

DISTRICT REVIEW OF CONFORMITY DETERMINATIONS

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## Triennial Plan Update Process

**PEN & INK CHANGE MADE 8/20/98 TO (10) (C) 3.**

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Thomas F. Barry, P.E.  
Secretary

**DISTRICT REVIEW OF CONFORMITY DETERMINATIONS**

**PURPOSE:**

This procedure describes district requirements for the review and transmittal of conformity determinations by Metropolitan Planning Organizations (MPOs) in air quality maintenance areas.

**AUTHORITY:**

Clean Air Act, Public Law 101-549, 104 Stat. 2399, codified at Title 42 U.S.C. Sections 7401-7671q, 1991.

Title 23 U.S.C. Sections 105, 134 and 135(b).

Title 49 U.S.C. 1607, Federal Transit Act, Sections 3, 5 and 8. Section 339.175, Florida Statutes.

40 Code of Federal Regulations (CFR) Part 93 Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," Environmental Protection Agency; and 40 CFR 51.390 (Federal Register, August 15, 1997, Vol. 62, Number 158, Pages 43779-43818).

23 Code of Federal Regulations (CFR) Part 450 Subpart C, Metropolitan Transportation Planning and Programming, Federal Highway Administration and the Federal Transit Administration (Federal Register, October 28, 1993, Vol. 58, Number 207, Pages 58070-58079).

**REFERENCES:**

"Designation of Attainment, Nonattainment, and Maintenance Areas," Rule 62-204.340(4)(a), F.A.C., Florida Department of Environmental Protection.

Letter from Governor Lawton Chiles to the Federal Highway Administration Florida Division Administrator dated June 2, 1992, designating the Secretary of the Florida Department of Transportation as the review and approval authority for Transportation Improvement Programs (TIPs) and TIP amendments effective July 1, 1992.

MPO Administrative Manual, Chapter 5, "Transportation Improvement

Program," Topic No. 525-010-025, Office of Policy Planning.  
"Conformity," Rule 62-204.500(2), F.A.C., Florida Department of  
Environmental Protection.  
"State of Florida State Implementation Plan Memorandum of  
Agreement for Transportation Conformity and New Florida  
Administrative Code Chapter 62-204" (conformity SIP),  
Florida Department of Environmental Protection.  
MOBILE Information Sheet #5, "Inclusion of New 2004 NOx Standard  
for Heavy-Duty Diesel Engines in MOBILE5a and MOBILE5b  
Modeling," The United States Environmental Protection  
Agency, January 30, 1998.  
"Regional Emissions Analyses and Conformity Determinations on  
Ozone 'Maintenance Area' Metropolitan Long-Range  
Transportation Plan (Plan) Updates and Transportation  
Improvement Programs," letter from J. R. Skinner, FHWA  
Florida Division Administrator, to Ysela Llorc, FDOT State  
Transportation Planner, March 23, 1998.

**SCOPE:**

This procedure is to be used by each of the Department's  
geographic districts containing MPOs in air quality maintenance  
areas. The procedure also identifies the responsibilities for  
the review of conformity determinations by the Systems Planning  
Office and the Office of Policy Planning.

**DEFINITIONS:**

In addition to the definitions contained in the transportation  
conformity regulation (40 CFR 93.101), the FHWA Assistance and  
Standards regulation (23 CFR 450.104), and FDOT's "MPO  
Administration Manual," the following terms have the meaning  
given in this procedure:

CONFORMITY, under section 176(c) of the Clean Air Act Amendments  
of 1990, means "conformity to an implementation plan's purpose of  
eliminating or reducing the severity and number of violations of  
the national ambient air quality standards (NAAQS) and achieving  
expeditious attainment of such standards," ensuring that "such  
activities will not cause or contribute to any new violation of  
any standard in any area; increase the frequency or severity of  
any existing violation of any standard in any area; or delay  
timely implementation of any standard or any required interim  
emission reductions or other milestone in any area." A plan or  
program is considered "conforming" when it meets these criteria.

CONFORMITY SIP is that revision to the Florida State Implementation Plan submitted to the United States Environmental Protection Agency in fulfillment of the requirements of section 176(c) of the Clean Air Act Amendments of 1990 and the transportation conformity regulation, 40 CFR 51.390 and 93.105, containing transportation conformity criteria and consultation procedures.

FLORIDA STANDARD URBAN TRANSPORTATION MODEL STRUCTURE (FSUTMS) refers to the software developed by the Florida Department of Transportation for long-range urban area transportation modeling that is used in performing the required analyses to reach a conformity determination.

GRANDFATHERED PROJECT is a project that can proceed without further conformity determinations and may proceed during a conformity lapse if the National Environmental Policy Act (NEPA) document has been approved unless more than three years have elapsed since (1) NEPA process completion; (2) start of final design; or (3) acquisition of a significant portion of right-of-way; or (4) approval of the plans, specifications, and estimates. (see 40 CFR 93.102(c)(1) and 93.104(d)) At least one phase of a project must have been included in the previously conforming TIP, and all project phases must have been included in the previously conforming transportation plan. The project's design concept and scope must be consistent with that evaluated in the previous conformity analysis.

HIGHWAY PERFORMANCE MONITORING SYSTEM (HPMS) is the national highway data base maintained by the Federal Highway Administration, based on data provided by the states, that includes roadway and traffic characteristics, average annual daily travel, and various other data.

HORIZON YEAR is the year for which the transportation plan describes the envisioned transportation system according to 40 CFR 93.106 and 23 CFR 450.322.

LAPSE means that the conformity determination for a transportation plan or Transportation Improvement Program has expired, and there is no currently conforming transportation plan and TIP.

MAINTENANCE AREA, as defined at 23 CFR 450.104, means any geographic region of the United States designated "nonattainment" pursuant to the Clean Air Act Amendments of 1990 and subsequently

redesignated to "attainment" subject to the requirement to develop a maintenance plan under section 175A of the Clean Air Act as amended, 42 U.S.C. 7410 et seq. The maintenance plan is part of the State Implementation Plan and includes the 1990 base year emissions inventory, enforceable contingency measures, and motor vehicle emissions budgets.

MAINTENANCE PERIOD, with respect to a pollutant or pollutant precursor, means that period of time beginning when a state submits and the Environmental Protection Agency approves a request under Section 107(d) of the Clean Air Act Amendments of 1990 for redesignation to an attainment area, and lasting for 20 years, unless the applicable implementation plan specifies that the maintenance period shall last for more than 20 years.

MAINTENANCE PLAN means a plan that demonstrates that national ambient air quality standards for the criteria pollutant can be maintained during the 10-year period of the plan, and includes a contingency plan of measures to be implemented if a future violation occurs.

METROPOLITAN PLANNING AREA means the geographic area in which the Metropolitan Planning Organization planning process required by 23 U.S.C. 134 and the Federal Transit Act must be carried out. (23 CFR 450.104) The boundaries of the metropolitan planning area in geographic areas designated as maintenance areas shall include at least the boundaries of the maintenance area, as provided in 23 CFR 450.308(a).

MILESTONE consists of an emissions level and the date on which it is required to be achieved. In this procedure, milestones are the dates for which emissions budgets have been established in the approved maintenance plans.

MOBILE means the highway vehicle emission factor model approved by the United States Environmental Protection Agency for use in developing base year emissions inventories and conformity analyses to estimate the quantity of carbon monoxide, volatile organic compounds, and oxides of nitrogen emissions. The MOBILE emissions model calculates emissions for eight types of highway vehicles over a range of user-specified conditions such as average speed and ambient temperatures.

MOTOR VEHICLE EMISSIONS BUDGET is that portion of the total allowable emissions contained in a maintenance plan approved by the United States Environmental Protection Agency for the purpose

of attainment or maintenance demonstrations for any criteria pollutant or its precursors allocated by the State Implementation Plan to highway and transit vehicles. A motor vehicle emissions budget is explicitly defined in the Southeast Florida maintenance plan. For the Tampa Bay and Jacksonville areas, the conformity regulation states that, in the absence of an explicitly defined emissions budget, the budget is assumed to be the projected

emissions for the transportation sector established in the maintenance plan.

NITROGEN OXIDES (also called oxides of nitrogen, or NO<sub>x</sub>) are chemical compounds typically created during the combustion process in motor vehicles and, when combined with volatile organic compounds (VOCs) in the presence of sunlight, forms ozone.

NON-FEDERAL PROJECTS are projects which are funded or approved by a recipient of federal funds designated under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53) but which do not rely at all on any FHWA/FTA funding or approvals.

OFFICE OF POLICY PLANNING is the Florida Department of Transportation Central Office unit under the State Transportation Planner located in Tallahassee responsible for developing guidance to assist in the review of conformity determinations and for coordinating the review and approval of conformity determinations between districts, metropolitan planning organizations, and the appropriate federal agencies.

OZONE (O<sub>3</sub>) is a compound consisting of three oxygen atoms formed through photochemical reactions in the atmosphere between the precursor emissions volatile organic compounds and oxides of nitrogen.

REGIONAL EMISSIONS ANALYSIS, in this procedure, means the analysis that includes emissions from the metropolitan planning area's portion of a maintenance area designated by the Environmental Protection Agency, or the entire airshed where only one metropolitan planning organization has authority, for the existing or proposed transportation network, in addition to all proposed regionally significant federal and non-federal highway

and transit projects resulting from the use of the urbanized area model.

REGIONAL MODEL means either the urbanized area transportation

model, or the multi-county airshed transportation model, used to model the transportation network in all or part of the maintenance area.

REID VAPOR PRESSURE (RVP) is the measure of a fuel's volatility measured in pounds per square inch (psi): the higher the RVP, for example, the faster fuel evaporates into the atmosphere during the transfer of fuel from gasoline pumps to motor vehicles during refueling. Stated differently, the RVP is the point that

gasoline (or other fuels) under pressure converts from a liquid to a gaseous state.

SYSTEMS PLANNING OFFICE means the Florida Department of Transportation Central Office unit under the State Transportation Planner located in Tallahassee responsible for assisting districts and Metropolitan Planning Organizations in conducting modeling for conformity determinations.

TRANSPORTATION CONFORMITY REGULATION means the conformity criteria and procedures rule promulgated by the United States Environmental Protection Agency as 40 CFR Part 93 Subpart A, and Exhibit 1 of the conformity criteria and procedures Memorandum of Agreement of the State Implementation Plan when approved by the United States Environmental Protection Agency.

VOLATILE ORGANIC COMPOUNDS (VOCs) are hydrocarbons that combine with nitrogen oxides in the presence of sunlight to produce ozone, a predominant component of photochemical smog.

**ABBREVIATIONS:**

CAA: Clean Air Act  
CDR: Conformity Determination Report  
CFR: Code of Federal Regulations  
CMAQ: Congestion Mitigation and Air Quality Improvement Program  
DEP: Florida Department of Environmental Protection  
DHSMV: Florida Department of Highway Safety and Motor Vehicles  
EMIS: An FDOT custom utility program  
EPA: United States Environmental Protection Agency  
FDOT: Florida Department of Transportation  
FHWA: Federal Highway Administration  
FR: Federal Register  
FSUTMS: Florida Standard Urban Transportation Model Structure  
FTA: Federal Transit Administration  
HPMS: Highway Performance Monitoring System

MPO: Metropolitan Planning Organization  
NAAQS: National Ambient Air Quality Standards  
NOx: Oxides of Nitrogen  
psi: Pounds per square inch  
RVP: Reid Vapor Pressure  
SIP: State Implementation Plan  
STIP: State Transportation Improvement Program  
TDM: Transportation Demand Management  
TIP: Transportation Improvement Program  
TSM: Transportation System Management  
U.S.C.: United States Code  
USDOT: United States Department of Transportation (meaning the  
Federal Highway Administration and the Federal Transit  
Administration in this procedure)  
VMT: Vehicle Miles Traveled  
VOC: Volatile Organic Compounds

**PROCEDURE:**

This procedure has been reviewed pursuant to the interagency consultation provisions of 40 CFR 93.105. Preliminary and Executive Review drafts have been provided for review and comment to: local air quality programs, Metropolitan Planning Organizations (MPOs), and transit providers in the three air quality maintenance airsheds; the Florida Department of Environmental Protection (DEP); the Florida Department of Highway Safety and Motor Vehicles (DHSMV); the Federal Highway Administration (FHWA); the Federal Transit Administration (FTA); the Environmental Protection Agency (EPA); public interest parties; and applicable offices and districts within the Florida Department of Transportation (FDOT). Following each review, comments were addressed and the disposition of comments was summarized. Copies of the final documents were provided to all reviewing parties.

**(1) Conformity Requirements and Criteria**

(a) Process

All federally funded projects in areas designated by EPA as air quality maintenance areas must come from an MPO conforming transportation plan and Transportation Improvement Program (TIP). Each current and updated transportation plan and TIP must be found to conform before the TIP is approved by the MPO or accepted by FHWA and FTA. Conformity must be determined consistent

with the conformity requirements of the Clean Air Act (CAA), and 40 CFR part 93 subpart A (the transportation conformity rule). An overview of the transportation plan and TIP conformity process is shown in **Appendix 1**.

(b) Planning Horizons

The transportation plan conformity shall cover a 20-year planning horizon. The conformity determination for the TIP will cover the 3-year TIP described as Part 1 in the "MPO Administrative Manual," Chapter 5, "Transportation Improvement Program" (Topic Number 525-010-025). The sections of the conformity rule applicable to the transportation plan and TIP are shown in **Appendix 2**.

(c) Airshed Redesignations

The Duval County airshed was redesignated to attainment effective March 6, 1995. The Southeast Florida airshed was redesignated to attainment effective April 25, 1995. The Tampa Bay airshed redesignation to attainment was effective February 5, 1996.

(d) Maintenance Period Requirements

All Florida air quality maintenance areas for ozone are subject to the conformity requirements. Emissions expected from the transportation system must be equal to or less than the motor vehicle emissions budgets for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) established in the approved maintenance plan for each analysis year. Analysis years are determined pursuant to 40 CFR 93.106(a)(1). The 1990 base year emissions inventory values, and the motor vehicle emissions budgets for each budget year of the approved maintenance plans for each county are shown in **Appendix 3**.

(e) Planning Requirements

Conformity determinations must be based on:

1. The most recent planning assumptions available at the time of the conformity determination, as

described in 40 CFR 93.110 and 23 CFR 450.322(a);

2. The latest EPA-approved emission estimation model. The FDOT district should provide the MPO information regarding the use of approved models before the MPO performs the regional emissions analysis; and
3. The interagency and public consultation requirements of 40 CFR 93.105 (until the conformity revision to the State Implementation Plan (SIP) is approved by EPA) and 23 CFR Part 450 Subpart C, in accordance with the MPO's adopted public involvement procedures.

(f) Transportation Plan and TIP Conformity Findings

The MPO must make a finding of conformity on the new or revised transportation plan and the TIP before either is adopted by the MPO. After the MPO's finding of conformity on the transportation plan or TIP, the FHWA and the FTA (following consultation with the EPA) must make a finding of conformity on the plan or TIP in accordance with 23 CFR 450.322(d). Once the FHWA and the FTA make a finding of conformity on the TIP, the conforming TIPs are incorporated by reference into the State Transportation Improvement Program (STIP).

**(2) Required Regional Emissions Analysis Models and Data**

The MOBILE emissions model and EMIS model, available from the Systems Planning Office, must be used within the framework of the Florida Standard Urban Transportation Model Structure (FSUTMS). The Systems Planning Office provides information on the use of required models and control files containing updated input values to be used in performing the regional emissions analysis to the district that, in turn, provides such information to the MPO. The following computer models and data shall be used to conduct the

regional emissions analysis necessary to demonstrate the conformity of transportation plans and TIPs.

- (a) Florida Standard Urban Transportation Model Structure (FSUTMS)

The latest FSUTMS version has been accepted by EPA and federal agencies to be used to calculate vehicle miles traveled (VMT) by speed, facility type, area type, and geographic location.

(b) MOBILE Model

The EPA-approved emissions model (MOBILE) must be used to calculate mobile (highway) emissions impacts for VOC and NOx. The MPO should consult with the district for further information prior to initiating a new emissions analysis to verify the use of the currently approved model.

(c) EMIS

The current EMIS release is a customized utility program developed by FDOT that acts as an interface between FSUTMS and the current EPA-approved MOBILE emissions model. EMIS applies the EPA approved model output factors to the VMT output from FSUTMS.

**Appendix 4** identifies the steps necessary to apply the Highway Performance Monitoring System (HPMS) adjustment factor using EMIS.

(d) Reid Vapor Pressure (RVP)

An RVP of 9.2 pounds per square inch (psi) is used for the 1990 base year analysis and 7.8 psi for 1992 forward. The RVP data for 1992 and beyond is based on EPA specifications.

(e) National Defaults

For vehicle types, the national defaults for Mileage Accumulation Rates and Registration Distribution by Age, as found in the current EPA approved emissions model, may be used unless better data become available. The use of any non-default data must be determined through the interagency consultation process.

(f) Temperature Data

The source of the temperature inputs used for the current EPA approved emissions model analysis should be indicated. Maximum and minimum temperatures shall be

consistent with those used to establish the emissions budget in the approved maintenance plan, and are available from the Systems Planning Office.

(g) Inspection/Maintenance (I/M) and Anti-Tampering Programs

The district shall verify that the Conformity Determination Report (CDR) reflects the allowable 80 percent I/M credit as described in **Appendix 5**. The CDR must indicate the following current values (available from the Systems Planning Office):

1. Stringency level (failure rate of pre-1981 cars and 1984 light trucks);
2. Vehicle model year inspected;
3. Waiver rate;
4. Compliance rate in the centralized, annual inspection program;
5. The current EPA approved model default value for tampering rates; and
6. The two types of tampering inspections made are for catalytic converters removal and gas caps (i.e., if the gas cap is missing and whether the gas cap is unvented).

(h) Refueling Emissions

Exclude the refueling emissions for all years analyzed.

(i) HPMS VMT Adjustment

1. Acceptable Methodology

VOC and NOx emissions estimated using the FSUTMS model must be adjusted to reflect HPMS VMT used in the 1990 emissions inventory. The 1990 emissions inventory values are shown in **Appendix 3**. This is accomplished by developing a factor to adjust the 1990 modeled VMT to the HPMS VMT. This factor, to be approved by the Systems Planning Office, will be entered into PROFILE.MAS files used in all conformity analyses as the &EMISFAC (default being 1.000). All values reported by EMIS will be adjusted accordingly. **Appendix 4** describes the

steps to be followed in developing and applying EMISFAC.

2. Alternative Methodology

In the event EMISFAC fails to adequately adjust the 1990 FSUTMS model-produced VMT to the point where VOC or NOx emissions calculated from such values are not equal to, or less than, the 1990 inventory amounts, an additional adjustment procedure may be used if agreed upon by local, state, and federal parties to the consultation process. Calculate the ratio of the network-produced 1990 NOx emissions versus the 1990 inventory emissions and apply this ratio to the future horizon year's predicted NOx to obtain an equivalent total. Do the same for VOCs if required. Agreement by all affected parties through the interagency consultation process is required before this or any other alternative approach may be used for the conformity determination. If the district is notified by the MPO that it is interested in pursuing this approach, the following steps should be taken:

- a. The district requests the Office of Policy Planning to schedule a meeting or teleconference;
- b. The Office of Policy Planning coordinates the meeting or teleconference with EPA, FHWA, FTA, FDOT Central Office units, and DEP;
- c. The district notifies the MPO, local air quality program, and other affected local agencies; and
- d. The Office of Policy Planning coordinates and schedules such additional teleconferences or meetings as may be necessary.

(j) Off-Model Analysis

A regional emissions analysis includes both the modeled transportation network as well as facilities and projects that are analyzed off the network model. The

off-model methodologies should be coordinated through the interagency consultation process to determine the appropriateness and adequacy of the off-model procedures, pursuant to 40 CFR 93.105(c)(1)(i). The analysis for each project should be documented in the CDR. The emissions reductions resulting from the off-model analysis should be deducted from the model output emissions totals for VOCs and NOx. The emissions reductions for Congestion Mitigation and Air Quality (CMAQ) Improvement Program projects should also be expressed as both kg/day and tons per day to be consistent with the emissions reductions shown in the CMAQ project justification analysis. Emissions reductions from the following types of projects may be analyzed: exempt projects listed at 40 CFR 93.127; CMAQ projects; Intelligent Transportation System (ITS) projects that can demonstrate emissions benefits; Transportation Demand Management (TDM); and Transportation System Management (TSM). Assistance in the application of acceptable off-model methodologies is available from the FDOT district planning office and the Systems Planning Office of the Central Office.

(k) Heavy-Duty Diesel Emissions Reduction Credits

The input changes to reflect heavy-duty diesel NOx standard emissions reductions are shown in **Appendix 6** of this procedure.

**(3) Transportation Plan Conformity Requirements**

(a) Frequency and Submittal Schedules

Conformity determinations for transportation plans must be made in accordance with 40 CFR 93.104 and 23 CFR 450.322.

1. Triggers for Transportation Plan Conformity Determinations

Typical events triggering the need for a conformity determination for the transportation

plan include, but are not limited to, the following:

- a. The three-year plan review and update cycle in maintenance areas "to confirm its validity and its consistency with current and forecasted transportation and land use conditions and trends and to extend the forecast period." (23 CFR 450.322), or
- b. All transportation plan revisions, unless the revision merely adds or deletes exempt projects listed in 40 CFR 93.126 or 40 CFR 93.127.

2. Schedule for the Triennial Plan Update

The FHWA Florida Division Office, in consultation with the FTA Region Office, will notify the Department in writing of the timeframes for submittal of the transportation plan updates for the issuance of the federal agency conformity determinations. Based on these timeframes, and utilizing the consultation process, the Office of Policy Planning, the Systems Planning Office, the FDOT district, and the MPO will establish the timeframes for the development, review, and approval by the MPO of the transportation plan update. The plan update, accompanied by the CDR, must be submitted to the FDOT district and DEP's Bureau of Air Monitoring and Mobile Sources no later than December 31 preceding the date due for submittal to FHWA/FTA. The district should coordinate with the MPO to ensure that MPO action on the plan update occurs so that the current plan conformity does not lapse. The district shall notify the Office of Policy Planning if established submittal deadlines cannot be met so that immediate assistance may be provided.

3. Schedule for Plan Revisions

Plan amendments, accompanied by the CDR, must be submitted to the FDOT district and DEP's Bureau of Air Monitoring and Mobile Sources within **30**

**calendar days** following adoption by the MPO. The review and transmittal process is the same for plan amendments as for the triennial plan update conformity determination.

(b) Plan Contents

The transportation plan must meet the conformity criteria shown in **Appendix 2** and the planning requirements described in 40 CFR 93.106 and 23 CFR 450.322.

(c) Scope of Services

The district shall assist the MPO in the development of the scope of services to update the transportation plan. The roles of the MPO and the FDOT district shall be identified in the Scope of Services, consistent with the joint participation agreement between the two agencies and with the metropolitan planning rule (23 CFR 450 part C). A draft of the scope of services shall be submitted by the District Director for Planning and Programming to the FHWA Florida Division Office for review and comment before being finalized.

(d) District Assistance

The district shall provide technical assistance to the MPO or its consultant, as needed, to perform the required regional analyses for the determination of conformity.

(e) Public Involvement

The MPO shall provide the public an adequate opportunity to participate in the development of the transportation plan and the CDR, pursuant to 23 CFR 450.322(c). The CDR and the transportation plan are subject to the public consultation procedures of 40 CFR 93.105(e), 23 CFR 450.316(b) and 322(c), and the Conformity SIP (Exhibit 2, Section (7)). The public consultation process and must be fully documented in the CDR.

(f) Consultation Process

The consultation process outlined in the conformity SIP must be followed in developing the transportation plan conformity analysis. In the event that the MPO is unable to demonstrate the conformity of the plan update, the district shall request that the Office of Policy Planning to coordinate consultation with local, state, and federal agencies to assist the MPO in its conformity analysis.

(g) Approval and Transmittal

The MPO must make a finding of conformity on the transportation plan or amended transportation plan before it is approved by the MPO. After making the finding of conformity, and approving the transportation plan and CDR, the MPO transmits at least **six copies** (or more, as determined by the FDOT district planning office in consultation with the MPO) of the transportation plan and CDR to the FDOT district planning office, and one copy of each document to the DEP district office and the DEP Bureau of Air Monitoring and Mobile Sources at the following address:

Mail Station 5510  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

(h) Review by State Agencies

1. DEP Review

Within **14 calendar days** of receipt from the MPO, DEP will determine if the conformity determination on the transportation plan will be appealed as described in the Conformity SIP (Exhibit 2, Section (10)). The DEP Bureau of Air Monitoring and Mobile Sources will notify the FDOT Office of Policy Planning prior to the expiration of the 14 calendar day appeal period whether the

transportation plan's conformity determination will be appealed.

2. FDOT District Review and Transmittal

The FDOT district shall review the plan's CDR

consistent with **Appendix 7** of this procedure. Within **14 calendar days** of receipt from the MPO, the FDOT district planning office shall summarize its review comments on the CDR in writing and transmit its comments, along with six copies of the transportation plan and its CDR, to the Office of Policy Planning.

3. FDOT Central Office Review

The FDOT Systems Planning Office and the Office of Policy Planning shall review the transportation plan update and CDR for technical accuracy and completeness. If the submission is found complete, **four copies** of the transportation plan and CDR shall be submitted by the Office of Policy Planning to the FHWA Florida Division Office no earlier than the close of DEP's **14 calendar day** review period.

(i) Federal Action

The FHWA Florida Division Office will transmit copies of the transportation plan and CDR to the Region 4 offices of FTA and EPA for review. Upon receipt of EPA comments, FTA and FHWA will make a finding of conformity on the transportation plan. The Florida Division Office of FHWA will provide notification of the FHWA/FTA conformity determination to the MPOs and applicable FDOT district.

(j) Horizon (Analysis) Years

The horizon (or analysis) years for the transportation plan shall be determined through the consultation process, consistent with 40 CFR 93.106(a) and 23 CFR 450.322.

(k) Regional Emissions Analysis Requirements

Each MPO's regional emissions analysis must demonstrate that emissions in each horizon (analysis) year are less than, or equal to, the motor vehicle emissions budget established by the maintenance plan for that year. The regional emissions analysis for the transportation plan

shall be conducted in accordance with the provisions of the conformity criteria shown in **Appendix 2**. If the regional emissions analysis fails to demonstrate conformity, the district shall assist the MPO in documenting off-model analyses of any non-network projects as described in paragraph (2)(j) of this procedure.

(1) **Transportation Plan Conformity Determination Report**

The MPO's approved CDR must accompany the submittal of the transportation plan to the district. The minimum information required to be included in the transportation plan's CDR is listed in **Appendix 7**.

**Appendix 7** serves as both a sample index for use by the MPO as well as a check list for district review. If any item listed in **Appendix 7** is not included in the CDR, the district shall contact the MPO to provide additional information. The district shall ensure that the plan's CDR includes the Emissions Reduction Summary Table shown in **Appendix 8**. The emissions reduction summary table found in **Appendix 8** must include population, vehicles miles of travel, total VOCs in tons per day, and total NOx in tons per day for the following:

1. 1990 base year;
2. The mobile source emissions budgets for each SIP budget year;
3. Estimated projected emissions for each SIP budget year; and
4. The budget and projected emissions for the interim and final analysis years as determined by section (3)(j) of this procedure.

(4) **TIP Conformity Determination**

(a) **TIP Adoption and Distribution**

The TIP conformity determination is based on the first three years of the TIP, the "Part I" of the TIP described in section 5.5.5. of the "MPO Administrative Manual." Projects in the fourth and fifth years (Part

II) of the TIP must come from the conforming transportation plan. The new or amended TIP must be found to conform before the TIP is approved by the MPO. The required number of copies of the adopted CDR and TIP must be received by the FDOT district planning office no later than **June 1** of each year. Documents, as indicated below, should be received from the MPO by each of the following agencies by no later than **June 1**:

1. DEP Bureau of Air Monitoring and Mobile Sources (CDR only; MS 5510, 2600 Blair Stone Road, Tallahassee FL 32399-2400);
2. The DEP district office (TIP and CDR);
3. The local air quality program (TIP and CDR); and
4. Other agencies, as appropriate (CDR and/or TIP as necessary).

(b) FDOT District Review

The FDOT district shall request the MPO to provide the required number of copies of the TIP and CDR consistent with section 5.11 of the "MPO Administrative Manual" (FDOT Topic 525-010-025) and this procedure. The FDOT district shall review the TIP's CDR using the MPO's index, a sample of which is provided in **Appendix 9** of this procedure. The district should coordinate with the MPO to resolve any inadequacies in the CDR. The district shall summarize its comments in writing and submit its written comments, a copy of the completed check list shown in **Appendix 9**, and **nine copies** of the TIP and CDR to the Office of Policy Planning within **14 calendar days** of receipt of the TIP and CDR from the MPO.

(c) DEP District Review

Within **14 calendar days** of receipt of the TIP and CDR from the MPO, the DEP District Office and central office Bureau of Air Monitoring and Mobile Sources will review the CDR to determine if an appeal should be made. If DEP indicates that no appeal will be made, the TIP approval process may continue. If DEP appeals the conformity determination, the appeal process shown

in section (8) of Exhibit 2 in the conformity SIP shall immediately be implemented, and further action on the TIP shall cease until the conflict is resolved.

(d) Review by the FDOT Central Office

The Office of Policy Planning shall consult with the Systems Planning Office and the DEP Bureau of Air Monitoring and Mobile Sources to determine consistency with the SIP and the completeness of the TIP and CDR submittals. This shall be accomplished by the Office of Policy Planning within **14 calendar days** of receipt of the TIP and CDR from the FDOT district. The Office of Policy Planning will transmit **seven copies** of each TIP and CDR to the Florida Division Office of FHWA.

(e) Federal Agency Review

The Florida Division Office of FHWA will submit copies of the TIP and CDR to the Region 4 offices of EPA and FTA for their review and comments. The EPA and FTA will transmit any comments to FHWA, and FHWA and FTA will make a formal conformity determination on the TIP. The FHWA Florida Division Office will forward the finding of conformity to the Department and the MPO.

(f) Final Action

Upon receipt of the FHWA/FTA written conformity finding (or finding of nonconformity) on the TIP, the Office of Policy Planning shall process the TIP package and submit it to the FDOT Secretary for action. The conforming TIP will be incorporated by reference as part of the STIP to be submitted to FHWA and FTA for approval. The STIP, including the conforming TIPs, is approved by FHWA/FTA so that project authorizations for the new federal fiscal year may begin on **October 1**.

(g) No Further Regional Emissions Analysis Required

Pursuant to 40 CFR 93.122(e), the TIP may be demonstrated to satisfy the motor vehicle emissions budgets without a new regional emissions analysis if the regional emissions analysis performed for the transportation plan also applies to the TIP. This

requires a demonstration that:

1. 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;
2. All TIP projects which are regionally significant are included in the transportation plan with design concept and scope adequate to determine their contribution to the transportation plan's regional emissions analysis at the time of the transportation plan's conformity determination;
3. The design concept and scope of each regionally significant project in the TIP is not significantly different from that described in the transportation plan; and
4. The district shall determine that each of these conditions is documented in the CDR and that the conformity of the TIP has been demonstrated.

(h) Redetermination of TIP Conformity

After the MPO adopts a new or revised transportation plan, conformity of the TIP must be redetermined by the MPO and USDOT within **six months** from the date of USDOT's conformity determination for the transportation plan, unless the new or revised plan merely adds or deletes exempt projects listed in 40 CFR 93.126 and 93.127. Otherwise, the conformity of the current TIP will lapse. (40 CFR 93.104(c)(4))

(i) TIP Conformity Review Index/Check List

The TIP CDR must contain an index such as that shown in **Appendix 9**. The district shall review the TIP's CDR using the index shown in **Appendix 9** and shall not transmit the TIP and CDR until all items shown in **Appendix 9** have been included in the CDR by the MPO.

**(5) Conformity Lapse**

(a) Limitations

The following limitations exist in the absence of a financially constrained, MPO-approved, and conforming MPO transportation plan or TIP:

1. Only projects specified in section (5)(b) of this procedure may be advanced.
2. Only projects or project phases contained in the first two years of the TIP and STIP in effect at the time of the plan's conformity lapse can be advanced until the MPO adopts a conforming transportation plan or plan update.
3. Before a new TIP can be approved by the MPO (which normally happens each spring), the conformity of the transportation update must be determined by the MPO and FHWA/FTA, in coordination with EPA.
4. Conformity of the current TIP must be redetermined by the MPO and FHWA/FTA within six months of the federal conformity finding of the transportation plan update.

(b) Projects That May Advance During a Conformity Lapse

Four types of projects may continue to advance during a transportation plan/TIP conformity lapse.

1. "Grandfathered" Projects

A project may be considered as "grandfathered" if each of the following elements has occurred:

- a. The final NEPA document has been approved (a record of decision, a Finding of No Significant Impact or FONSI, or Categorical Exclusion);
- b. At least one phase of the project was included in the previously conforming TIP and all phases of the project come from the previously conforming transportation plan;
- c. The project's design concept and scope are consistent with the design concept and scope in the previous conformity analysis, and

- final design has begun; and
- d. At least one major action has been undertaken within the three years prior to the date of the conformity lapse (approval of the final NEPA document; start of final design; acquisition of a significant portion of right-of-way; or approval of the plans, specifications, and estimates). The "acquisition of a significant portion of right-of-way" has been defined by FHWA as the purchase of at least half of the parcels and at least half of the land area required for the project.

2. Exempt Projects

Highway and transit projects of the types listed at section 93.126 of the conformity rule may proceed during a conformity lapse unless the MPO and other agencies that are party to the consultation process determine that the project has potentially adverse emissions impacts for any reason.

3. Transportation Control Measures from the Approved SIP

TCMs required by the SIP may continue during a conformity lapse.

4. Non-Federal Projects

Certain regionally significant non-federal projects may be adopted or approved during a transportation plan/TIP lapse provided the project was included in the most recent transportation plan and TIP conformity determination. Only those non-federal projects from the first three years of the most recent conforming transportation plan or TIP may proceed during the lapse.

(c) Potential Lapse in TIP Conformity

Since the conformity of the TIP must be redetermined by the MPO and USDOT within six months from the date of

USDOT's conformity determination for the transportation plan update, the potential for a TIP conformity lapse exists for each year when the triennial transportation plan update is due. The year 1999 provides the most immediate example. With March 15 established as the deadline for USDOT to issue conformity findings on the next plan update, the six months conformity "grace period" for the current TIP would end on September 15. Since the new TIP to be submitted on June 1 would not take effect until October 1, a gap approximately two weeks (September 15 through September 30) in conforming TIPs would exist. Therefore, the MPO should redetermine the conformity of the current TIP as part of the new or revised plan update adoption process. This would preclude the possibility of a TIP conformity lapse occurring. The process for doing this is shown in **Appendix 10**.

**(6) Conflict Resolution**

The conflict resolution process described in Exhibit 2, section (10), of the submitted conformity SIP provides a detailed process for the resolution of conformity conflicts by affected parties and the appeal of a conformity determination by DEP. In event of an appeal by DEP, the district should complete its review of the conformity determination and plan or TIP, prepare written comments, include a completed copy of the appropriate check list, and forward all documentation to the Office of Policy Planning according to the deadlines specified in this procedure.

**(7) Transportation Plan and TIP Revisions/Amendments**

(a) Revising the Transportation Plan

All revisions to the transportation plan other than the addition or deletion of exempt projects listed in 40 CFR 93.126 or 93.127 require a redetermination of the plan's conformity by the MPO and USDOT. Examples of revisions that would require a redetermination of the plan's conformity would include a significant change in design concept and scope, adding or deleting a regionally significant project, a major shift in

project phasing, changes in planning assumptions, or any other event that would affect the mobile emissions projections of the original plan's regional emissions analysis.

(b) TIP Amendments

A TIP amendment affecting the first three years of the currently conforming TIP requires a new conformity determination before the amendment is approved by the MPO, or accepted by FHWA and FTA, unless the TIP amendment merely adds or deletes an exempt project as provided in 40 CFR 93.126 or 93.127 51.460 (40 CFR 93.104(c)(2)). The redetermination of conformity for the amended TIP must be reviewed and transmitted the same way as a new TIP following the process described in this procedure.

(c) Traffic Signal Synchronization Projects

Regionally significant traffic signal synchronization projects (i.e., projects involving the coordinated timing of multiple traffic signals) may be approved, funded, and implemented without a prior conformity determination as long as such projects are included in the subsequent regional emissions analysis for the plan and TIP, pursuant to 40 CFR 93.128. The determination that a traffic signal synchronization project is regionally significant must be made through the consultation process, guided by the definition of "regionally significant project" at 40 CFR 93.101 and 23 CFR 450.104.

**(8) Training:**

Although no training is required by this procedure, training on the use of this procedure is available upon request. District staff should take advantage of training opportunities provided by periodic teleconferences and courses on air quality issues offered by FDOT's Systems Planning and Environmental Management Offices, EPA, FHWA, and FTA. Various levels of FSUTMS training are offered by the Systems Planning Office. District staff should attend the annual air quality conference sponsored by FDOT and DEP, in coordination with the EPA, the FTA, and the FHWA, in

order to keep abreast of current developments in the conformity process.

**(9) Forms Access:**

No forms are required to implement this procedure.

**(10) Electronic Access to Conformity Information**

(a) FDOT Documents

This procedure (except for the appendices) and the "MPO Administrative Manual" are available on DOTNET in CICS (PF 10). Procedural documents are available by office, topic number, or title on FDOT's intranet site, the "Infonet," where links to referenced procedural documents (such as the MPO Manual) are available.

(b) Department Web Pages

1. Environmental Protection

DEP's web page includes F.A.C. air quality rules (62.200s) along with other information:  
<http://www.dep.state.fl.us>

2. Transportation

FDOT's home page address is:  
<http://www.dot.state.fl.us>  
The planning page is under construction.

(c) Federal Internet Addresses

1. Code of Federal Regulations

This address will contain the entire CFR when completed, including 23 and 40 CFR parts applicable to transportation and air quality:  
<http://www.access.gpo.gov/nara/cfr>

2. Federal Register:

EPA and FHWA rules and notices can be searched and downloaded from:

[http://www.access.gpo.gov/su\\_docs/](http://www.access.gpo.gov/su_docs/)

3. Environmental Protection Agency

Conformity and air quality rules can be selected by date or using the Search feature at:  
<http://www.epa.gov/docs/fedrgstr/EPA-AIR/>

Look in What's New or under the Conformity file area for conformity-related policy and modeling information at:  
<http://www.epa.gov/OMSWWW/>

EPA's Office of Air and Radiation:  
<http://epa.gov/oar/>

EPA's Office of Air Quality and Standards:  
<http://epa.gov/oar/oaqps/>

EPA's links page to other web sources of air quality information:  
<http://www.epa.gov/OMSWWW/links.htm>

4. Federal Highway Administration

Metropolitan planning information:  
<http://www.fhwa.dot.gov/hep/metropol.htm>

Information on air quality and the CMAQ program:  
<http://www.fhwa.dot.gov/environment/>

(d) Florida Metropolitan Planning Organization Advisory Council

The MPOAC's website will provide membership information and meeting dates and locations, as well as links to Florida MPO websites:  
<http://www.mpoac.org>