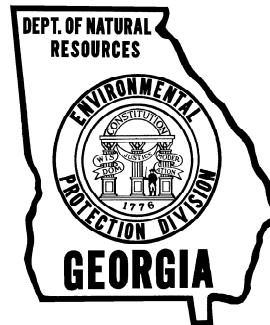


**Georgia Department of Natural Resources
Transportation Conformity
Manual**

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**Georgia Department of Natural Resources
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Georgia Interagency Consultation, Enforcement, and Enforceability Procedures for the Determination of the Conformity of Metropolitan Planning Organization Plans, Programs, and Projects

This manual describes the Interagency Consultation, Enforcement, and Enforceability requirements of Georgia's Transportation Conformity Rule (Rules for Air Quality Control, Chapter 391-3-1-.15). In accordance with the requirements of Clean Air Act (CAA) Section 176 (c)(4)(E), it delineates the state-specific transportation conformity processes to be followed in current and future Georgia nonattainment and maintenance areas by Metropolitan Planning Organizations, publicly-owned transit agencies, the state environmental and transportation agencies, the Executive Office of the Governor, the Federal Highway Administration, the Federal Transit Administration, and the U.S. Environmental Protection Agency.

(1) Consultation

(a) Definitions

These terms have the meaning given for the purpose of this manual:

1. "Conformity to an implementation plan," as defined in the Clean Air Act (CAA), 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 and achieving expeditious attainment of such standards; and that Federal 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 attainment of any standard or any required interim emission reductions or other milestones in any area.
2. "Project Sponsor" -- a public agency that proposes the construction of a transportation project, or includes the transportation project on behalf of another public or private party, by including the project in a plan, plan amendment, land development regulation, work program, capital improvement program, capital improvement element, development order or other permit, pursuant to law.
3. "Transportation-Related SIP Revision" -- a state implementation plan revision that establishes or revises requirements that could impact motor vehicle emissions budgets or mobile (transportation) sources.

(b) Interagency Consultation Parties

For purposes of regular consultation, the participating agencies shall include:

1. Metropolitan Planning Organizations (MPOs) in nonattainment or maintenance areas;
2. Georgia Department of Transportation (GDOT);
3. Georgia Environmental Protection Division (EPD);
4. Georgia Regional Transportation Authority (GRTA), where applicable;
5. Publicly-owned transit agencies;
6. Federal Highway Administration (FHWA);
7. Federal Transit Administration (FTA); and
8. Environmental Protection Agency (EPA).

(c) Organizational Level of Regular Consultation

For purposes of regular consultation, organizational representation shall be defined as follows:

1. MPO: Executive Director or designee;
2. GDOT: Commissioner or designee;
3. EPD: Director or designee;
4. GRTA: Executive Director or designee;
5. Publicly-owned transit agencies: General Manager or designee;
6. FWHA: Division Administrator or designee;
7. FTA: Director of Office of Program Development or designee; and
8. EPA: Regional Administrator or designee.

(d) Roles and Responsibilities of Federal, State and Local Agencies in the Conformity Determination Process

1. Federal Highway Administration (FHWA) and Federal Transit Administration (FTA)

The FHWA and the FTA are responsible for providing guidance and technical expertise to the MPO and GDOT on metropolitan planning (23 CFR Part 450), conformity (40 CFR Parts 51 and 93, 23 CFR Part 771), project funding, NEPA (40 CFR Part 1500-1508) and other federally-mandated requirements and programs. The FHWA and the FTA receive regional transportation plans (RTPs), transportation improvement programs (TIPs), and conformity determinations from the MPO. After consulting with EPA, the FHWA and the FTA will make a conformity determination finding on these documents. If the conformity determination is unacceptable, the FHWA and the FTA will notify the MPO and GDOT and will ask the MPO to resolve the issues which make the determination unacceptable. The FHWA and the FTA are also responsible for the approval of the Georgia Statewide Transportation Improvement Program (STIP) that incorporates the approved conforming TIP prior to approval of federal project funding.

2. United States Environmental Protection Agency (EPA)

For purposes of transportation conformity the EPA will:

- (i) provide guidance on conformity criteria and procedures to agencies in interagency consultation;
- (ii) provide emissions model and emissions inventory development assistance to EPD, GDOT and MPOs;
- (iii) review motor vehicle emissions budgets in submitted SIPs and find them adequate or inadequate based on adequacy criteria and procedures;
- (iv) approve or disapprove submitted SIP revisions, including any transportation control measures (TCMs); and
- (v) provide comments on the regional emissions analyses and conformity determinations of transportation plans, TIPs, and projects in nonattainment and maintenance areas.

3. Metropolitan Planning Organizations (MPOs)

The MPOs in nonattainment and/or maintenance areas are responsible for the continuing, cooperative, and comprehensive metropolitan planning process required by title 23 U.S.C. 134. This section provides for the designation, apportionment, authority, responsibilities, powers and duties, and organization of the MPO under federal and state law. MPOs are required to develop an RTP and TIP consistent with federal law and regulations.

The MPOs are responsible for making conformity determinations on RTPs, TIPs and projects and for carrying out the duties required by the CAA and other federal and state laws and regulations.

The Atlanta Regional Commission (ARC), the MPO for all or part of 18 counties in the Atlanta ozone and PM2.5 nonattainment and/or maintenance areas, develops, maintains, updates and validates regional transportation demand and network models and data necessary to apply the latest planning assumptions used in the regional emissions analysis to determine the conformity of RTPs and TIPs for the entire Atlanta nonattainment and/or maintenance areas. The ARC, with the support of GDOT, EPD, GRTA, and applicable counties, also develops the regional emissions analyses for Atlanta nonattainment and/or maintenance areas. Elsewhere in the state, GDOT is responsible for these activities.

For purposes of conformity, the MPO:

- (i) Develops the RTPs, TIPs and priority project listings;
- (ii) Coordinates the development of plans and programs and related conformity findings with transportation providers, GDOT, GRTA (where applicable), EPD, publicly-owned transit agencies, citizens, affected parties, and local governments;
- (iii) Develops the RTP and TIP in cooperation with GDOT, GRTA (where applicable), and publicly-owned transit agencies and transmits the RTP, TIP and conformity determinations to FHWA, FTA, and EPA;
- (iv) Allocates resources each year to accomplish the MPO's conformity-related planning and administrative activities, including the evaluation of the emissions impacts of proposed transportation improvements and the determination of conformity of RTPs and TIPs;
- (v) Consults with GDOT and the other interagency consultation parties regarding regionally-significant facilities and major transportation investment projects and their impacts on their respective RTPs, TIPs and the conformity determination process; and
- (vi) Provides opportunity, consistent with 23 U.S.C. Section 134 and 23 CFR Part 450, for public review and comment and responds through various means to all public comments.

4. Publicly-owned transit agencies

Publicly-owned transit agencies in nonattainment or maintenance areas support and conduct, as necessary, transportation planning activities for public transportation service, including transit operations; provide public transportation service; and provide support and information on transportation planning activities to the other consultation agencies. Data provided by these transit agencies may be used in forecasting travel patterns and conditions.

Specific responsibilities include the following:

- (i) Where applicable, assist the MPO (or, outside the Atlanta nonattainment and maintenance areas, GDOT and/or the MPO, as agreed to by them) with the preparation and updates of the transit network, and participate in transportation demand modeling applications;
- (ii) Participate in the analysis and evaluation of transportation alternatives in cooperation with the MPO and/or GDOT;
- (iii) Assist the MPO and/or GDOT with public information and involvement when transportation measures are under consideration;
- (iv) Develop and implement transit projects and related transportation projects which are found to be feasible as a result of the joint transportation-air quality planning process;
- (v) Where applicable, conduct project level hot-spot analyses for transportation projects and update analyses as needed;
- (vi) Work with local governments toward developing and implementing transportation projects selected for air quality purposes;
- (vii) Work with the MPO and/or GDOT on the preparation of the transportation section of the SIP, including review of the draft document; and
- (viii) Obtain project status information and scheduling for projects of regional significance regardless of funding source in the transit service area.

5. Georgia Department of Natural Resources Environmental Protection Division (EPD)

EPD has the ultimate responsibility for preparing the State Implementation Plan and revisions, including both transportation and stationary source provisions. EPD is the chief air quality agency in the state, and conducts the ongoing air quality monitoring, emissions inventory development, and data analyses.

Specific responsibilities include the following:

- (i) Develop SIPs as necessary to meet CAA requirements;
- (ii) Prepare the stationary, area, highway and non-highway mobile source emissions inventories;

- (iii) Provide public information on general air quality issues;
- (iv) In preparing the SIP, consult with the interagency consultation parties on the on-road mobile source element, including, if applicable, the motor vehicle emissions budget(s); and
- (v) Consult on emissions budget comparisons.

6. Georgia Department of Transportation (GDOT)

GDOT is the recipient of all federal-aid highway funds in Georgia and also administers certain FTA funds. GDOT is responsible for construction, operation, improvement and maintenance of the state transportation system. GDOT also works with local jurisdictions to program and fund local projects supported by federal or state dollars. The STIP is prepared by GDOT and is submitted to the FHWA and FTA for approval. The STIP incorporates MPOs' Governor-approved TIPs by reference. The TIPs from MPOs in nonattainment and maintenance areas cannot be included in the STIP until FHWA and FTA, with comments received from EPA, have made a finding of conformity on each TIP, pursuant to federal law and regulations. GDOT and several local governments monitor traffic volumes on major highway facilities through regular traffic counting programs. These data and information on project implementation are reflected in the MPO's transportation planning process and models, which GDOT works to support with both staff and funds.

Specific duties include the following:

- (i) Assist the MPO with the preparation and updates of the highway network, and participate in transportation demand modeling applications; GDOT takes the lead for the development, maintenance, and application (including highway mobile source emissions modeling) of the travel demand models for the urban areas not included in Atlanta nonattainment/maintenance areas;
- (ii) Assist the MPO with the preparation of emissions inventories for highway mobile sources for any nonattainment or maintenance counties outside the MPO jurisdiction and provide appropriate inputs (traffic counts, etc.) for the MPO counties. GDOT shall have the lead in obtaining needed information from those nonattainment or maintenance counties which are outside the MPO jurisdiction;
- (iii) Participate in the analysis and evaluation of transportation alternatives in cooperation with the MPO;
- (iv) Where applicable, conduct project-level hot-spot analyses for transportation projects and update analyses as needed;
- (v) Take the lead responsibility, as needed, for public information and involvement in non-MPO counties and work with the MPO(s) on public information and involvement;
- (vi) Work with local governments toward developing and implementing transportation projects selected for transportation-air quality purposes;

- (vii) Work with the MPO(s) on the preparation of inputs to the transportation section of the SIP, including review of the draft document;
- (viii) Obtain project status information and scheduling for projects of regional significance which are state responsibility or receive state funding in nonattainment or maintenance area counties, regardless of funding source for any nonattainment or maintenance counties which are outside the MPO jurisdiction; and
- (ix) Develop and implement transportation projects which are found to be feasible as a result of the joint transportation-air quality planning process.

7. Georgia Regional Transportation Authority (GRTA)

GRTA is the state authority that works to improve mobility, air quality, and land use practices in Georgia. GRTA's jurisdiction currently includes the 13-county Atlanta maintenance area for the one-hour ozone standard. By resolution of its board, GRTA can expand its jurisdiction to other nonattainment or maintenance areas in the state.

Among other responsibilities, GRTA assists the Governor's office in developing transportation policies; helps state and regional agencies prioritize transportation plans and programs; measures regional effectiveness in improving air quality, mobility, accessibility and land use practices, and in reducing congestion; encourages land use practices that promote efficient use of transportation investments; develops transit plans for areas within its jurisdiction; coordinates transit services to provide seamless and accessible connections within the areas of its jurisdiction; and implements transit services through a combination of entities including local transit authorities, cities, counties and private operators.

For areas within its jurisdiction, GRTA may perform a variety of roles related to transportation projects and/or air emissions, including but not limited to the following:

- (i) May plan, design, acquire, construct, add to, extend, improve, equip, operate, and maintain or cause to be operated and maintained public transportation systems and other transportation projects within GRTA's jurisdiction; or which are included within an approved transportation plan or TIP and provide public transportation services within GRTA's jurisdiction;
- (ii) May provide advisory, technical, consultative, training, educational, and project assistance services to the state and local government and enter into contracts with the state and local government to provide such services;
- (iii) May coordinate and assist in planning for transportation and air quality purposes within GRTA's jurisdiction, between and among all state, regional, and local authorities charged with planning responsibilities for such purposes by state or federal law, and adopt a regional plan or plans based in whole or in part on such planning;
- (iv) May review and make recommendations to the Governor concerning all transportation plans and TIPs prepared by GDOT involving design, construction, or operation of transportation facilities wholly or partly within GRTA's jurisdiction, and negotiate with GDOT concerning changes or amendments to such plans which may be recommended by the authority or

the Governor consistent with applicable federal law and regulation, and to adopt such plans as all or a portion of its own regional plans;

- (v) May, to the extent permissible under federal law, operate as a receiver of federal grants, loans, and other moneys intended to be used within GRTA's jurisdiction for inter-urban and intra-urban transit, public transportation development, air quality and air pollution control, and other purposes related to the alleviation of congestion and air pollution;
- (vi) Will ensure that any project funded by the authority in whole or in part with federal-aid funds is included in approved TIPs adopted and approved by designated MPOs and the Governor and in the transportation plan adopted and approved by the designated MPO, and is in compliance with the requirements of relevant portions of the regulations implementing the Clean Air Act, where required by applicable federal law or regulation;
- (vii) May be delegated by the Governor, by executive order, his or her powers under applicable federal transportation planning and air quality laws and regulations, including without limitation the power to resolve disputes under subparagraph (h);
- (viii) May assist the MPO or GDOT with the preparation and updates of the transit model network, and participate in transportation demand modeling applications;
- (ix) May participate in the analysis and evaluation of transportation alternatives in cooperation with the MPO or GDOT;
- (x) May assist the MPO or GDOT with public information and involvement when transportation measures are under consideration; and
- (xi) May work with the MPO, GDOT, EPD, and others as appropriate on the preparation of the transportation section of the SIP, including review of the draft document.

(e) Process for Developing State Implementation Plan Revisions

1. Establishing the Need for SIP Revisions

The CAA specifies the applicable implementation plan revisions required to be submitted by the state to the EPA. EPD shall determine the need for the SIP revisions based on federal law, regulation and consultation with EPA. EPD shall identify the nature of the required revision to the SIP, identify the parties that need to be informed of its requirements, and the parties that must be involved in its development. For transportation-related SIP revisions, EPD shall advise the MPO, GDOT, GRTA (where applicable), and publicly-owned transit agencies. EPD shall be the lead agency for developing the SIP revision. EPD shall coordinate the development of the SIP revision and be responsible for taking steps to ensure its timely submittal to EPA. GDOT, GRTA (where applicable), and EPD, as they become aware of such SIP approvals through interagency contacts or Federal Register Notices, will seek to inform the affected parties.

2. Development Process

The following consultation process is followed when the required SIP revision primarily involves metropolitan transportation plans and programs:

- (i) The EPD in consultation with the MPO (or, outside Atlanta nonattainment and/or maintenance areas, with GDOT) will update the emissions estimates for mobile sources in each county as required by the CAA or the SIP.
- (ii) Interagency consultation parties shall establish early consultation to develop the schedule of events necessary to adopt transportation-related SIP revisions. The MPO (or, for nonattainment areas not included in an MPO, GDOT) will be the lead agency for developing any TCMs to be added to the SIP.
- (iii) The MPO, GDOT, GRTA (where applicable), publicly-owned transit agencies, and other affected agencies will assist EPD with the necessary monitoring, transportation, socio-economic or other data necessary to develop the proposed transportation-related SIP revision.
- (iv) The EPD, in consultation with the MPO, GDOT, GRTA (where applicable), and publicly-owned transit agencies, shall develop the draft SIP revision and shall provide drafts for review and comment. The MPO shall be responsible for providing drafts for review as appropriate to its member jurisdictions.
- (v) Each reviewing agency shall return comments within the time frame requested by EPD. The EPD shall revise the draft SIP revision based on comments received and shall document the consultation process and the response to comments.

3. Submittal Process

- (i) EPD schedules and notices the public hearing and follows all steps necessary to meet the requirements of federal and state laws and regulations.
- (ii) EPD prepares the final SIP revision package and submits the SIP revision to EPA for action.

4. Action by EPA

EPA shall provide US DOT a review of the SIP revision submittal if required by federal law, regulation or agreement. Any comments or contacts by EPA regarding revisions to the Georgia SIP prior to final action shall be directed to EPD. EPD shall communicate EPA comments to affected parties as needed or appropriate. Upon final action by EPA, the EPA shall provide informal notification to EPD. EPD shall disseminate the information to all affected parties. EPA action shall be final when published in the Federal Register. The EPD shall ensure that the affected consultation parties are provided copies of the notice.

(f) Interagency consultation procedures: General factors

For nonattainment areas not modeled by an MPO, the role of the MPO in the following consultation procedures will be performed by GDOT.

1.
 - (i) Representatives of the MPO(s), EPD, GDOT, GRTA (where applicable), and publicly-owned transit agencies shall undertake an interagency consultation process in accordance with this manual with each other and with division or regional offices of EPA, FHWA, and FTA on the development of the implementation plan, the list of TCMs in the applicable implementation plan, the transportation plan, the TIP, any revisions to the preceding documents, and all required conformity determinations.
 - (ii) The EPD shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of applicable implementation plans and control strategy implementation plan revisions. The MPO shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of the transportation plan, the TIP, and any amendments or revisions thereto. The MPO shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to any required determinations of conformity for which the MPO is responsible. The MPO shall be the lead agency responsible for developing any TCMs to be added to the SIP, for preparing the list of TCMs in the applicable implementation plan, and for tracking the implementation of the TCMs.
 - (iii) In addition to EPD and the MPO, the lead agencies identified in Subparagraph (f)(1)(ii), other agencies entitled to participate in any interagency consultation process under Rule 391-3-1-.15 include GDOT, GRTA (where applicable), publicly-owned transit agencies, FHWA, FTA, and EPA. Transit agencies housed within the local governments making up the MPO's membership may allow the MPO to represent them in interagency consultation.
 - (iv) It shall be the role and responsibility of EPD and the MPO to confer with all other agencies identified under Subparagraph (f)(1)(iii) with an interest in the document to be developed, provide all appropriate information to those agencies needed for meaningful input, solicit early and continuing input from those agencies, conduct the consultation process described in the applicable sections of Subparagraph (f), where required, assure policy-level contact with those agencies, and, prior to taking any action, consider the views of each such agency and respond to those views in a timely, substantive written manner prior to any final decision on such document, and assure that such views and written response are made part of the record of any decision or action. It shall be the role and responsibility of each agency specified in Subparagraph (f)(1)(iii), when not fulfilling the role and responsibilities of a lead agency, to confer with the lead agency and other participants in the consultation process, review and comment as appropriate (including comments in writing) on all proposed and final

documents and decisions in a timely manner, participate in consultation and decision meetings, assure policy-level contact with other participants, provide input on any area of substantive expertise or responsibility (including planning assumptions, modeling, information on status of TCM implementation, and interpretation of regulatory or other requirements), and provide technical assistance to the lead agency or consultation process in accordance with this manual when requested.

2.

- (i) 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 the other participants, to convene consultation meetings prior to the final decision on the issue or the development of the final document, to appoint the conveners of technical meetings, and to assure that all relevant documents and information are supplied to all participants in the consultation process within 30 days of the final decision.
- (ii) Regular consultation on major activities such as the development of a transportation plan, the development of a TIP, or any determination of conformity on transportation plans or TIPs, shall be the affirmative responsibility of the MPO. The MPO shall initiate the consultation process by notifying the other interagency consultation parties. The MPO shall begin consultation meetings prior to the circulation of the draft document for public review, and shall prepare drafts of the final document and major supporting documents. A meeting schedule will be distributed to all affected agencies on an annual basis. The interagency consultation parties shall be assisted by technical committees such as technical engineering, planning, public works, air quality and administrative staff from the member agencies as the parties deem appropriate. The MPO shall assure that all relevant documents and information are supplied to all participants in the consultation process prior to the release for public review.
- (iii) Each lead agency in the consultation process required under Rule 391-3-1-.15 (that is, the agency with the responsibility for preparing the final document subject to the interagency consultation process) shall confer with all other agencies identified under Subparagraph (g)1. 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 in a timely, substantive written manner prior to any final decision on such document. Such views and written response shall be made part of the record of any decision or action.

3. Each agency subject to an interagency consultation process under Rule 391-3-1-.15 (including any federal agency) shall provide each final document that is the product of such consultation process (including applicable implementation plans or implementation plan revisions, transportation plans, TIPs, and determinations of conformity), together with all supporting information, to each other agency that has participated in the consultation process within 30 days of adopting or approving such document or making such determination. Any such agency may supply a checklist of available supporting information, which such other participating

agencies may use to request all or part of such supporting information, in lieu of generally distributing all supporting information.

4. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the conformity consultation purpose is identified in the agenda distributed prior to the meeting.

(g) Interagency consultation procedures: specific processes.

For nonattainment areas not modeled by an MPO, the role of the MPO in the following consultation procedures will be performed by GDOT.

1. An interagency consultation process involving the MPO(s), GDOT, GRTA (where applicable), publicly-owned transit agencies, EPA, EPD, FHWA, and FTA shall be undertaken for the following:

- (i) Evaluating and choosing the model(s) and associated methods and assumptions to be used in regional emissions analyses, including vehicle miles traveled (VMT) forecasting and speeds estimation.

The MPO shall work closely with the relevant federal and state agencies throughout the development of the transportation plan, program and conformity determinations. The transportation demand modeling process requires input from local jurisdictions, publicly-owned transit agencies, and GDOT. The mobile sources emissions estimates for the regional conformity determination are derived by the MPO (or, outside the Atlanta nonattainment and maintenance areas, by GDOT) using the latest motor vehicle emissions model available as designated by EPA. The assessment of conformity involves, by definition, use of the latest mobile source emissions. The model to be used for hot-spot analyses is selected by EPA.

Choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas, as required by 40 CFR 93.109(l)(2)(iii), is to be initiated by GDOT and conducted in accordance with Subparagraph (f).

- (ii) Determining which minor arterials are "'regionally significant' for the purposes of regional emissions analysis" is not necessary in Georgia because the network-based travel models maintained by ARC for Atlanta nonattainment/maintenance areas and by GDOT for all other Georgia urban areas include all of the minor arterial facilities and projects, and, consistent with 40 CFR 93.122(b) and (d) and with current and previous transportation and emissions modeling practice by ARC and GDOT, emissions analyses in Georgia must be calculated based on activity for every minor arterial in the travel model networks.

Any interagency consultation party may present projects for which the determination of regional significance must be further examined to the interagency consultation parties for consideration. The parties will review each project reported and will reach consensus on the project's regional significance.

Whether or not a transportation project is regionally significant, conformity determinations must be based on "emissions from the entire transportation system," per 40 CFR 93.118(d) and 93.119(a).

- (iii) Evaluating whether projects otherwise exempted from meeting the requirements of transportation conformity (per 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, is to be initiated by the MPO and conducted in accordance with subparagraphs (f)2.(i) through (iii).
- (iv) Making a determination, as required by 40 CFR 93.113(c)(1), 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, is to be initiated by the MPO, the lead agency responsible for tracking the implementation of TCMs, and conducted in accordance with Subparagraphs (f)2.(i) through (iii). 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.
- (v) Making a determination, as required by 40 CFR 93.121(a), 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, and 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, is to be initiated by the MPO.
- (vi) Notification of transportation plan or TIP revisions or amendments which merely add, delete, or revise exempt projects listed in 40 CFR 93.126 or 40 CFR 93.127, is to be initiated by the MPO. Such notice will be provided prior to the preparation of the final document or decision.
- (vii) Determining what forecast of VMT to use in establishing or tracking emissions budgets, developing transportation plans, TIPs, or applicable implementation plans, or making conformity determinations.

The MPO (or, outside Atlanta nonattainment and/or maintenance areas, GDOT and/or the MPO, as agreed to by them) is the lead agency in determining which models to employ and through input from consultation agencies, uses the current acceptable and reasonable technology available to develop these models.
- (viii) Determining the definition of "reasonable professional practice" for the purposes of 40 CFR 93.122 and 93.123, is to be initiated by the MPO.
- (ix) Determining whether the project sponsor or MPO has demonstrated that the requirements of 40 CFR 93.116, 93.118, and 93.119, as applicable, are satisfied without a particular mitigation or control measure, as provided in 40 CFR 93.125(d), is to be initiated by the MPO.

2. An interagency consultation process involving the MPO, GDOT, GRTA (where applicable), and EPD shall be undertaken for the following:

- (i) Evaluating events which may trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104, is to be initiated by the MPO.

Additional events which will trigger new conformity determinations include such elements as the introduction of a new emissions model, a new travel demand model, revised land activity forecasts, or revisions to the SIP. It will be the responsibility of the consultation agencies to identify and bring to the attention of the MPO any such additional actions which would trigger a new conformity determination.

3. An interagency consultation process involving the MPO and GDOT shall be undertaken for cooperative planning and analysis for purposes of determining conformity of all projects outside the MPO counties and within the nonattainment area.

4.

- (i) An interagency consultation process involving the MPO, GDOT, GRTA (where applicable), publicly-owned transit agencies, and sponsors of projects to be implemented with funds designated under title 23 U.S.C. or the Federal Transit Laws 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 sponsors of projects to be implemented with funds designated under title 23 U.S.C. or the Federal Transit Laws, are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are immediately disclosed.

Any affected programming agency in the state including GDOT, GRTA (where applicable), publicly-owned transit agencies, and local jurisdictions where such projects may be located must bring such projects to the attention of the MPO.

- (ii) The sponsor of any such regionally-significant project, regardless of funding source, and any agency that becomes aware of any such project through applications for approval, permitting, funding or otherwise, shall disclose such project to the MPO in a timely manner. Significant changes to any such project's "design concept and scope" shall also be disclosed to the MPO in a timely manner. Such disclosures shall be made not later than the first occasion on which any of the following actions to adopt or approve the project is sought: any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to design or construct the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with design, permitting or construction of the project, or the execution of any contract to design or construct or any approval needed for any facility that is dependent on the completion of the regionally significant project. To help assure timely disclosure, the sponsor of any potential regionally significant project shall disclose, upon the request of the

MPO, each project for which alternatives have been identified through the NEPA process, and in particular, any preferred alternative that may be a regionally significant project.

(iii) For the purposes of 40 CFR 93.121(a), the phrase "adopt or approve" means the first time any action necessary to authorizing a project occurs, such as any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to construct the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with construction of the project, or any written decision or authorization from the MPO that the project may be adopted or approved.

5. An interagency consultation process involving the MPO and sponsors of projects to be implemented with funds designated under title 23 U.S.C. or the Federal Transit Laws shall be undertaken for assuming the location and design concept and scope of projects which are disclosed to the MPO as required under subparagraph (g)(4) but whose sponsors have not yet decided these features, in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.122.

Where assumptions are required to be made regarding the design or scope of certain projects, the information regarding the assumed location and design concept and scope of such projects will be developed by the State agency or local jurisdiction in cooperation with the project sponsor.

6. An interagency consultation process involving the MPO, EPD, GDOT, GRTA (where applicable), and publicly-owned transit agencies, shall be undertaken for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/ travel transportation surveys), and is to be initiated by the MPO.

(h) Resolving conflicts.

1. Any conflict among EPD, GDOT, publicly-owned transit agencies, or the MPO shall be escalated to the Governor if the conflict cannot be resolved by the heads of the involved agencies. Such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

2. EPD has 14 calendar days to appeal a proposed determination of conformity to the Governor after GDOT or the MPO has notified the EPD of the resolution of all comments on such proposed determination of conformity. Such 14-day period shall commence when the MPO or GDOT has confirmed receipt by the director of the EPD of the resolution of the comments. If the EPD appeals to the Governor, the final conformity determination must have the concurrence of the Governor. The EPD must provide notice of any appeal under subparagraph (h) to the MPO and GDOT. If the EPD does not appeal to the Governor within 14 days, the MPO or GDOT may proceed with the final conformity determination.

3. In the case of any comments with regard to findings of fiscal constraint under 40 CFR 93.108 or the air quality effects of any proposed determination of conformity, GDOT has 14 calendar days to appeal a proposed determination of conformity to the Governor after the MPO has notified the EPD or the GDOT of the resolution of

all comments on such proposed determination of conformity. Such 14-day period shall commence when the MPO has confirmed receipt by the director of the EPD or GDOT of the resolution of the comments of GDOT. If GDOT appeals to the Governor, the final conformity determination must have the concurrence of the Governor. GDOT must provide notice of any appeal under subparagraph (h) to the MPO and the EPD. If GDOT does not appeal to the Governor within 14 days, the MPO may proceed with the final conformity determination.

4. The Governor may delegate the role of hearing any such appeal under subparagraph (h) and of deciding whether to concur in the conformity determination to another official or agency within the State, but not to the EPD, GDOT, the State Transportation Board, any agency that has responsibility for only one of these functions, or the MPO.

(i) Public consultation procedures.

Agencies making conformity determinations (i.e., the MPO, GDOT, FHWA, FTA) on transportation plans, programs, and projects, shall establish and continuously implement a proactive public involvement process, consistent with the requirements of 23 CFR 450.316(a), which provides opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs. Any charges imposed for public inspection and copying shall be reasonable. In addition, any such 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. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects to the extent otherwise required by law (e.g., NEPA). No transportation plan, TIP, or project may be found to conform unless the determination of conformity has been subject to a public involvement process in accordance with this subparagraph, without regard to whether the DOT has certified any process under 23 CFR Part 450.

(2) Commitments for Regional Emissions Analysis

For nonattainment areas not modeled by in an MPO, the role of the MPO in the following paragraph will be performed by GDOT.

In accordance with 40 CFR 93.122(a)(4)(ii), the MPO(s) will not include emissions reduction credits from control measures that are not included in the transportation plan or transportation improvement program and that do not require a regulatory action in the regional emissions analysis used in the conformity determination unless the MPO(s) or FHWA/FTA obtain written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to implement those control measures must be fulfilled by the appropriate entities.

(3) **Commitments for Project-Level Mitigation and Control Measures**

For nonattainment areas modeled by an MPO, the role of the MPO in the following paragraph will be performed by GDOT.

In accordance with 40 CFR 93.125(c), prior to making a project-level conformity determination for a transportation project, FHWA/FTA must obtain from the project sponsor and/or operator a written commitment, as defined in 40 CFR 93.101, to implement any project-level mitigation or control measure in the construction or operation of the project identified as a condition for NEPA process completion. The written commitment to implement such a project-level mitigation or control measure must be fulfilled by the appropriate entity. Prior to making a conformity determination for the transportation plan or TIP, MPO(s) will ensure any project-level mitigation or control measures for which a written commitment has been made are included in the project design concept and scope and are appropriately identified in the regional emissions analysis used in the conformity analysis. Written commitments must be obtained before such mitigation or control measures are used in a project-level hot-spot conformity analysis for a project-level determination.