

DRAFT

**TRANSPORTATION AND AIR QUALITY CONFORMITY
CONSULTATION PROCEDURES MOU
FOR
THE SOUTH COAST AIR BASIN (SCAB)
AND FOR THE RIVERSIDE COUNTY PORTIONS OF THE SALTON SEA AIR BASIN
AND THE MOJAVE DESERT AIR BASIN
WITHIN THE JURISDICTION OF
THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
(SCAQMD)**

**Prepared by:
Southern California Association of Governments**

**in Association with:
South Coast Air Quality Management District
Los Angeles County Metropolitan Transportation Authority
Orange County Transportation Authority
Riverside County Transportation Commission
San Bernardino Associated Governments
Caltrans
California Air Resources Board
Federal Highway Administration
Federal Transit Administration
Environmental Protection Agency**

July 10, 1998

**MEMORANDUM OF UNDERSTANDING AMONG
PARTICIPATING PUBLIC AGENCIES REGARDING
CONSULTATION ON CONFORMITY ISSUES,
DEVELOPMENT OF THE STATE IMPLEMENTATION PLAN (SIP),
CONSULTATION ON MODELING ISSUES
DEVELOPMENT OF THE REGIONAL TRANSPORTATION PLAN (RTP),
AND
DEVELOPMENT OF THE TRANSPORTATION IMPROVEMENT PROGRAM (TIP)
IN THE AREAS OF
INTERAGENCY CONSULTATION, PUBLIC CONSULTATION AND CONFLICT
RESOLUTION**

for the South Coast Air Basin (SCAB)
and for the Riverside County portions of the Salton Sea Air Basin
and the Mojave Desert Air Basin
within the Jurisdiction of
the South Coast Air Quality Management District (SCAQMD)

The signatories to this Memorandum of Understanding (MOU) hereby agree as follows:

RECITALS

WHEREAS, the Southern California Association of Governments (SCAG) is the designated Metropolitan Planning Organization (MPO) for the area encompassing the counties of Los Angeles, Riverside, Ventura, Orange, San Bernardino and Imperial, and as such is responsible for determining the conformity of plans and programs to the State Implementation Plan (SIP) pursuant to 42 U.S.C. §7506; and

WHEREAS, federal conformity regulations as amended August 15, 1997 at 40 C.F.R. §51.390 require that implementation plan revisions include procedures for interagency consultation to be undertaken by MPOs, the state and federal Departments of Transportation, state and local air quality agencies, and the Environmental Protection Agency (EPA) before making conformity determinations or approval of the SIP revisions; and

WHEREAS, federal conformity regulations at 40 C.F.R. §93.105(b) require such interagency consultation procedures to include the following general factors:

- (1) the roles and responsibilities assigned to each agency at each stage in the implementation plan development process and the transportation planning process, including technical meetings (40 C.F.R. §93.105(b)(2)(i));
- (2) the organizational level of regular consultation (40 C.F.R. §93.105(b)(2)(ii));
- (3) a process for circulating or providing ready access to draft documents and supporting materials for comment before formal adoption or publication (40 C.F.R. §93.105(b)(2)(iii));
- (4) the frequency of or process for convening consultation meetings and responsibilities for establishing meeting agendas (40 C.F.R. §93.105(b)(2)(iv));
- (5) a process for responding to the significant comments of involved agencies (40 C.F.R. §93.105(b)(2)(v)); and
- (6) a process for developing a list of the TCMs which are in the applicable implementation plan 40 C.F.R. §93.105(b)(2)(vi); and

WHEREAS, federal conformity regulations at 40 C.F.R. §93.105(c) also require such interagency consultation processes to include certain specific processes; and

WHEREAS, federal conformity regulations at 40 C.F.R. Parts 51 & 93 requires the MPO to make its conformity determination according to the above interagency consultation procedures, the consultation procedures found in the applicable implementation plan, and the public involvement procedures established by the MPO in compliance with 23 C.F.R. §450; and

WHEREAS, portions of the above regulations which are satisfied through California statutes dealing with consultation during the preparation of the South Coast Air Quality Management Plan are beyond the scope of this MOU; and

WHEREAS, the Southern California Association of Governments and the South Coast Air Quality Management District have executed a Memorandum of Understanding which sets forth their respective roles in development of the SIP, outlines a conflict resolution process; and which defines a schedule for development of the SIP;

NOW, THEREFORE, IT IS AGREED that:

- I. The following groups shall function as the forums for interagency consultation in the SCAG region:

A. The Transportation Conformity Working Group (Working Group) [93.105(b)and(c)].

1. General purpose and functions of the Working Group. Pursuant to 23 U.S.C. §134(g) and (h), and Section 65080 of the California Government Code, SCAG is responsible for preparing the Regional Transportation Plan (RTP), the Transportation Improvement Program (TIP), and the accompanying financial plans. Pursuant to Section 176(c) of the 1990 Clean Air Act Amendments, SCAG is responsible for making conformity determinations on regional transportation plans and programs. SCAG and the South Coast Air Quality Management District (SCAQMD) have established open, proactive planning and consultative processes for developing the SIP and the RTP pursuant to Sections 40460 through 40470 and Sections 40717 and 40719 of the California Health and Safety Code. Section 65080 et seq. of the California Government Code, and 23 U.S.C. §134(g). The Transportation Conformity Working Group functions as a forum for interagency consultation which offers advice to the Policy and Standing Committees of the SCAG Regional Council, the Board of the SCAQMD and as appropriate, to the governing bodies of Federal, state and local agencies concerned with air quality issues related to on-road mobile sources. To ensure that the Working Group fulfills these functions, it shall be the policy of the Working Group to give all interested parties early and frequent access to the planning process. SCAG shall ensure early and continuous access of all agencies and interested parties to the RTP and SIP planning processes.

The general purpose of the Working Group is to review and help develop conformity determinations, plans, and programs in the SCAG region before these conformity determinations have been made by SCAG. To this end, the Working Group shall review issues relating to development of the Regional Transportation Plan and the Transportation Improvement Program.

The Working Group shall provide technical input and consultation throughout the planning process.

2. Prior to development of the conformity determination, the following issues will be consulted on by the Working Group:
 - a. Evaluation of project exemption. Along with the Modeling Task Force, the Working Group shall review the issue of whether projects otherwise exempt from meeting the requirements of 40 C.F.R. should be treated as

non-exempt in cases where potential adverse emissions impacts may exist. [93.105(c)(1)(iii), 93.126 & 93.127]

- b. RTP and TIP projects. The CTCs shall propose projects for inclusion in the RTP and the TIP following appropriate consultation with local governments and other local entities as required by Public Utilities Code § 130303 (b) and other applicable laws.
- c. Definition of "regionally significant." For purposes of this MOU, a "regionally significant" project is a project which would be considered regionally significant for purposes of regional emissions analysis, using the definition set forth by the EPA in 40 C.F.R. §93.101 or as augmented by the Modeling Task Force. The Working Group shall use the procedures set forth in the current version of the RTIP Guidelines prepared by the Southern California Association of Governments for determining which projects and minor arterials shall be considered regionally significant according to the EPA definition of "regionally significant, or as augmented by the Modeling Task Force. "
- d. Disclosure to MPO of any new regionally significant non-FHWA/FTA projects and changes in the projects. The CTCs (LACMTA, OCTA, RCTC, and SANBAG) and Caltrans shall inform SCAG of plans for regionally significant new non-FHWA/FTA projects, and of any *significant* changes in the design concept and scope of projects within their jurisdiction and subject to conformity analysis as such changes occur. Additionally, this should be done when the CTCs submit a new TIP to SCAG. [93.105(c)(4)]
- e. Location and design concept and scope of Projects. Participants in the Working Group shall be consulted on these issues, including changes in the location and design concept and scope of projects. [93.105(c)(5)]

The Regional Transportation Agencies' Coalition (former AB1246 process). The location and design concept and scope of projects shall be discussed at the RTAC¹ meetings convened pursuant to the AB 1246 process. Pursuant to Section 130059 of the California Public Utilities Code, SCAG is responsible for convening at least two meetings annually of representatives' from the County Transportation

¹ With the agreement of all AB 1246 Process members, the name has been changed to the Regional Transportation Agency Coalition (RTAC).

Commissions (CTCs), SCAG, and the California Department of Transportation for the following purposes.

- a) To review and consider the near-term TIPs prior to adoption by the commissions;
 - b) To review and consider the RTP prior to adoption by SCAG pursuant to Section 65080 et seq. of the California Government Code;
 - c) To consider progress in the development of a region-wide and unified public transit system; and
 - d) To review and consider any other matters of mutual concern.
- f) Implementation of Transportation Control Measures (TCMs).
- 1) List of TCMs. Pursuant to applicable state law and to the provisions of the Memorandum of Understanding between SCAG and the South Coast Air Quality Management District for Preparation and Implementation of Revisions to the South Coast Air Quality Management Plan (AQMP), SCAG shall prepare the applicable TCMs and then submit them to the SCAQMD so that they may be combined with the portions of the South Coast AQMP prepared by the SCAQMD. Additionally, SCAG shall provide a list of TCMs from the applicable implementation plans to the Working Group for review and comment prior to development by SCAG of timely implementation assessments. [93.105(b)(2)(vi)]
 - 2) Overcoming past obstacles. The Working Group shall also identify past obstacles to implementation of those TCMs which are behind the schedule established in the SIP and shall determine whether such obstacles have been overcome. [93.105(c)(1)(iv)]
 - a) The Working Group shall also examine whether State and Local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs.
 - b) Additionally, the Working Group shall consider whether delays in TCM implementation necessitate revisions to the applicable

implementation plan to remove TCMs or substitute TCMs or other emission reduction measures.

- c) A schedule for making the above determinations will be outlined at the start of each new RTP/TIP cycle.

3) Timely implementation.

- a) Documentation of timely implementation. SCAG is responsible for documenting the timely implementation of TCMs.
- b) Agencies responsible for reporting to SCAG timely implementation of TCMs. SCAG shall continue to receive assistance from Caltrans and the County Transportation Commissions (CTCs) in gathering documentation regarding the timely implementation of the TCMs.

Caltrans and the CTCs shall report only those TCMs for which they are project sponsors. SCAG will gather information on the other TCMs from other project sponsors.

- c) Review of information. The information reported shall be reviewed by the Working Group.
 - d) Implementation of TCMs. Caltrans, the CTCs, and their constituent cities and counties shall each implement the TCMs in the applicable SIP for which they are respectively responsible and shall report to SCAG on such implementation efforts.
- 4) Priorities for TCM funding. Priorities for TCM funding are provided through the policies in the TIP.
- g. Consultation on emissions budgets. SCAG shall consult with the SCAQMD and the California Air Resources Board (CARB) regarding on-road emissions budgets for conformity analyses. Regional emissions resulting from the transportation plan and program shall be consistent with motor vehicle emissions budgets in the applicable SIPs and with the submitted SIPs.
 - h. Consultation on emissions factors. EPA shall review and approve updates of motor vehicle emission factors (EMFAC) for use in conformity analyses. SCAG shall consult with Caltrans, CARB and EPA regarding use of the latest emissions factors (EMFAC) in regional emissions analyses. CARB shall provide the most recent, EPA-approved

motor vehicle EMFAC to SCAG and Caltrans for use in emissions analyses.

- i. Consulting on emissions analyses for transportation activities which cross borders or nonattainment areas. The Working Group shall review emissions analysis for transportation activities which cross the borders of MPOs, nonattainment areas, or air basins. [93.105(c)(2)(ii)]
- j. Reports on status of implementation. The CTCs (LACMTA, OCTA, RCTC, and SANBAG) and Caltrans shall report to SCAG on the status of implementation of current TIP projects for which they are project sponsors. This should be done when the CTCs submit the new TIP to SCAG.
- k. Projects and minor arterials qualifying as "regionally significant". Affected CTCs and other affected public agencies and entities *party to this MOU* shall give advice as to which projects and minor arterials shall be considered regionally significant according to the definition set forth by the EPA in 40 C.F.R. Parts 51 & 93 for purposes of regional emissions analyses or as augmented by the Modeling Task Force. [93.105(c)(1)(ii)]
- l. Review and comment on findings. The FHWA, FTA, EPA, Caltrans, CARB, the CTCs, and the air districts, as well as other entities, shall review and comment as appropriate on the RTP, the TIP, and associated conformity findings.
- m. Response to comments. All comments shall be responded to *by SCAG* at either the meeting at which the comment was made, or, if a comment has been submitted in writing, a written response must be prepared within 30 days of receipt of the comment and distributed to the Working Group. [93.105(b)(2)(v)]
- n. Notice of availability and circulation of draft and final documents. [93.105(b)(2)(iii)]
 - 1) Notice of availability for certain documents. SCAG will provide notice of availability and copies of all documents related to the RTP or the TIP 30 days prior to any public hearing on any of these documents.
 - 2) Draft documents. Notices of availability and copies of all drafts of the RTP, the RTIP, the SIP, and conformity findings, and associated documents ("major documents") shall be prepared by SCAG and distributed by SCAG to all Working Group members, persons and organizations on the committee mailing list, and to anyone else

requesting them at least thirty days in advance of any meeting or public hearing at which the documents are discussed. Notice of availability and copies of all other draft documents shall be prepared by SCAG and distributed by SCAG in the same manner at least 14 days in advance of any such meeting or public hearing. SCAG shall also distribute all other relevant draft documents which are made available to SCAG by participants in the Working Group who request that SCAG copy and distribute them. SCAG shall not, however, be responsible for distributing conformity findings, information supporting conformity findings, or any other document which has not been made available to SCAG and which SCAG is not responsible for preparing pursuant to Federal or state law or the terms of this MOU.

- 3) Final documents. Notice of availability and copies of all final major documents and supporting information shall be prepared by SCAG and distributed by SCAG to all members, persons, and organizations on the Working Group mailing list, and to anyone else requesting them within 30 days of their approval. [93.105(c)(7)]
- o. Conformity findings. Final approval of plan and program conformity findings shall come from FHWA and FTA following appropriate consultation with the EPA. FHWA and FTA shall provide notification of joint findings of conformity determinations to SCAG and Caltrans headquarters and to the air district offices. Upon receipt of the joint findings from FHWA and FTA, SCAG shall distribute related letters to all affected agencies.
3. At least annually, the Working Group shall discuss the followings:
 - a) Identification of projects located at sites in PM₁₀ nonattainment areas. The Working Group shall identify, as required by 40 C.F.R. §93.123(b), projects located at sites in PM₁₀ 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 PM₁₀ hot-spot analysis. [93.105(c)(1)(v)]
 - b) Notification of RTP or TIP amendments which only add or delete exempt projects. Participants in the Working Group shall review and offer advice regarding such deletions and additions. SCAG shall notify the working group when deletions and additions are planned. [93.105(c)(1)(vi)]