any change in the design concept or scope of any regionally significant project in the TP and/or TIP. Each MPO will consider a significant change in design concept and scope to be one that would alter the coding of the project in the transportation network associated with the regional travel model. When a project(s) have a change in design concept and scope from that assumed in the most recent conformed TP and/or TIP, the pertinent MPO will consider revisions to the TP and/or TIP if such a revision requires a new regional emissions analysis for the entire TP and/or TIP. Each MPO will evaluate projects that may be considered to have a change in design concept and scope and will consult with the ICG prior to advising the project sponsor as to how any request to amend the TP and/or TIP will proceed. Project sponsors should also provide timely notice to their MPO of any proposed regionally significant projects which should be included in TP/TIP updates prior to the beginning of the conformity analysis and must work with the MPO to provide for the design concept and scope of projects in sufficient detail to allow the MPO to perform the regional emissions analysis.
3. Determining if exempt projects should be treated as non-exempt (93.105 (c) (iii): Each MPO will identify all projects in the TP/TIP that meet the definition of an exempt project, as defined in the Conformity regulations. The MPO will provide a list of exempt projects to the ICG for review prior to releasing the draft TP/TIP for public comment. If any member of the ICG believes an exempt project has potentially adverse emission impacts or interferes with TCM implementation, they can bring their concern to the ICG for review and resolution. If it is determined by the ICG that the project should be considered non exempt, the pertinent MPO will notify the project sponsor of this determination and make appropriate changes to the conformity analysis, as required.
4. Treatment of non-FHWA/FTA regionally significant projects 93.105(c)(4): Any recipient of federal funding is required to disclose to their pertinent MPO the design concept and scope of regionally significant projects that do not use FHWA or FTA funds. Each MPO will request that INDOT and local agencies identify all such projects prior to conducting a new conformity analysis for the TP and/or TIP. As part of the conformity analysis, IMPO will

also include a written response to any significant comment received about whether any project or projects of this type are adequately accounted for in the regional emissions analysis.

5. Projects that can advance during a conformity lapse: In the event of a conformity lapse, each MPO will consult with the ICG to identify projects in the TP and/or TIP that may move forward. The MPO will also consult the ICG on the process for preparing an Interim TP and/or TIP.
6. Addressing activities and emissions that cross MPO boundaries (93.105 (c)(3): When a regionally significant project that is not exempt is proposed in another MPO's Plan or TIP crosses MPO's boundaries, the MPO's will review the project with the ICG to determine appropriate methods for addressing the emissions impact of the project in MPO's conformity analysis, consistent with EPA's conformity regulations.

VIII. Conflict Resolution (93.105 (d))

Conflicts between State agencies or between State agencies and the MPO's that arise during consultation will be resolved as follows:

1. A statement of the nature of the conflict will be prepared by the agency with the conflict and agreed to by the ICG.
2. Staff of the affected ICG agencies will meet in a good faith effort to resolve the conflict in a manner acceptable to all parties.
3. If the staff is unsuccessful, the MPO Executive Directors or their designee, Management within state agencies and all other parties to the conflict shall meet to resolve differences in a manner acceptable to all parties.
4. Following these steps, IDEM has 14 days to appeal to the Governor after INDOT or the pertinent MPO has notified IDEM that either party plans to proceed with their conformity decision or policy that is the source of the conflict. If IDEM appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If IDEM does not appeal to the Governor within 14 days, the MPO or INDOT 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 any MPO. The 14-day clock for this procedure begins when IDEM receives the notification letter sent via certified mail.

IX. Public Consultation Procedures (93.105 (e))

Each MPO will follow its adopted public involvement procedures, which were developed in accordance with the requirements for public involvement in 23 CFR 450, when making conformity determinations on transportation plans, and programs. These procedures establish a proactive public involvement process which provides opportunity for public review and

comment by, at a minimum, providing reasonable public access to technical and policy information considered by each MPO at the beginning of the public comment period and prior to taking formal action on a conformity determination for the TP and TIP, consistent with these requirements and those of 23 CFR 450.316(a). Meetings of the ICG are open to the public. Any charges imposed for public inspection and copying are consistent with the fee schedule contained in 49 CFR 7.43. The ICG agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

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**MEMORANDUM OF UNDERSTANDING
AMONG
KENTUCKIANA REGIONAL PLANNING AND DEVELOPMENT AGENCY
INDIANA DEPARTMENT OF TRANSPORTATION
KENTUCKY TRANSPORTATION CABINET
INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LOUISVILLE METRO AIR POLLUTION CONTROL DISTRICT
TRANSIT AUTHORITY OF RIVER CITY
FEDERAL HIGHWAY ADMINISTRATION
FEDERAL TRANSIT ADMINISTRATION
ENVIRONMENTAL PROTECTION AGENCY
AND
OTHER AFFECTED AGENCIES
FOR
PROCESS AND PROCEDURES FOR CONSULTATION AND DETERMINATION OF
TRANSPORTATION CONFORMITY PER 40 CFR PARTS 51 AND 93**

Introduction

The Clean Air Act (CAA) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) require evaluation of transportation plans for areas that are nonattainment of the National Ambient Air Quality Standards (NAAQS) for transported-related criteria pollutants to ensure consistency with air quality planning efforts. The agencies that work in these areas which include the local governments and air quality and transportation agencies must work together to perform this evaluation.

The United States Environmental Protection Agency and the United States Department of Transportation have promulgated regulations at 40 CFR Parts 51 and 93 and 23 CFR Part 450 describing the procedures to be used in the consultation process. Certain activities such as the update or amendment of transportation plans (TP) or transportation improvement programs (TIP) may require that a conformity determination be made.

This memorandum of understanding (MOU) establishes a detailed interagency consultation process among the Kentuckiana Regional Planning and Development Agency, the Indiana Department of Transportation, the Kentucky Transportation Cabinet, the Indiana Department of Environmental Management, the Louisville Metro Air Pollution Control District, the Transit Authority of River City, the Federal Highway Administration, the Federal Transit Administration, and the Environmental Protection Agency for the purpose of evaluating the consistency of the

transportation plans for the Louisville transportation planning study area with the requirements of the federal Clean Air Act Amendments and the State Implementation Plans (SIPs) of Indiana and Kentucky. The Louisville transportation planning study area consists of Clark and Floyd counties and 0.1 square miles in Harrison County in Indiana and Bullitt, Jefferson, and Oldham counties in Kentucky.

This MOU identifies the interagency consultation process for the review and determination of conformity of transportation plans, programs, and projects implemented by the Kentuckiana Regional Planning and Development Agency for the Louisville transportation planning study area. It outlines the process to be used by the participating and affected agencies concerning general matters of transportation conformity and in the update or amendment of the transportation plan (TP) and transportation improvement program (TIP). It details the process to be used by the Indiana Department of Environmental Management (IDEM) and the Louisville Metro Air Pollution Control District (LMAPCD) in the development and inclusion of transportation control measures in the State Implementation Plans (SIPs). Even though the Kentucky Energy and Environment Cabinet (KEEC) is not a participating agency, the process used by KEEC is expected to be similar to the one described in this document for IDEM and LMAPCD. It also provides a process for the resolution of conflicts among the affected and participating agencies.

When reviewing KIPDA's conformity assessment, USEPA Region 4 will focus on issues related to Kentucky and USEPA Region 5 will focus on issues related to Indiana. FHWA-KY and FTA Region 4 are the lead agencies for the Louisville metropolitan area and will coordinate the review.

The meaning of terms used in this document shall be consistent with the definitions provided in the federal conformity rule, 40 CFR 93. Specifically, section 40 CFR 93.101 shall be the source of definitions, if applicable.

I. Participating and Affected Agencies

- A. For purposes of this document, the "participating agencies" shall refer to the following:

The designated point of contact for each participating agency is listed after the agency name.

1. The Kentuckiana Regional Planning and Development Agency (KIPDA); *Executive Director or designee*
2. The Indiana Department of Transportation (INDOT); *Division Chief of Planning or designee*

3. The Kentucky Transportation Cabinet (KYTC);
Director of the Division of Planning or designee
4. The Indiana Department of Environmental Management (IDEM);
Branch Chief of Air Programs or designee
5. Louisville Metro Air Pollution Control District (LMAPCD);
Director or designee
6. The Transit Authority of River City (TARC);
Executive Director or designee
7. The Federal Highway Administration, Indiana Division Office (FHWA-IN); *Indiana Division Administrator or designee*
8. The Federal Highway Administration, Kentucky Division Office (FHWA-KY); *Kentucky Division Administrator or designee*
9. The Federal Transit Administration Region 4 (Region 4 FTA);
Administrator or designee
10. The Federal Transit Administration Region 5 (Region 5 FTA);
Administrator or designee
11. The US Environmental Protection Agency Region 4 (Region 4 EPA); *Administrator or designee*
12. The US Environmental Protection Agency Region 5 (Region 5 EPA); *Administrator or designee* and
13. the local governments in the Louisville transportation planning study area. *executive officer or designee*

- B. For purposes of this document, the "affected agency" shall refer to the following:

The designated point of contact for the affected agency is listed after the agency's name.

1. Kentucky Energy and Environment Cabinet (KEEC); *Director or designee*

KIPDA is the metropolitan planning organization responsible for implementing the urban transportation planning process, which includes the development of transportation plans and transportation improvement programs, for the Louisville, KY-IN transportation planning study area.

INDOT and KYTC are state agencies responsible for transportation planning and project development and are key stakeholders in the Louisville, KY-IN transportation planning study area's transportation planning and conformity processes.

IDEM, LMAPCD, and KEEC are the agencies responsible for air quality planning in the nonattainment and maintenance areas in the Louisville, KY-IN transportation planning study area. Associated responsibilities of IDEM, LMAPCD, and KEEC include the identification of the various sources of air pollutants and the development of the SIPs. The SIPs outline the control strategies for maintaining and improving air quality.

TARC is the provider of transit services in the Louisville, KY-IN transportation planning study area. TARC is a key stakeholder in the area's transportation planning and conformity processes.

FHWA and FTA are the federal agencies responsible for approving the Indiana and Kentucky Statewide Transportation Improvement Programs (STIPs). FHWA and FTA are active participants in the regional transportation planning and conformity processes and are responsible for making a formal conformity determination regarding the region's Transportation Plan and Transportation Improvement Program.

USEPA is the federal agency responsible for reviewing and approving the SIPs. USEPA is also a participant in the regional transportation planning and conformity processes and provides comment to USDOT (FHWA & FTA) regarding a regional conformity analysis prior to USDOT making a conformity determination.

The local governments include agencies which are responsible for transportation planning and project development and which are key stakeholders in the Louisville, KY-IN transportation planning study area's transportation planning and conformity processes.

Each of the agencies listed in I.A agrees to work to maintain consistency of the transportation plans and programs for the Louisville transportation planning study area with the federal Clean Air Act Amendments and the State Implementation Plans of Indiana and

Kentucky. To that end, each of these agencies shall perform the roles and responsibilities listed below within their respective jurisdiction. The agency listed in I.B. will be invited to participate in the activities undertaken to maintain the consistency mentioned above and to perform roles similar to those of their counterparts in I.A.

II. General Coordination

Overview

The participating agencies agree to consult on the matters listed in this section, which are related to transportation conformity but not directly related to the development of the SIPs, TP, TIP, and projects. KEEC will also be invited to participate.

- A. Forums for regular consultation/organizational involvement on KIPDA's committees. At the discretion of the KIPDA Transportation Policy Committee, the participating agencies shall be invited to serve on the KIPDA Transportation Technical Coordinating Committee (TTCC). In addition, these agencies shall be invited to participate on the interagency consultation group, the main group for conformity consultation. KEEC shall also be invited to serve on the TTCC and interagency consultation group. The agencies that accept the invitation to serve on TTCC may serve as voting or advisory members
- B. Notification of scheduled meetings. KIPDA, INDOT, KYTC, IDEM, LMAPCD, and TARC shall notify the other participating and affected agencies of the time and location of regularly scheduled meetings of the appropriate committees, subcommittees, workgroups, panels, etc. The agency associated with the committee, subcommittee, workgroup, panel, etc. shall be the lead agency and have responsibility for providing the notification. If available, an agenda and supporting materials shall be provided in advance of the meeting.
- C. Distribution of draft documents before formal adoption. Each of the participating agencies identified as the lead in II.B above shall be responsible for coordinating the distribution of relevant draft documents to the other participating and affected agencies, if applicable, prior to approval by the agency or the executive board of the agency. KEEC shall be requested to coordinate the distribution of relevant draft documents to the other affected and participating agencies, if applicable, prior to approval by the agency or the executive board of the agency.

- D. Technical analysis - HPMS data. INDOT and KYTC are responsible for providing current Highway Performance Monitoring System (HPMS) data to KIPDA.
- E. Consultation on transportation modeling and technical analysis assumptions. The participating agencies shall consult on data collection, the development of transportation models, the methodologies and assumptions to be used in the application of the regional travel demand forecasting model, the minimum network to be used in the regional emission analyses, and off-model calculations. KEEC shall be invited to participate in these discussions. KIPDA is responsible for the development and application of transportation models as part of its responsibilities under 23 CFR part 450 and shall serve as the lead agency and arrange the consultation. KIPDA's responsibilities include the forecasting of travel based on the forecast of growth and development developed by local land use planning agencies and adopted by the KIPDA Transportation Policy Committee. A meeting may be requested by any of the participating or affected agencies to discuss this subject. If requested, the meeting shall be called by KIPDA, and notice will be sent to the other participating and affected agencies not less than seven calendar days before the meeting.
- F. Air quality modeling coordination. The participating agencies shall consult on the methodologies and assumptions to be used in developing the parameters for the EPA-approved emissions model. KEEC shall be invited to participate in these discussions. IDEM and LMAPCD shall be responsible for running the required EPA-approved emissions model and developing emission rates for their respective jurisdictions. With the knowledge of the other participating and affected agencies and the agreement of the agency to which the responsibility is being delegated, this responsibility may be delegated by either/both agency/ies to a designated agency. In that case, the delegating agency/ies shall:
1. coordinate with the designated agency to provide the input data necessary to execute the emissions model and develop emission factors,
 2. ensure that the information is consistent with the SIP for their jurisdiction, and
 3. provide KIPDA with copies of all documentation of this coordination.

KEEC shall be requested to provide the necessary coordination for developing emission factors, ensure consistency with the Kentucky SIP, and provide documentation in a manner similar to IDEM and/or LMAPCD. A meeting may be requested by any of the participating or affected agencies to discuss this subject. If requested, the meeting shall be called by the appropriate agency (KIPDA if no other agency does so), and notice will be sent to the other agencies not less than seven calendar days before the meeting.

III. Coordination for Transportation Conformity for Transportation Plans and Transportation Improvement Programs

The participating agencies agree to implement the following process each time the transportation plan (TP) or transportation improvement program (TIP) is updated or amended. KEEC will also be invited to participate in the process.

- A. Overview of the process. When the TP and/or TIP is/are updated or amended, steps C through N shall be undertaken, as appropriate. As the lead planning agency, KIPDA shall be responsible for developing the updated or amended TP and/or TIP and for managing and facilitating the conformity process within the Louisville transportation planning study area. For any of the issues discussed in E through N below, consultation may be accomplished by a meeting of any or all of the participating and affected agencies or by a less formal means depending on the quantity and significance of the project changes involved in the update or amendment and the wishes of the agencies involved in the consultation. A meeting may be requested by any of the participating or affected agencies to discuss the subjects listed below. If requested, the meeting shall be called by KIPDA, and notice will be sent to the other agencies not less than seven calendar days before the meeting.
- B. Schedule preparation and approval. Consistent with USDOT's metropolitan planning regulations, an update of the TP is required at least every four years, and an update of the TIP is required at least every four years. When the TP or TIP is being updated, KIPDA staff shall develop a schedule for the update and shall circulate it to the participating and affected agencies for their review and comment. The schedule shall include a reasonable period of time for all efforts necessary to accomplish the update *including time for the issuance of a federal conformity determination*. The schedule shall be presented to

the Transportation Technical Coordinating Committee and to the Transportation Policy Committee for their approvals.

- C. Estimate of available funds. As per 40 CFR 93.108, TPs and TIPs must be fiscally constrained consistent with USDOT's metropolitan planning regulations. To assist in determining the fiscal constraints of the transportation plan and transportation improvement program, INDOT and KYTC shall provide KIPDA with estimates of available federal and state funds necessary to meet the fiscal constraint requirement of the TP and/or TIP.
- D. Project identification and data. KIPDA shall--as part of the TP or TIP update or amendment process--issue a call for projects from INDOT, KYTC, IDEM, LMAPCD, KEEC, TARC, the local units of government, and any other project sponsors. This call for projects shall include requests for information about regionally significant projects regardless of funding source. KIPDA shall coordinate with its Transportation Technical Coordinating Committee (TTCC) to identify the projects that shall be included in the TP and/or TIP. Data related to the projects and plans shall be provided to KIPDA by the appropriate project sponsor.
- E. Project tracking KIPDA, in consultation with the participating agencies, shall evaluate the projects in the document (TP or TIP) being updated to determine if their design concept and/or scope have been revised and whether the projects are on schedule for implementation. KEEC shall be invited to participate in these discussions. Each project sponsor shall be responsible for tracking this information concerning its projects. The project sponsor shall report to KIPDA any change in design concept, scope, or schedule as soon as it is known.

The TIP shall include a list of all projects included collectively in the regional emissions analysis as part of the base case for the purposes of the air quality conformity analysis in accordance with applicable sections of 23 CFR 450, 49 CFR 520, and 40 CFR 93.

- F. Consideration of non-federal projects. During the development stage of an updated TP and/or TIP, the project sponsors shall transmit to KIPDA plans for the construction of all known 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). Changes to such plans shall be disclosed immediately. KIPDA shall consult with the participating agencies to identify the appropriate assumed location and design scope for underdefined projects per 40 CFR 93.105(c)(5).

G. Initial Consultation Meeting/Conference Call/E-mail Exchange.
Depending on the scope of the update/amendment, the initial consultation meeting may follow any of three formats.

1. When the normal format is used, the participating and affected agencies will be contacted, and a meeting/conference call will be arranged. The following information will be transmitted to the participating and affected agencies at least 7 days prior to the meeting/conference call.
 - (a) the schedule for the update/amendment;
 - (b) a draft list of projects/project changes including (based on the information received in C through F) an indication of whether they are exempt or non-exempt, regionally significant or non-regionally significant, the open-to-traffic date, and the proposed analysis scenario (if the project is to be included in the regional emissions analysis);
 - (c) the horizon year of the transportation plan;
 - (d) the proposed conformity test methodology/ies and analysis years;
 - (e) the pollutant(s)/precursor(s) of concern and the motor vehicle emissions budget(s), if applicable;
 - (f) information concerning changes to the inputs for the travel demand model and the approved emissions model ;
 - (g) a listing of any transportation control measures (TCMs) in SIPs, if applicable.
2. An alternate format may be used when the opportunity for more extensive agency and public comment is desired (e.g. the 4-year transportation plan update). When this format is used, the participating and affected agencies will be sent a copy of the proposed schedule (usually by e-mail), and their comment will be requested. If an agency requests a meeting/conference call at that time, it will be arranged as with the normal format. If not, the additional agency and public comment will be solicited, and the information required in steps C through F will be acquired. After that, the consultation meeting/conference call described for the normal format will occur.

3. An alternate format may also be used when an amendment is not making significant changes (e.g. a small number of non-regionally significant changes to non-exempt projects). When this format is used, the participating and affected agencies will be sent a copy of the proposed schedule and the project list (usually by e-mail), and their comment will be requested. The proposed schedule shall include the other opportunities for consultation, as well as other significant activities. If an agency requests a meeting/ conference call at that time, it will be arranged as with the normal format. If not, the activities will proceed according to the proposed schedule.

Based on the initial consultation meeting/conference call/e-mail exchange, a decision will be made concerning whether the main components of a conformity analysis will be required. Those components are:

1. a new regional emissions analysis and
2. a review of the progress in implementing TCMs in the applicable SIP(s).

If a new regional emissions analysis is required, the procedures in step K will be followed. Alternately, if a new regional emissions analysis is not required, the consultation should confirm/determine whether the update/amendment only adds or deletes exempt projects or relies on a previous regional emissions analysis. If the update/amendment only adds or deletes exempt project, KIPDA staff will notify the other participating and affected agencies as outlined in the procedures of step I. Further, if the procedures in step L identify TCMs in SIPs, the progress in implementing those TCMs will be reviewed.

- H. Distribution of Project List. Regardless of the format used in G, a finalized project list will be sent to the participating and affected agencies. If the initial consultation indicates no concerns with the initial project list, it can fulfill this requirement. If an amended list is required, it should be sent to participating and affected agencies within 30 days of the initial consultation meeting/conference call.
- I. Exempt projects and notification of TP/TIP updates/amendments that merely add or delete exempt projects. As provided in step G, KIPDA, in consultation with the participating agencies, will evaluate whether projects otherwise exempt from conformity per 40 CFR 93.126 through 93.128 should be treated as non-exempt in cases where

potential adverse impacts may exist. KEEC shall be invited to participate in these discussions.

KIPDA shall notify the participating and affected agencies of TP/TIP updates or amendments that merely add or delete exempt projects as listed in 40 CFR 93.105(c)(1)(v) before approval action by the KIPDA Transportation Policy Committee is sought.

- J. Identification of transportation projects in carbon monoxide and particulate matter nonattainment areas. Should a carbon monoxide nonattainment area be designated, KIPDA, in consultation with the other participating agencies, shall transmit a list of transportation projects in the carbon monoxide nonattainment areas, as applicable. For carbon monoxide, conformity must be demonstrated using the EPA-specified emissions model. The completion of any carbon monoxide project-level analyses required under this section shall be the responsibility of the project sponsor.

For the Louisville particulate matter nonattainment/maintenance area, KIPDA, in consultation with the other participating agencies, shall transmit a list of transportation projects in the particulate matter nonattainment/maintenance area, as applicable. KEEC shall be invited to participate in the development of this list. For particulate matter, sufficient data must be provided to determine whether a particulate matter hot spot analysis is required pursuant to 40 CFR 93.116 and 93.123. The completion of any particulate matter project-level analyses required under this section shall be the responsibility of the project sponsor.

- K. Regional emissions analysis. If the consultation process indicates that the project additions, changes, and deletions warrant a new regional emissions analysis, it shall be performed by KIPDA. When a regional emissions analysis is required,
1. the analysis shall be based on the regionally-significant projects in the TP as updated or amended;
 2. KIPDA has responsibility for the forecasting of travel based on the forecast of growth and development developed by the local land use planning agencies and adopted by the KIPDA Transportation Policy Committee;

3. IDEM and/or LMAPCD and/or the designated agency (see section II.F) shall run the required EPA emissions model to estimate emission rates; and
4. KIPDA shall utilize the results of the travel forecast and the results of the emissions model to quantify the regional emissions.
5. For any nonattainment/maintenance area which includes, at least, a portion of the Louisville transportation planning study area but also includes area outside of the Louisville transportation planning study area, KIPDA and the appropriate participating and/or affected agency/ies shall consult to determine which agency/ies shall be responsible for determining the pollutant and/or precursor emissions for the portion of the nonattainment/maintenance area which lies outside the Louisville transportation planning study area. In particular, INDOT shall be responsible for the determining the emissions of fine particulate matter (PM_{2.5}) and its precursors for the Madison Township of Jefferson County, IN as long as it is part of the local PM_{2.5} nonattainment/ maintenance area. With the knowledge of the other participating and affected agencies and the agreement of the agency to which the responsibility is being delegated, INDOT may delegate this responsibility to another designated agency. In that case, INDOT shall:
 1. coordinate with the designated agency to provide any input data necessary to develop the emission estimates,
 2. ensure that the procedures used in developing the estimates are appropriate and that the emission estimates are reasonable, and
 3. provide KIPDA with copies of all documentation of this coordination.

- L. Implementation of TCMs. The participating agencies shall develop lists of TCMs in the applicable SIPs. As required in 40 CFR 93.113, the participating agencies shall track the progress of these TCMs, and KIPDA shall document in the TP or TIP any obstacles or significant delays in implementation. The participating agencies shall identify steps and actions to be taken by KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, and/or the local governments to secure approval or funding for the delayed TCMs so they receive maximum priority for implementation. If further delay is encountered, the agencies shall consider whether a SIP revision is appropriate to remove or replace the

TCMs with other emission reduction measures. KEEC shall be requested to participate in these efforts.

- M. Distribution of draft documents before formal adoption or publication. KIPDA shall forward copies of its draft updated or amended TP and/or TIP and conformity analysis directly to the participating and affected agencies. The staffs of the participating and affected agencies shall be requested to review the results of the conformity analysis. The time period for the agency review will normally be a minimum of 2 weeks. If the initial consultation followed the procedure outlined in III.G.3, the time period for this consultation shall be as agreed to in the initial consultation. If time permits, this agency review may occur before the public comment period starts. If not, the agency review shall occur during the public comment period. In particular, IDEM and LMAPCD, as the agencies responsible for air quality planning in the Indiana and Jefferson County, KY portions of the Louisville, KY-IN nonattainment areas shall assess the consistency of the conformity analyses of the TP and/or TIP with the goals and objectives of their SIPs. As the agency responsible for air quality planning in the Kentucky portion of the Louisville, KY-IN nonattainment areas outside of Jefferson County, KEEC shall also be requested to assess the consistency of the conformity analyses of the TP and/or TIP with goals and objectives of the Kentucky SIP.

Informal discussion may be initiated between the technical staffs of KIPDA and the participating and affected agencies to determine if there are any differences in interpretations of the conformity analysis results. A meeting may be requested by any of the participating or affected agencies to facilitate the discussion of results. If requested, the meeting shall be called by KIPDA, and notice will be sent to the participating and affected agencies not less than seven calendar days before the meeting. KIPDA shall respond to significant written comments.

- N. Formal process seeking the federal conformity determination. If appropriate, KIPDA shall initiate the formal process seeking the federal conformity determination for the TP and/or TIP update or amendment.
1. After addressing the comments from the public and the participating and affected agencies, KIPDA staff shall request action from the KIPDA Transportation Policy Committee adopting per 23 CFR 450.314(c) the updated or amended TP and/or TIP, including the conformity analysis, if appropriate.

This adoption shall be the basis for formal transmittal to the states and federal agencies.

2. KIPDA shall transmit copies of the updated or amended TP and/or TIP including the conformity analysis, if appropriate, and the KIPDA Transportation Policy Committee adoption action to INDOT, KYTC, IDEM, LMAPCD, KEEC, TARC, FHWA-IN, FHWA-KY, FTA-Region 4, FTA-Region 5, EPA-Region 4, and EPA-Region 5.
3. The receipt of the updated or amended TP and/or TIP including the conformity analysis by FHWA-IN and FHWA-KY will initiate a 60 day comment and response period.
4. FHWA-IN and FHWA-KY shall formally request comments from their respective EPA Region offices. This coordinated request will initiate a 30 day review and comment period for the participating and affected agencies.
5. Each participating agency shall forward comments to its respective FHWA Division Office with a copy to KIPDA. KEEC shall also be requested to forward comments to the FHWA-KY Division office with a copy to KIPDA. In particular, IDEM and LMAPCD, as the agencies responsible for air quality planning in the Indiana and Jefferson County, KY portions of the Louisville, KY-IN nonattainment areas shall assess the consistency of the conformity analyses of the TP and/or TIP with the goals and objectives of their SIPs. These agencies shall provide written comments on final conformity determinations for transportation plans and programs and for amendments related to exempt projects. As the agency responsible for air quality planning in the Kentucky portion of the Louisville, KY-IN nonattainment areas outside of Jefferson County, KEEC shall be requested to provide a similar assessment relative to the Kentucky SIP and written comments on the final conformity determinations. FHWA-IN shall forward all appropriate comments to FHWA-KY.
6. The governors of Indiana and Kentucky or their designees shall comment on the fiscal responsibility of the TP and/or shall determine KIPDA's TIP to be financially constrained during the conformity consultation.

7. FHWA-KY and FTA-Region 4 shall jointly issue a federal conformity determination to INDOT and KYTC and copy all participating and affected agencies.
8. INDOT and KYTC shall approve KIPDA's TIP for inclusion into the Indiana and Kentucky STIPs.
9. If IDEM, LMAPCD, or KEEC does not agree with the federal conformity determination, it may request review and resolution from the respective Governor's office in accordance with 40 CFR 93.105(d) and section IX of this document.

IV. The Contents of the MPO Conformity Documentation

KIPDA's conformity documentation may be included with the documentation of an updated or amended TP and/or TIP or may be provided separately or using both approaches. In either case, it should include a written summary of the conformity analysis performed, if appropriate, and provide the following information:

- A. For a conformity determination involving an update or amendment of the TP when a new regional emissions analysis is required, the documentation should include the following items, if applicable.
 1. The updated TP or information concerning amended projects;
 2. A discussion of the regional emissions analysis which should include the following:
 - a. Identification of exempt projects (by list or reference);
 - b. Identification of projects subjected to the analysis under each analysis scenario, if applicable;
 - c. Description of the travel demand modeling:
 - (1) Travel demand model used;
 - (2) Methods and assumptions used;
 - (3) Geographic and functional classification coverage; and
 - (4) Summary of vehicle-miles-traveled for each analysis scenario;

- d. Description of the emissions modeling:
 - (1) Emissions model used;
 - (2) Methodology and assumptions; and
 - (3) Sample input/output printouts;
 - e. Description of post process analysis including off-network VMT;
 - f. Tabulation of analysis results, including the calculated emissions of the appropriate pollutants and precursors, as applicable per 40 CFR 93.118(a) and 93.119(b) and (e) showing that the required conformity tests were met; and
 - g. A discussion of other relevant observations or issues;
- 3. An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs;
 - 4. Documentation of public comments and responses; and
 - 5. Action(s) by KIPDA's Transportation Policy Committee adopting the TP and that a determination of conformity with the SIP is supported.
- B. For a conformity determination involving an update of the TP or for an update of the TIP and the associated TP amendment, when a new regional emissions analysis is not required, the documentation should include the following items, if applicable.
- 1. The updated TP or the updated TIP and information concerning the amended TP projects;
 - 2. A demonstration that:
 - a. the TIP contains all projects which must be started in the TIP's timeframe in order to achieve the highway and transit system envisioned by the transportation plan;
 - b. all TIP projects which are regionally significant are included in the TP with design concept and scope adequate to determine their contribution to the TP's regional emissions at the time of the TP's conformity determination; and

- c. the design concept and scope of each regionally significant project in the TIP is not significantly different from that described in the plan;
 - 3. An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs;
 - 4. Documentation of public comments and responses, if applicable; and
 - 5. Action(s) by KIPDA's Transportation Policy Committee adopting the TP and/or TIP or amendment(s) and, if applicable, that a determination of conformity with the SIP is supported.
- C. For a conformity determination involving a TP or TIP amendment when a new regional emissions analysis is not required and which is not the update of the TIP and the associated TP amendment, the documentation should include the following items, if applicable.
- 1. Information concerning amended projects;
 - 2. Documentation of public comments and responses, if applicable; and
 - 3. Action(s) by KIPDA's Transportation Policy Committee adopting the TIP or amendment(s) and, if applicable, that a determination of conformity with the SIP is supported.

V. Coordination Related to the Development of State Implementation Plans

- A. Establishment of mobile source emissions inventories and budgets. IDEM and/or LMAPCD, in consultation with the other participating and affected agencies in their respective jurisdictions, shall be responsible for establishing mobile source emissions inventories and budgets for the appropriate pollutants and precursors in the Indiana and Jefferson County, KY portions of the Louisville, KY-IN nonattainment areas, as applicable. IDEM and/or LMAPCD shall consult with the participating and affected agencies to achieve concurrence regarding the data and assumptions to be utilized when establishing mobile source emissions inventories and budgets.

KEEC has responsibility for establishing the mobile source emissions inventories and budgets for the appropriate pollutants and precursors for the Kentucky portion of the Louisville, KY-IN nonattainment areas excluding Jefferson County, KY. Any of the participating agencies may request consultation with KEEC in the establishment of these inventories and budgets.

In the event EPA requires a new emissions model, IDEM and/or LMAPCD shall consult with the participating agencies in their respective jurisdictions to determine what revisions, if any, should be made to the mobile source emissions inventories and budgets and what roles each agency shall undertake in developing the revisions.

In the event EPA requires a new emissions model, KEEC may be requested to consult with the participating agencies in its jurisdiction to determine what revisions, if any, should be made to the mobile source emissions inventories and budgets and what role each agency shall undertake in developing the revisions.

- B. Establishment of new nonattainment areas. Should a new nonattainment area be identified in Indiana or Jefferson County, KY for criteria pollutant(s), IDEM and/or LMAPCD shall consult with the participating and affected agencies to determine the contribution of mobile sources to the nonattainment of the other criteria pollutant(s) (e.g. carbon monoxide, particulate matter), identify whether transportation is a significant contributor to the nonattainment status, and/or develop transportation strategies to reduce emissions.

Should a new nonattainment area be identified in Kentucky excluding Jefferson County for criteria pollutant(s), KEEC has responsibility for determining the contribution of mobile sources to the nonattainment of the other criteria pollutant(s) (e.g. carbon monoxide, particulate matter), identify whether transportation is a significant contributor, and/or develop transportation strategies to reduce emissions. Any of the participating agencies may request consultation with KEEC in these efforts.

- C. Development of TCMs to be included in SIP and TCM Substitution. Pursuant to Section 108(f) of the CAAA, IDEM and LMAPCD, in consultation and cooperation with the other participating and affected agencies, shall jointly develop and select reasonably available transportation control measures (TCMs) to reduce emissions from mobile sources in the Indiana and Jefferson County, KY portions of the Louisville, KY-IN nonattainment areas and commit to them in an

applicable SIP. IDEM and/or LMAPCD shall be responsible for involving the participating and affected agencies and the public in the selection or development of TCMs. In the event that IDEM and/or LMAPCD should choose to substitute one TCM for another, they shall consult with the participating and affected agencies during the development and adoption of the replacement TCM.

KEEC has responsibility to develop and select reasonably available transportation control measures (TCMs) to reduce emissions from mobile sources in the Kentucky portion of the Louisville, KY-IN nonattainment areas excluding Jefferson County and to commit to them in an applicable SIP. Any of the participating agencies may request to consult with KEEC in these efforts. In the event that KEEC should choose to substitute one TCM for another, any of the participating agencies may request to consult with KEEC during the development and adoption of the replacement TCM.

- D. SIP submittal. IDEM is responsible for the preparation of recommendations for nonattainment to EPA for the Indiana portion of the Louisville, KY-IN nonattainment areas. IDEM is also responsible for the preparation of State Implementation Plans (SIPs) and, in coordination with the participating agencies, is responsible for the preparation of emissions inventories for SIP submittals to EPA for the Indiana portion of the Louisville, KY-IN nonattainment area. Draft versions of the SIP or SIP revisions which involve mobile source emissions for the Indiana portion of the Louisville, KY-IN nonattainment areas shall be distributed by IDEM to the participating and affected agencies for comment before submitting to EPA.

LMAPCD is responsible for providing information to KEEC for the preparation of recommendations of nonattainment designations for Jefferson County, KY. LMAPCD is also responsible for the preparation of emissions inventories for Jefferson County, KY. If the Kentucky portion of the nonattainment area includes only Jefferson County, LMAPCD is responsible for the preparation of SIPs and for forwarding them to KEEC for submittal to EPA. If the Kentucky portion of the nonattainment area includes parts of Kentucky outside Jefferson County, LMAPCD is responsible for providing Jefferson County information to KEEC. Draft versions of the SIP or SIP revisions which involve mobile source emissions for the Jefferson County, KY portion of the Louisville, KY-IN nonattainment areas shall be distributed by LMAPCD to the participating agencies for comment before submitting to KEEC.

IDEM and LMAPCD (or LMAPCD jointly with KEEC if the area includes Kentucky counties outside of Jefferson County) will schedule public hearings on the proposed revisions to the respective SIPs. Written and oral comments received by IDEM and/or LMAPCD (or LMAPCD jointly with KEEC if the area includes Kentucky counties outside of Jefferson County) and their responses shall be summarized and submitted as part of the respective SIPs.

KEEC is responsible for the preparation of recommendations concerning the Kentucky nonattainment designations, emissions inventories excluding Jefferson County, and SIPs for submittal to EPA for the Kentucky portion of the Louisville, KY-IN nonattainment areas. Any of the participating agencies may request consultation with KEEC in these efforts.

VI. Process for Providing Final Documents to Each Agency

- A. Distribution of final documents of TP and/or TIP with federal conformity determination. After receiving notification of approval of the TP and/or TIP update including the federal conformity determination. KIPDA will develop additional documentation for the distribution of final documents. If, during the process of determining conformity, significant changes are required for the draft documents (TP and/or TIP), KIPDA will make the changes and provide copies of the final approved document(s) (the TP and/or TIP) including any comments received during the formal process of seeking the federal conformity determination (see section III.N.5) directly to INDOT, KYTC, IDEM, LMAPCD, KEEC, TARC, FHWA-IN, FHWA-KY, FTA-Region 4, FTA-Region 5, EPA-Region 4, EPA-Region 5. As an alternative to sending copies to the agencies listed above, KIPDA may post the final approved documents on its website and inform the other agencies of their presence at that location.

If, during the process of determining conformity, significant changes are not required for the draft documents (TP and/or TIP), KIPDA will provide copies of the notification of approval and any comments received during the formal process of seeking the federal conformity determination (see section III.N.5) directly to INDOT, KYTC, IDEM, LMAPCD, KEEC, TARC, FHWA-IN, FHWA-KY, FTA-Region 4, FTA-Region 5, EPA-Region 4, EPA-Region 5. The additional documentation added to the draft documents shall constitute the final approved documents for the TP and/or TIP. As an alternative to sending copies to the agencies listed above, KIPDA may post the final approved

documents on its website and inform the other agencies of their presence at that location.

- B. Distribution of final documents of STIPs. INDOT and KYTC shall forward copies of the final STIP documents to the participating agencies.
- C. Distribution of final documents of SIPs. IDEM and LMAPCD shall forward copies of the final mobile source portions of the SIP documents to the participating agencies. KEEC may be requested to forward copies of the final mobile source portions of their SIP document to the participating agencies.

VII. Consultation on Conformity Determination and Redetermination for Transportation Plans, TIPs, and Projects.

The participating agencies shall consult to evaluate activities that may require a conformity determination. KEEC shall be invited to participate in this consultation. A meeting may be requested by any of the participating or affected agencies to discuss this subject. If requested, the meeting shall be called by KIPDA, and notice will be sent to the participating and affected agencies not less than seven calendar days before the meeting.

VIII. Consultation on Emissions Analysis for Transportation Activities Which Cross Borders of KIPDA's Transportation Planning Study Area and/or the Louisville Nonattainment Areas.

The participating agencies shall consult on emissions analysis/es for transportation activities which cross the borders of the KIPDA transportation planning study area and/or the Louisville nonattainment areas. KEEC shall be invited to participate in this consultation. A meeting may be requested by any of the participating or affected agencies to discuss a subject of this type. If requested, the meeting shall be called by KIPDA, and notice will be sent to the participating and affected agencies not less than seven calendar days before the meeting.

IX. Resolving Conflicts

Pursuant to 40 CFR 93.105(d), conflicts between the state/local air quality agencies (IDEM, LMAPCD), KIPDA, and/or either/both of the state departments of transportation (DOTs) (INDOT, KYTC) regarding conformity

determinations that cannot be resolved shall be submitted to the Governor of the appropriate state for resolution. Should the air quality agency/ies maintain specific concerns regarding KIPDA's TP and/or TIP conformity determination/analysis, the air quality agency/ies will notify KIPDA and the appropriate state DOT(s) of its concerns in writing. KIPDA and/or the appropriate DOT(s) shall be responsible for responding to the air quality agency's/ies' concerns in writing. Once the air quality agency/ies receive(s) a letter(s) of response from KIPDA and/or the appropriate DOT(s), and should the air quality agency/ies determine that the letter(s) of response does/do not adequately resolve the air quality agency's/ies' concerns, the air quality agency/ies will have fourteen days from the date stamped as "received" on the letter(s) of response to appeal to the appropriate Governor. If the air quality agency/ies does/do not appeal, KIPDA may proceed with the final conformity determination. If the air quality agency/ies appeals, then the conformity determination must have the concurrence of the appropriate Governor before it is accepted as final.

Since conflict resolution is accomplished pursuant to 40 CFR 93.105(d), it is expected that conflicts involving KEEC, KIPDA, and KYTC regarding conformity determinations that cannot be resolved will be submitted to the Governor of Kentucky for resolution. It is expected that the process for resolution will be identical to that listed above.

X. Public Involvement

For matters related to the conformity of transportation plans, transportation improvement programs, and transportation projects, the adopted KIPDA, INDOT, KYTC, and TARC public involvement procedures detail the methods used to solicit public comments. The public involvement plans for these agencies are available from the respective agency upon request. The public involvement process shall be consistent with the above referenced public involvement procedures of the agency responsible for the meeting. Any modification to the public involvement procedures requires a minimum public comment period of 45 days before the public involvement process is formally modified. There shall 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.

For matters related to State Implementation Plans, the public involvement requirements applicable to IDEM, KEEC, and LMAPCD are established in Clean Air Act, Section 110(l) and 40 CFR 51, Appendix V. The public involvement process shall be consistent with the above referenced public involvement requirements of the agency responsible for the meeting.

All public comments asserting that there are regionally significant projects not receiving FHWA/FTA funding or approval which have not been properly reflected in the emissions analysis supporting a proposed conformity determination for a TP or TIP and their amendments shall be addressed in writing by KIPDA and/or the implementing agency. These requirements shall work in conjunction with public involvement practices established under 23 CFR part 450 and 40 CFR 93.105(e).

XI. Revisiting Consultation Procedures and Revising MOU

The consultation procedures outlined in this MOU will be revisited and possibly revised periodically as deemed appropriate by the participating agencies. The events most likely to trigger revisions of this MOU would be new or amended federal and state legislation and/or regulations that affect transportation conformity.

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

LIST of SIGNATORIES

Note: Signatures appear on separate, multiple pages.

Executive Director
Kentuckiana Regional Planning and Development Agency

Deputy Commissioner
Planning Operations, Indiana Department of Transportation

Secretary
Kentucky Transportation Cabinet

Commissioner
Indiana Department of Environmental Management

Executive Director
Louisville Metro Air Pollution Control District

Executive Director
Transit Authority of River City

Division Administrator
Federal Highway Administration, Indiana Division

Division Administrator
Federal Highway Administration, Kentucky Division

Regional Administrator
Federal Transit Administration, Region 4

Regional Administrator
Federal Transit Administration, Region 5


Regional Administrator
Environmental Protection Agency, Region 4

Regional Administrator
Environmental Protection Agency, Region 5

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

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for

Executive Director
Kentuckiana Regional Planning and Development Agency

8/7/08

Date

MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.



Deputy Commissioner

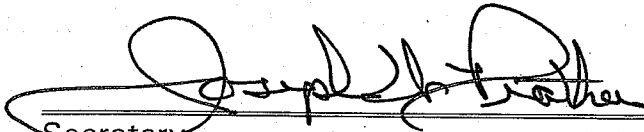
Planning Operations, Indiana Department of Transportation

7/22/08
Date

MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

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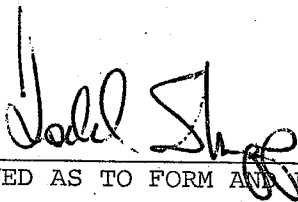


Secretary

Kentucky Transportation Cabinet

12/9/08

Date

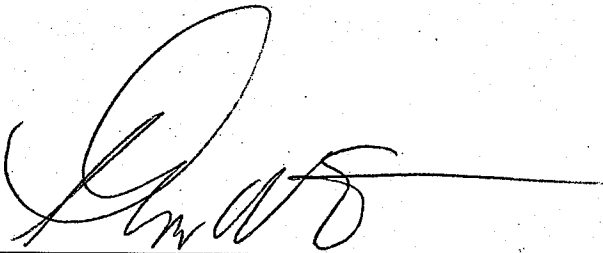


APPROVED AS TO FORM AND LEGALITY

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.



Commissioner
Indiana Department of Environmental Management

AUGUST 22, 2008
Date

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.

C. Bruce Taylor 7-23-08

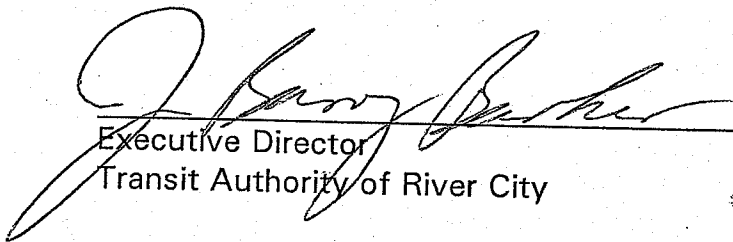
Executive Director
Louisville Metro Air Pollution Control District

Date

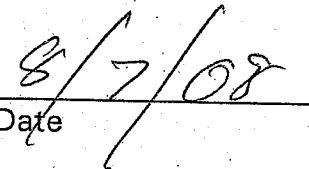
**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.



Executive Director
Transit Authority of River City

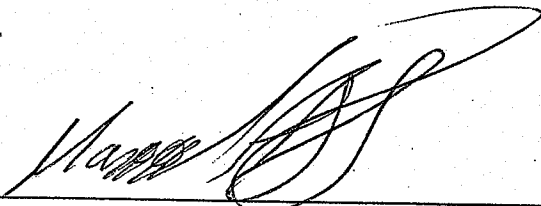


Date

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.

For 

Division Administrator
Federal Highway Administration, Indiana Division

8/4/08

Date

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.



Division Administrator
Federal Highway Administration, Kentucky Division

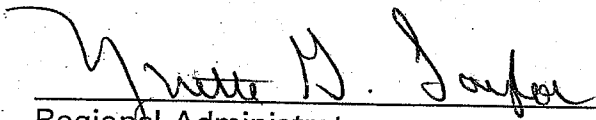
8/5/8

Date

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.



Regional Administrator
Federal Transit Administration, Region 4

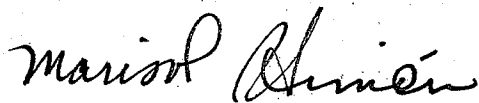
8-12-08

Date

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.



Regional Administrator
Federal Transit Administration, Region 5

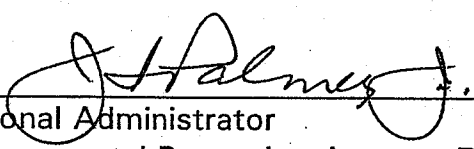
9-5-2008

Date

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.



Regional Administrator
Environmental Protection Agency, Region 4

SEP 26 2008

Date

**MEMORANDUM OF UNDERSTANDING
TRANSPORTATION CONFORMITY
CONSULTATION PROCEDURES**

Parties: KIPDA, INDOT, KYTC, IDEM, LMAPCD, TARC, FHWA, FTA, and EPA

Note: Signatures appear on separate, multiple pages.

Lynn Buhl

Regional Administrator
Environmental Protection Agency, Region 5

8/22/08

Date

Resolution 20-08

This resolution approves the “Michiana Area Council of Governments Transportation Air Quality Conformity Procedures,” listed as Attachment A (conformity procedures) and Attachment B (interagency consultation procedures), for determining the conformity of the Regional Transportation Plan and Transportation Improvement Program with state and federal air quality plans and procedures. These two attachments constitute the “Conformity SIP” (the conformity portion of the state and federal air quality plan, called the State Implementation Plan) for St. Joseph and Elkhart Counties, which is the Metropolitan Planning Area.

This Resolution will be submitted to the Indiana Department of Environmental Management (IDEM) and the U.S. Environmental Protection Agency (EPA) for approval as revisions to the Indiana State Implementation Plan (SIP), which governs transportation conformity and decisions in St. Joseph and Elkhart Counties.

Quinn Smith
Chair
St. Joseph and Elkhart
County Council

Approval of MPO Specific Transportation Air Quality Conformity Procedures

MPO: Michiana Area Council of Governments

RESOLUTION 20-08

WHEREAS, the MPO: Michiana Area Council of Governments is the regional transportation agency for St. Joseph and Elkhart Counties, which comprises the Metropolitan Planning Area pursuant to 23 CFR 450 and 49 CFR 613; and

WHEREAS, the Michiana Area Council of Governments and Indiana Department of Environmental Management are collectively responsible for developing and implementing various portions of the federal air quality plans in St. Joseph and Elkhart Counties; and

WHEREAS, prior to adopting or amending the long-range Transportation Plan (TP) and Transportation Improvement Program (TIP), the Michiana Area Council of Governments must first determine that these plans and programs conform to the state and federal air quality plan for St. Joseph and Elkhart Counties (termed the State Implementation Plan, or SIP) using procedures established by the U.S. Environmental Protection Agency (EPA); and

WHEREAS, the Interagency Consultation Group (IGC) has prepared Procedures for determining transportation air quality conformity in compliance with Federal regulation entitled: Michiana Area Council of Governments Transportation Air Quality Conformity Procedures (“the Procedures”), which includes certain conformity procedures relating to transportation plans, programs, and projects and the interagency consultation procedures, attached hereto as Attachment A and Attachment B, respectively, and incorporated herein as though set forth at length; and

WHEREAS, the IGC has revised the Procedures to reflect the most recent guidance provided by the U.S. EPA; and

WHEREAS, the Procedures must be submitted to the Indiana Department of Environmental Management (IDEM) for review and subsequent submittal to the U.S. EPA for revision of the Indiana Conformity SIP;

BE IT, THEREFORE, RESOLVED, that the Procedures to be included in the Conformity SIP are approved for submission to IDEM and to U.S. EPA; and, be it further

RESOLVED, that the Michiana Area Council of Governments staff may make minor adjustments, as necessary, to the Procedures in the Conformity SIP in response to public comment received by IDEM and U.S. EPA, and be it further

RESOLVED, that the Michiana Area Council of Governments at its regular meeting on March 12, 2008 approved the MPO Specific Transportation Air Quality Conformity Procedures and agreed to follow the Procedures.



Michiana Area Council of Governments

John Letherman, Chairman

Date:

DRAFT
ICG Deliberative Purposes Only

Referred by:

Attachment A
Resolution No. _____
Page 1 of 1

MICHIANA AREA COUNCIL OF GOVERNMENTS
TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Conformity Procedures

SUMMARY:

Current federal law does not require that EPA's detailed procedures for determining the conformity of plans, programs and projects be included in a "Conformity SIP". This SIP revision however must include procedures for interagency consultation (Federal, State and local), resolution of conflict and public consultation set forth in 40 CFR 93.105 (consultation procedures are found in Attachment B), and provisions for written commitments for control and mitigation measures required by 40 CFR 93.122(a)(4)(ii) and 125(c) (these commitments are below). This document, when submitted and approved as a SIP revision, gives full legal effect to the following three requirements of the Federal Transportation conformity Rule, 40 CFR part 93 subpart A: (1) 40 CFR 93.105, which addresses consultation procedures, (2) 40 CFR 93.122(a)(4)(ii), which states that conformity SIPs must require written commitments to control measures to be obtained prior to a conformity determination if the control measures are not included in a Metropolitan Planning Organization's transportation plan and transportation improvement program, and that such commitments be fulfilled; and (3) 40 CFR 93.125(c), which states that conformity SIPs must require written commitments to mitigation measures to be obtained prior to a project-level conformity determination, and that project sponsors comply with such commitments. Following EPA approval of this regulation as a revision to the SIP, conformity determinations will be governed by the approved state criteria and procedures as well as any applicable portions of the federal conformity rules that are not addressed by this document.

PROVISIONS FOR Written Commitments Required by 40 CFR 93.122(a)(4)(ii) and 93.125(c):

As set forth in CFR 93.122(a)(4)(ii), emission reduction credit from control measures that are not included in the transportation plan and transportation improvement plan and that do not require a regulatory action in order to be implemented may not be included in the emissions study unless the conformity determination includes written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to control measures that are not included in the transportation plan and TIP must be obtained prior to a conformity determination and that such commitments must be fulfilled. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

As set forth in 40 CFR 93.125(c), 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 Laws, 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 CO, PM₁₀, or PM_{2.5} impacts. Before a conformity determination is made, 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 are included in the project design concept and scope which is used in the regional emissions analysis required by 40 CFR 93.118 and 119 or used in the project-level hot-spot analysis required by 40 CFR 93.116. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

MICHIANA AREA COUNCIL OF GOVERNMENTS TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Interagency Consultation Procedures

I. Definitions

AQCA - Air Quality Conformity Analysis
FHWA - Federal Highway Administration
FTA - Federal Transit Administration
HPMS - Highway Performance Monitoring System
ICG - Interagency Consultation Group
IDEM - Indiana Department of Environment Management
INDOT- Indiana Department of Transportation
INSTIP - Indiana Statewide Transportation Improvement Program
MPO - Metropolitan Planning Organization
MVEB - Motor Vehicle Emissions Budget
NEPA - National Environmental Policy Act
SIP - State Implementation Plan
TCMs - Transportation Control Measures
TDM - Travel Demand Model
TIP - Transportation Improvement Program
TP - Transportation Plan
USDOT - United States Department of Transportation
EPA - United States Environmental Protection Agency
VMT - Vehicle Miles Traveled

II. General

These procedures implement the interagency consultation process as required in 93.105(b) for Elkhart and St. Joseph County, which is the Metropolitan Planning Area and include procedures to be undertaken by the MPO, Indiana Department of Transportation (INDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Indiana Department of Environment Management, EPA, local air and transit agencies (where appropriate) and other agencies not listed, before making transportation conformity determinations on the Transportation Plan (TP) and Transportation Improvement Program (TIP).

Additional details on consultation are contained in the Indiana guidance document on transportation conformity "Interagency Consultation Group Conformity Consultation Guidance, August 2007". This guidance document provides MPOs with detailed guidance on conformity

consultation and procedures but is not legally binding. Only the procedures approved into the State Implementation Plan (SIP) are legally binding.

Interagency Consultation Group

To conduct consultation, staff involved in conformity issues for their respective agencies will participate in an Air Quality Conformity Task Force, hereafter referred to as the “Interagency Consultation Group.” The Interagency Consultation Group (ICG) is open to all interested agencies, but typically includes, as a minimum, staff of:

- Federal agencies: FHWA, EPA, FTA
- State Agencies: INDOT, IDEM, other multi-state regional state agencies
- Regional Planning Organization: Michiana Council of Governments
- Local transit operators including TRANSPO, the Interurban Trolley, Heart City Rider and Goshen Transit Service

The Michiana Area Council of Governments will maintain a directory for the current membership agencies of the ICG. These agencies are responsible to notify ICG upon individual contact changes.

Initial Interagency Consultation Group Meeting

The Michiana Area Council of Governments is responsible for initiating the ICG consultation when the TP or TIP is to be updated.

The Initial ICG Meeting (typically a conference call) should include, but not be limited to, all of the agencies listed above. The Michiana Area Council of Governments should schedule conference calls for a time that is acceptable to all other ICG representatives. The ICG agencies should establish the practice of having at least 1 staff member who can serve as an alternate contact if the primary contact is unavailable. The purpose of the Initial ICG Meeting is to establish consensus regarding the TP update/amendment schedule, latest planning assumptions, and analysis methodology. If there are no changes, the ICG may reaffirm the existing practices. The Michiana Area Council of Governments should provide the ICG with the necessary items as soon as possible prior to the conference call. The Michiana Area Council of Governments will respond verbally or by email to all questions and comments from the ICG members.

For transportation activities which cross the borders of the Michiana Area Council of Governments Planning Area or nonattainment areas, or where a nonattainment area involves a donut area and/or multiple MPOs, the conformity test methodology will clearly delineate agency responsibilities for modeling, assembly of the air quality conformity analysis document, public involvement, and how the respective conformity finding(s) will be issued. The Michiana Area Council of Governments will conduct the conformity analysis for all of Elkhart and St. Joseph County(s), which comprise the designated nonattainment/maintenance area.

The TP will be fiscally responsible and the TIP will be fiscally constrained. The Indiana Statewide Transportation Improvement Plan (INSTIP) will be consistent with the TIPs in order to comply with the regulations in 23 CFR 450.216(b). The INDOT and Michiana Area Council of Governments will reach consensus regarding the list of INDOT-sponsored projects to be included in the MPO TP, project design concept and scope, and the projected year that each project is

expected to be open to traffic. INDOT jurisdiction projects are fiscally constrained in the context of the INDOT Statewide Transportation Plan, and thus the Michiana Area Council of Governments will not add INDOT jurisdiction projects other than those listed in the INDOT Statewide Transportation Plan (TP) without prior concurrence from INDOT or identifying an alternate funding source.

The Michiana Area Council of Governments will prepare initial Meeting Minutes to document agency concurrence regarding items and all decisions made during the initial consultation meeting. The Michiana Area Council of Governments will forward these Meeting Minutes and the Project List to the ICG as soon as reasonably possible. The Michiana Area Council of Governments: can follow-up with ICG representatives as needed during the consultation period to clarify outstanding issues. The Michiana Area Council of Governments will schedule a follow-up meeting if needed (i.e. agency concurrence can not be reached). The Michiana Area Council of Governments will also schedule a meeting if any ICG member(s) call a meeting of this group to discuss issues under the purview of the ICG as described below, including whether certain events would trigger the need to make a new conformity determination for the Transportation Plan (TP) and Transportation Improvement Program (TIP). The agency requesting the follow-up meeting will be responsible for preparing and distributing the meeting minutes from that meeting.

Persons of any organizational level in the member agencies may attend meetings of the ICG. All meetings of the ICG will be open to the public, but do not necessitate official public notification.

Meeting frequency will be as needed, unless there is consensus among the federal and state transportation agencies and air quality agencies to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). In most cases, consultation will be via conference call and/or email unless the ICG decides that certain items may require a face-to-face meeting and could not be handled via conference call or email.

III. Consultation for an update or amendment of the Transportation Plan (TP) and/or Transportation Improvement Plan (TIP) when a new regional analysis is required

a. Consultation Structure and Process

TP and/or TIP amendments that require a new regional emission analysis will be developed through the ICG. The Michiana Area Council of Governments is responsible for convening meetings of the ICG.

Early in the TP and/or TIP development process, the Michiana Area Council of Governments will develop a schedule for key activities and meetings leading up to the adoption of the TP and/or TIP. In developing the draft TP and/or TIP, the Michiana Area Council of Governments brings important TP and/or TIP related issues to the ICG for discussion and feedback. The Michiana Area Council of Governments is responsible for transmitting all materials used for these discussions to the ICG prior to the meetings, or on occasion, may distribute materials at the meetings. All materials that are relevant to interagency consultation, such as the TP and/or TIP schedule(s), important TP and/or TIP related issues, and the draft TP and/or TIP, will also be

transmitted to the ICG for discussion and feedback. Similar consultation will occur with TP amendments if a new regional analysis is required. It should be noted that amendments to the TP are few and infrequent.

Public involvement in the development of the TP and/or TIP will be provided in accordance with the Michiana Area Council of Governments's adopted public involvement procedures in accordance with 23 CFR 450.

Policy decisions and actions pertaining to the TP and/or TIP are the responsibility of the Michiana Area Council of Governments and will be made through the Michiana Area Council of Governments' Policy Board and its standing committee structure. The Michiana Area Council of Governments staff will respond to all significant comments. The Michiana Area Council of Governments will transmit the TP and/or TIP related materials to be discussed at the MACOG Policy Board/Committee meeting(s) to the ICG prior to the meeting, or on occasion, may distribute materials at the meetings. Staff and policy board members of the ICG agencies are also invited to attend and participate in these meetings.

b. Agency Roles and Responsibilities

93.105 (b)(2)(i) requires roles and responsibilities to be addressed as part of the consultation SIP. As such, the following are the expected participation of key agencies in TP and/or TIP development and review.

Agency	Roles
Michiana Area Council of Governments	<ul style="list-style-type: none"> • Runs travel demand model (TDM) and generates VMT for mobile source emissions inventory development in coordination with IDEM and the ICG • Updates/amends the RTP and TIP • Prepares Conformity Demonstrations for the RTP and/or TIP. Responsibilities of the MPO should be mutually agreed upon by the MPO in consultation with other appropriate ICG parties. • Prepares the AQCA document for nonattainment areas in the MPO planning area • Manages public review and comment period • Transportation Policy Board makes the conformity determination and adopts the RTP/TIP via formal resolution • Provides a final copy of AQCA, RTP and/or TIP packages to review agencies • Maintains and manages conformity process schedule
INDOT	<ul style="list-style-type: none"> • Runs Statewide travel demand model for non-MPO areas of the State • Submits INDOT expansion projects to MPO for inclusion in modeling and conformity demonstration in accordance with the established conformity schedule. • Provides traffic count information, HPMS VMT, and other data, as needed, to the MPO. • Prepares AQCA for rural nonattainment areas (ozone and PM 2.5), as needed • Reviews AQCA and comments within the allotted time

Agency	Roles
IDEM	<ul style="list-style-type: none"> • Develops motor vehicle emissions budgets (MVEBs) in consultation with all other ICG parties • Creates and develops state implementation plans (SIPs) in consultation with all other ICG parties • Develop SIP emissions factors using the approved emissions model (or delegates responsibility as agreed with other appropriate ICG parties) • Reviews AQCA and comments within the allotted time
FHWA	<ul style="list-style-type: none"> • Coordinates federal review process of the conformity determination • Facilitate additional consultation as necessary if adverse comments are received during consultation • Monitors MPO conformity process schedule • Assists other ICG parties with commitment follow-up • Provides technical guidance and advice on conformity • Reviews conformity documentation • Issues United States Department of Transportation (USDOT) conformity determination letter
FTA	<ul style="list-style-type: none"> • Reviews conformity documentation • Reviews AQCA and comments within the allotted time
EPA	<ul style="list-style-type: none"> • Promulgates conformity regulations • Approves the SIP and motor vehicle emissions budgets (MVEBs) • Provides technical advice and guidance on conformity • Reviews conformity determination • Reviews final AQCA and submits a recommendation for conformity finding letter

c. Consultation on TP and/or TP Amendment Conformity Analysis

Consultation on the assumptions and approach to the conformity analysis of the TP and/or TP Amendment will occur during the preparation of these documents. As a part of the TP, TP Amendment, and/or TIP development process, the Michiana Area Council of Governments should consult with the ICG, at a minimum, on the following topics:

- Identification of exempt projects (by list or reference)
- Discussion of which activities trigger a conformity analysis. (93.105(c)(2)(1))
- Identification of projects included in each analysis scenario
- Travel demand modeling description (assumptions, methods, geographical and functional classification coverage and VMT Summary Table for various analysis years)
- Discussion of the most recent travel survey and the need for funding of research and data collection efforts and regional transportation model development (93.105(c)(6))
- Description of the emissions modeling (emissions model used, methodology, assumptions, and sample input/output printouts)
- Description of post process analysis (including off-network VMT)
- Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 113.118(a) and 93.119(d) showing that required conformity tests were met.

- Discussion of other relevant observations or issues.
- An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs (if applicable).
- Action(s) by the Michiana Area Council of Governments adopting the TP and/or TIP and that a finding of conformity with the SIP is demonstrated.

d. Consultation and Notification Procedures for Conformity Analysis of TIP and TIP

Amendments

Consultation on the assumptions and approach to the conformity analysis of the TIP or TIP Amendment will occur during the preparation of the draft TIP or TIP Amendment. When preparing a new TIP, the Michiana Area Council of Governments will consult with the ICG on the same topics listed for the TP (see Section II.c.), as well as the additional topics listed below:

- Identification of exempt projects in the TIP
- Identification of exempt projects which should be treated as non exempt
- Determination of projects which are regionally significant (both FHWA/FTA and non FHWA/FTA funded projects)
- Development of an Interim TIP (in the event of a conformity lapse)

For TIP Amendments, the Michiana Area Council of Governments will consult with the ICG as identified below. Consultation is required in situations requiring a conformity determination including but not limited to:

- Add a regionally significant project to the TIP when it has already been appropriately accounted for in the regional emissions analysis for the TP;
- Add a non-regionally significant project to the TIP;
- Add non-exempt, regionally significant project that has not been accounted for in the regional emissions analysis;
- Change in non-exempt, regionally significant project that is not consistent with the design concept and scope or the conformity analysis years;
- Activities that trigger a new conformity analysis and/or determination such as the effective date of adequate or approved motor vehicle emissions budgets (a new conformity determination must be made within 2 years).

The ICG review of the draft conformity analysis will typically begin during the public review period. The Michiana Area Council of Governments will request the FHWA initiate the formal conformity consultation process. This is typically done by e-mail after the MPO has adopted the TP/TIP update or amendment and issued the associated conformity resolution(s). The ICG will respond promptly to the Michiana Area Council of Governments staff with any comments. Members of the public can comment on the draft conformity analysis in writing or in person at Michiana Area Council of Governments meetings prior to the close of the 30-day public review period.

The following process provides for final documents to be provided to all ICG members as required by 93.105(c)(7).

After the MPO Board approves the final conformity analysis, the Michiana Area Council of Governments will provide the final conformity analysis and documentation to FHWA and the ICG for a federal conformity finding determination. FHWA will initiate formal consultation and will provide 30 days for written comments from the ICG members. If appropriate, FHWA will issue the formal conformity finding on behalf of USDOT. The TP update or amendment becomes effective the date the USDOT conformity finding is issued. The TIP update or amendment only becomes effective after the USDOT conformity finding is issued, and the FHWA approves the associated TIP update or amendment into the INSTIP. The Michiana Area Council of Governments will transmit electronic copies of the final conformity analysis to the ICG members and place a final copy on the MPO's Web site.

e. Limited Consultation Required

TP/TIP amendments/updates that only involve exempt projects will be handled in an expedited fashion. The Michiana Area Council of Governments will forward the project list to the ICG and request that any comments be submitted within 1-week if there are questions regarding the exempt status of any projects. No response from the ICG will be construed as agency concurrence in the finding that the projects are exempt. ICG members who are not available during the 1-week timeframe should appoint a backup to review these proposed amendments. The AQCA documentation and/or resolution adopting the exempt amendment will specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

Likewise, an ICG Meeting will not be scheduled if a TP/TIP amendment or update does not require a new regional emissions analysis. The Michiana Area Council of Governments will forward the project list to the ICG, identify which projects are exempt, non-exempt, and/or not regionally significant, confirm that each project is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration, affirm that the open-to-traffic date of each project is consistent with the associated analysis scenario in the most recent regional emissions analysis, confirm that the previous emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119, and establish a deadline for ICG comments (minimum 2-week comment period) on the conformity demonstration. No response will be construed as agency concurrence. ICG members who are not available during the 2-week timeframe should appoint a backup to review these proposed amendments. A follow-up meeting may be needed if concurrence of all agencies is not reached. The air quality conformity analysis document and/or conformity finding/resolution will specifically reference ICG consultation and concurrence in the TP/TIP amendment/update conformity demonstration.

This section addresses the requirements of 93.105(c)(1)(v).

IV. State Implementation Plan (SIP) Consultation Process

a. SIP Consultation Structure and Process

IDEM has responsibility for developing state implementation plans (SIPs) and, as such, needs to assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIPs. The SIP will normally be developed independently of the ICG. However,

all ICG agencies will be provided with information and opportunity to participate in the development of the SIP with a focus on the setting of emission budgets and developing Transportation Control Measures (TCM) for inclusion, when and if appropriate. IDEM will provide and update schedules for SIP development that will be available to all agencies and the public. Public involvement will be in accordance with IDEM's public involvement procedures. Key documents will be posted on IDEM's website. SIP development will normally cover inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

IDEM may request the Michiana Area Council of Governments to provide the travel activity data used to develop the on-road motor vehicle emissions inventory. If new transportation control strategies or TCMs are necessary to achieve and/or maintain federal air quality standards, IDEM may request that the Michiana Area Council of Governments evaluate potential new measures. The ICG will be convened to discuss possible TCMs for inclusion in the SIP. This SIP and consultation process will define the motor vehicle emissions budget (MVEB), and its various components, that will be used for future conformity determinations of the TP and TIP. Before the draft SIP begins the public review process, the ICG will have an opportunity to review and comment on the proposed MVEB.

IDEM will circulate the draft SIP for public review, and all comments will be responded to in writing prior to adoption of the SIP. IDEM will then transmit the adopted submittal, along with the public notice, public hearing transcript and a summary of comments and responses, to the EPA.

V. Monitoring of Transportation Control Measures (TCMs)

The periodic conformity analyses for the TP and TIP will include updates of the implementation of TCMs in the applicable SIP. The ICG may request more frequent updates, as needed.

As a part of the new conformity analysis for a TP or TIP, the Michiana Area Council of Governments will document the status of TCMs that have not been completed, by comparing progress to the implementation steps in the SIP. Where TCM emissions reductions are included as part of the MVEB, the Michiana Area Council of Governments will also estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a TCM, the Michiana Area Council of Governments will describe the steps being undertaken to overcome these obstacles, including means to ensure that funding agencies are giving these TCM maximum priority. The Michiana Area Council of Governments may propose substitution of a new TCM for all or a portion of an existing TCM that is experiencing implementation difficulties (see below).

VI. Substitution of TCMs in the SIP

After consultation with the ICG, the Michiana Area Council of Governments may recommend and proceed with the substitution of a new TCM in the SIP to overcome implementation difficulties with an existing TCM(s). The substitution will take place in accordance with MPO's adopted TCM substitution procedures, which provide for full public involvement. In the event of possible discrepancies between MPO's TCM Substitution Procedures and those in SAFETEA (Public Law 109-59), the provisions of SAFETEA will govern.

VII. Other Interagency Consultation Group Processes and Procedures

Interagency consultation procedures for specific conformity issues are described below.

1. Defining regionally significant projects (93.105 (c) (1) (ii))

Regionally significant projects are defined as a transportation projects (other than an exempt project) that is on a facility which serves regional transportation needs and would normally be included in the coded network for the regional transportation demand forecast model, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. The MPO's travel model roadway network may also include other types of facilities for reasons of functionality or connectivity that would not normally be considered regionally significant. The MPO will periodically review with the ICG the types of facilities and projects that are coded in the network but which the Michiana Area Council of Governments recommends should not be classified as regionally significant (and which therefore would not trigger a new regional emissions analysis if amended into the TP/TIP). The Michiana Area Council of Governments will document the decisions of the ICG for future reference. The ICG will also discuss and decide that projects would not be found regionally significant according to the modeling definition above, but should be treated as regionally significant for conformity purposes. This consultation will take place prior to the beginning of the conformity modeling analysis.

2. Determination of significant change in project design concept and scope (93.105 (c) (4) and (5))

Project sponsors should provide timely notice to the Michiana Area Council of Governments of any change in the design concept or scope of any regionally significant project in the TP and/or TIP. The Michiana Area Council of Governments will consider a significant change in design concept and scope to be one that would alter the coding of the project in the transportation network associated with the regional travel model. When a project(s) has a change in design concept and scope from that assumed in the most recent conformed TP and/or TIP, the Michiana Area Council of Governments will consider revisions to the TP and/or TIP if such a revision requires a new regional emissions analysis for the entire TP and/or TIP. The Michiana Area Council of Governments will evaluate projects that may be considered to have a change in design concept and scope and will consult with the ICG prior to advising the project sponsor as to how the Michiana Area Council of Governments intends to proceed with any request to amend the TP and/or TIP. Project sponsors should also provide timely notice to the Michiana Area Council of Governments of any proposed regionally significant projects which should be included in TP/TIP

updates prior to the beginning of the conformity analysis and must work with the MPO to provide for the design concept and scope of projects in sufficient detail to allow the MPO to perform the regional emissions analysis.

3. Determining if exempt projects should be treated as non-exempt (93.105 (c) (iii))

The Michiana Area Council of Governments will identify all projects in the TP/TIP that meet the definition of an exempt project, as defined in the Conformity regulations. The Michiana Area Council of Governments will provide a list of exempt projects to the ICG for review prior to releasing the draft TP/TIP for public comment. If any member of the ICG believes an exempt project has potentially adverse emission impacts or interferes with TCM implementation, they can bring their concern to the ICG for review and resolution. If it is determined by the ICG that the project should be considered non exempt, the Michiana Area Council of Governments will notify the project sponsor of this determination and make appropriate changes to the conformity analysis, as required.

4. Treatment of non-FHWA/FTA regionally significant projects 93.105(c)(4)

Any recipient of federal funding is required to disclose to the Michiana Area Council of Governments the design concept and scope of regionally significant projects that do not use FHWA or FTA funds. The Michiana Area Council of Governments will request that INDOT and local agencies identify all such projects prior to conducting a new conformity analysis for the TP and/or TIP. As part of the conformity analysis, the Michiana Area Council of Governments will also include a written response to any significant comment received about whether any project or projects of this type are adequately accounted for in the regional emissions analysis.

5. Projects that can advance during a conformity lapse

In the event of a conformity lapse, the Michiana Area Council of Governments will consult with the ICG to identify projects in the TP and/or TIP that may move forward. The Michiana Area Council of Governments will also consult the ICG on the process for preparing an Interim TP and/or TIP.

6. Addressing activities and emissions that cross MPO boundaries (93.105 (c)(3))

When a regionally significant project that is not exempt is proposed in another MPO's Plan or TIP crosses MPO's boundaries, the Michiana Area Council of Governments will review the project with the ICG to determine appropriate methods for addressing the emissions impact of the project in MPO's conformity analysis, consistent with EPA's conformity regulations.

VIII. Conflict Resolution (93.105 (d))

Conflicts between State agencies or between State agencies and the Michiana Area Council of Governments that arise during consultation will be resolved as follows.

1. A statement of the nature of the conflict will be prepared by the agency with the conflict and agreed to by the ICG.
2. Staff of the affected ICG agencies will meet in a good faith effort to resolve the conflict in a manner acceptable to all parties.

3. If the staff is unsuccessful, the MPO Executive Directors or their designee, Management within state agencies and all other parties to the conflict shall meet to resolve differences in a manner acceptable to all parties.
4. A fourteen day appeal period will begin on the first normal business day following IDEM's receipt of correspondence (via Certified US Mail or other certified delivery) from INDOT or the Michiana Area Council of Governments that they plan to proceed with their conformity decision or policy in conflict. The appeal period will expire at midnight of the fourteenth calendar day following IDEM's receipt of such notice.
5. Following these steps, IDEM has 14 days to appeal to the Governor after INDOT or the Michiana Area Council of Governments has notified IDEM that either party plans to proceed with their conformity decision or policy that is the source of the conflict. If IDEM appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If IDEM does not appeal to the Governor within 14 days, the Michiana Area Council of Governments or INDOT 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 the Michiana Area Council of Governments.

IX. Public Consultation Procedures (93.105 (e))

The Michiana Area Council of Governments will follow its adopted public involvement procedures, which were developed in accordance with the requirements for public involvement in 23 CFR 450, when making conformity determinations on transportation plans, and programs. These procedures establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the Michiana Area Council of Governments at the beginning of the public comment period and prior to taking formal action on a conformity determination for the TP and TIP, consistent with these requirements and those of 23 CFR 450.316(a). Meetings of the ICG are open to the public. Any charges imposed for public inspection and copying are consistent with the fee schedule contained in 49 CFR 7.43. The ICG agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.