

- c) Evaluating events which trigger new conformity determinations. The Working Group shall be consulted at least annually as to which events, in addition to those events listed in 40 C.F.R. § 93.~~105(c)(2)(i)~~104 (e), trigger new conformity determinations. [93.105(c)(2)(i)]
  4. Frequency, agenda, and convening of meetings. The Working Group shall meet once a month, or as otherwise agreed by vote of the Working Group members. Additional meetings shall be convened by SCAG at the request of any member of the Working Group. Meeting agenda packets consisting of agenda, minutes, and the administrative record, plus copies of any relevant documents, shall be prepared by SCAG and distributed to meeting participants, persons and organizations on the Working Group mailing list, and to all persons requesting a copy at least 30 days in advance of the meeting date. [93.105(b)(2)(iv)]
5. Composition of the Working Group
  - a. The Working Group includes staff representatives from the following agencies:
    - 1) The Southern California Association of Governments
    - 2) The South Coast Air Quality Management District
    - 3) The Ventura County Air Pollution Control District
    - 4) The Mojave Desert Air Quality Management District
    - 5) The Imperial County Air Pollution Control District
    - 6) The Antelope Valley Air Pollution Control District
    - 7) The Federal Highway Administration
    - 8) The Federal Transit Administration
    - 9) The Environmental Protection Agency
    - 10) The California Department of Transportation
    - 11) The California Air Resources Board
    - 12) The Los Angeles County Metropolitan Transportation Authority
    - 13) The Orange County Transportation Authority
    - 14) The Riverside County Transportation Commission
    - 15) The San Bernardino Associated Governments
    - 16) The Ventura County Transportation Commission
    - 17) The Imperial Valley Associated Governments
    - 18) Transit operators
  - b. Other public, agencies (including sub-regional agencies), as well as environmental and business groups and the general public, may also attend, make comments at, and otherwise participate in Working Group meetings.

B. The Modeling Task Force (Task Force). [93.105(b)and(c)]

1. General Purpose and Function of the Task Force. Pursuant to 42 U.S.C. §.7506(c) and section 40460(b)(2) of the California Health and Safety Code, SCAG is responsible for regional transportation modeling. SCAG is also responsible for preparing socioeconomic data and forecasts (including travel demand) used in development of the RTP, the TIP and associated conformity findings, and is additionally responsible for preparing Vehicle Miles Traveled (VMT) estimates and forecasts used in conformity analyses. Prior to the making of conformity determinations by SCAG, the Modeling Task Force (Task Force) shall review technical decisions concerning the development and application of the regional transportation model to travel forecasting and to analysis of the transportation impacts on air quality, including emissions analyses, emissions factors and associated planning assumptions (including socioeconomic data, VMT, and temperature). To ensure that the Task Force fulfills these functions, SCAG shall ensure early and continuous access of all agencies and interested parties to the modeling process.

The Task Force 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 Task Force:
  - a. Travel demand forecasts and modeling. SCAG models shall be used for forecasting socioeconomic data and travel demand in the region where no other model exists which can be used for these purposes, or until changes are made pursuant to Paragraph (g), below. As other models are developed which can be used to forecast socioeconomic data and travel demand in any portion of the SCAG region, the members of the Task Force shall consider which model should be used for forecasting in that particular portion of the SCAG region and region-wide.
  - b. RTP and TIP projects. The CTCs shall propose projects for inclusion in the TIP and RTP following appropriate consultation with ~~other local agencies and~~ 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. The Task Force shall use the procedures set forth in the current version of the RTIP Guidelines

prepared by SCAG for determining which projects and minor arterials shall be considered regionally significant according to the EPA definition of "regionally significant." The Task Force shall also be consulted on ways to augment the EPA definition.

- d. Disclosure to MPO of regionally significant non-FHWA/FTA projects and changes in the projects. The CTCs (LACMTA, OCTA, RCTC, and SANBAG) and Caltrans shall inform SCAG of ~~significant~~ changes in the design concept and scope of regionally significant 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. Task Force participants shall provide advice on these issues, including changes in the location and design concept and scope of projects. [93.105(c)(4)]
  - 1) Identification of projects located at sites in PM<sub>10</sub> nonattainment areas. The Task Force shall identify 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. [93.105(c)(1)(v)]
- f. Evaluation of project exemption. Along with the Working Group, the Task Force 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]
- g. Consulting on research and data collection efforts and model development. At least annually, *SCAG shall bring to the Task Force for review* research, data collection efforts, and model development and design, including funding and scheduling issues. The Task Force shall evaluate and choose the model or models and associated methodologies and assumptions to be used in hot-spot analysis and regional emissions analyses prior to conformity findings. [93.105(c)(6)]
- h. Consultation on emissions budgets. SCAG shall consult with the SCAQMD and the 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 SIP and with implementation plan submissions. [40 C.F.R. §93.118].

- i. Consultation on emissions factors. The EPA shall review and approve updates of motor vehicle emissions factors (EMFAC) for use in conformity analyses. SCAG shall consult with Caltrans, CARB, and the EPA regarding the use of the latest emissions factors (EMFAC) in regional emissions analyses. CARB shall also provide the most recent EPA-approved motor vehicle emissions factors to SCAG and Caltrans for use in the emissions analyses.
- j. SIP emissions inventory. The Task Force shall provide advice regarding SIP emissions inventory for on-road mobile sources and the methodology used in developing an on-road SIP planning inventory.
- k. DTIM updates. Caltrans is responsible for updating the Direct Travel Impact Model (DTIM) for regional on-road mobile source emissions analyses, and for its consistency with the most recent EMFAC model approved by the EPA. Caltrans shall provide an updated copy of this model to SCAG in a timely manner. [93.105(c)(1)(i)]
- l. 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. The Task Force shall also be consulted on ways to augment the EPA definition. [93.105(c)(1)(ii)]
- m. Response to comments. All comments shall be responded to 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 Task Force. [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, conformity findings, and associated documents ("major documents") shall be prepared by SCAG and distributed by SCAG to all Task Force 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 Task Force 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 shall be prepared by SCAG and distributed by SCAG to all Task Force members, persons, and organizations on the committee mailing list, and to anyone else requesting them within 30 days of their approval by the governing body of SCAG. [93.105(c)(7)]
3. Frequency, agenda, and convening of meetings. The Task Force shall meet on the third Wednesday of every other month unless otherwise agreed *by vote of the Task Force members*. Additional meetings shall be convened by SCAG at the request of any member of the Task Force. Meeting agenda packets, consisting of the agenda, minutes, and the administrative record, plus copies of any relevant documents, shall be prepared by SCAG and distributed to meeting participants, persons and organizations on the Task Force mailing list, and to all persons requesting a copy at least 30 days in advance of the meeting date. [93.105(b)(2)(iv)]
4. Composition of the Task Force.
  - a The Task Force ~~may~~ includes staff representatives from each of the following entities:
    - 1) The Southern California Association of Governments
    - 2) The California Department of Transportation
    - 3) The California Air Resources Board
    - 4) The South Coast Air Quality Management District
    - 5) The Ventura Air Pollution Control District
    - 6) The Mojave Desert Air Quality Management District
    - 7) The Imperial County Air Pollution Control District
    - 8) The Environmental Protection Agency
    - 9) The Antelope Valley Air Pollution Control District
    - 10) The Federal Highway Administration
    - 11) The Federal Transit Administration
    - 12) The Los Angeles County Metropolitan Transportation Authority

- 13) The Orange County Transportation Authority / Orange County EMA
- 14) The Riverside County Transportation Commission
- 15) The San Bernardino Associated Governments
- 16) The Ventura County Transportation Commission
- 17) The Imperial Valley Associated Governments
- 18) Transit operators

b. Other public agencies (including sub-regional agencies), as well as environmental and business groups and the general public, may also attend, make comments at, and otherwise participate in Task Force meetings.

c. All Task Force members shall receive information and be consulted with on all modeling issues.

- II. After SCAG has transmitted its formal conformity finding to FHWA and FTA, any correspondence or changes in information and criteria or other factors affecting the conformity determination, will be distributed by SCAG to all members of the Working Group and the Task Force.

In case of any significant changes by FHWA and FTA prior to any final action by FHWA and FTA, all recipients will be given a reasonable opportunity to comment on the above materials.

- III. Conflicts shall be resolved in the following manner [93.105(d)]:

A. Conflicts involving conformity issues and transportation projects shall be discussed at the meetings of the Working Group or Task Force as appropriate.

B. Pursuant to Sections 130301 and 130302 of the Public Utilities Code, SCAG shall be responsible for resolving conflicts between CTCs regarding their plans and programs.

C. Conflicts between SCAG and CARB or SCAG and Caltrans regarding a conformity determination made by SCAG shall be resolved as described below:

I. Notice of dispute; mediation scheduled. The head of the agency wishing to dispute the conformity determination (the "disputing agency") shall contact the Executive Director of SCAG ("Executive Director") and inform the Executive Director of the nature of the dispute. A mediation between the head of the disputing agency, the Executive Director, or the authorized representatives of one or both shall be scheduled to begin within the next 14 days of contacting the Executive Director of SCAG.

## 2. The mediation.

- a. The mediator. The mediation shall be conducted by a neutral, professional mediator.
- b. Establishment of ground rules for mediation. At the start of the mediation, the mediator, the Executive Director (or the Executive Director's designated representative), and the head of the disputing agency (or the designated representative thereof) shall establish the ground rules for conducting the mediation, including such factors as the purpose of the mediation, the subjects which may be discussed during the mediation, the number of representatives from each agency who may be present during the mediation, and the number of days allotted for the mediation efforts.
- c. Successful mediation within time limit. If the dispute is successfully resolved during the time limit set forth in the ground rules, the Executive Director and the disputing agency head shall memorialize their consensus in a written agreement. The mediator shall retain a copy of this agreement.
- d. If mediation is not successful. If the Executive Director and the disputing agency head are unable to reach a consensus during the time limit set forth in the ground rules, the Executive Director shall send a letter to the disputing agency stating that a consensus could not be reached and restating SCAGs conformity determination. The disputing agency shall have 14 calendar days, beginning on the date that this letter is received, to appeal SCAGs conformity determination to the Governor.

3. Appeals to the Governor. If CARB appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If CARB does not appeal to the Governor within the 14-day time limit described above, SCAG may proceed with the final conformity determination. The signatories to this MOU understand that while the Governor may delegate his or her role in this process, the role may not be delegated to the head or staff of CARB, the South Coast AQMD, Caltrans, the California Transportation Commission, or to SCAG. [93.105(d)]

## IV. Public Consultation

A proactive process for public participation process consistent with the requirements of 23 U.S.C. §134 et seq. and 23 C.F.R. §450.316(b) has been adopted by SCAG and shall be used for development and adoption of conformity findings of the RTP and TIP. This process provides opportunity for public review and comment prior to taking formal action on RTP and TIP conformity determinations. Project sponsors in the SCAG region have also established the opportunity for public involvement in project-level conformity determinations.

As part of its public participation process, SCAG will specifically address in writing any public comments regarding the proper inclusion of regionally significant nonfederal projects in RTP and TIP emissions analyses. Such a proactive public involvement process shall be maintained now and in the future. [93.105(e)]

- V. This MOU may be amended to reflect changes and additions to applicable state and federal statutes and regulations.
- VI. No entity signing this Memorandum of Understanding shall be liable for the negligent or intentional acts or omissions of any other entity for which they would not otherwise be liable.