

Final  
Revision to the Commonwealth of  
Pennsylvania  
STATE IMPLEMENTATION PLAN  
for  
Transportation Conformity

VOLUME I

Submission to the  
United States Environmental Protection Agency  
in fulfillment of the requirements of  
Section 176(c) of the Clean Air Act Amendments of 1990

Prepared by  
The Pennsylvania Department of Transportation  
Center for Program Development and Management  
in cooperation with  
The Pennsylvania Department of Environmental Protection  
Bureau of Air Quality  
and  
The Federal Highway Administration  
The Federal Transit Administration  
The United States Environmental Protection Agency

August 1998

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# **EXECUTIVE SUMMARY**

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## EXECUTIVE SUMMARY

The Executive Summary of Pennsylvania's Transportation Conformity State Implementation Plan (SIP) revision introduces the SIP; provides an overview of the United States Environmental Protection Agency's (USEPA's) Conformity Rule (58 FR 62188, November 24, 1993), including amendments to the Rule (40 CFR Parts 51 and 93 - August 15, 1997); and discusses the development of Pennsylvania's Conformity SIP revision.

### A. INTRODUCTION TO PENNSYLVANIA'S TRANSPORTATION CONFORMITY SIP REVISION

#### 1. Federal Requirement for State Conformity SIP Revisions

Section 51.390 of the Federal Conformity rule, as amended on August 15, 1997 (hereafter referred to as "the Rule"), required states to submit to USEPA and the United States Department of Transportation (USDOT) a SIP revision by November 24, 1994 that contains "criteria and procedures for DOT, MPOs, and other state or local agencies to assess the conformity of transportation plans, programs, and projects, consistent with..." federal conformity regulations. Pennsylvania made an initial submission on November 2, 1994. Further revisions to the implementation plan required by amendments to Part 93, subpart A of this chapter, must be submitted within twelve months of the date of publication (August 15, 1997) of such final amendments. In this vein, the revised Conformity SIP is due to the EPA by August 15, 1998.

The Commonwealth recognizes that, as stated in §51.390 (b), the Federal Rule establishes "the conformity criteria and procedures necessary to meet..." the Clean Air Act (CAAA) as amended conformity requirements until the Commonwealth's Conformity SIP revision is approved by USEPA. Once the SIP revision is finalized by the Commonwealth as a final revision and submitted to EPA, Commonwealth criteria and procedures in this submittal govern conformity determinations.

§51.390 (d) states that the Transportation Conformity SIP revision "...shall incorporate the provisions of the following sections..." of the Rule "...in verbatim form..." §51.390 (d) then lists 20 of the total 30 sections in the Federal Rule that must be incorporated as such. The additional 10 sections can be referenced or summarized at an individual state's discretion.

This SIP revision incorporates "**by reference**" these 20 verbatim sections included in §51.390 (d), as well as 9 of the 10 remaining sections from the Rule. The final section dealing with Interagency Consultation (§ 93.105), is customized to Pennsylvania's

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specific needs.

The Commonwealth understands, and this SIP revision explicitly covers, the required elements, factors, processes and procedures for the consultation portion of the Plan Revision. The Commonwealth also recognizes that effective consultation procedures involving all affected agencies and interests are essential in successfully carrying out conformity determinations and related planning and programming activities.

2. Legislative Authority

Section 4 of the Air Pollution Control Act (APCA) (35 PS §4004) authorizes and requires the Department of Environmental Protection (DEP) to implement the provisions of the CAA (42 USC §§7401 et seq).

3. Legal Form of Pennsylvania's Transportation Conformity SIP Revision

As required by §51.390 (d), Pennsylvania's Transportation Conformity SIP revision addresses all requirements in the Federal Conformity rule "in a manner which gives them full legal effect." States must be able "...to require MPOs, project sponsors... recipients of federal funds, and [Penn]DOT to comply with the requirements of state conformity procedures."

Accordingly, in response to the Rule's requirements for enforceable SIP measures and adequate state authority to compel compliance, Pennsylvania's Transportation Conformity SIP revision is submitted as a package of legally binding agreements between responsible state agencies and other parties. Memorandums of agreement (MOAs) were executed with various planning entities. These planning entities (which include: MPOs, LDDs, non-affiliated counties, local air agencies and SEPTA) will hereafter be referred to as "planning partners". By signing the MOAs, the planning partners agree to abide by the policies and procedures set forth in the Transportation Conformity SIP. Volume II, Appendix F contains the executed MOAs for Pennsylvania's ozone nonattainment and maintenance areas.

4. Interagency and Public Consultation in Developing the Transportation Conformity SIP Revision

The development of this Transportation Conformity SIP revision, in response to 42 USC Sections 7410 (a)(2)(J) and (M) of the CAAA and §51.390 of the Rule, complies with all requirements for interagency and public consultation and notification. The Commonwealth published the availability of the SIP revision in the Pennsylvania Bulletin on May 9, 1998. Advertisements were also placed in sixteen newspapers throughout the Commonwealth at this time. A 60 day comment period was conducted

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from May 9 to July 9, 1998. Additionally, three (3) public hearings were held during the comment period. The first hearing was held June 9, 1998 in Philadelphia; the second on June 10, 1998 in Pittsburgh; and the final hearing was held on June 11, 1998 in Harrisburg. Comments received on this SIP revision, including the Commonwealth's responses to the same, are included in Volume II, Appendix H.

## **B. OVERVIEW OF THE FEDERAL CONFORMITY RULE**

### **1. Summary**

The Rule applies to nonattainment and maintenance areas for transportation-related pollutants and their precursors. The pollutants are: ozone, CO, NO<sub>2</sub>, and PM<sub>10</sub>. The precursors are: VOC and NO<sub>x</sub> in ozone areas, NO<sub>x</sub> in NO<sub>2</sub> areas, and VOC and NO<sub>x</sub> in PM<sub>10</sub> areas. The Rule does not apply to attainment areas, including any area for which the EPA has determined a standard no longer applies.

MPOs and USDOT are responsible for making conformity determinations. Conformity determinations are required for: metropolitan transportation plans and TIPs "before they are adopted, approved, or accepted" by USDOT or an MPO. The rule requires regional emissions analysis of plans and TIPs.

Conformity determinations are also required in the rural nonattainment areas of the State, as "rural nonattainment" is defined by the EPA.

Additionally, conformity determinations are required for federally funded or approved highway or transit projects before they are approved or funded by USDOT or an MPO.

Regardless of funding source, regionally significant highway and transit projects must either come from a conforming plan and TIP, have been included in the regional emission analysis supporting adoption of the plan or TIP, or be included in a new regional analysis.

Federally funded or approved regionally significant projects must also be included in the regional emission analysis and "must also be analyzed for their localized air quality impacts in PM<sub>10</sub> and CO nonattainment areas."

The criteria and procedures for making conformity determinations differ according to the:

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- (a) pollutant for which an area is designated nonattainment,
  - (b) type of action (i.e., plan, TIP, project from a conforming plan and TIP, or project not from a conforming plan and TIP),
  - (c) status of SIP revisions with control strategies that "demonstrate reasonable further progress and attainment"--i.e., whether the SIP revision has been "found adequate" by the EPA.

2. Highlights of Key Sections

Twenty (20) of the sections of the Final Conformity Rule must be incorporated verbatim into Pennsylvania's Transportation Conformity SIP. These sections are listed below and are hereby incorporated into the SIP by reference.

**VERBATIM  
RULE SECTIONS**

§93.101	Definitions
§93.102	Applicability
§93.103	Priority
§93.104	Frequency of conformity determinations
§93.106	Content of transportation plans
§93.109	Criteria and procedures for determining conformity of transportation plans, programs, and projects: general
§93.110	Criteria and procedures: Latest planning assumptions
§93.111	Criteria and procedures: Latest emissions model
§93.112	Criteria and procedures: Consultation
§93.113	Criteria and procedures: Timely implementation of TCMs
§93.114	Criteria and procedures: Currently conforming transportation plan and TIP
§93.115	Criteria and procedures: Projects from a plan and TIP
§93.116	Criteria and procedures: Localized CO and PM <sub>10</sub> violations (hot spots)
§93.117	Criteria and procedures: Compliance with PM <sub>10</sub> control measures
§93.118	Criteria and procedures: Motor vehicle emissions budget (transportation plan)
§93.119	Criteria and procedures: Emissions reductions in areas

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	without motor vehicle emissions budgets
§93.120	Criteria and procedures: Consequences of control strategy implementation plan failures
§93.121	Requirements for adoption or approval of projects by other recipients of funds designated under title 23 USC or the Federal Transit Act
§93.126	Exempt projects
§93.127	Projects exempt from regional emissions analyses

In addition to the above-listed twenty (20) verbatim sections of the Rule, the Commonwealth incorporates 9 of the 10 remaining sections in verbatim form by reference. The exception is §93.105 - Interagency Consultation, which the Commonwealth customized to our needs. A list of these nine sections follows.

**RULE SECTIONS WHICH  
ARE INCORPORATED BY REFERENCE**

§51.390	Implementation plan revision
§93.100	Purpose
§93.107	Relationship of transportation plan and TIP conformity with the NEPA process
§93.108	Fiscal constraints for transportation plans and TIPs
§93.122	Procedures for determining regional transportation-related emissions
§93.123	Procedures for determining localized CO and PM <sub>10</sub> concentrations (hot-spot analysis)
§93.124	Using the motor vehicle emissions budget in the applicable implementation plan (or implementation plan submission)
§93.125	Enforceability of design concept and scope and project-level mitigation and control measures
§93.128	Traffic signal synchronization projects

**C. DEVELOPMENT OF PENNSYLVANIA'S TRANSPORTATION CONFORMITY SIP**

1. Summary



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In early 1994, several organizations within PennDOT (including the Air Quality Section of the Center for Program Development and Management, the Bureau of Environmental Quality, and the Office of Chief Counsel) were charged with developing the SIP. Additionally, several members of the Department's air quality consultant team contributed portions of the SIP. As individual chapters were drafted, they were sent to DEP for review and comment. Comments received from DEP are incorporated into the SIP.

The initial Conformity SIP was completed in July, 1994. A 60 day public comment period was held from August 26, 1994 to October 25, 1994. A public hearing on the SIP was held on September 27, 1994 in Harrisburg. No comments were received on the SIP at the public hearing, however, numerous comments were received in writing during the public comment period. After addressing all comments, the SIP was officially submitted to EPA (by DEP) on November 21, 1994.

On February 21, 1995 EPA ruled the initial SIP to be technically and administratively complete. However, no approval ever took place because EPA was in the process of amending the Rule. Three separate sets of amendments were finalized. This SIP revision addresses the Rule as amended.

For those who may have reviewed the initial Conformity SIP, this SIP submission will appear very different from the original submission made in November 1994. In 1994, EPA did not support (or advise states to support) the concept of incorporating the Rule by reference into the SIP, preferring that the majority of the Rule be adopted verbatim into the Conformity SIP. Since then however, EPA has rethought this issue and given states flexibility, such as this adopting by reference versus the verbatim approach.

Pennsylvania's Transportation Conformity SIP is divided into two volumes. Volume I consists of this Executive Summary followed by two (2) parts. They are listed below.

-----	Executive Summary
Part I	Pennsylvania's planning and programming process
Part II	Interagency consultation/resolution of conflicts/public involvement

Volume II contains various appendices related to the Conformity SIP. These include:

- (A) List of Conformity SIP acronyms
- (B) Revised 8/15/97 Conformity Rule (40CFR, Parts 51 and 93)
- (C) Listing of Pennsylvania's MPOs and LDDs
- (D) Background/history of the CAA's Transportation Conformity provision

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- (E) Master interagency consultation agreement
  - (F) Executed MOAs
  - (G) Sample MPO public involvement policies
  - (H) Public comments/responses

**PART I**

**PENNSYLVANIA'S  
PLANNING AND PROGRAMMING PROCESS**

# PART I

## PENNSYLVANIA'S PLANNING AND PROGRAMMING PROCESS

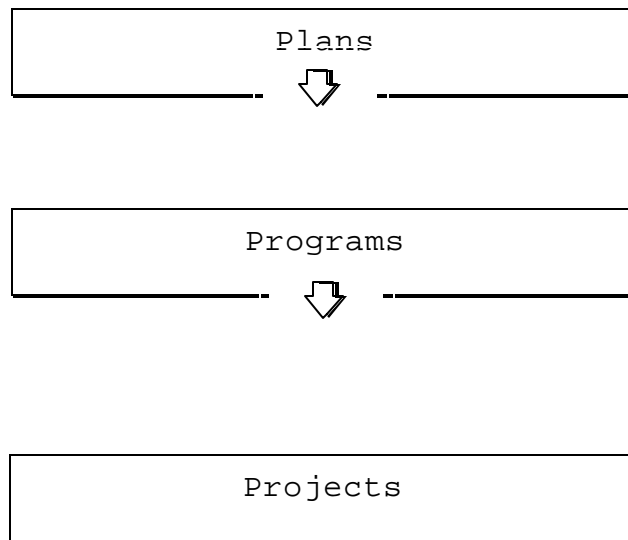
Part I of this SIP revision describes Pennsylvania's process for developing plans and programs (specifically, long-range transportation plans, Transportation Improvement Programs (TIPs) and the Statewide Transportation Improvement Program (STIP)).

### A. OVERVIEW OF THE PLANNING AND PROGRAMMING PROCESS

Decisions regarding how available transportation funds are to be used for a variety of proposed rail, roadway, transit, waterway, bicycle, pedestrian, airport and intermodal transportation projects are made through the transportation planning and programming process. As depicted below, transportation plans (such as the Transportation Policy Plan) are used as input to transportation programs (itemized listings of projects for a given time period) which in turn lead to the development and implementation of specific transportation improvement, operational, and maintenance projects.

#### BASIC PLANNING AND PROGRAMMING

Public Involvement & Coordination



## **B. TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY**

On June 9, 1998, the President signed H.R. 2400, the Transportation Equity Act for the 21st Century (TEA-21) into law (Public Law 105-178) authorizing highway, highway safety, transit and other surface transportation programs for the next 6 years. TEA-21 is the federal legislation which guides the Department's planning and programming process.

TEA-21 builds on the initiatives established in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which was the last major authorizing legislation for surface transportation. This new Act combines the continuation and improvement of current programs with new initiatives to meet the challenges of protecting the natural environment as we provide efficient and flexible transportation. This continues to be evident in the Metropolitan Planning Organization (MPO) and Statewide planning processes. The planning must provide for consideration of projects and strategies that will "protect and enhance the environment, promote energy conservation, and improve quality of life."

The Commonwealth has fifteen (15) Metropolitan Planning Organizations that conduct regional planning and programming activities in Pennsylvania's urbanized areas. Pennsylvania's seven (7) Local Development Districts engage in similar activities for their rural jurisdictions. These regional agencies (listed in Volume II, Appendices C and D) develop two separate transportation planning products: The fiscally constrained Long Range Transportation Plan and the Transportation Improvement Program. The Long Range Plan must demonstrate the existing system is being adequately operated and maintained, and expanded where appropriate over a twenty year time horizon, given the funds estimated to be reasonably available. The Transportation Improvement Program is a subset of the Long Range Plan which specifies which of these projects will be advanced over the current four year time span.

The flowchart on the following page shows the relationship between planning and programming activities conducted by the Metropolitan Planning Organizations, Local Development Districts and PennDOT. The processes used by the regional agencies to develop plans and programs are similar to those used at the state level, including a proactive public involvement process. The purpose of the regional planning and programming effort is to foster a cooperative process for making regional transportation investment decisions. In addition to the appropriate federal requirements, Pennsylvania's Metropolitan Planning Organization and Local Development District processes also must relate to the Commonwealth's Transportation Policy Plan, Pennsylvania's Act 120 of 1970 (which created PennDOT, the State Transportation Commission, and the Twelve Year Transportation Program), and the budget authority provided by Pennsylvania's General Assembly.

# Planning and Programming in Pennsylvania

Public Involvement

and Coordination

Statewide Policy Plan

Planning

MPO/LDD  
Project Specific  
Long Range Plan (20 yrs.)

Programming

Twelve Year Program

MPO  
Transportation  
Improvement Programs

Project

State & Federal  
Environmental  
Reviews and Approvals

Capital & State  
Budgets

Statewide  
Transportation  
Improvement Program

Development

Project Development  
Engineering  
Right-of-Way  
Construction

**C. TRANSPORTATION COMMISSION**

**STATE**

Pennsylvania’s transportation program is guided by the State Transportation Commission. The State Transportation Commission is a fifteen member body chaired by Pennsylvania’s Secretary of Transportation with representation by members of the Pennsylvania General Assembly and the public. Four members are the majority and minority chairs of the Senate and House Transportation Committees. The remaining ten members are appointed by the Governor and confirmed by the Senate for six year terms. The Commission is responsible for determining the condition and performance of Pennsylvania’s transportation system. Based on this analysis, the Commission assesses the resources required to maintain, restore, extend and expand transportation facilities and services as needed to preserve and enhance the economic and environmental health of Pennsylvania communities and the Commonwealth.

**D. TWELVE YEAR TRANSPORTATION PROGRAM**

The analyses described above are used by the State Transportation Commission to determine the policy direction for development of the Twelve Year Program. The Twelve Year Program is considered to be the official program as required by State law for improving Pennsylvania’s Transportation System. It incorporates all highway, bicycle, pedestrian, bridge aviation, transit, rail freight and intermodal projects proposed for funding over a twelve year period. It is updated and submitted to the Governor, the General Assembly, and the Secretary of Transportation at a minimum two year interval. PennDOT, the State Transportation Commission, Metropolitan Planning Organizations and Local Development Districts closely coordinate during the biennial Twelve Year Program updates. The first four year segment of the Twelve Year Program becomes the federally mandated Statewide Transportation Improvement Program, which includes the Transportation Improvement Programs developed by the state’s Metropolitan Planning Organizations. Prior to implementation of these projects, the federal government reviews the Statewide Transportation Improvement Program for conformity with the federal Clean Air Act Amendments and other transportation requirements as conditions for authorizing the state to use federal funds.

**PART II**

**INTERAGENCY CONSULTATION/  
RESOLUTION OF CONFLICTS/  
PUBLIC INVOLVEMENT**



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## **PART II**

# **INTERAGENCY CONSULTATION/ RESOLUTION OF CONFLICTS/ PUBLIC INVOLVEMENT**

Part II of this SIP revision describes Pennsylvania's procedures for interagency consultation (Federal, State and local), the resolution of conflicts and public involvement.

Highway or transit projects which are approved by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) must be found to conform to air quality standards before they are approved or funded by USDOT, the state DOT or an MPO. All MPOs must follow the procedures set forth in the Transportation Conformity SIP. Thus, any new and existing MPOs shall comply with the SIP. The Pennsylvania Department of Transportation (PennDOT), the Pennsylvania Department of Environmental Protection (DEP) (or, where appropriate, the local air quality agency), the MPOs, the LDDs/EDDs and the non-affiliated counties have agreed to follow the procedures contained in this chapter to consult with each other before making a conformity determination. These agreements in the form of memorandums of agreement (MOAs) are attached hereto as Appendix F and made a part hereof.

Failure to comply with the requirements of the Conformity SIP is a violation of both the SIP and the Air Pollution Control Act, and is unlawful (Section 8 of the Air Pollution Control Act, 35 P.S. Section 4008). The Air Pollution Control Act provides DEP with the authority to issue such orders as are necessary to enforce the Conformity State Implementation Plan and such orders are within the authority granted by Section 10.1 of the Air Pollution Control Act, 35 P.S. Section 4010.1.

The procedures in Part II include consulting with local air quality and transportation agencies, where applicable, as well as with the USDOT and the USEPA. The procedures apply to interagency consultation procedures prior to making a conformity determination.

Before the Transportation Conformity SIP is approved by USEPA and before making conformity determinations, the MPOs, the LDDs/EDDs, the non-affiliated counties and PennDOT must provide reasonable opportunity for consultation with DEP, local air quality and transportation agencies (including major transit operators), USDOT, and USEPA.

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## A. INTERAGENCY CONSULTATION PROCEDURES: GENERAL FACTORS

1. Representatives of the MPOs, the LDDs/EDDs, the non-affiliated counties, DEP and local air quality planning agencies, PennDOT and local transportation agencies shall undertake an interagency consultation process, in accordance with this chapter, with each other and with local or regional offices of USEPA, FHWA, and FTA on the development of the Transportation Conformity SIP, the list of TCMs in the applicable implementation plan, the unified planning work program, the transportation plan, the TIP, any revisions to the preceding documents, and all conformity determinations required by this rule, as follows:
  - (a) It shall be the affirmative responsibility of the agency with the responsibility for preparing the final document or decision subject to the interagency consultation process to initiate the process by notifying other participants, convening consultation meetings, assuring that all relevant documents and information are supplied to all participants in the consultation process in a timely manner, and maintaining a written record of the consultation process.
  - (b) Regular consultation on major activities such as the development of the transportation plan, the development of a TIP, or any determination of conformity on transportation plans or TIPs, shall include meetings which shall be scheduled regularly, beginning no later than 6 months prior to the date a final document is required or the date on which the lead agency begins its own work on such a document. Prior to the initial meeting, the lead agency shall prepare and communicate to the other parties a proposed schedule of recommended interagency consultation meetings. However, nothing in this SIP or the Agreement entered into between all the parties shall prohibit the schedule from being amended from time to time, on an as needed basis, up to and including the time necessary to take final action on the major activity. In addition, technical meetings shall be convened as necessary.
  - (c) Each lead agency in the consultation process, consistent with the requirements of 23 CFR part 450, shall confer with all the agencies which are identified under paragraph (1) of this section with an interest in the document to be developed, provide all information to those agencies needed for meaningful input, and, prior to taking any action, consider the views of each such agency and respond to those views prior to any final decision on such documents. The lead agency must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. The lead agency

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shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

**B. INTERAGENCY CONSULTATION PROCEDURES: SPECIFIC PROCESSES.**

The specific processes for interagency consultation procedures consists of two scenarios. Scenario 1 details the specific processes for Pennsylvania's small urban metropolitan areas (those areas represented by a MPO), Pennsylvania's rural planning areas (those areas represented by a LDD/EDD), and the process utilized in Pennsylvania's non-affiliated counties. Scenario 2 details the specific processes for the large urban metropolitan planning organizations.

Also note that some of the smaller MPOs are currently developing travel demand models to support their ongoing planning efforts (including air quality analyses). Additionally, other MPOs may also develop travel demand models in the future. As these models become available and are determined to be acceptable through the interagency consultation process, they will be used in determining the conformity analysis for that area. Subsequently, the MPO in that given area will follow the specific processes set forth in Scenario 2 for the large urban MPOs. In the interim and for those MPOs which do not have a model, the specific processes in Scenario 1 for the small urban MPOs, rural planning areas and the non-affiliated counties will be followed.

**Scenario 1 - Small urban and rural areas**

1. An interagency consultation process involving the small urban MPOs, rural planning agencies (LDDs/EDDs), non-affiliated counties, DEP and local air quality planning agencies, PennDOT and local transportation agencies, USEPA, and USDOT shall be undertaken for the following:
  - (a) Evaluating and choosing each model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses, including vehicle miles traveled (VMT) forecasting, to be initiated by PennDOT, in consultation with DEP, the MPO, the LDD/EDD or the non-affiliated county;
  - (b) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purpose 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, to be initiated by PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated

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county;

- (c) Evaluating whether projects otherwise exempted from meeting the requirements of 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, to be initiated by PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated county;
- (d) Making a determination whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs, to be initiated by PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated county. This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;
- (e) Making a determination whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, to be initiated by PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated county;
- (f) Making a determination whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility, to be initiated by PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated county;
- (g) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR §93.126, to be initiated by PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated county;
- (h) Determining what forecast of vehicle miles traveled (VMT) to use in establishing or tracking emissions budgets, developing transportation plans, TIPs, or applicable implementation plans, or making conformity determinations, to be initiated by PennDOT, in consultation with DEP, the MPO, the LDD/EDD or the non-affiliated county;

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- (i) The Commonwealth does not currently have any small urban/rural PM<sub>10</sub> or PM<sub>2.5</sub> nonattainment areas, however should USEPA designate such an area in the Commonwealth as a PM<sub>10</sub> or PM<sub>2.5</sub> nonattainment area, PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated county, will initiate a process conducted in accordance with Section B to identify, as required by 40 CFR §93.123, projects located at sites in PM<sub>10</sub> nonattainment areas which have vehicle and roadway emissions and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM<sub>10</sub> hot-spot analysis.
  2. An interagency consultation process involving the MPO, the LDD/EDD, the non-affiliated county, DEP and local air quality planning agencies, and PennDOT and local transportation agencies shall be undertaken for the following:
    - (a) Evaluating events which will trigger new conformity determinations (i.e., the addition or deletion of regionally significant projects to/from a TIP or LRP, a significant change in project design concept and scope since the project was last analyzed for conformity, or the addition or deletion of Transportation Control Measures (TCMs) to/from a TIP or LRP), in addition to those triggering events (the adoption of SIP revisions that revise or establish a transportation-related emissions budget), to be initiated by PennDOT, in consultation with the MPO, the LDD/EDD or the non-affiliated county; and,
    - (b) Consulting on emissions analysis for transportation activities which cross the borders of MPOs or rural planning areas, to be initiated by PennDOT, in consultation with DEP, the MPO, the LDD/EDD or the non-affiliated county.
  3. Where the metropolitan planning area does not include the entire nonattainment or maintenance area, an interagency consultation process involving the MPO and PennDOT shall be undertaken for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area, to be initiated by PennDOT, in consultation with DEP and the MPO.
  4. An interagency consultation process to be initiated by the MPO, the LDD/EDD or the non-affiliated county, in consultation with PennDOT, involving the MPO, the LDD/EDD, the nonaffiliated county, DEP and local air quality planning agencies, PennDOT and local transportation agencies, and recipients of funds designated under Title 23 USC or the Federal Transit Act shall be undertaken to assure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the

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no-build option are still being considered), including all those by recipients of funds designated under Title 23 USC or the Federal Transit Act, are disclosed to the MPO, the LDD/EDD or the non-affiliated county on a regular basis, and to assure that any changes to those plans are immediately disclosed.

5. An interagency consultation process involving the MPO, the LDD/EDD or the non-affiliated county, and other recipients of funds designated under Title 23 USC or the Federal Transit Act shall be undertaken for assuming the location and design concept and scope of projects which are disclosed to the MPO, the LDD/EDD or the non-affiliated county, but whose sponsors have not yet decided these features, in sufficient detail to perform the regional emissions analysis, to be initiated by the MPO, the LDD/EDD or the non-affiliated county, in consultation with PennDOT.
6. An interagency consultation process involving the MPO, the LDD/EDD or the non-affiliated county, DEP and local air quality planning agencies, and PennDOT and local transportation agencies, shall be undertaken for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO, the LDD/EDD or the non-affiliated county (e.g. household/travel transportation surveys), to be initiated by the MPO, the LDD/EDD or the non-affiliated county, in consultation with PennDOT.

### **Scenario 2 - Large Urban MPOs**

1. An interagency consultation process involving the large urban MPO, DEP and local air quality planning agencies, PennDOT and local transportation agencies, USEPA, and USDOT shall be undertaken for the following:
  - (a) Evaluating and choosing each model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses, including vehicle miles traveled (VMT) forecasting, to be initiated by the MPO, in consultation with PennDOT and DEP;
  - (b) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purpose 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, to be initiated by the MPO, in consultation with PennDOT;
  - (c) Evaluating whether projects otherwise exempted from meeting the requirements

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of 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, to be initiated by the MPO, in consultation with PennDOT;

- (d) Making a determination whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs, to be initiated by the MPO, in consultation with PennDOT. This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;
- (e) Making a determination whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, to be initiated by the MPO, in consultation with PennDOT;
- (f) Making a determination whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility, to be initiated by the MPO, in consultation with PennDOT;
- (g) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR §93.126, to be initiated by the MPO, in consultation with PennDOT;
- (h) Determining what forecast of vehicle miles traveled (VMT) to use in establishing or tracking emissions budgets, developing transportation plans, TIPs, or applicable implementation plans, or making conformity determinations, to be initiated by the MPO, in consultation with PennDOT and DEP;
- (i) Identifying, as required by 40 CFR §93.123, projects located at sites in PM<sub>10</sub> nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM<sub>10</sub> hot-spot analysis, to be initiated by PennDOT, in consultation with the MPO.

- 2. An interagency consultation process involving the MPO, DEP and local air quality planning agencies, and PennDOT and local transportation agencies shall be undertaken

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for the following:

- (a) Evaluating events which will trigger new conformity determinations (i.e., the addition or deletion of regionally significant projects to/from a TIP or LRP, a significant change in project design concept and scope since the project was last analyzed for conformity, or the addition or deletion of Transportation Control Measures (TCMs) to/from a TIP or LRP), in addition to those triggering events (the adoption of SIP revisions that revise or establish a transportation-related emissions budget) to be initiated by the MPO, in consultation with PennDOT; and,
  - (b) Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas, to be initiated by the MPO, in consultation with PennDOT.
3. Where the metropolitan planning area does not include the entire nonattainment or maintenance area, an interagency consultation process involving the MPO and PennDOT shall be undertaken for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area, to be initiated by the MPO, in consultation with PennDOT.
4. An interagency consultation process to be initiated by the MPO, in consultation with PennDOT involving the MPO, DEP and local air quality planning agencies, PennDOT and local transportation agencies, and recipients of funds designated under Title 23 USC or the Federal Transit Act shall be undertaken to assure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including all those by recipients of funds designated under Title 23 USC or the Federal Transit Act, are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are immediately disclosed.
5. An interagency consultation process involving the MPO and other recipients of funds designated under Title 23 USC or the Federal Transit Act shall be undertaken for assuming the location and design concept and scope of projects which are disclosed to the MPO, but whose sponsors have not yet decided these features, in sufficient detail to perform the regional emissions analysis, to be initiated by the MPO, in consultation with PennDOT.
6. An interagency consultation process involving the MPO, DEP and local air quality



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planning agencies, and PennDOT and local transportation agencies, shall be undertaken for the design, scheduling, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g. household/travel transportation surveys), to be initiated by the MPO, in consultation with PennDOT.

## C. CONFLICT RESOLUTION

1. Conflicts between PennDOT, DEP, the MPOs, the LDDs/EDDS or the non-affiliated counties shall be elevated to the Governor if they cannot be resolved by the Secretaries of Transportation and Environmental Protection. The parties shall make every effort to resolve any differences before appealing to the Governor. The parties recognize that the conflict can be one of three types: a conflict between PennDOT and DEP; a conflict between PennDOT and the MPO, LDD/EDD or non-affiliated county; and a conflict between the MPO, the LDD/EDD, the non-affiliated county, and DEP.
  - (a) If the conflict is between the MPO/PennDOT and DEP, or the LDD/EDD/PennDOT and DEP, or the non-affiliated county/PennDOT and DEP:
    - (1) DEP has fourteen (14) calendar days to appeal to the Governor after PennDOT or the MPO, the LDD/EDD or the non-affiliated county has notified the Secretary of DEP of the resolution of his or her comments. The parties agree that the notification to the Secretary of DEP shall be in writing and shall be hand-delivered. A copy should also be concurrently hand delivered to the Director of the Bureau of Air Quality, DEP. The fourteen (14) day clock shall commence when the MPO, the LDD/EDD, the non-affiliated county, or PennDOT has confirmed receipt by the Secretary of DEP of the resolution of the comments of DEP.
    - (2) If DEP appeals to the Governor, the final conformity determination must have the concurrence of the Governor.
    - (3) The appeal to the Governor will consist of the following: the conformity determination and any supporting documents; DEP's comments on the conformity determination; the MPO, LDD/EDD, non-affiliated county or PennDOT resolution to DEP's comments; and DEP's appeal document.
    - (4) DEP will provide a complete appeal package to the MPO, the LDD/EDD, the non-affiliated county, and PennDOT when the appeal is

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filed.

- (5) If the Governor does not concur with the conformity determination, he or she may direct DEP to revise the SIP, or may direct the planned program or project be revised.
  - (6) If the Governor agrees that the conformity determination made by the MPO, the LDD/EDD, the non-affiliated county, and PennDOT is correct, the MPO, LDD/EDD, non-affiliated county, and PennDOT may proceed with the final conformity determinations.
  - (7) The Governor may delegate his or her role in this process, but not to the head or staff of PennDOT, DEP or any local air agency, the State Transportation Commission, or any MPO, LDD/EDD, or non-affiliated county.
  - (8) If DEP does not appeal to the Governor within fourteen (14) days as provided in subparagraph (1)(a)(i) of this section, the MPO, LDD/EDD, non-affiliated county, and PennDOT may proceed with its final conformity determination.
- (b) If the conflict is between PennDOT and the MPO, LDD/EDD, or non-affiliated county, the parties shall follow the coordination procedures of the Metropolitan Planning Rule of 23 CFR Part 450.210.

#### **D. PUBLIC INVOLVEMENT**

1. PennDOT and its planning partners have established proactive public involvement processes which provide for review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of 23 CFR Part 450 and 40 CFR §93.112. Sample MPO public involvement policies are included in Volume II, Appendix G.
2. PennDOT or the MPO will specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval has been properly addressed in the conformity analysis.

