SAN DIEGO CONFORMITY WORKING GROUP

The San Diego Conformity Working Group may take action on any item appearing on this agenda.

Wednesday, March 15, 2006

10:30 a.m. to 12:00 noon  **(Please note new starting time)**

SANDAG, Conference Room 8C
401 B Street, Suite 800
San Diego, CA  92101-4231

Staff Contact: Elisa Arias
(619) 699-1936
ear@sandag.org

AGENDA HIGHLIGHTS

• GO CALIFORNIA PROJECTS

• CONSULTATION ON CONFORMITY CRITERIA AND PROCEDURES FOR 2004 RTIP AMENDMENT

• INTERIM GUIDANCE FOR IMPLEMENTING THE TRANSPORTATION CONFORMITY PROVISIONS IN SAFETEA-LU

Please contact Elisa Arias prior to the meeting if you wish to participate by conference call.

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Phone 1-800-COMMUTE or see www.sdcommute.com for route information.

In compliance with the Americans with Disabilities Act (ADA), SANDAG will accommodate persons who require assistance in order to participate in SANDAG meetings. If such assistance is required, please contact SANDAG at (619) 699-1900 at least 72 hours in advance of the meeting.

To request this document or related reports in an alternative format, please call (619) 699-1900, (619) 699-1904 (TTY), or fax (619) 699-1905.
### Item #

<table>
<thead>
<tr>
<th>Item #</th>
<th>Recommendation</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
<td><strong>Introductions</strong></td>
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<tr>
<td>+2.</td>
<td><strong>Summary of February 15, 2006, Meeting</strong> INFORMATION</td>
</tr>
<tr>
<td>3.</td>
<td><strong>Public Comments/Communications</strong></td>
</tr>
<tr>
<td>4.</td>
<td><strong>2030 Revenue Constrained Regional Transportation Plan (RTP): 2006 Update and Air Quality Conformity Determination</strong> INFORMATION</td>
</tr>
<tr>
<td>+5.</td>
<td><strong>2004 Regional Transportation Improvement Program (RTIP) Amendments</strong> DISCUSSION</td>
</tr>
</tbody>
</table>

The SANDAG Board of Directors adopted the 2030 Revenue Constrained Regional Transportation Plan: 2006 Update and Air Quality Conformity Determination at their February 24, 2006, meeting. Letters and copies of the Final RTP and Air Quality Conformity Determination have been sent to Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), requesting their conformity finding.

Caltrans has requested an amendment to the 2004 Regional Transportation Improvement Program (RTIP) to incorporate Go California projects. SANDAG will include projects exempt from regional conformity in Amendment No. 15 and those that require a new regional emissions analysis in Amendment No. 16 (additional capacity increasing projects may be included in this amendment and information will be provided to the Conformity Working Group [CWG] prior to the meeting). The list of Go California and other projects, to be included in this amendment is attached. Consultation on exempt projects will be conducted at the CWG meeting.
ITEM #  RECOMMENDATION

+6. CONSULTATION ON CONFORMITY CRITERIA AND PROCEDURES FOR 2004 RTIP AMENDMENT

DISCUSSION

SANDAG staff will consult with the CWG on conformity criteria and procedures to be used to determine conformity of the 2004 RTIP Amendment No. 16. Issues to be discussed include:

a) Revenue Constrained Program assumptions
b) Latest planning assumptions
c) Transportation control measures
d) Emissions model and emissions budgets
e) Exempt projects
f) Consultation and public involvement
g) Conformity redetermination of the 2030 Revenue Constrained RTP: 2006 update
h) Proposed amendment schedule

+7. DEVELOPMENT OF THE 2006 REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP)

INFORMATION

SANDAG has requested submittal of new projects or revisions to projects for inclusion in the 2006 RTIP. Submittals are due on April 7, 2006.

+8. INTERIM GUIDANCE FOR IMPLEMENTING THE TRANSPORTATION CONFORMITY PROVISIONS IN SAFETEA-LU

DISCUSSION

In February 2006, the U.S. Environmental Protection Agency, Federal Highway Administration, and Federal Transit Administration issued interim guidance for transportation conformity. The CWG will discuss this guidance.

9. STATUS OF THE STATE IMPLEMENTATION PLAN (SIP) FOR 8-HOUR OZONE STANDARD AND EMFAC 2007 UPDATE

INFORMATION

Staff from the California Air Resources Board will provide updates on the development of the 8-Hour Ozone SIP and the EMFAC emissions model.
10. **EPA HEARINGS ON NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER AND REVISIONS TO AMBIENT AIR MONITORING REGULATIONS**

   EPA staff will provide the CWG with an oral update on the March 8, 2006, hearings held to gather public comment on two proposed rules: “National Ambient Air Quality Standards for Particulate Matter” and “Revisions to Ambient Air Monitoring Regulations”, which were published in the Federal Register on January 17, 2006.

11. **UPCOMING MEETINGS**

   The next meeting of the San Diego Region Conformity Working Group is scheduled on Wednesday, April 19, 2006, from 10:30 a.m. to 12:00 noon at SANDAG.

12. **OTHER BUSINESS**

   + next to an item indicates an attachment
TO: San Diego Region Conformity Working Group (CWG)

FROM: SANDAG Staff

SUBJECT: Summary of February 15, 2006 Meeting

ACTION: INFORMATION

Item #1: Introductions

Self-introductions were made. See attached attendance list.

Item #2: Summary of January 18, 2006, Meeting

There were no comments or corrections.

Item #3: Public Comments/Communications

There were none.

Item #4: Draft 2030 Revenue Constrained Regional Transportation Plan (RTP): 2006 Update and Air Quality Conformity Determination

Elisa Arias, SANDAG, provided the CWG with an update on the Draft 2030 Revenue Constrained Regional Transportation Plan (RTP): 2006 Update and Air Quality Conformity Determination. A public hearing was held on January 27, 2006, which coincided with the closing date for public comments. The item is scheduled at the Transportation Committee meeting on February 17, for recommendation to the SANDAG Board for adoption at their February 24, 2006, meeting.

Heather Werdick, SANDAG, provided the CWG with an update on comments received to date. SANDAG received seven comment letters/e-mails before the January 27th deadline, and one comment after the deadline, which was also included in SANDAG’s responses. Three people spoke at the public hearing on January 27. Most comments related to TransNet, modeling assumptions, advancing projects or current projects.

Elisa Arias highlighted that the comments received on the Air Quality Conformity portion of the document focused on modeling assumptions. Responses and clarifications to the questions and comments are included in SANDAG’s response document.

Jean Mazur, FHWA, asked if there were any major changes to the RTP based on the comments received. Heather Werdick stated that the maps were edited to include an inset showing State Route 241, clarifications on regional grade separation issues, airports, and the transit early action
funding were also included. Appendix B, the air quality conformity section, was updated to include the new Carbon Monoxide (CO) budgets approved for conformity.

**Item #5: Development of the 2006 Regional Transportation Improvement Program (RTIP)**

Elisa Arias provided background information on the development of the 2006 RTIP. She explained that the SANDAG Board made a finding of conformity and adopted MOBILITY 2030 in March 2003. A conformity determination of the RTP was also done to comply with the Transportation Conformity Rule Amendments for the 8-Hour ozone standard. This determination was completed in April 2005 and received a Federal conformity finding in May 2005.

Regarding latest planning assumptions, Ms. Arias explained that the San Diego air basin is a maintenance area for CO. SANDAG will be utilizing the new CO budgets for conformity analysis. The San Diego region also is a non-attainment area, Subpart 1 of the Clean Air Act for 8-Hour Ozone. A SIP is under development. SANDAG staff is working with Caltrans on revenue constrained program assumptions and will bring this information to the CWG in April.

With regards to the growth forecast, Ms. Arias stated that the most up-to-date forecast is the Final 2030 Population and Employment forecast, which was approved by the SANDAG Board of Directors in December 2003. SANDAG is working on a new forecast, which is anticipated to be presented to the Board in summer 2006.

Ms. Arias also provided an overview of the transportation modeling to be used for the development of the 2006 RTIP. SANDAG will be using TransCad software. This software is linked to ArcInfo, the GIS system that SANDAG uses to maintain the transportation network and land use and demographic data. The networks include all roads that are in the jurisdictions' General Plan Circulation Elements including: freeways, expressways regional arterial system, and all regionally significant projects included in the RTP and RTIP. There are networks for the years 2002, 2009, 2010, 2014, 2020, and 2030. SANDAG also has a transit network data set for the existing and proposed transit system. The majority of the transit system operates on the regional roadways, with the exception of the trolley and commuter lines, which are coded separately.

SANDAG follows a four-step travel demand model procedure. After trip generation, trip movements between zones are determined using a doubly-constrained gamma function gravity model form of the trip distribution model. For mode choice SANDAG has highway, transit, bicycle and walking modes. The highway mode includes: drive alone non-toll, drive alone toll, shared ride HOV, and shared ride non-HOV. The transit mode includes: rail/BRT mode, express bus, and local bus with three different access modes: walk, drive or drop-off. SANDAG produces model runs for the a.m. peak (6-9 a.m.), p.m. peak (3-6 p.m.), and the off-peak, which covers the remaining 18 hours of the day. For highway and transit assignment TransCad’s multi-modal, multi-class assignment function is used. Model results are compared with traffic volumes from actual traffic count databases and the Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled.

For motor vehicle emissions modeling SANDAG uses EMFAC 2002, which was approved by EPA for conformity in April 2003. These data includes 2000 vehicle fleet data. SANDAG will utilize this version, as the new version of EMFAC will not be available until later this year. For emissions forecasts for 8-Hour ozone, SANDAG has 1-Hour ozone budgets from the maintenance plan for 2010 and 2014. These budgets are also utilized for 2020 and 2030. The “no greater than 2002” test
will be used for the interim emissions tests for 2009. For ozone, summer season emissions will be estimated for ROG and NOx emissions. The analysis years were chosen to comply with the transportation conformity rule.

For CO, SANDAG is utilizing the most current budget that was approved by the U.S. EPA in January 2006. Emissions forecasts will be run for the years 2010, 2020, and 2030. The year 2018 will be interpolated. EMFAC will be run for the winter season.

SANDAG hopes to bring the list of exempt projects to the CWG for consultation in mid-April prior to the CWG meeting, as well as the draft list of projects to be coded for the 2006 RTIP.

Ms. Arias stated that there are four federally approved transportation control measures (TCMs) for the San Diego Region: ridesharing, transit service improvements, traffic flow improvements, and bicycle facilities and programs. These TCMs have been fully implemented and are continued to receive funding through the RTIP.

SANDAG will continue to consult with the CWG in March and April regarding assumptions. The modeling is anticipated to begin in mid-April.

Sookyung Kim, SANDAG, provided the CWG an update on the public outreach effort for the 2006 RTIP. In addition to the CWG, SANDAG staff will conduct outreach to other standing committees and working groups including the: Cities/County Transportation Advisory Committee, Transit Agencies, SANDAG Board and Transportation Committee meetings, and the TransNet Independent Taxpayers Oversight Committee. Information will be posted in the 2006 RTIP Web page. A public hearing will be scheduled at the May Transportation Committee meeting. A day-long workshop was hosted for all member agencies in February. Letters have been sent to the Tribal Nations, and additional outreach efforts including a Tribal Transportation Workshop, and a Tribal summit are also being undertaken.

Carl Selnick, San Diego County APCD, asked how the conformity finding being done for the RTIP compares to the conformity determination that was recently completed for the 2006 RTP. Elisa Arias stated that the RTIP conformity finding would include new projects submitted by the local jurisdictions. A re-determination of the RTP will be done to comply with any changes included in the 2006 RTIP.

Additional information will be provided to the CWG at the March meeting. The deadline for Caltrans, transit districts, and member jurisdictions to submit projects for inclusion in the 2006 RTIP is April 7, 2006.

**Item #6: Status of the 8-hour Ozone implementation Rule**

The CWG discussed the schedule that was provided at the Statewide Conformity Working Group meeting in early February.
Item #7: Status of the State Implementation Plan (SIP) for 8-Hour Ozone Standard and EMFAC 2007 Update

Dennis Wade, ARB, provided an update on the release of EMFAC2007. The schedule indicates that the updated version of EMFAC and motor vehicle fleet data will be released to the public in November 2006. This release will begin the 6-month transition period in which MPOs can use either the new model or the EMFAC2003 model. After the 6-month transition period, MPOs must use EMFAC 2007 for conformity determinations. A submission of new SIPs to EPA is anticipated during December 2007, and the new EMFAC model should be approved for use for conformity in July 2007. The new budgets should be deemed adequate in November 2007. Elisa Arias stated that SANDAG is planning on starting the conformity process prior to November 2006.

Jean Mazur, FHWA, indicated that after the new 8-Hour ozone budgets are found adequate the MPOs have 24 months to re-determine conformity of plans and programs.

ARB will be requesting new population and employment data from the MPOs in late February. SANDAG will have new data to submit based on the 2006 RTP.

Item #8: Other Business

The next meeting of the San Diego Conformity Working Group is scheduled for March 15, 2006, at 10:30 a.m., at SANDAG. The starting time was changed to facilitate participation of U.S. EPA staff.
San Diego Region Conformity Working Group
Meeting Attendance
February 15, 2006

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<th>Name</th>
<th>Agency</th>
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<td>Mike Brady (phone)</td>
<td>Caltrans</td>
</tr>
<tr>
<td>Wade Hobbs (phone)</td>
<td>FHWA</td>
</tr>
<tr>
<td>Dennis Wade (phone)</td>
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<td>Jean Mazur (phone)</td>
<td>FHWA</td>
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<td>Sandy Johnson</td>
<td>Caltrans</td>
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<td>Carl Selnick</td>
<td>APCD</td>
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<td>Carla Waletka (phone)</td>
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<tr>
<td>Elisa Arias</td>
<td>SANDAG</td>
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<tr>
<td>Heather Werdick</td>
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<tr>
<td>Rachel Kennedy</td>
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<tr>
<td>Sookyung Kim</td>
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## San Diego Region (in $000s)

### 2004 Regional Transportation Improvement Program
#### Amendment No. 15 Exempt

### Caltrans

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<tr>
<th>MPO ID:</th>
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<td><strong>DESCRIPTION:</strong></td>
<td>Highway Bridge Replacement and Rehabilitation projects</td>
<td><strong>CHANGE REASON:</strong> Increase funding</td>
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### Project Prior to Amendment

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<td><strong>DESCRIPTION:</strong></td>
<td>North of Mexico border - add Secure Electronic Network for Travelers Rapid Inspection (SENTRI) lane</td>
<td><strong>CHANGE REASON:</strong> New project</td>
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<td><strong>DESCRIPTION:</strong></td>
<td>Add FAST lane at Otay Mesa cargo border crossing</td>
<td><strong>CHANGE REASON:</strong> New project</td>
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### MPO ID: CAL85

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<td><strong>DESCRIPTION:</strong></td>
<td>On I-5 at 28th Street - NB interchange modification</td>
<td><strong>CHANGE REASON:</strong> New project</td>
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2004 Regional Transportation Improvement Program
Amendment No. 15 Exempt
San Diego Region (in $000s)

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<tr>
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<th>Exempt Category: Safety - Non signalization traffic control and operating.</th>
<th>RTIP #: 04-15</th>
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<td>TITLE: Lump Sum for Go California Exempt Projects</td>
<td>DESCRIPTION: Improve NB I-5 exit to Via De La Valle</td>
<td>CHANGE REASON: New project</td>
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<th>Exempt Category: Other - Intersection signalization projects.</th>
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<td>DESCRIPTION: Install radar scanner for major Metro areas</td>
<td>CHANGE REASON: New project</td>
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<th>Exempt Category: Other - Intersection channelization projects.</th>
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<tr>
<td>TITLE: Lump Sum for Go California Exempt Projects</td>
<td>DESCRIPTION: widen 2nd street EB offramp to add storage and channelization</td>
<td>CHANGE REASON: New project</td>
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<th>05/06</th>
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<th>07/08</th>
<th>08/09</th>
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<th>RW</th>
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<td>$1,335</td>
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<tr>
<th>MPO ID: CAL89</th>
<th>Capacity Status: NCI</th>
<th>Exempt Category: Safety - Non signalization traffic control and operating.</th>
<th>RTIP #: 04-15</th>
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<tbody>
<tr>
<td>TITLE: Lump Sum for Go California Exempt Projects</td>
<td>DESCRIPTION: Widen single lane exit ramp at SB I-805 to Telegraph Canyon Road</td>
<td>CHANGE REASON: New project</td>
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<table>
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<td>$860</td>
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### Imperial Beach, City of

**MPO ID:** IB01  
**TITLE:** SR 75 Landscape  
**Capacity Status:** NCI  
**Exempt Category:** Other - Plantings, landscaping, etc.  
**RTIP #:** 04-15  

**DESCRIPTION:** Construct Blue Wave Art sculpture in median landscape. Adjacent to 9th Street intersection  

**CHANGE REASON:** Delete project

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### Ream Field

**MPO ID:** IB04  
**TITLE:** Ream Field  
**Capacity Status:** NCI  
**Exempt Category:** Other - Interchange reconfiguration projects.  

**DESCRIPTION:** At south end of 13th Street - improve intersection at the entrance to Ream Field  

**CHANGE REASON:** New project

<table>
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<tr>
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### North County Transit District

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<tbody>
<tr>
<td>Capacity Status:</td>
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<tr>
<td>Exempt Category:</td>
<td>Mass Transit - Track rehabilitation in existing right of way.</td>
</tr>
<tr>
<td>RTIP #:</td>
<td>04-15</td>
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</table>

#### DESCRIPTION:
- Crosstie renewal program, street cross protection, rail structure rehabilitation, storage tracks, rail lubricators, at-grade crossing renewal, turnout renewal, other misc. improvements

#### CHANGE REASON:
- Increase funding

<table>
<thead>
<tr>
<th>Project</th>
<th>Prior</th>
<th>04/05</th>
<th>05/06</th>
<th>06/07</th>
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<tbody>
<tr>
<td>FTA 5307</td>
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<td>$158</td>
<td>$1,623</td>
<td>$1,898</td>
<td>$1,921</td>
<td>$5,600</td>
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</tr>
<tr>
<td>FTA 5309 (FG)</td>
<td>$579</td>
<td>$579</td>
<td>$579</td>
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<tr>
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<td>$1,506</td>
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#### PROJECT PRIOR TO AMENDMENT

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2004 Regional Transportation Improvement Program
Amendment No. 15 Exempt
San Diego Region (in $000s)

San Diego Association of Governments

MPO ID: SAN11  Title: Regional Rideshare Program  Exempt Category: Air Quality - Ride-sharing and van-pooling program.

Description: Regional rideshare program
Change Reason: Increase funding

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Project Prior to Amendment

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<td><strong>$29,701</strong></td>
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MPO ID: SAN52  Title: East County Bus Maintenance Facility  Exempt Category: Mass Transit - Const of new bus or rail storage/maint facilities excluded in 23 CFR part 771.

Description: Construction of new bus facility in the City of El Cajon to provide capacity for operation and maintenance for 100-150 vehicles
Change Reason: Carry over from 02-11

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### San Diego County

#### 2004 Regional Transportation Improvement Program
**Amendment No. 15 Exempt**
**San Diego Region (in $000s)**

<table>
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<tbody>
<tr>
<td>TITLE: Bradley Avenue Overpass at SR 67</td>
<td>Exempt Category: Other - Engineering studies.</td>
<td></td>
</tr>
<tr>
<td>DESCRIPTION: From Magnolia Ave. to Mollison Ave. - future widening of Bradley Ave. overpass from 2 to 4 lanes</td>
<td>CHANGE REASON: Revise project description, Change to project limits - no change to funding</td>
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</table>

#### San Diego Region (in $000s)

<table>
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<th>RSTP</th>
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<tr>
<td>$382</td>
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<td>$750</td>
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<tbody>
<tr>
<td>TITLE: Street Improvements</td>
<td>Exempt Category: Safety - Pavement resurfacing and/or rehabilitation.</td>
<td></td>
</tr>
<tr>
<td>DESCRIPTION: Various locations - improvements including construction of curbs, gutter, sidewalks, drainage, and landscaping</td>
<td></td>
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<tr>
<td>CHANGE REASON: Increase funding</td>
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<table>
<thead>
<tr>
<th>TransNet - L</th>
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<th>07/08</th>
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San Diego Metropolitan Transit Development Board

**San Diego Region (in $000s)**

**MPO ID:** MTS28  
**Title:** Bus/Rail Rolling Stock  
**Capacity Status:** NCI  
**Exempt Category:** Mass Transit - Purchase new buses and rail cars to replace existing vehicles or minor expansions of fleet.

**Description:** Purchase replacement buses (9 mid-size CNG; 141 ADA small; 11 medium; 83 40 foot CNG; 10 high capacity)

**Change Reason:** Add new funding source

<table>
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<th></th>
<th>TOTAL</th>
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<th>05/06</th>
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<tr>
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**MPO ID:** MTS30  
**Title:** Bus/Rail Support Equipment and Facilities  
**Capacity Status:** NCI  
**Exempt Category:** Mass Transit - Purchase of office, shop and operating equipment for existing facilities.

**Description:** Bus video cameras, bus/rail facility and station security improvements, office/computer equipment, rail traction motors, rail rehabilitation

**Change Reason:** Add new funding source

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Friday, March 3, 2006
### San Diego, City of

**MPO ID:** SD14  |  **Capacity Status:** NCI  |  **RTIP #:** 04-15  
**TITLE:** SR 15 Bikeway  |  **Exempt Category:** Air Quality - Bicycle and pedestrian facilities  
**DESCRIPTION:** SR 15 Bikeway Landis Street to Adams Avenue  
**CHANGE REASON:** Revise project description, Reduce funding

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**MPO ID:** SD38  |  **Capacity Status:** NCI  |  **RTIP #:** 04-15  
**TITLE:** Georgia St Bridge/University Ave  |  **Exempt Category:** Safety - Guardrails, median barriers, crash cushions.  
**DESCRIPTION:** Provides for bridge replacement, retaining walls and guardrails along bridge walls (CIP 52-555)  
**CHANGE REASON:** Reduce funding, Federal funds included with CAL44

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**MPO ID: BIA02**
**TITLE: IRR Campo**
**Capacity Status: NCI**
**Exempt Category: Non-Exempt - BIA**
**RTIP #: 04-15**

**DESCRIPTION:** In Campo - on Campo Road

**CHANGE REASON:** New project

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**MPO ID: BIA03**
**TITLE: IRR Los Coyotes**
**Capacity Status: NCI**
**Exempt Category: Non-Exempt - BIA**
**RTIP #: 04-15**

**DESCRIPTION:** Los Coyotes at Eagle View Point

**CHANGE REASON:** New project

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**MPO ID: BIA04**
**TITLE: IRR Barona**
**Capacity Status: NCI**
**Exempt Category: Non-Exempt - BIA**
**RTIP #: 04-15**

**DESCRIPTION:** In Barona on Wildcat Canyon Rd

**CHANGE REASON:** New project

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**MPO ID: BIA05**
**TITLE: IRR Mesa Grande**
**Capacity Status: NCI**
**Exempt Category: Non-Exempt - BIA**
**RTIP #: 04-15**

**DESCRIPTION:** In Mesa Grande on Black Canyon Road

**CHANGE REASON:** New project

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**MPO ID: BIA06**
**TITLE: IRR Pala**
**Capacity Status: NCI**
**Exempt Category: Non-Exempt - BIA**
**RTIP #: 04-15**

**DESCRIPTION:** In Pala on Lilac Road

**CHANGE REASON:** New project

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## U.S. Bureau of Indian Affairs

### San Diego Region (in $000s)

**2004 Regional Transportation Improvement Program**  
Amendment No. 15 Exempt

#### MPO ID: BIA07
**TITLE:** IRR Pauma/Yuima  
**Capacity Status:** NCI  
**Exempt Category:** Non-Exempt - BIA  
**RTIP #:** 04-15

**DESCRIPTION:** In Paulma/Yuima, water tank

**CHANGE REASON:** New project

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#### MPO ID: BIA08
**TITLE:** IRR Rincon  
**Capacity Status:** NCI  
**Exempt Category:** Non-Exempt - BIA  
**RTIP #:** 04-15

**DESCRIPTION:** Rincon Reservation Road

**CHANGE REASON:** New project

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**Capacity Status:** NCI  
**Exempt Category:** Non-Exempt - BIA  
**RTIP #:** 04-15

**DESCRIPTION:** Santa Ysabel

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**Capacity Status:** NCI  
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**RTIP #:** 04-15

**DESCRIPTION:** In Ramona, Hog Lake Road

**CHANGE REASON:** New project

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2004 Regional Transportation Improvement Program
Amendment No. 16
San Diego Region (in $000s)

Caltrans

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### Interstate 5 - HOV Managed Lanes

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### 1-5 Lomas Sante Fe Interchange/HOV lanes

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### Interstate 5 - Auxiliary Lanes Go California

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Friday, March 3, 2006

21
### San Diego Region (in $000s)

#### 2004 Regional Transportation Improvement Program Amendment No. 16

**Caltrans**

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Friday, March 3, 2006
**2004 Regional Transportation Improvement Program**  
**Amendment No. 16**  
**San Diego Region (in $000s)**

**Caltrans**

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**AMENDED PROJECT INFORMATION**

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<tr>
<th>PROJECT ID</th>
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**RTIP**

04-16  SR-905 New Freeway

**TRANS SYSTEM**

State: Highway - 905

**CT DISTRICT**

11  Caltrans

**CAPACITY INCREASING PROJECT INFORMATION**

<table>
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<tr>
<th>FACILITY CLASS.</th>
<th>TB PAGE/GRID</th>
<th># OF LANES (FROM/TO)</th>
<th>PROJECT LENGTH (CALC FROM MAP)</th>
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**SCHEDULE:**

ENVIR. CLEARANCE

AWARD CONST. CONTRACT

OPEN TO TRAFFIC

**PROJECT DESCRIPTION**

I-805 to Otay Mesa border station - construct 6-lane freeway (Stages 1-3)

**AMENDED REVENUE INFORMATION**

<table>
<thead>
<tr>
<th>FY</th>
<th>FUND TYPE (PROGRAMMED REVENUE SOURCE)</th>
<th>ENV / ENGR</th>
<th>ROW</th>
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http://projecttrak.sandag.org/amendment_review.asp?amendment_id=1000417&cmd=review&project_id=CAL38&new_version... 03/08/2006
### Sponsor Comments / Change Reason for This Amendment

**Change Reason**
Add Truck climbing lane and Airway road extension and Aux Lane

**Comments**
Elements are included in the environmental document re-evaluation. These are the same changes as entered by Pat Landrom (Airway Rd., EB truck lane and Aux Lane) into the project network coding (TCOV).

### Acceptance / Denial Comments

### Edit This Amendment Before Acceptance

<table>
<thead>
<tr>
<th>Sponsor</th>
<th>Description</th>
<th>Amount</th>
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</table>

**Total**

| Amount | $16,853,000 | $143,832,000 | $70,450,000 | $231,135,000 |
## SANDiego CNTRs 11-0 GoCalif projects in san diego county

<table>
<thead>
<tr>
<th>EA</th>
<th>Project Title</th>
<th>Description</th>
<th>Postmile</th>
<th>Total Cap</th>
<th>Total Support</th>
<th>Milestone Dates</th>
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<tr>
<td>26190K (previously 002230K)</td>
<td>Remove (Resiprite) High Occupancy Vehicle Lane on Oliva Mesa Road</td>
<td>Capacity Increasing</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>12/06</td>
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<tr>
<td>27960K</td>
<td>Add a FAST Lane at Oliva Mesa Road Interstate 905.</td>
<td>Capacity Increasing</td>
<td>0.5</td>
<td>$2.0M</td>
<td>$1M</td>
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<td>27860K</td>
<td>NB Interchange modification on Interstate 5 at 28th Street.</td>
<td>Capacity Increasing</td>
<td>5</td>
<td>$2.0M</td>
<td>$1M</td>
<td>6/06</td>
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<td>271200K</td>
<td>Extend WB Truck lane on WB 52 b. Santa Rd</td>
<td>Capacity Increasing</td>
<td>9.45</td>
<td>$250K</td>
<td>$15K</td>
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<tr>
<td>27860K</td>
<td>Improve NB I-5 FLC to Via De La Valla</td>
<td>Capacity Increasing</td>
<td>5</td>
<td>$1.0M</td>
<td>$250K</td>
<td>12/06</td>
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<tr>
<td>224311</td>
<td>NB &amp; SB Aux Lanes between Lomas Santa Fe &amp; Via de la Valla</td>
<td>Capacity Increasing</td>
<td>var</td>
<td>$9.0M</td>
<td>$2.0M</td>
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<td>28000K</td>
<td>Widen 2nd Street EB offramp to add storage &amp; channelization</td>
<td>Capacity Increasing</td>
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<td>$1.5M</td>
<td>$512K</td>
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<td>28040K</td>
<td>Add an HOV bypass to SR-94 and SR-125</td>
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<td>28000K</td>
<td>Improve NB SB Interchange for the Mira Mesa &amp; Via de la Valla areas of the County</td>
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<td>var</td>
<td>$900K</td>
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<td>28050K</td>
<td>Install Radar Scanner for the major Metro areas of the County.</td>
<td>Capacity Increasing</td>
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<td>$4.0M</td>
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<td>28010K</td>
<td>Widen single lane exit ramp at EB I-805 b. Oakland-Canyon Road to two lanes</td>
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<td>805</td>
<td>$900K</td>
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<td>Add an HOV bypass to SR-94 and SR-125</td>
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<td>$740K</td>
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</table>
Project Area

On SR-54 between Interstate 805 to SR-125 in San Diego County

Submitted by: Armando Garcia, (Date)
Project Manager

Recommended by:

Allan Kosup, (Date)
Deputy District Director
Program/Project Management

Approved:

Pedro Orso-Delgado, (Date)
District Director

DRAFT

Printed 2/16/06 3:02 PM
EA27990K
SD-008-PMR0.1
SAN YSIDRO PORT OF ENTRY

BEFORE
SENTRI BOOTH LANE 5

AFTER
SENTRI STACKED BOOTH LANE 5
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

PROJECT PLANS FOR CONSTRUCTION ON
STATE HIGHWAY
IN SAN DIEGO COUNTY IN SAN DIEGO
AT THE US MEXICAN BORDER

To be supplemented by Standard Plans dated July, 2004

LOCATION OF CONSTRUCTION
PM R0.1

SAN DIEGO

TIJUANA

MEXICO

UNITED STATES OF AMERICA

ROUTE 5 SB

E SAN Ysidro Blvd

ROUTE 5 NB

To San Ysidro

NO SCALE

STATE LINE

RELATIVE BORDER SCALE IS IN MILLISECONDS

The Contractor shall possess the class (or classes) of license as specified in the "Notice to Contractors."
"Q-3" LINE
STA 224+85 TO STA 224+95

"Q-3" LINE
STA 224+60 TO STA 224+85

"Q-3" LINE
STA 224+40 TO STA 224+60

ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SHOWN.
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
PROJECT PLANS FOR CONSTRUCTION ON
STATE HIGHWAY

IN SAN DIEGO COUNTY
IN SAN DIEGO FROM 0.2 KM WEST OF
SANTO ROAD OVERCROSSING TO 2.4 KM
WEST OF OAK CANYON BRIDGE

To be supplemented by Standard Plans dated July, 2004

UNITED STATES MARINE
CORPS AIR STATION
MIRAMAR

BEGIN CONSTRUCTION
Sta 143+50 "SD-52" LINE KP 13.8

TRANITION

MISSION TRAILS REGIONAL PARK

END CONSTRUCTION
Sta 168+20 "SD-52" LINE KP 16.4

- ENVIRONMENTALLY SENSITIVE AREA

The Contractor shall possess the Class (or classes) of license as specified in the "Notice to Contractors".

NO SCALE

Contract No.

Project Engineer

Firm Approval Date

Registered Civil Engineer

San Diego

01/21/2006 01:13:46 PM
IN SAN DIEGO COUNTY IN EL CAJON, 2nd STREET EXIT RAMP ON I-8 EASTBOUND

SUBMITTED BY:

BRUCE LAMBERT
PROJECT ENGINEER

CONCURRENCE BY:

XXX
Chief-Design

APPROVED:

PEDRO ORSO-DELGADO
DISTRICT DIRECTOR
DISTRICT 11
EA 28000K

2nd ST EXIT RAMP @ I-8 EB
## 2004 SANDAG Regional Transportation Improvement Program (RTIP)
### Proposed Schedule for Amendment No. 16

<table>
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<th>Date</th>
<th>Task</th>
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<tbody>
<tr>
<td>March 15, 2006</td>
<td>Consultation with San Diego Region Conformity Working Group (CWG) on conformity criteria and procedures including: revenue-constrained program assumptions, latest planning assumptions, transportation control measures, emissions model, emissions budgets, exempt projects, consultation, and public involvement..</td>
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<tr>
<td>Week of March 20, 2006</td>
<td>2004 RTIP Amendment No. 16 Draft Conformity Analysis to CWG for 30-day review and comment.</td>
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<tr>
<td>April 19, 2006</td>
<td>Discuss 2004 RTIP Amendment No. 16 Draft Conformity Analysis at CWG meeting.</td>
</tr>
<tr>
<td>April 21, 2006</td>
<td>Transportation Committee releases draft 2004 RTIP Amendment No. 16, including its conformity determination for public review and comment.</td>
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<tr>
<td>May 19, 2006</td>
<td>Transportation Committee adopts 2004 RTIP Amendment No. 16.</td>
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TO: City Managers/County CAO  
Cities/County Transportation Advisory Committee (CTAC)  
Local Agency TransNet Program Contacts  
Metropolitan Transit System  
North County Transit District  
Caltrans  

FROM: Sookyung Kim, Financial Programming Manager  

SUBJECT: 2006 Regional Transportation Improvement Program (RTIP)  

SANDAG is required by state and federal laws to develop and adopt a Regional Transportation Improvement Program (RTIP) every two years. The RTIP is a multi-year program of proposed major highway, arterial, transit, and bikeway projects, including the TransNet Program of Projects. The current 2004 RTIP, adopted by the SANDAG Board at its meeting in July 2004, covers the five-year period Fiscal Years 2005 through 2009 and expires October 2006.

This memo establishes the process and schedules to develop the 2006 RTIP covering the five-year period from FY 2007 through FY 2011. This biennial update includes the new federal funding from the recently-enacted Safe, Accountable, Flexible, and Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU) and the extension of the local transportation program, TransNet. SANDAG requests agencies to submit new projects, deletion of projects, or changes in existing programmed project scope, funding, or phasing. The Transportation Committee, at its May 19, 2006, meeting, is scheduled to release the Draft 2006 RTIP, including its conformity determination, and set June 16, 2006, to hold a public hearing. The Board adoption is scheduled for June 23, 2006. Submittal of projects through ProjectTrak, the on-line database, is mandatory for the 2006 update.

*** THE DEADLINE FOR LOCAL AGENCY PROJECT SUBMITTALS FOR THE 2006 RTIP IS APRIL 7, 2006 ***
BACKGROUND

Federal Metropolitan Planning and Air Quality Conformity Regulations identify the required content of RTIPs and prescribe the process for air quality conformity analysis. The RTIP must include all major projects requesting certain categories of federal transportation funding or federal project approval. All regionally-significant capacity-increasing transportation projects, regardless of funding sources, must be included in the RTIP for informational purposes and incorporated into the RTIP air quality quantitative emissions analysis. The projects in the RTIP must be based upon committed or reasonable expectation of fund availability, and all projects in the first two years (FY 2007 and FY 2008) must have available or committed funding. Agencies must ensure that all project submittals have a reasonable expectation of funding in the programmed years. A major component of the RTIP includes the state and federal transportation projects adopted by the California Transportation Commission (CTC) in the State Transportation Improvement Program (STIP) and the State Highway Operation and Protection Program (SHOPP). The state transportation projects included in the 2006 RTIP will include the 2006 STIP and SHOPP projects. The CTC is scheduled to adopt the STIP in April 2006, and the RTIP is due to the State by August 1, 2006.

The 2006 RTIP details the major projects anticipated to be initiated between July 1, 2007, and June 30, 2008 (biennial element) and a priority listing of projects for the succeeding fiscal years 2009 to 2011. Projects using the following categories of federal, state, and local funding must be included in the RTIP:

**Federal Transportation Funds**

1. Surface Transportation Program (STP)
2. Congestion Mitigation & Air Quality (CMAQ) Program
3. Transportation Enhancement Activities (TE) Program - Lump Sum Listing by SANDAG
4. Highway Bridge Replacement & Rehabilitation (HBRR) - Lump Sum Listing provided by Caltrans
5. Hazard Elimination Safety (STP Safety/HES) - Lump Sum Listing provided by Caltrans
6. Railroad/Highway Grade Crossing Program (Sec. 130 Rail) - Lump Sum Listing provided by Caltrans
7. Federal Lands Highways/Indian Reservation Roads - Lump Sum Listing provided by FHWA
8. Federal Demonstration/High Priority Projects
9. Federal Transit Administration Section 3037, 5307, 5309, 5310, 5311, and 5317

**State Transportation Funds**

1. 2006 STIP (Regional & Interregional Improvement Programs), FY 2007 to FY 2011 – regional program provided by SANDAG, interregional program provided by Caltrans
2. State Highway Operation & Protection Program (SHOPP), FY 2007 to FY 2011 – provided by Caltrans
3. Traffic Congestion Relief Program (TCRP) – carryover only.
Local Transportation Funds

- TransNet - Sales Tax Measure (current and extension).

**FEDERAL PROGRAMS**

**Highway Bridge Replacement, Safety, and Grade Crossing Projects:** Federally-funded Highway Bridge Replacement and Rehabilitation (HBRR), Hazard Elimination Safety (HES), and Railroad/Highway Grade Crossing (Sec. 130 Rail) projects are funded from a Caltrans statewide priority list. Caltrans provides a specified "Lump Sum" funding amount (no individual project listing) for these programs (except for capacity increasing bridge projects). Local agencies should contact the Caltrans Local Assistance office as needed to determine if any projects fall under any of these programs. SANDAG includes these programs as a lump sum in the RTIP.

**High Priority Projects:** SAFETEA-LU identified 33 projects for the San Diego area (see Table 1). In order to obligate the funds, each agency awarded High Priority funding must include the projects in the RTIP. If the earmarked project is delayed or the agency is waiting for additional sources of funding, the project does not need to be programmed during this cycle. Rather, the agency should use the amendment process to include the project once the project is ready. The sponsoring agency may program no more than 20 percent of the total project earmark per fiscal year. For example, an agency having received an earmark of $1,000,000 in SAFTEA-LU may program $200,000 in each fiscal year from 2005 through 2009. If FY 2007 is the first year in which the funds are programmed, then the maximum federal funding that can be programmed in FY2007 is $600,000 (including the current year and the two previous years). Then the remaining $400,000 would be programmed in $200,000 increments in FY 2008 and 2009. The federal funds must be matched on an 80 percent/20 percent basis, i.e., the local match must equal 20 percent of the total amount programmed.

**Surface Transportation Program (STP)/Congestion Mitigation Air Quality (CMAQ) Program:** As part of the approval for the TransNet Plan of Finance for the Early Action Program (EAP), the Board approved committing 85 percent of available STP and CMAQ funds toward the EAP projects (December 2005). The SANDAG Board of Directors has made no determination regarding how the remaining 15 percent will be used; therefore, those funds will not be part of this programming action.

**Federal Transit Administration Section 3037 (JARC) and Section 5317 (New Freedom):** SAFETEA-LU expanded the Jobs Access Reverse Commute (JARC) program and created a new program, New Freedom, which supports regional transit accessibility and service to the elderly and disabled. SANDAG is awaiting the final implementation rule for these programs to incorporate into a regionwide plan. These funds will be available to transit agencies but are not available to program until the publication of the implementation rule and the subsequent SANDAG-approved regional plan.

**Transportation Enhancement (TE) Activities Program:** While TE is a federal program with federal requirements, this program has been incorporated as part of the State Transportation Improvement Program (STIP) described below.
STATE PROGRAMS

State Transportation Improvement Program (STIP): The 2006 Fund Estimate did not identify any additional STIP funds for the San Diego region. SANDAG has proposed programming the vast majority of these funds on ready-to-go projects such as SR 52 and other previously-programmed STIP projects. No new projects were added to the proposed STIP. SANDAG is awaiting the programming recommendations from the CTC, expected in April 2006.

State Highway Operations and Preservation Program (SHOPP): Caltrans has proposed programming over $204 million on safety, rehabilitation, and operations projects throughout the San Diego region over the next four year SHOPP cycle. Statewide, the SHOPP program has been taking an increasingly larger share of the State Highway Account, thus leaving the STIP with fewer funds to distribute to the regions. This is expected to be exacerbated as the State’s highway inventory ages and requires a significant amount of funds for rehabilitation. SHOPP funds are programmed as a lump sum item in the RTIP. Agencies do not need to submit any SHOPP-funded projects; SANDAG programs the SHOPP as a lump sum item.

Traffic Congestion Relief Program (TCRP): The Traffic Congestion Relief Program is subject to an annual state budget approval. There is no new funding, only carryover programming from previous cycles. Agencies should program the funds in the year of anticipated allocation.

Transportation Enhancement (TE) Activities Program: SANDAG incorporated the TE program as part of the region’s Smart Growth Incentive Program and awarded nine projects with the TE funds. The funding availability is determined by the California Transportation Commission as part of its 2006 STIP Fund Estimate. The programming of these funds in the 2006 RTIP will be listed as a lump sum by SANDAG. Agencies do not need to submit any TE-funded projects.

TransNet - LOCAL STREET AND ROAD PROJECTS

Any major project with a total cost of $300,000 or more must be individually listed in the RTIP. SANDAG encourages agencies to aggregate individual projects costing less than $300,000 and of a similar type of work (e.g., Minor Roadway Resurfacing) as a single line item (lump sum) as long as the type of work being proposed is consistent with the air quality exempt project classifications (see Table 2).

TransNet Revenue Estimates: Table 3 shows the estimated TransNet revenues for each jurisdiction during the 2006 RTIP period. Note that the revenues for FY 2007 and FY 2008 are net of any debt service requirements (commercial paper or long term bonds), scheduled to be retired with the expiration of the current TransNet program. The estimates are for use in developing the TransNet project lists that will be included in the 2006 RTIP. The actual fund allocations to each agency will be based on actual monthly sales tax receipts from the State Board of Equalization with the fund distribution updated annually using current population and maintained miles data.

Public Hearing: The TransNet Ordinance requires each local agency to hold a public hearing prior to adoption of the list of projects to be included in the 2006 RTIP. The submittals must include evidence of formal action by the legislative bodies of the cities and the County - i.e., governing body resolution. A sample resolution meeting this requirement is provided in Attachment A. SANDAG, acting as the San Diego County Regional Transportation Commission, every two years
approves the TransNet Program of Projects list as an element of the RTIP. In developing and approving the list of TransNet projects to be included in the RTIP, each agency and SANDAG must comply with all provisions of both TransNet Ordinance and Expenditure Plans and any other implementing ordinances and rules as appropriate.

**New Requirement Under TransNet Extension:** One of the new requirements under the TransNet Extension is that at least 70 percent of the revenues available each year to local agencies must fund congestion relief projects, while up to 30 percent of the revenues may fund ongoing operations and maintenance of roadways. The Transportation Committee is scheduled to adopt the definitions for this distinction at its meeting in March. Until the definitions become final, agencies should program no more than the 30 percent share for operations, and only obvious congestion relief programs as part of the 2006 RTIP update. There will be opportunities to amend the RTIP after resolution of this issue.

**ProjectTrak:** Agencies must use ProjectTrak to submit projects into the 2006 RTIP.

**Independent Taxpayer Oversight Committee (ITOC):** The TransNet Extension Ordinance includes the responsibilities of the Independent Taxpayer Oversight Committee (ITOC). The primary responsibility of ITOC is to review and recommend to the Transportation Committee or the Board the projects proposed for funding with TransNet, beginning with FY 2009. Because this 2006 RTIP includes FY 2009 to FY 2011, the ITOC will review the proposed TransNet Program of Projects. Attachment B from the new Ordinance describes the role of ITOC.

Attachment C includes selected street and road related provisions from the TransNet Ordinance and Expenditure Plans (current and extension). Each agency should comply with these provisions as appropriate in the development of their TransNet funded program. Of particular note are Sections 8 and 9 related to "Maintenance of Effort," and "Private Sector Funding." Also, the SANDAG Board recently adopted a policy to implement various provisions of the Ordinances. The Policy is provided in Attachment D.

**BIKEWAY PROJECTS**

The Bicycle-Pedestrian Working Group develops non-motorized projects funded with either TransNet-Bicycle or Transportation Development Act (TDA) Bicycle programs, in a separate process. Projects funded with these programs are listed as a lump sum in the 2006 RTIP. Agencies should submit only those bike projects that are funded from other sources.

**FEDERAL AIR QUALITY CONFORMITY REQUIREMENTS**

Federal regulations require that SANDAG conduct an air quality conformity analysis of all regionally-significant projects that increase the transportation system capacity. This includes major local and developer-funded projects, and any other state or federally-funded projects that might not otherwise appear in the RTIP, as well as new projects or major changes in project scope for existing programmed projects. **For the 2006 RTIP, agencies are required to submit specific information for all capacity increasing projects, regardless of whether the projects are continuing or new.** This level of information is necessary to provide accurate regional transportation/emissions forecast modeling. In addition to the written information, agencies are required to provide drawings (preferably before and after diagrams) for each capacity increasing
project. Projections of pollutant emissions are developed for several analysis years based upon the estimated project opening dates.

The U.S. Environmental Protection Agency’s Air Quality Conformity Rule includes a list of project categories that are exempt from air quality conformity determinations or regional emissions analysis. Table 2 is a listing of the exempt project categories. These projects can be amended into the RTIP without a conformity finding or regional emissions analysis.

2006 RTIP REVIEW, ADOPTION, AND UPDATE SCHEDULE

The 2006 RTIP is due to state and federal reviewing agencies by August 1, 2006. The Transportation Committee is scheduled to hold a public hearing and distribute for review the draft RTIP, including the Air Quality Conformity, at its May 2006 meeting, with Board adoption scheduled for June 23, 2006 (see Attachment E). The deadline for local agency project submittals for the 2006 RTIP is April 7, 2006. **Projects submitted after this date will not be accepted.** If problems are anticipated in meeting this deadline, please contact me as soon as possible.

SUPPLEMENTAL INFORMATION

This will be the only memo addressing the process to develop the 2006 RTIP. SANDAG staff is available to meet with local agencies concerning the 2006 RTIP. SANDAG will hold a 2006 RTIP Workshop on February 16, 2006. Also at the January 5, 2006, meeting, SANDAG discussed the 2006 RTIP process and the proposed 2006 RTIP schedule with local agencies at the Cities/County Transportation Advisory Committee (CTAC) meeting. For your convenience, this memo, along with the tables, will be available on the SANDAG website – [www.sandag.org/2006RTIP](http://www.sandag.org/2006RTIP). Should you have any questions, please contact me at (619) 699-6909 or ski@sandag.org.

SK/cd

Attachments
## LIST OF ATTACHMENTS

Table 1      SAFETEA-LU High Priority Project List
Table 2      Air Quality Conformity Exempt Project Categories
Table 3      TransNet Local Street & Road Program Revenue Forecast for FY 2007 to FY 2011
Attachment A Sample Resolution Adopting TransNet Local Street & Road Project List
Attachment B ITOC Responsibilities from the TransNet Ordinance and Expenditure Plans
Attachment C Selected Excerpts from the TransNet Ordinance and Expenditure Plans for Local Street Program
Attachment D TransNet Policy (Board Policy No. 031)
Attachment E Proposed 2006 RTIP Schedule
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<td>136,800</td>
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<td>Coronado</td>
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<td>Planning, design, engineering, and construction of Naval Air Station, North Island access tunnel on SR 75-282 corridor, San Diego</td>
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<td>800,000</td>
<td>684,000</td>
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<td>684,000</td>
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<td>680,000</td>
<td>136,000</td>
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<td>Resurface and construct truck lane at CA Hwy 94 and Interstate B interchange, Blvd</td>
<td>2,400,000</td>
<td>480,000</td>
<td>410,400</td>
<td>480,000</td>
<td>408,000</td>
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<td>Center City Development Corporation</td>
<td>Park Boulevard/Harbor Drive Rail Grade Separation, San Diego</td>
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<td>160,000</td>
<td>136,800</td>
<td>160,000</td>
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<td>Construct truck ramp linking Interstate 5 to the National City Marine Cargo Terminal, National City</td>
<td>2,400,000</td>
<td>480,000</td>
<td>410,400</td>
<td>480,000</td>
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<td>CA574</td>
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<td>Construct landscape medians along Skyline Drive from Sears Avenue to S8th Street, San Diego</td>
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<td>160,000</td>
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<td>Construct truck lane from Britannia Blvd. to the Otay Mesa Port of Entry, San Diego County</td>
<td>1,200,000</td>
<td>240,000</td>
<td>205,200</td>
<td>240,000</td>
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<td>CA603</td>
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<td>State Route 76 Road Widening, Melrose Drive to Interstate 15</td>
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<td>1,026,000</td>
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<td>Construct State Route 905 to connect the Otay Mesa Port of Entry to Interstate 805, San Diego County</td>
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<td>CA635 3067</td>
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<td>Develop bicycle paths and pedestrian access to Third Avenue, Chula Vista.</td>
<td>240,000</td>
<td>48,000</td>
<td>41,040</td>
<td>48,000</td>
<td>40,800</td>
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<td>CA639 3086</td>
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<td>San Diego, CA Interstate 5, Sorrento Valley Road and Genesee Avenue Interchange Project.</td>
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<td>320,000</td>
<td>273,600</td>
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<td>272,000</td>
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<td>Completion of Interstate 5 and Interstate 8 Connectors, San Diego.</td>
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<td>820,800</td>
<td>960,000</td>
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<td>CA653 3184</td>
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<td>Construct parking facility and improve museum pedestrian access from trolley station, San Diego.</td>
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<td>160,000</td>
<td>136,800</td>
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<td>136,000</td>
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<td>CA656 3206</td>
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<td>Caltrans</td>
<td>Interstate 5 and State Route 78 Interchange Improvements</td>
<td>4,000,000</td>
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<td>CA675 3480</td>
<td>County of San Diego</td>
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<td>Construct traffic circle in San Ysidro at the intersection of Via de San Ysidro and West San Ysidro Boulevard, San Diego.</td>
<td>240,000</td>
<td>48,000</td>
<td>41,040</td>
<td>48,000</td>
<td>40,800</td>
<td>48,000</td>
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<td>CA676 3481</td>
<td>County of San Diego</td>
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<td>Construct and resurface unimproved roads in the Children's Village Ranch and improve access from Children's Village Ranch to Lake Morena Drive, San Diego County.</td>
<td>800,000</td>
<td>160,000</td>
<td>136,800</td>
<td>160,000</td>
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<td>CA677 3482</td>
<td>County of San Diego</td>
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<td>Project design and environmental assessment of widening and improving the interchange at &quot;H&quot; Street and I-5, Chula Vista.</td>
<td>2,160,000</td>
<td>432,000</td>
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<td>3,000,000</td>
<td>600,000</td>
<td>513,000</td>
<td>600,000</td>
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<td>Construct 20 mile managed lanes on Interstate 15 between SR 163 and SR 78 San Diego.</td>
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<td>1,000,000</td>
<td>855,000</td>
<td>1,000,000</td>
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<td>CA713 3789</td>
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<td>Planning, design, engineering, and construction of Naval Air Station, North Island access tunnel on SR 75-282 corridor, San Diego.</td>
<td>5,000,000</td>
<td>1,000,000</td>
<td>855,000</td>
<td>1,000,000</td>
<td>855,000</td>
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</tbody>
</table>

**NOTE:** Allocations reflect 20% of the total earmark each fiscal year for programming Obligational Authority (OA) reflect 85% for authorization.
### TABLE 2

**PROJECTS EXEMPT FROM AIR QUALITY CONFORMITY DETERMINATION***

<table>
<thead>
<tr>
<th>SAFETY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Railroad/highway crossing.</td>
<td>Hazard elimination program.</td>
</tr>
<tr>
<td>Safer non-Federal-aid systems roads.</td>
<td>Shoulder improvements.</td>
</tr>
<tr>
<td>Increasing sight distance.</td>
<td>Safety Improvement program.</td>
</tr>
<tr>
<td>Traffic control devices and operating assistance other than signalization projects.</td>
<td>Railroad/highway crossing warning devices.</td>
</tr>
<tr>
<td>Pavement resurfacing and/or rehabilitation.</td>
<td>Guardrails, median barriers, crash cushions.</td>
</tr>
<tr>
<td>Skid treatments.</td>
<td>Fencing.</td>
</tr>
<tr>
<td>Adding medians.</td>
<td>Safety roadside rest areas.</td>
</tr>
<tr>
<td>Lighting improvements.</td>
<td>Truck climbing lanes outside the urbanized area. (no additional travel lanes).</td>
</tr>
<tr>
<td>Emergency truck pullovers.</td>
<td>Widening narrow pavements or reconstructing bridges.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MASS TRANSIT</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating assistance to transit agencies.</td>
<td>Purchase of support vehicles.</td>
</tr>
<tr>
<td>Rehabilitation of transit vehicles.</td>
<td>Purchase of office, shop, and operating equipment for existing facilities.</td>
</tr>
<tr>
<td>Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.)</td>
<td>Construction or renovation of power, signal, and communications systems.</td>
</tr>
<tr>
<td>Construction of small passenger shelters and information kiosks.</td>
<td>Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).</td>
</tr>
<tr>
<td>Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.</td>
<td>Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771.</td>
</tr>
<tr>
<td>Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of fleet.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AIR QUALITY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuation of ride-sharing and van-pooling promotion activities at current levels.</td>
<td>Bicycle and pedestrian facilities.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OTHER</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Specific activities which do not involve or directly lead to construction, such as:</td>
<td>Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action.</td>
</tr>
<tr>
<td>Planning and technical studies.</td>
<td>Noise attenuation.</td>
</tr>
<tr>
<td>Grants for training and research programs.</td>
<td>Emergency or hardship advance land acquisitions (23 CFR 710.204(d)).</td>
</tr>
<tr>
<td>Planning activities conducted pursuant to titles 23 and 49 U.S.C.</td>
<td>Acquisition of scenic easements.</td>
</tr>
<tr>
<td>Federal-aid systems revisions.</td>
<td>Plantings, landscaping, etc.</td>
</tr>
<tr>
<td>Sign removal.</td>
<td>Directional and informational signs.</td>
</tr>
<tr>
<td>Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).</td>
<td>Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.</td>
</tr>
</tbody>
</table>

**ALL PROJECTS**

---

---
## PROJECTS EXEMPT FROM REGIONAL EMISSIONS ANALYSIS*

- Intersection channelization projects
- Intersection signalization projects at individual intersections
- Interchange reconfiguration projects
- Changes in vertical and horizontal alignment

### Table 3

**TransNet Revenue Forecasts - Local Street and Road Program**

*For Fiscal Years 2007 Through 2011*

*(in $000s)*

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Carlsbad</td>
<td>95,146</td>
<td>276.0</td>
<td>$2,871</td>
<td>$2,750</td>
<td>$2,922</td>
<td>$3,060</td>
<td>$14,631</td>
</tr>
<tr>
<td>Chula Vista</td>
<td>217,543</td>
<td>383.0</td>
<td>$5,551</td>
<td>$5,315</td>
<td>$5,651</td>
<td>$5,919</td>
<td>$28,293</td>
</tr>
<tr>
<td>Coronado</td>
<td>26,973</td>
<td>42.5</td>
<td>$713</td>
<td>$685</td>
<td>$725</td>
<td>$757</td>
<td>$3,630</td>
</tr>
<tr>
<td>Del Mar</td>
<td>4,543</td>
<td>22.4</td>
<td>$220</td>
<td>$213</td>
<td>$223</td>
<td>$231</td>
<td>$1,117</td>
</tr>
<tr>
<td>El Cajon</td>
<td>97,703</td>
<td>191.5</td>
<td>$2,028</td>
<td>$2,486</td>
<td>$2,641</td>
<td>$2,765</td>
<td>$12,185</td>
</tr>
<tr>
<td>Encinitas</td>
<td>62,774</td>
<td>162.4</td>
<td>$1,836</td>
<td>$1,759</td>
<td>$1,868</td>
<td>$1,955</td>
<td>$9,354</td>
</tr>
<tr>
<td>Escondido</td>
<td>141,350</td>
<td>287.7</td>
<td>$3,773</td>
<td>$3,613</td>
<td>$3,840</td>
<td>$4,022</td>
<td>$19,229</td>
</tr>
<tr>
<td>Imperial Beach</td>
<td>27,710</td>
<td>56.7</td>
<td>$781</td>
<td>$750</td>
<td>$794</td>
<td>$830</td>
<td>$3,976</td>
</tr>
<tr>
<td>La Mesa</td>
<td>55,983</td>
<td>147.5</td>
<td>$1,100</td>
<td>$1,584</td>
<td>$1,682</td>
<td>$1,760</td>
<td>$7,407</td>
</tr>
<tr>
<td>Lemon Grove</td>
<td>25,531</td>
<td>64.3</td>
<td>$770</td>
<td>$739</td>
<td>$783</td>
<td>$818</td>
<td>$3,919</td>
</tr>
<tr>
<td>National City</td>
<td>63,773</td>
<td>100.7</td>
<td>$411</td>
<td>$1,551</td>
<td>$1,647</td>
<td>$1,723</td>
<td>$5,864</td>
</tr>
<tr>
<td>Oceanside</td>
<td>175,085</td>
<td>424.4</td>
<td>$4,922</td>
<td>$4,712</td>
<td>$5,010</td>
<td>$5,247</td>
<td>$25,084</td>
</tr>
<tr>
<td>Poway</td>
<td>50,675</td>
<td>180.5</td>
<td>$1,338</td>
<td>$1,610</td>
<td>$1,710</td>
<td>$1,789</td>
<td>$7,933</td>
</tr>
<tr>
<td>San Diego</td>
<td>1,305,736</td>
<td>2,659.7</td>
<td>$29,116</td>
<td>$32,971</td>
<td>$35,070</td>
<td>$36,748</td>
<td>$167,926</td>
</tr>
<tr>
<td>San Marcos</td>
<td>73,054</td>
<td>173.1</td>
<td>$2,067</td>
<td>$1,981</td>
<td>$2,104</td>
<td>$2,202</td>
<td>$10,533</td>
</tr>
<tr>
<td>Santee</td>
<td>54,476</td>
<td>118.7</td>
<td>$755</td>
<td>$1,452</td>
<td>$1,541</td>
<td>$1,612</td>
<td>$6,323</td>
</tr>
<tr>
<td>Solana Beach</td>
<td>13,400</td>
<td>47.9</td>
<td>$482</td>
<td>$463</td>
<td>$490</td>
<td>$511</td>
<td>$2,452</td>
</tr>
<tr>
<td>Vista</td>
<td>94,109</td>
<td>170.8</td>
<td>$1,487</td>
<td>$2,346</td>
<td>$2,493</td>
<td>$2,610</td>
<td>$10,716</td>
</tr>
<tr>
<td>County</td>
<td>465,716</td>
<td>1,889.4</td>
<td>$13,468</td>
<td>$15,236</td>
<td>$16,204</td>
<td>$16,978</td>
<td>$76,646</td>
</tr>
<tr>
<td><strong>Subtotal Street &amp; Road</strong></td>
<td><strong>3,051,280</strong></td>
<td><strong>7,399.3</strong></td>
<td><strong>$73,689</strong></td>
<td><strong>$82,215</strong></td>
<td><strong>$87,398</strong></td>
<td><strong>$91,538</strong></td>
<td><strong>$417,217</strong></td>
</tr>
<tr>
<td><strong>Local EMP</strong></td>
<td></td>
<td></td>
<td><strong>$5,085</strong></td>
<td><strong>$5,406</strong></td>
<td><strong>$5,662</strong></td>
<td></td>
<td><strong>$16,154</strong></td>
</tr>
<tr>
<td><strong>Local Smart Growth</strong></td>
<td></td>
<td></td>
<td><strong>$5,933</strong></td>
<td><strong>$6,307</strong></td>
<td><strong>$6,606</strong></td>
<td></td>
<td><strong>$18,846</strong></td>
</tr>
<tr>
<td><strong>Total Local System Improvements</strong></td>
<td></td>
<td></td>
<td><strong>$93,234</strong></td>
<td><strong>$99,111</strong></td>
<td><strong>$103,806</strong></td>
<td></td>
<td><strong>$296,150</strong></td>
</tr>
</tbody>
</table>

*EMP to be distributed on a project by project basis through the RTIP; Smart Growth to be allocated based on Call for Projects process.

1. Forecast based upon updated SANDAG Demographic & Economic Forecasting Model (DEFM) estimates from March 2005
2. Table based on the Ordinance and Expenditure Plan for 1987 Proposition A and 2004 Extension
3. Local street and road revenues apportioned by the following formula: (a) each agency receives $50,000 annual funding base; (b) remaining revenues are distributed on a formula (2/3 population, and 1/3 maintained miles)
4. Local agency population from Dept. of Finance (DOF) estimates - January 2005
5. Maintained mileage from the 2004 California Public Road Data by Caltrans (September 2005)
6. Table reflects revenue estimates for planning purposes only. Fund allocations will be based on actual sales tax monthly receipts from the State Board of Equalization
7. Revenues are net of commercial paper repayment and bond debt service payments under current TransNet (FY 2007 and FY 2008).
ATTACHMENT A

*** SAMPLE RESOLUTION ***

RESOLUTION OF THE CITY/COUNTY OF [   ]
ADOPTING THE TRANSNET
LOCAL STREET AND ROAD PROGRAM OF PROJECTS
FOR FISCAL YEARS _______ THROUGH ________

WHEREAS, on November 3, 1987, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (87-01); and

WHEREAS, on November 4 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (04-01) extension; and

WHEREAS, the both Ordinances provide that SANDAG, acting as the Regional Transportation Commission, shall approve a multi-year program of projects submitted by local jurisdictions identifying those transportation project eligible to use transportation sales tax (TransNet) funds; and

WHEREAS, the City/County of [   ] was provided with an estimate of annual TransNet local street and road revenues for fiscal years _______ through_______; and

WHEREAS, the City/County of [   ] has held a public hearing in accordance with Section 5(A) of both Ordinances; NOW THEREFORE

BE IT RESOLVED that pursuant to Section 8 of both TransNet Ordinances, the City/County of [   ] certifies that the required minimum annual level of local discretionary funds to be expended for street and road purposes will be met throughout the 5-year period consistent with Maintenance of Effort Requirements adopted by the SANDAG Commission on June 24, 1988 and on May 28, 2004.

BE IT FURTHER RESOLVED that pursuant to Section 9 of the TransNet Ordinance, the City/County of [   ] certifies that TransNet funds programmed in the attached Program of Projects do not replace private developer funding which has been or will be committed for any project.

BE IT FURTHER RESOLVED that pursuant to Section 9a of the TransNet extension Ordinance, the City/County of [   ] certifies that the agency will extract $2,000 from the private sector for each newly constructed residential housing unit in that jurisdiction to the Regional Transportation Congestion Improvement Program (RTCIP).

BE IT FURTHER RESOLVED that pursuant to Section 16 of the TransNet Ordinance 87-01 and Section 18 of Ordinance 04-01, the City/County of [   ] certifies that each project of $250,000 or more will be clearly designated during construction with TransNet project funding identification signs.

BE IT FURTHER RESOLVED that the City/County of [   ] does hereby certify that all other applicable provisions of the TransNet Ordinances 87-01 and 04-01 have been met.
BE IT FURTHER RESOLVED that the City/County of [ ] agrees to hold harmless and defend the SANDAG Commission against challenges related to local TransNet funded projects.

PASSED AND ADOPTED by the City/County of [ ] on the _____day of _____, 2006.
SECTION 11. INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE:

An Independent Taxpayer Oversight Committee (ITOC) shall be established to provide an enhanced level of accountability for expenditure made under the Expenditure Plan. The ITOC will help to ensure that all voter mandates are carried out as required and will develop recommendations for improvements to the financial integrity and performance of the program. The roles and responsibilities of the ITOC, the selection process for ITOC members, and related administrative procedures shall be carried out in substantially the same manner as further described in the document titled “Statement of Understanding Regarding the Implementation of the Independent Taxpayer Oversight Committee for the TransNet Program,” which is hereby incorporated by reference as if fully set forth herein. Up to $250,000 per year, with adjustments for inflation based on the Consumer Price Index for San Diego County, may be expended for activities related to the ITOC.

STATEMENT OF UNDERSTANDING REGARDING THE IMPLEMENTATION OF THE INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE FOR THE TRANSNET PROGRAM

Purpose of the ITOC

The Independent Taxpayer Oversight Committee (ITOC) is intended to provide an increased level of accountability for expenditures made under the TransNet Extension, in addition to the independent annual fiscal and compliance audits required under the existing TransNet program. The ITOC should function in an independent, open and transparent manner to ensure that all voter mandates are carried out as required in the Ordinance and Expenditure Plan, and to develop positive, constructive recommendations for improvements and enhancements to the financial integrity and performance of the TransNet program.

ITOC Responsibilities

The ITOC shall have the following responsibilities:

1. Conduct an annual fiscal and compliance audit of all TransNet-funded activities using the services of an independent fiscal auditor to assure compliance with the voter-approved Ordinance and Expenditure Plan. This annual audit will cover all recipients of TransNet funds during the fiscal year and will evaluate compliance with the maintenance of effort requirement and any other applicable requirements. The audits will identify expenditures made for each
project in the prior fiscal year and will include the accumulated expenses and revenues for ongoing, multi-year projects.

2. Prepare an annual report to the SANDAG Board of Directors presenting the results of the annual audit process. The report should include an assessment of the consistency of the expenditures of TransNet funds with the Ordinance and Expenditure Plan and any recommendations for improving the financial operation and integrity of the program for consideration by the SANDAG Board of Directors. This consistency evaluation will include a review of expenditures by project type for each local jurisdiction. The ITOC shall share the initial findings of the independent fiscal audits and its recommendations with the SANDAG Transportation Committee 60 days prior to their release to resolve inconsistencies and technical issues related to the ITOC’s draft report and recommendations. Once this review has taken place, the ITOC shall make any final amendments it deems appropriate to its report and recommendations, and adopt its report for submission directly to the SANDAG Board of Directors and the public. The ITOC shall strive to be as objective and accurate as possible in whatever final report it adopts. Upon completion by the ITOC, the report shall be presented to the SANDAG Board of Directors at its next regular meeting and shall be made available to the public.

3. Conduct triennial performance audits of SANDAG and other agencies involved in the implementation of TransNet-funded projects and programs to review project delivery, cost control, schedule adherence and related activities. The review should include consideration of changes to contracting, construction, permitting and related processes that could improve the efficiency and effectiveness of the expenditure of TransNet revenues. These performance audits shall be conducted using the services of an independent performance auditor and should include a review of the ITOC’s performance. A draft of the ITOC’s report and recommendations regarding the performance audits shall be made available to the SANDAG Transportation Committee 60 days before its final adoption by the ITOC to resolve inconsistencies and technical issues related to the ITOC’s draft report and recommendations. Once this review has taken place, the ITOC shall make any final amendments it deems appropriate to its report and related recommendations, and adopt its report for presentation directly to the SANDAG Board of Directors and the public. The ITOC shall strive to be as objective and constructive as possible in the text and presentation of the performance audits. Upon completion by the ITOC, the report shall be presented to the SANDAG Board of Directors at its next regular meeting and shall be made available to the public.

4. Provide recommendations to the SANDAG Board of Directors regarding any proposed amendments to the Ordinance and Expenditure Plan.

5. Provide recommendations as part of the 10-year review process. This process provides an opportunity to undertake a comprehensive review of the TransNet program every 10 years and to make recommendations for improving the program over the subsequent 10 years. This review process should take into consideration the results of the TransNet-funded improvements as compared to the performance standards established through the Regional Transportation Plan and the Regional Comprehensive Plan.

6. Participate in the ongoing refinement of SANDAG’s transportation system performance measurement process and the project evaluation criteria used in development of the Regional Transportation Plan (RTP) and in prioritizing projects for funding in the Regional Transportation Improvement Program. The focus of this effort will be on TransNet-funded projects. Based on the periodic updates to the RTP, as required by state and federal law, the oversight committee
shall develop a report to the SANDAG Transportation Committee, the SANDAG Board of Directors and the public providing recommendations for possible improvements and modifications to the TransNet program.

7. On an annual basis, review ongoing SANDAG system performance evaluations, including SANDAG’s “State of the Commute” report, and provide an independent analysis of information included in that report. This evaluation process is expected to include such factors as level of service measurements by roadway segment and by time of day, throughput in major travel corridors, and travel time comparisons by mode between major trip origins and destinations. Such information will be used as a tool in the RTP development process.

8. Review and comment on the programming of TransNet revenues in the Regional Transportation Improvement Program (RTIP). This provides an opportunity for the ITOC to raise concerns regarding the eligibility of projects proposed for funding before any expenditures are made. In addition to a general eligibility review, this effort should focus on significant cost increases and/or scope changes on the major corridor projects identified in the Ordinance and Expenditure Plan.

9. Review proposed debt financings to ensure that the benefits of the proposed financing for accelerating project delivery, avoiding future cost escalation, and related factors exceed issuance and interest costs.

10. Review the major Congestion Relief projects identified in the Ordinance for performance in terms of cost control and schedule adherence on a quarterly basis. In carrying out its responsibilities, the ITOC shall conduct its reviews in such a manner that does not cause unnecessary project delays, while providing sufficient time to ensure that adequate analysis can be completed to allow the ITOC to make objective recommendations and to provide the public with information about the implementation of the TransNet program.
ATTACHMENT C

*** Note: Contains Selected Street & Road Provisions Only! ***

PROPOSITION A:
SAN DIEGO TRANSPORTATION IMPROVEMENT PROGRAM

July 31, 1987

San Diego Transportation Improvement Program Ordinance and Expenditure Plan (87-01)

SECTION 2. EXPENDITURE PLAN SUMMARY

D. Local Street and Road Improvements. One-third of the available revenues (estimated $750 million) will be allocated on a fair and equitable formula basis (Section 4(c)) to each city and the County of San Diego (hereinafter referred to as local agencies) to supplement existing local revenues. The revenues will be used to repair and rehabilitate existing roadways, to reduce congestion and improve safety, and to provide for the construction of needed facilities. Each local agency will prepare a listing of the projects proposed for funding through the measure with public participation required.

SECTION 4. EXPENDITURE PLAN PURPOSES

C. The revenues available for local street and road purposes shall be allocated and expended pursuant to the following distribution formula and priorities:

1. Each local agency shall receive an annual base sum of $50,000.

2. The remaining revenues after the base sum distribution shall be distributed to each local agency on the following basis:

   a. Two-thirds based on total population using the most recent Department Of Finance population estimates.
   b. One-third based on maintained street and road mileage.

3. For the purposes of Section 4C (1) and (2), any new incorporations or annexations which take place after July 1 of any fiscal year shall be incorporated into the formula beginning with the subsequent fiscal year. The San Diego Association of Governments population estimates of such new incorporations or annexations shall be used until such time as Department of Finance population estimates are available.

4. Funds shall be expended in accordance with the following priorities:

   a. to repair and rehabilitate existing roadways;
   b. to reduce congestion and improve safety;
   c. to provide for the construction of needed facilities.
SECTION 5. EXPENDITURE PLAN PROCEDURES

A. Each local agency shall annually develop a five-year list of projects to be funded with revenues made available under Section 4(C). A local public hearing on the proposed list of projects shall be held by each local agency prior to submitting the project list to the Commission for approval pursuant to Section 6. [Note: To be consistent with current State and federal laws and regulations, the program submittal requirement has been changed to be submitted every two years.]

SECTION 6. PROJECT PROGRAMMING APPROVAL

The Commission shall annually approve a five-year project list and a biennial program of projects to be funded during the succeeding two fiscal years with all revenues made available under Section 4(A) herein. The program of projects will be prepared as part of the five-year Regional Transportation Improvement Program. A public hearing will be held prior to approval of the program of projects. The Commission may amend the program as necessary in accordance with the Regional Transportation Improvement Program amendment procedures. No major projects shall be funded with the revenues made available under Section 4(A) unless the projects are in the approved program of projects. [Note: To be consistent with current State and federal laws and regulations, the programming requirement has been changed to be adopted every two years.]

SECTION 8. MAINTENANCE OF EFFORT

It is the intent of the Legislature and the Commission that revenues provided from this measure be used to supplement existing local revenues being used for the purposes set forth in Section 4 herein. Each local agency receiving revenues pursuant to Section 4(C) shall annually maintain as a minimum the same level of local discretionary funds expended for street and road purposes as was reported in the State Controller’s Annual Report of Financial Transactions for Streets and Roads - Fiscal Year 1984-85. If any local agency had extraordinary local discretionary fund expenditures during FY 1984-85, it may use, as a base for determining the minimum level of local discretionary funds, the average amount of such funds reported to the State Controller for the three-year period FY1982-83 through FY1984-85. The use of a three-year average for the base period shall be subject to Commission approval. The Commission shall not allocate any revenues pursuant to Section 4(C) to any eligible local agency in any fiscal year until that local agency has certified to the Commission that it will include in its budget for that fiscal year an amount of local discretionary funding for streets and roads purposes at least equal to the minimum maintenance of effort requirement. An annual independent audit shall be conducted to verify that the Maintenance of Effort requirements were met. Any local agency which does not meet its Maintenance of Effort requirement in any given year shall have its funding under Section 4(C) reduced in the following year by the amount by which the agency did not meet its required Maintenance of Effort level. Any local street and road revenues not allocated pursuant to the Maintenance of Effort requirement shall be redistributed to the remaining eligible agencies according to the formula described in Section 4(C)2. The Maintenance of Effort requirement also shall apply to any local agency discretionary funds being used for the purposes specified under Section 4(B) and (D).
SECTION 9. PRIVATE SECTOR FUNDING

Revenues provided from this measure shall not be used to replace private developer funding which has been or will be committed for any project.

SECTION 12. ESTABLISHMENT OF SEPARATE ACCOUNTS

Each agency receiving funds pursuant to Section 4 shall deposit said funds in a separate Transportation Improvement Account. Interest earned on funds allocated pursuant to this Ordinance shall be expended only for those purposes for which the funds were allocated.

SECTION 16. DESIGNATION OF FACILITIES

Each project or program in excess of $250,000 funded in whole or in part by revenues from the measure shall be clearly designated during its construction or implementation as being provided by revenues from the measure.

SECTION 19. DEFINITIONS

E. Local Streets and Roads: Means all purposes necessary and convenient to the maintenance, operation and construction of local streets and roads. Local street and road purposes shall include all purposes allowable under Article XIX, Section 1 (a) of the State Constitution. [Note: The State Controller’s list of eligible gas tax expenditures provides the basis for determining TransNet local street and road project eligibility.]
PROPOSITION A:
SAN DIEGO TRANSPORTATION IMPROVEMENT PROGRAM

*** Note: Contains Selected Street & Road Provisions Only! ***

May 23, 2006

San Diego Transportation Improvement Program Ordinance and Expenditure Plan
(04-01)

SECTION 2 EXPENDITURE PLAN SUMMARY

C Congestion Relief Program - Local System Improvements and Related Programs:

1. Local Street and Road Program: An estimated $3,950 million will be allocated on a fair and equitable basis, using the formula specified in Section 4(D)(1), to each city and the County of San Diego (hereinafter referred to as local agencies) to supplement other revenues available for local street and road improvements. In developing the biennial list of projects to be funded with these revenues as required under Section 5(A), local agencies shall give high priority in the use of these funds to improvements to regional arterials, grade separation projects, and related facilities contributing to congestion relief. At least 70% of the revenues provided for local street and road purposes should be used to fund direct expenditures for construction of new or expanded facilities, major rehabilitation and reconstruction of roadways, traffic signal coordination and related traffic operations improvements, transportation-related community infrastructure improvements to support smart growth development, capital improvements needed to facilitate transit services and facilities, and operating support for local shuttle and circulator routes and other services. No more than 30% of these funds should be used for local street and road maintenance purposes. A local agency desiring to spend more than 30% of its annual revenues on local street and road maintenance-related projects shall provide justification to the Commission as part of its biennial project list submittal. The Commission shall review each local agency’s biennial project list submittal and make a finding of consistency with the provisions of this Ordinance and with the Regional Transportation Plan prior to approving the local agency’s project list for funding. The Independent Taxpayer Oversight Committee shall also review the proposed project lists and make recommendations to the Commission.

SECTION 4 EXPENDITURE PLAN PURPOSES

D Thirty-three percent for the Local Programs described in Section 2(C) in the following three categories:

1. Twenty-nine and one-tenth percent for the local street and road program described in Section 2(C)(1). The revenues available for the local street and road program shall be allocated and expended pursuant to the following distribution formula:
a) Each local agency shall receive an annual base sum of $50,000.

b) The remaining revenues after the base sum distribution shall be distributed to the each local agency on the following basis:

   1. Two-thirds based on total population using the most recent Department of Finance population estimates.
   2. One-third based on maintained street and road mileage.

c) For the purposes of Section 4D(1)(a) and (b), any new incorporations or annexations which take place after July 1 of any fiscal year shall be incorporated into the formula beginning with the subsequent fiscal year. The San Diego Association of Governments population estimates of such new incorporations or annexations shall be used until such time as Department of Finance population estimates are available.

SECTION 5. EXPENDITURE PLAN PROCEDURES:

1. Each local agency shall biennially develop a five-year list of projects to be funded with revenues made available for local street and road improvements under Section 4(D). A local public hearing on the proposed list of projects shall be held by each local agency prior to submitting its project list to the Commission for approval pursuant to Section 6.

2. All projects to be funded with revenues made available under Section 4 must be consistent with the Regional Transportation Plan (RTP). Project priorities or phasing shall also be consistent with the RTP. The Expenditure Plan shall be reviewed for consistency with RTP following each major update of the RTP as required by state or federal law. The Expenditure Plan shall be amended as necessary to maintain consistency with the Regional Transportation Plan. If funds become available in excess of the amount allocated in the Expenditure Plan, additional projects shall be added to the Expenditure Plan consistent with the priorities in the Regional Transportation Plan. Any amendments to the Expenditure Plan shall be made in accordance with the procedures for amending this ordinance as provided for in Section 16.

3. In the allocation of all revenues made available under Section 4, the Commission shall make every effort to maximize state and federal transportation funding to the region. The Commission may amend the Expenditure Plan, in accordance with Section 16, as needed to maximize the transportation funding to the San Diego region.

SECTION 6. PROJECT PROGRAMMING APPROVAL:

The Commission shall biennially approve a five year project list and a biennial program of projects to be funded during the succeeding two fiscal years with the revenues made available under Section 4 herein. The program of projects will be prepared as a part of the Regional Transportation Improvement Program (RTIP) process as required by state and federal law. A public hearing will be held prior to approval of the program of projects. The Commission may amend the program of projects as necessary in accordance with the RTIP amendment procedures. Projects shall not be funded with the revenues made available under Section 4 unless the projects are in the approved program of projects.
SECTION 8. MAINTENANCE OF EFFORT:

It is the intent of the Legislature, as stated in the Act, and the Commission that revenues provided from this measure be used to augment, not supplant existing local revenues being used for the purposes set forth in Section 4 herein. Each local agency receiving revenues pursuant to Section 4(D) shall annually maintain as a minimum the same level of local discretionary funds expended for street and road purposes on average over the last three fiscal years completed prior to the operative date of this Ordinance (Fiscal Years 2000-01, 2001-02, 2002-03), as was reported in the State Controller’s Annual Report of Financial Transactions for Streets and Roads and as verified by an independent auditor. The maintenance of effort level as determined through this process shall be subject to adjustment every three years based on the Construction Cost Index developed by Caltrans. Any increase in the maintenance of effort level based on this adjustment shall not exceed the growth rate in the local jurisdiction’s General Fund revenues over the same time period. The Commission shall not allocate any revenues pursuant to Section 4(D) to any eligible local agency in any fiscal year until that local agency has certified to the Commission that it will include in its budget for that fiscal year an amount of local discretionary funding for streets and roads purposes at least equal to the minimum maintenance of effort requirement. An annual independent audit shall be conducted to verify that the maintenance of effort requirement for each agency was met. Any local agency which does not meet its maintenance of effort requirement in any given year shall have its funding under Section 4(D)(1) reduced in the following year by the amount by which the agency did not meet its required maintenance of effort level. In the event that special circumstances prevent a local agency from meeting its maintenance of effort requirement, the local agency may request up to three additional fiscal years to fulfill its requirement. Such a request must be approved by the Commission. The Independent Taxpayer Oversight Committee shall also review such requests and make recommendations to the Commission. Any local street and road revenues not allocated pursuant to the maintenance of effort requirement shall be redistributed to the remaining eligible agencies according to the formula described in Section 4(D)(1). The maintenance of effort requirement also shall apply to any local agency discretionary funds being used for the other purposes specified under Section 4. In addition, revenues provided from this Ordinance shall not be used to replace other private developer funding that has been or will be committed for any project.

SECTION 9. REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM (RTCIP):

A. New Development Exactions

Starting on July 1, 2008, each local agency in the San Diego region shall contribute $2,000 in exactions from the private sector, for each newly constructed residential housing unit in that jurisdiction to the RTCIP. These exactions shall ensure future development contributes its proportional share of the funding needed to pay for the Regional Arterial System and related regional transportation facility improvements, as defined in San Diego Association of Governments’ (SANDAG’s) most recent, adopted Regional Transportation Plan. New residential housing units constructed for extremely low, very-low, low, and moderate income households, as defined in California Health and Safety Code Sections 50105, 50106, 50079.5 and 50093, will be exempted from the $2,000 per unit contribution requirement. The amount of contribution shall be increased annually, in an amount not to exceed the percentage increase set forth in the Engineering Construction Cost Index published by the Engineering News Record or similar cost of construction index. Each local agency shall establish an impact fee or other revenue Funding Program by which it collects and funds its contribution to the RTCIP. Each local agency shall be responsible for establishing a procedure for providing its monetary contribution to the RTCIP. The RTCIP revenue will
be used to construct improvements on the Regional Arterial System such as new or widened arterials, traffic signal coordination and other traffic improvements, freeway interchange and related freeway improvements, railroad grade separations, and improvements required for regional express bus and rail transit. This action is predicated on the desire to establish a uniform mitigation program that will mitigate the regional transportation impacts of new development on the Arterial system. While the RTCIP cannot and should not fund all necessary regional transportation network components and improvements, the RTCIP will establish a new revenue source that ensures future development will contribute its pro rata share towards addressing the impacts of new growth on regional transportation infrastructure.

SECTION 13. ESTABLISHMENT OF SEPARATE ACCOUNTS:
Each agency receiving funds pursuant to Section 4 shall have its funds deposited in a separate Transportation Improvement Account. Interest earned on funds allocated pursuant to this Ordinance shall be expended only for those purposes for which the funds were allocated.

SECTION 18. DESIGNATION OF FACILITIES:
Each project or program in excess of $250,000 funded in whole or in part by revenues from this Ordinance shall be clearly designated during its construction or implementation as being provided by revenues from this Ordinance.

SECTION 21: DEFINITIONS

C. Local Streets and Roads. Means all purposes necessary and convenient for the purposes as described in Section 2(C)(1).
TransNet ORDINANCE AND EXPENDITURE PLAN POLICIES

The following policies have been adopted and amended by the SANDAG Board of Directors in its role as the San Diego County Regional Transportation Commission (RTC). The purpose of these policies is to implement the provisions of the original TransNet Ordinance (87-1) and the TransNet Extension Ordinance (04-01).

Policy #1: Procedure for Distribution of Revenues for Transportation Services for Seniors and the Disabled

Adoption Date: February 26, 1988 (Resolution RC88-2)
Amendment: Repealed at November 18, 2005, Board Meeting. This policy was superseded by Policy No. 11.

Policy #2: Loan of Funds for Privately-Funded Projects

Adoption Date: April 22, 1988 (Resolution RC88-5)
Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text:

The Commission may approve a loan of sales tax funds to a city or county from its formula-based share of Local Street and Road funds to finance a project which is prohibited from receiving funding under Section 9 of Commission Ordinance 87-1 or Section 8 of Ordinance 04-01 if the following terms and conditions are met.

1. A finding is made by the Commission that absent private sector funding, the project would be an eligible street and road project.

2. The City or County agrees to enter into an agreement to repay the loan plus interest (at a rate determined by the Commission) prior to the termination of the sales tax in accordance with Section 3 of Commission Ordinance 87-1 or Section 3 of Ordinance 04-01.

3. That the City or County agrees to guarantee repayment of the loan if private developer funding is determined to be inadequate to repay the loan prior to termination of the sales tax.
Policy #3: Reimbursement of Local Funds to Advance Approved Projects

Adoption Date: May 27, 1988 (Resolution RC88-6)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text:
A city or county may advance improvements on a project(s) which is included in the approved transportation sales tax Program of Projects with local agency funds (other than private developer funds as set forth in Section 9 of Ordinance 87-1 or Section 8 of Ordinance 04-01) prior to sales tax funds being available and receive reimbursement including interest from sales tax funds if it is determined by the Commission that the following terms and conditions are met.

1. The project(s) is included in the approved transportation sales tax Program of Projects, and no other financing technique is found to be more desirable or cost effective to utilize in order to advance the improvement.

2. The city or county shall be reimbursed for the local funds expended as soon as sales tax funds become available, or on a schedule agreed to between the local agency and the Commission.

3. That no more than 30% of the funds will be used for maintenance projects if the funds are borrowed from TransNet revenues pursuant to Section 2(C)(1) of Ordinance 04-01.

Policy #4: SR 78 Corridor Reserve Fund Allocation Policies

Adoption Date: Originally Adopted May 26, 1989 (Resolution R-89-82)

Wording changed December 14, 1990 (Resolution RC91-10)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text:
For purposes of allocating funds under Section 2(a)(3) in Ordinance 87-1:

1. Only those projects designated as "funded" on the SR 78 Corridor project list approved on December 13, 1990 by the SR 78 Corridor Policy Committee are eligible to receive SR 78 Corridor Reserve Funds.

2. The list of SR 78 Corridor projects and their priority and funding eligibility may be revised by a majority vote of the SR 78 Corridor Policy Committee and the approval of the Board of Directors.

3. The basic contribution for a non-Caltrans project on the SR 78 Corridor Reserve funded list is 50 percent of the estimated right-of-way, engineering, and construction costs. However, the total amount of Corridor Reserve Funds designated for projects within one jurisdiction may be allocated to vary from the basic 50 percent for any given project as long...
as the cumulative total for programmed projects at any point in time does not exceed 50 percent.

4. The basic contribution for a Caltrans project on the SR 78 Corridor Reserve funded list is 100 percent of the estimated right-of-way, engineering, and construction costs.

5. Contributions from the SR 78 Corridor Reserve Fund to any one jurisdiction cannot exceed 50 percent (100 percent for Caltrans) of the project cost estimates shown on the approved funded list of December 13, 1990. If actual project costs are less than estimated, a maximum contribution of 50 percent (100 percent for Caltrans) of the new costs shall be in effect.

6. A project that for any reason is removed from the funded list can only be replaced by the next highest ranked unfunded project (or projects), regardless of jurisdiction and only if the funded list of projects does not exceed the total Corridor Reserve dollars available. As with other funded projects, Corridor Reserve funds can only be used to improve the replacement project(s) to minimal four-lane standards (six lanes at freeway interchanges).

Added June 22, 1990 (Resolution RC90-40):

7. SR 78 Corridor Reserve funds for right-of-way will not be encumbered until a project has environmental clearance and the first 25 percent of the total value of the right-of-way is acquired. When a total of 75 percent of the right-of-way has been acquired, the construction funds will be encumbered at the request of the agency.

Added December 14, 1990 (Resolution RC91-10):

8. All agencies submitting projects from the SR 78 Corridor Funded Project List for programming are encouraged to pursue matching funds from the State's SB 300 program.

Added February 22, 1991 (Resolution RC91-13):

9. Any new source of state highway funds for the San Diego region should be considered for allocation to the TransNet SR 78 Corridor Reserve to offset local funds which were used for projects which are normally the responsibility of the State, such as freeway-freeway interchange improvements and ramp metering systems.
Policy #5: Use of Local Street and Road TransNet Funds for the Development of Transportation Demand Management Programs

Adoption Date: August 25, 1989 (Resolution RC90-23)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: The development and implementation of a Transportation Demand Management Program shall be an eligible use of Local Street and Road funds pursuant to Section 19(E) of Ordinance 87-1 and Section 21(c) of Ordinance 04-01. Transportation Demand Management shall mean a comprehensive set of strategies designed to influence travel behavior with respect to mode, time, frequency, route, or distance in order to improve the efficiency and effectiveness of local streets and roads. Principal strategy measures involve, but are not limited to, ridesharing, alternative work hours, and parking management.

Policy #6: Fund Accounting and Interest Allocation

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: For the purposes of determining compliance with Section 12 of Ordinance 87-1 and Section 13 of Ordinance 04-01, each agency shall maintain a separate fund (fund accounting) for TransNet revenues, if possible. Where the creation of a separate fund is not possible due to accounting methodology used by the agency, an alternative approach to maintaining separate accountability for TransNet revenue and expenditures must be developed and submitted to the Commission staff for concurrence. Interest earned on TransNet revenues received by the agency must be allocated to the TransNet fund and used only for projects approved by the Commission in the Program of Projects. For accounting purposes, the interest earnings shall be considered to be expended first. Further, the Ordinances allow the agencies to retain any unused TransNet funds. Interest accrued should be applied to each active project that carries an outstanding balance. The agency can determine the method of the interest distribution to be validated by the audit.

Policy #7: Program of Projects Amendments

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: A Program of Projects amendment shall be initiated when a local agency desires to add a new project to the approved Program of Projects, to drop an approved project in its entirety, or to change the TransNet funds programmed for a project by $2 million or 10% of total project, whichever is less. The amendment must be approved by the Commission prior to the expenditure of funds on the new or amended projects.
Policy # 8: Determination of New Transit Services

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: For the purpose of determining compliance with Section 4(B)(2)(c) of Ordinance 87-1, the level of service provided in FY 1988 shall be considered at the base level of service in existence prior to the availability of TransNet revenues which must be maintained through other funding sources. Compliance with the “new” service requirement shall be determined using the following procedure:

1. Determine the number of vehicle service miles operated during the fiscal year using TransNet revenues for any given operator by dividing the TransNet revenues for operations by the total system-wide operating cost for that operator and multiplying the total vehicle service miles operated by the quotient.

2. Subtract the number of miles determined in Step 1 from the total system vehicle service miles operated during the year.

3. If the adjusted number of miles from Step 2 is greater than or equal to they FY 1988 base level, then the compliance test is met.

4. The attached table of base statistics from FY 1988 (Attachment 1) will be used to determine compliance. These figures reflect all publicly-funded operators within the MTDB (MTS) and NSDCTDB (NCTD) service areas (Articles 4, 4.5, and 8) because TransNet revenues could potentially be used by the operators to fund service improvements on any of these systems.

Policy # 9: Use of TransNet Revenue for Bus Purchases

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: TransNet revenues may be used to support the purchase of buses required to operate new services funded with TransNet revenues. The number of buses which can be purchased with TransNet revenues shall be determined using the following procedures.

1. Determine the number of annual new vehicle service miles service being operated in accordance with Policy Number 8 – Determination of New Transit Services.

2. Divide the number of new miles of service by the system-wide average annual vehicle services miles per bus for a given operator to determine the equivalent number of buses required to operate the new service. Round up to the nearest whole number of bus equivalents.
The TransNet revenues used for bus purchases shall come out of the revenues available under Section 4(B)(2)(c) of Ordinance 87-1. The use of TransNet revenues for bus purchases shall be used to the maximum extent possible as matching funds for available state and federal capital funds. If, at some point in the future, the number of buses purchased with TransNet revenues cannot be justified based on the number of new miles being operated with TransNet revenues, then a pro-rated reimbursement to the TransNet fund will be required based on the remaining useful life of the vehicles. TransNet revenues may not be used to support the purchase of replacement buses for the “existing” (FY 1988) level of service. Any buses purchases with TransNet revenues will remain under the ownership of MTDB (MTS) or NSDCTDB (NCTD) and be made available to the operator chosen to operate the new services.

Policy #10: Use of TransNet Revenues to Replace Reduced State and Federal Operating Support

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: For purposes of determining compliance with Section 4(B)(2)(c) of Ordinance 87-1, the maximum amount of TransNet funds that MTDB (MTS) or NSDCTDB (NCTD) are eligible to use to replace federal funds in a given year is equal to the FY 1987 base year levels of federal and state operating support ($6,113,307 for MTS and $2,511,816 for NCTD) less the amount of state and federal operating support available in that year. The priority on the use of funds under this section is to provide new service improvements. MTS and NCTD are encouraged to use other available revenues, such as Transportation Development Act (TDA) funds, to offset reductions in state and federal funds, if possible, and to use TransNet funds under these sections for new service improvements.

Policy #11: Use of TransNet Revenues for Transportation Services for Seniors and the Disabled

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting

Policy Text: The funds made available under Section 4(B)(1) of Ordinance 87-1 or Section 4(c)(1) of Ordinance 04-01 for improved transportation services for seniors and the disabled shall be used to augment the revenues made available under the Transportation Development Act (TDA) Article 4.5 program for the same purposes. These TransNet funds shall be allocated to eligible service providers using the fund distribution formula approved by the SANDAG Board of Directors for use in distributing the TDA Article 4.5 funds. For accounting purposes, following the expenditure of fare revenues and other local and other local operating revenues, the interest earnings on the TransNet and TDA...
funds shall be considered to be spent first, followed by the TransNet funds, then the TDA funds.

Policy #12: Use of TransNet Revenues for Accessibility Improvements
Adoption Date: March 23, 1990 (Resolution RC90-35)
Policy Text: In the development of TransNet-funded local street and road projects, local jurisdictions may include, within the street right-of-way, improvements to enhance accessibility to the transportation system, including, but not limited to, accessibility improvements to bus stop areas.

Policy #13: Investment Policy
Adoption Date: July 27, 1990 (Resolution RC91-2)
Amendment: Repealed at November 18, 2005, Board Meeting. This policy has been superseded by the Annual Investment Policy Update (see Resolution 2006-06 approved at the September 23, 2005, SANDAG Board of Directors meeting).

Policy #14: Capital Equipment Acquisition Loans to SANDAG
Adoption Date: November 16, 1990 (Resolution RC91-6)
Policy Text: The loan of unused administrative allocations from TransNet funds to SANDAG for the purpose of acquiring office and computer equipment is authorized when lower cost financing is not available. The repayment schedule shall be based upon funding authorized in the SANDAG-approved budget and will include interest at a rate equal to the interest earning rate of the San Diego County Pooled Money Fund.

Policy #15: Local Agency Hold Harmless Agreements
Adoption Date: October 25, 1992 (Resolution RC92-7)
Policy Text: Each local agency shall be required to hold harmless and defend the Commission against challenges related to local TransNet projects. This policy is to be implemented by requiring that each local agency agree in its resolution approving its projects for TransNet funding to hold the Commission harmless.
Policy #16: Repayment of Commercial Paper Program Proceeds

Adoption Date: September 23, 2005

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: Each agency receiving proceeds from the TransNet Commercial Paper Program shall be responsible for its proportionate share of the ongoing interest and related administrative costs from the date the proceeds are received until the principal amount of the loan is fully repaid. Repayment of the principal amount shall commence within three years of the agency’s receipt of the proceeds and shall be completed within five years of the agency’s receipt of the proceeds. Repayment of the proceeds may be accomplished by rolling the outstanding amount into a long-term bond issue during the five-year repayment period. In such cases, the agency would then be responsible for its proportionate share of the bond issuance costs and annual debt service costs. The repayment of debt, in all cases, is the first priority on the use of the agency’s share of annual TransNet revenues.

Policy #17: Fiscal and Compliance Audits

Adoption Date: November 18, 2005

Policy Text: I. Fiscal and Compliance Audit Procedures

The fiscal and compliance audit is an essential tool to determine that TransNet funds are being used for the intended purposes. The Commission has the fiduciary responsibility to ensure that the public funds are used in accordance with the TransNet Ordinance and Expenditure Plan. In order to complete the audits in a timely manner, SANDAG proposes the following:

A. July/August: SANDAG meets with the auditors to review the audits required for the year and provide all necessary documentation/information for the auditors to begin work.

B. September to November: Auditors schedule site visits. Recipient agencies must be ready and available to meet with the auditors and provide requested financial schedules and other information necessary for the completion of the audit.

C. November/December: Auditors issue draft reports to both SANDAG and the agencies. The agencies must be available to review and comment on the draft report in a timely manner. All outstanding issues should be resolved within four weeks.

D. December/January: Auditors issue the final reports. If there are outstanding issues, those should be resolved so that the audit is completed no later than March.

SANDAG Responsibility: SANDAG will provide all information necessary to complete the audit.
Agency Responsibility: All agencies must be ready for the site visit, provide requested information, and review and comment on the draft reports in a timely manner.

If the auditor is unable to complete the audit because an agency was not ready or did not provide the required information or reviews in a timely manner, then the agency will be deemed in non-compliance of the Ordinance. SANDAG will withhold future TransNet payments (except for required debt service payments) until the audit is completed.

The Ordinance states that the Commission:

[S]hall not allocate any revenues...to any eligible local agency in any fiscal year until that local agency has certified to the Commission that it will include in its budget for that fiscal year an amount of local discretionary funding for street and roads purposes at least equal to the minimum maintenance of effort requirement. An annual independent audit shall be conducted to verify that the Maintenance of Effort requirements were met. Any local agency which does not meet its Maintenance of Effort requirement in any given year shall have its funding reduced in the following year by the amount by which the agency did not meet its required Maintenance of Effort level. Any local street and road revenues not allocated pursuant to the Maintenance of Effort requirement shall be redistributed to the remaining eligible agencies according to the formula described in [the Ordinance].

Although there are no specific MOE requirements for the highway, transit, or other discretionary programs, the verification of fund usage is essential. Therefore, the withholding of TransNet fund payments applies to all agencies that do not have a completed audit.

II. Exceptions

SANDAG acknowledges the existence of unforeseen circumstances which may prevent an audit from completion. Should situations warrant an extension, the agencies must submit a request for an extension to be considered by the SANDAG Transportation Committee, including an explanation of the situation and specific timelines for completion of the audit.

III. Audit Adjustments

Specific Project Funding/Discretionary Programs

This section applies to funding allocated for the specified projects under the Highway and Transit Programs under Ordinance 87-1, including funding allocated for bicycle facility improvements. Under the TransNet Extension (Ordinance 04-01), this section applies to the Major Corridor funding - Section 4(A) and (B) and the four discretionary programs: (1) Transit Senior program - Section 4(C)(2); (2) Local Environmental Mitigation program -
Section 4(D)(2); (3) Local Smart Growth Incentive program – Section 4(D)(3); and (4) Bicycle, Pedestrian, and Neighborhood Safety Program – Section 2(E).

After the projects are completed and there are funds remaining, the agency is required to return the money to the program. After the fiscal audit determines that the project has been completed, SANDAG will transmit a letter to the agency to return the funds to SANDAG. The agency must remit the balance within 60 days of the letter. Should an agency fail to respond in a timely manner, all future TransNet payments (including funds from the other programs) to that agency will be suspended until the funds are returned.

Local Street and Road Formula Program (Section 4(C) of Ordinance 87-1 and Section 4(D)(1) of Ordinance 04-01) and Transit Funding (Section 4(B) of Ordinance 87-1 and Sections 4(C)(1), 4(C)(3), and 4(C)(4) of Ordinance 04-01).

The audit identifies the status of each project funded with TransNet funds – i.e., completed projects, projects that have negative balances, inactive projects, and ongoing projects. The agencies are responsible to work with the auditors to make proper adjustments as follows:

- Completed projects: once a project is identified as completed and there are TransNet funds remaining with that project, the agency is required to transfer the balance to another TransNet-eligible project (any project included in the approved Program of Projects). The audit should make note to which project the funds will be transferred. Completed projects should no longer show in the following year’s audit.

- Projects with negative balances: an ongoing project or a completed project may have expended all the TransNet funds but the agency decided to augment with other funds. In this case, the project should show zero balance for the amount of TransNet expended rather than showing a negative balance. If the project is completed, then it should no longer show in the following year’s audit. If the project is ongoing and the agency intends to backfill the project with the following year’s TransNet funds, then it should be noted in the audit. However, this practice is discouraged as it will throw off the MOE calculation.

- Inactive projects: if a project has had no activity over a period of two audits, the agency must either close out the project or note when the project will be completed. These projects should no longer show in the following year’s audit. Any remaining TransNet funds must be transferred to another TransNet-eligible project.

### IV. Local Agency Balance Limitations

Based on the audit, an agency that maintains a balance of more than 30 percent of their annual apportionment (after debt service payments) must use the remaining balance to fund projects. SANDAG will defer payment until the unused balances fall below the 30 percent threshold.
# FY 1988 Base Year Statistics
(for use in TransNet Ordinance Policy #8)

## Metropolitan Transit Development Board Area

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<th>Fund Source</th>
<th>Operator/Service</th>
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<td>National City Transit</td>
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<td>County Transit System:</td>
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<td>• Suburban Service</td>
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<td><strong>1,573,623</strong></td>
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### MTDB (MTS) Area Total
**16,768,923**

## North San Diego County Transit Development Board

<table>
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<tr>
<th>Fund Source</th>
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<th>Service Miles</th>
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<td>Article 4.0</td>
<td>NCTD Fixed Route</td>
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<tr>
<td></td>
<td>NCTD FAST</td>
<td>126,744</td>
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<tr>
<td></td>
<td>Total</td>
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<tr>
<td>Article 4.5</td>
<td>NCTD Lifeline</td>
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<tr>
<td></td>
<td>Total</td>
<td><strong>386,680</strong></td>
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### NSDCTDB (NCTD) Area Total
**8,164,832**

### REGIONAL TOTAL
**24,933,755**

Adopted:  February, April, and May 1988; August 1989; March, July, and November 1990; October 1992; September and November 2005
Amended:  June and December 1990; February 1991; November 2005
## ATTACHMENT E

Proposed schedule for the 2006 Federal/Regional Transportation Improvement Program (F/RTIP)

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 29, 2005</td>
<td>California Transportation Commission (CTC) adopts 2006 Fund Estimate for the State Transportation Improvement Program (STIP)</td>
</tr>
<tr>
<td>December 16, 2005</td>
<td>SANDAG adopts 2006 STIP for submittal</td>
</tr>
<tr>
<td>January 30, 2006</td>
<td>Deadline to submit 2006 STIP to CTC</td>
</tr>
</tbody>
</table>
| January/February 2006 | - Cities/County Transportation Advisory Committee (CTAC) develops the criteria for TransNet Street Improvement System program.   
                          - Independent Taxpayers Oversight Committee (ITOC) reviews/comments. 
                          - CTAC/ITOC recommends approval by the Transportation Committee. |
| February to March, 2006 | Consultation with San Diego Conformity Working Group (CWG) on conformity criteria and procedures including: revenue-constrained program assumptions, latest planning assumptions, transportation control measures, emissions model, emissions budgets, exempt projects, consultation and public involvement. |
| February/March 2006   | Transportation Committee approves the TransNet Street Improvement program criteria. |
| February, 2006        | Memo to all jurisdictions regarding 2006 RTIP for new or revisions to projects for all project submittals including and update to all capacity increasing projects. **Due date April 7.** |
| April 27, 2006        | CTC adopts statewide 2006 STIP                                        |
| May 12, 2006          | Issue 2006 RTIP Draft Conformity Analysis for 30-day review and comment |
| May 17, 2006          | - Discuss 2006 RTIP Conformity Analysis at the regular CWG meeting  
                          - ITOC reviews draft 2006 RTIP                                      |
| May 19, 2006          | Transportation Committee releases draft 2006 RTIP including its conformity determination and set June 16, 2006 meeting to hold public hearing. |
| June 16, 2006         | Transportation Committee holds public hearing to review the draft 2006 RTIP including its conformity determination. Pending comments recommends 2006 RTIP to the SANDAG Board for approval. |
| June 19, 2006         | 30-day comment period ends for draft 2006 RTIP                         |
| June 23, 2006         | SANDAG Board adopts 2006 RTIP                                         |
| August 1, 2006        | SANDAG submits 2006 RTIP for state and federal approval                |
| October 4, 2006       | Federal approval for 2006 FSTIP                                       |
Interim Guidance for Implementing the Transportation Conformity Provisions in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
Interim Guidance for Implementing the Transportation Conformity Provisions in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

Office of Transportation and Air Quality
U.S. Environmental Protection Agency

Office of Natural and Human Environment
Federal Highway Administration

Office of Planning and Environment
Federal Transit Administration
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Appendix: Clean Air Act Section 176 as Amended by SAFETEA-LU
**Section 1: Introduction**

**1.1 What is the purpose of this interim guidance?**

The purpose of this document is to provide areas that are subject to transportation conformity with guidance on implementing the transportation conformity-related provisions contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which was signed into law on August 10, 2005.  

SAFETEA-LU revised a number of aspects of the Clean Air Act’s section 176(c) transportation conformity provisions including:

- providing an additional six months to re-determine conformity after new state implementation plan (SIP) motor vehicle emissions budgets are either found adequate, approved or promulgated;
- changing the frequency requirements for transportation conformity determinations;
- providing an option for reducing the time period covered by conformity determinations;
- providing procedures for areas to use in substituting or adding transportation control measures (TCMs) to approved SIPs;
- adding a one-year grace period for conformity lapses; and
- streamlining requirements for conformity SIPs.

This guidance explains how to apply the transportation conformity-related changes made in SAFETEA-LU during the period before the federal conformity rule is revised to address the changes made by SAFETEA-LU.

**1.2 What is transportation conformity?**

Transportation conformity is required under Clean Air Act section 176(c) to ensure that federally supported highway and transit project activities are consistent with (“conform to”) the purpose of the SIP. Conformity currently applies to areas that are designated nonattainment, and those redesignated to attainment after 1990 (“maintenance areas” with plans developed under Clean Air Act section 175A) for the following transportation-related criteria pollutants: ozone, particulate matter (PM$_{2.5}$ and PM$_{10}$), carbon monoxide (CO), and nitrogen dioxide (NO$_2$). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS or “standards”). The transportation conformity regulation is found in 40 CFR part 93 and provisions related to conformity SIPs are found in 40 CFR 51.390.

---

1 Areas are subject to transportation conformity if they are nonattainment or maintenance for ozone, carbon monoxide, PM$_{2.5}$, PM$_{10}$ or nitrogen dioxide.
1.3 Does this guidance create new requirements?

No, this guidance is based on Clean Air Act transportation conformity requirements as revised by SAFETEA-LU and existing associated regulations and does not create any new requirements. This guidance merely explains how to implement the transportation conformity-related provisions contained in SAFETEA-LU.

The statutory provisions and the US Environmental Protection Agency (EPA) and US Department of Transportation (DOT) regulations described in this document contain legally binding requirements. This document is not a substitute for those provisions or regulations, nor is it a regulation itself. Thus, it does not impose legally binding requirements on EPA, DOT, states, or the regulated community, and may not apply to a particular situation based upon the circumstances. EPA and DOT retain the discretion to adopt approaches on a case-by-case basis that may differ from this guidance, but still comply with the statute and SIP, conformity and planning regulations. Any decisions regarding a particular SIP, conformity determination or TCM substitution or addition will be made based on the statute and regulations, after appropriate public input and rulemaking procedures where applicable. This guidance may be revised periodically without public notice.

1.4 What are EPA’s plans for revising the conformity rule to address the changes made in SAFETEA-LU?

SAFETEA-LU section 6011(g) requires that EPA, within two years of the date that SAFETEA-LU was enacted, revise the transportation conformity rule as necessary to address the new statutory provisions.

1.5 Who can I contact for more information?

For specific questions concerning a particular nonattainment or maintenance area, please contact the SIP or transportation conformity staff person responsible for your state at the appropriate EPA regional office, Federal Highway Administration (FHWA) division office or Federal Transit Administration (FTA) regional office. A listing of EPA regional offices, the states they cover, and contact information for EPA regional conformity staff can be found at the following website: www.epa.gov/otaq/transp/conform/contacts.htm. Contact information for FHWA division offices can be found at: www.fhwa.dot.gov/field.html and contact information for FTA regional offices can be found at: www.fta.dot.gov/about/offices/4978_ENG_HTML.htm.

General questions about this guidance can be directed to:

Rudy Kapichak at EPA’s Office of Transportation and Air Quality, kapichak.rudolph@epa.gov or 734-214-4574;

Cecilia Ho at FHWA’s Office of Natural and Human Environment, cecilia.ho@fhwa.dot.gov or 202-366-9862; or
Abbe Marner at FTA’s Office of Planning and Environment, abbe.marner@fta.dot.gov or 202-366-4317.

1.6 Where can I find more information on the web?

Additional information on the transportation conformity rule and associated guidance can be found on EPA’s website at: www.epa.gov/otaq/transp/conform.

Similarly, information on the conformity rule and associated guidance along with additional information on SAFETEA-LU implementation can be found at: www.fhwa.dot.gov/environment/conform.htm and www.fhwa.dot.gov/safetealu/index.htm.

Information on SAFETEA-LU can also be found at FTA’s website at: www.fta.dot.gov/17003_ENG_HTML.htm.
Section 2: Conformity Redeterminations

SAFETEA-LU section 6011(a) reads as follows:

(a) Conformity Redeterminations.--Section 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)(2)) is amended by adding at the end the following:

```
(E) The appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator--
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```
(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004);
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```
(ii) approves an implementation plan that establishes a motor vehicle emissions budget if that budget has not yet been determined to be adequate in accordance with clause (i); or
```

```
(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.
```

2.1 What does this provision do?

This provision gives areas two years, increased from the previous 18 months, to determine conformity after actions that establish new motor vehicle emissions budgets:

- the effective date of EPA’s finding a motor vehicle emissions budget adequate;
- EPA’s approval into the SIP of a budget that has not yet been found adequate; or
- EPA’s promulgation a of federal implementation plan that establishes a budget.

2.2 When does this provision apply?

This provision took effect on August 10, 2005, when SAFETEA-LU was signed into law.

The SAFETEA-LU conference report states that, “In the case where conformity is triggered by and EPA SIP action, this section provides metropolitan areas with 2 years to determine conformity (currently, areas have 18 months).” Therefore, all 18-month clocks that started prior to August 10, 2005, have been extended by six months by statute, bringing the total time of the existing clocks to two years. Additionally, all clocks started by adequacy findings or approvals after August 10, 2005, are now two-year clocks.

2.3 Does this provision have any effect on when adequacy and approval clocks begin?

No, this provision does not change the point at which these clocks begin. The clocks begin on the effective date of EPA’s adequacy finding or the effective date of EPA’s SIP approval or federal implementation plan promulgation action, which is consistent with EPA’s conformity rule. (For more details see sections XV and XIX of the July 1, 2004, final rule, 69 Federal Register pages 40038 and 40050, respectively.)
2.4 How do EPA and DOT interpret “approves a SIP that establishes a motor vehicle emissions budget if that budget has not yet been determined to be adequate”?

The language in SAFETEA-LU specifies that the clock associated with a budget that is approved into the SIP only starts if the budget was not previously found adequate. If a budget had previously been found adequate, a clock for that budget would already have started on the effective date of EPA’s adequacy finding, so no new clock would start at the time of EPA’s approval of the budget into the SIP. This interpretation is consistent with how EPA and DOT have implemented section 93.104(e)(1) and (2) of the transportation conformity rule.

2.5 How does the requirement to redetermine conformity relate to the transportation planning update clocks?

The two-year trigger to redetermine conformity is not directly related to the transportation planning update clock. Under SAFETEA-LU the update cycle for transportation plans in nonattainment and maintenance areas and for all transportation improvement programs (TIPs) is four years.

Any of the three criteria for conformity redeterminations could trigger the need for a new conformity determination prior to the time that a transportation plan or TIP update would be needed under the statute as revised. Conversely, a planning update clock could trigger the need for a new conformity determination because a plan or TIP update was required prior to the end of the two-year conformity redetermination clock. In such a case, the conformity determination on the updated transportation plan or TIP would need to be based on the newly adequate or approved budgets and would satisfy the two-year redetermination requirement.
Section 3: Frequency of Conformity Determinations

SAFETEA-LU section 6011(b) reads as follows:

(b) Frequency of Conformity Determination Updates.--Section 176(c)(4)(B)(ii) of the Clean Air Act (42 U.S.C. 7506(c)(4)(B)(ii)) is amended to read as follows:
```
(ii) address the appropriate frequency for making conformity determinations, but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which--
```
```
```
```
```
```
```(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or
```
```
```
```
```
```
```(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and
```
```

3.1 What does this provision do?

This provision replaces the three-year conformity update cycle for transportation plans and TIPs previously included in the Clean Air Act. This provision revises the Clean Air Act to provide that the frequency for making conformity determinations on updated transportation plans and TIPs shall be every four years, except in cases in which the metropolitan planning organization (MPO) elects to update a plan or TIP more frequently, or the MPO is required to determine conformity to meet a two-year trigger after the effective date of EPA’s adequacy finding, SIP approval, or promulgation of motor vehicle emissions budgets.

3.2 When does this provision apply?

This provision took effect immediately on August 10, 2005, upon enactment of SAFETEA-LU, and the minimum frequency for making conformity determinations is now every four years. MPOs in nonattainment and maintenance areas may opt to apply the SAFETEA-LU four-year transportation plan update cycle to their existing conforming transportation plan. However, if they choose to do so, the subsequent transportation plan must reflect all SAFETEA-LU planning provisions at the time of the FHWA/FTA conformity determination.

Many areas have developed or are continuing to develop TIPs according to the pre-SAFETEA-LU metropolitan planning requirements. Such TIPs continue to be subject to two-year updates. Conformity determinations continue to be required at the time when such updates are made.

SAFETEA-LU section 6001(b) specifically states that “The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes” made by SAFETEA-LU prior to July 1, 2007. Therefore, states and MPOs are allowed to continue to comply with existing planning regulations for any metropolitan transportation plans and TIPs developed prior to July 1,
2007, including adherence to transportation plan and TIP update cycles and content requirements. Therefore, transportation plans and TIPs that are updated in accordance with the pre-SAFETEA-LU transportation planning cycles will have to demonstrate conformity according to those pre-SAFETEA-LU cycles.

However, if a state or MPO opts to implement all of the SAFETEA-LU section 6001 planning provisions prior to July 1, 2007, then the four-year update cycle would apply to the area’s transportation plan and TIP, which would be in line with the four-year frequency for conformity determinations.

For transportation plans and TIPs developed after July 1, 2007, FHWA/FTA would be able to make a conformity determination only if the SAFETEA-LU planning provisions have been met. Please see FHWA/FTA interim guidance on SAFETEA-LU planning, environment, and air quality provisions for more information (http://www.fhwa.dot.gov/hep/legreg.htm).

3.3 Does the discussion in DOT’s May 25, 2001, guidance that aligns the transportation planning update and conformity update requirements still apply?

Yes. The transportation planning update clock and the conformity update clock both begin upon the date of the FHWA and FTA conformity determination for the respective plan and/or TIP. The May 25, 2001, guidance is available at http://www.fhwa.dot.gov/environment/conformity/planup_m.htm.
SAFETEA-LU section 6011(c) reads as follows:

(c) Time Horizon for Conformity Determinations in Nonattainment Areas.--Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

\`(7) Conformity horizon for transportation plans.--
\`(A) In general.--Each conformity determination required under this section for a transportation plan under section 134(i) of title 23, United States Code, or section 5303(i) of title 49, United States Code, shall require a demonstration of conformity for the period ending on either the final year of the transportation plan, or at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, the longest of the following periods:
\`(i) The first 10-year period of any such transportation plan.
\`(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.
\`(iii) The year after the completion date of a regionally significant project if the project is included in the transportation improvement program or the project requires approval before the subsequent conformity determination.
\`(B) Regional emissions analysis.--The conformity determination shall be accompanied by a regional emissions analysis for the last year of the transportation plan and for any year shown to exceed emission budgets by a prior analysis, if such year extends beyond the applicable period as determined under subparagraph (A).
\`(C) Exception.--In any case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicles emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or has approved the revision, the demonstration of conformity at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, shall be required to extend only through the last year of the implementation plan required under section 175A(b).
\`(D) Effect of election.--Any election by a metropolitan planning organization under this paragraph shall continue in effect until the metropolitan planning organization elects otherwise.
\`(E) Air pollution control agency defined.--In this paragraph, the term `air pollution control agency' means an air pollution control agency (as defined in section 302(b)) that is responsible for developing plans or
controlling air pollution within the area covered by a transportation plan."

4.1 What does this provision do?

This provision provides the option to shorten the horizon of plan/TIP conformity determinations. This provision amends the Clean Air Act to require a demonstration of conformity for the period ending with either the final year of the transportation plan, or at the election of the MPO, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, the longest of the following periods:

- The first 10-year period of any such transportation plan.
- The latest year in the SIP applicable to the area that contains a motor vehicle emission budget.
- The year after the completion date of a regionally significant project\(^2\) if the project is included in the TIP, or the project requires approval before the subsequent conformity determination.

If the MPO elects to demonstrate conformity for less than the full length of the transportation plan, the conformity determination must be accompanied by a regional emissions analysis, for informational purposes only, for the last year of the transportation plan and for any year beyond the term of the conformity determination shown to exceed emission budgets by an informational emissions analysis that accompanied a previous conformity determination.

In addition, if an area has an approved second 10-year maintenance plan, or has submitted a second 10-year maintenance plan and EPA has found its budgets adequate the MPO may elect to demonstrate conformity through the last year of the second maintenance plan. This election would be made after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments.

Any election by an MPO to shorten the horizon for conformity shall continue in effect until the metropolitan planning organization elects otherwise.

The term “air pollution control agency” means an air pollution control agency that is responsible for developing plans or controlling air pollution within the area covered by a transportation plan.

\(^2\) Regionally significant project, as defined in 40 CFR 93.101, means a transportation project (other than an exempt project that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area’s transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.
4.2 When does this provision apply?

This provision took effect on August 10, 2005, when SAFETEA-LU was signed into law. However, MPOs must continue to demonstrate conformity through the final year of the transportation plan, unless they make an election under this provision.

4.3 Can an election made under this provision be made at the same time as a conformity determination?

We encourage MPOs to make this election prior to the beginning of a public comment period on any conformity determination. However, if MPOs do wish to take public comment on the election at the same time as on a conformity determination, we think it is appropriate that the conformity information presented to the public include both an analysis reflecting the election, as well as an analysis that reflects the full length of the transportation plan.

4.4 Does an “election of the MPO” require an MPO policy board action?

Yes, the MPO policy board must make this election, similar to their responsibility to determine conformity.

4.5 Does an MPO that elects to shorten the horizon need to make this election each time it makes a conformity determination, or only once?

An election under this section need only be made once for a given pollutant or pollutants, and then it would apply for all future conformity determinations for that pollutant(s). As discussed in the SAFETEA-LU Conference Report, the decision to address a portion of the transportation plan rather than the entire plan when demonstrating conformity only needs to be made once, not each time a conformity determination is made.

4.6 If an MPO elects to shorten the horizon, can it in the future elect to go back to having conformity apply for the entire length of the transportation plan?

Yes. The MPO can elect to return to demonstrating conformity for the entire length of the plan. We will address the specifics in our rulemaking to incorporate SAFETEA-LU provisions into the conformity rule. If an MPO that has elected to shorten the horizon wishes to elect to go back to determining conformity for the entire length of the plan prior to the rulemaking, please consult with your EPA regional office, and your FHWA division office and/or FTA regional office.

4.7 What constitutes “consultation with the air pollution control agency,” and does that agency need to concur? Does this election need to be part of the interagency consultation procedures and conformity SIP?

Consultation with the air pollution control agency should include meaningful and timely discussion. The air pollution control agency is not required to concur in this election.
SAFETEA-LU does not specify a consultation process, but the MPO should incorporate consultation on an election into their normal interagency consultation with the air agency. In order for consultation with the air agency to be meaningful it should occur at an early stage in the decision making process. The MPO is not required to revise its existing interagency consultation procedures to include this consultation with the air agency and the air agency is not required to revise the conformity SIP for the area to address this consultation.

4.8 What is an “air pollution control agency?” Might the requirement to consult with such agency actually apply to multiple agencies?

The air pollution control agency is the agency or agencies responsible for developing SIPs for the nonattainment or maintenance area or areas that include the MPO. This could include the state agency or local agencies specifically responsible for SIP development, and in some areas, agencies responsible for multi-state SIP development. Therefore, the MPO may be required to consult with multiple agencies. Please see Section 302(b) of the Clean Air Act (http://www.epa.gov/air/caa/caa302.txt) for the definition of an air pollution control agency.

4.9 Does this election need to be included in the public involvement procedures for the MPO?

MPOs are required to solicit public comments and consider them in their election. MPOs should follow their normal process for public participation regarding conformity actions for this election. The MPO is not required to revise its public involvement procedures required by SAFETEA-LU section 6001 to address public consultation on reducing the area’s conformity horizon.

4.10 If the MPO does make the election under this provision, what analysis years should be used for the regional emissions analysis?

If an MPO makes this election, except in the case of an adequate or approved second ten-year maintenance plan, they should interpret references to “the last year of the [transportation] plan’s forecast period” in 40 CFR 93.118(b), 93.118(d)(2), and 93.119(g) to then be the latest of the following years:

- The tenth year of the plan,
- The latest year in the SIP applicable to the area that contains a motor vehicle emission budget, or
- The year after the completion date of a regionally significant project if the project is included in the TIP, or the project requires approval before the subsequent conformity determination.

All other analysis year requirements provided in 40 CFR 93.118(b), 93.118(d)(2) and 93.119(g) must still be met whether or not the MPO makes this election.

Where an area has an adequate or approved second ten-year maintenance plan, if an MPO elects to shorten the conformity horizon, they should interpret references to “the last year
of the [transportation] plan’s forecast period” in 40 CFR 93.118(b), and 93.118(d)(2) to be the last year of the second ten-year maintenance period.

4.11 What constitutes “the first 10-year period of any such transportation plan” when an area amends its plan or TIP?

For FHWA and FTA actions on plans/TIPs and associated amendments and transportation conformity determinations that meet the requirements of 40 CFR 93.122(g) of the transportation conformity rule, which allows conformity determinations to rely on a previous regional emissions analysis, a long-range transportation plan initially found to conform with a 10-year conformity horizon remains sufficient. For example, an MPO has adopted a 2006 to 2026 transportation plan and made the conformity determination using a 10-year conformity horizon (i.e., 2016). In 2008, the MPO can adopt a new TIP that relies on the previous regional emissions analysis; that is, the conformity horizon year could remain 2016.

However, if the long-range transportation plan is amended to add, delete, or significantly change the design concept or scope of a regionally significant project, or a regionally significant project is rescheduled such that it crosses conformity horizon years, the transportation plan's conformity horizon would need to be at least 10 years at the time of the MPO's action. For example, an MPO has adopted a 2006 to 2026 transportation plan with a 10-year conformity horizon (i.e., 2016). In 2008, the MPO amends the plan and TIP to add a regionally significant project. In this case, the conformity horizon year would need to be 2018. Note, in this example the 2018 horizon assumes that no new SIP budgets have been found adequate or approved beyond 2018, and that there are no regionally significant projects in the amended TIP with a completion date in 2018 or beyond. If however, a new SIP budget has been found adequate or approved beyond 2018, the conformity horizon would need to be extended to the year for which the budget was established. For example if the budget was established for 2020, the conformity horizon would be 2020.

4.12 What is meant by “applicable SIP?”

In general, the “applicable SIP” is the SIP for the standard and pollutant for which the conformity analysis is being done. However, for 8-hour ozone areas that are demonstrating conformity with budgets in 1-hour ozone SIPs, the 1-hour SIP will be treated as the “applicable SIP” until such time as 8-hour budgets are found adequate or approved. At that time, the 8-hour SIP would become the “applicable SIP.”

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3 A conformity horizon year is defined in 40 CFR 93.101 as a year for which the transportation plan describes the envisioned transportation system according to 40 CFR 93.106.
4.13 If an MPO has elected to shorten its horizon, and wants to amend its plan in the years beyond the conformity horizon, will this trigger the need to redetermine conformity?

Yes. Although this SAFETEA-LU provision addressed the conformity horizon, it did not change the requirement that a conformity determination is required for transportation plan revisions.

4.14 Does the phrase “the project requires approval before the subsequent conformity determination” apply to non-federal projects?

Yes. This provision applies to regionally significant non-federal projects that would require approval prior to the subsequent conformity determination.

4.15 Can an MPO that is subject to conformity for multiple pollutants elect to shorten the conformity horizon year for one pollutant, but not for another?

Yes. If an MPO is nonattainment and/or maintenance for more than one pollutant it could shorten the horizon for one pollutant and its precursor(s) but not the other(s) and its precursor(s). For example, an area could maintain a 20-year horizon for ozone precursors but shorten the horizon to 10 years for CO.

However, an MPO should retain the same horizon year for a pollutant and its precursors. For example, a PM$_{2.5}$ conformity determination would have the same horizon for PM$_{2.5}$ and all applicable PM$_{2.5}$ precursors. An 8-hour ozone conformity determination would have the same horizon for its precursors - NOx and volatile organic compounds (VOCs).

4.16 Can an MPO that has made this election rely on a previous regional emissions analysis that was completed prior to the election?

Yes. However, the previous regional emissions analysis must have included an analysis for the new horizon year as defined by this section and must meet the requirements of 40 CFR 93.122(g). For example, if the MPO now is using the tenth year of its plan (e.g., 2016) for conformity purposes, then it can rely on the previous regional emissions analysis if an analysis was performed for that year (e.g., 2016). Also, please note that according to 40 CFR 93.122(g)(3), reliance on a previous regional emissions analysis does not satisfy the frequency requirements in 40 CFR 93.104(b) and (c).

4.17 Prior to adequate or approved budgets, if a nonattainment or maintenance area contains multiple MPOs, do all of the MPOs have to make this election, or can only one MPO make this election?

This provision specifically applies at the MPO level, so it might appear that one MPO in a multi-MPO nonattainment or maintenance area could make this election even if the others do not. However, different analysis years may then apply to each MPO which could be in conflict with certain provisions under 40 CFR 93.119.
Therefore, for MPOs that are subject to 40 CFR 93.119 requirements, all of the MPOs within the nonattainment area would need to make the election to ensure that the regional emissions analysis covered the entire nonattainment area and that the same analysis years were used.

(See EPA’s guidance “Conformity Implementation in Multi-jurisdictional Nonattainment and Maintenance Areas for Existing and New Air Quality Standards” for more information. A PDF copy of this guidance can be downloaded from the [EPA website](https://www.epa.gov).)

**4.18 Once there are adequate or approved budgets, if a nonattainment or maintenance area within the same state contains multiple MPOs, do all of the MPOs have to make this election, or can only one MPO make this election?**

For nonattainment and maintenance areas with multiple MPOs, but a single budget for the entire area, all of the MPOs within the nonattainment area would need to make the election to ensure that the regional emissions analysis covered the entire nonattainment/maintenance area and that the same analysis years were used.

For MPOs with sub-area budgets who are conducting separate regional emissions analyses, an MPO could elect to shorten the conformity horizon regardless of any other MPO within the nonattainment or maintenance area that is not subject to that same sub-area budget.

**4.19 Prior to adequate or approved budgets, if a nonattainment or maintenance area contains multiple states, does the MPO(s) have to make this election for all states, or can an MPO make a separate election for a state?**

All of the MPOs within the nonattainment area would need to make the election to ensure that the regional emissions analysis covered the entire nonattainment area and that the same analysis years were used.

**4.20 Once there are adequate or approved budgets, if a nonattainment or maintenance area contains multiple states, does the MPO(s) have to make this election for all states, or can an MPO make a separate election for a state?**

For nonattainment and maintenance areas with a single budget for the entire multi-state area, the MPO(s) within the area would need to make the election for all states to ensure that the regional emissions analysis covered the entire nonattainment/maintenance area and that the same analysis years were used.

For MPOs with separate budgets for each state who are conducting separate regional emissions analyses, the election could be done separately for each state that is not subject to that same budget.
4.21 How does this provision apply in donut areas?

The regional emissions analysis for a donut area must be consistent with that of the associated MPO. Interagency consultation should be used to discuss the regional emissions analysis as required under 40 CFR 93.105(c)(3).

4.22 Does this provision apply in isolated rural areas?

We will address how this provision applies in isolated rural areas in our rulemaking to incorporate SAFETEA-LU provisions into the conformity rule. If anyone in an isolated rural area would like to take advantage of this provision prior to the rulemaking, please consult with your EPA regional office, and your FHWA division office and/or FTA regional office.

4.23 What is meant by “if the project is included in the TIP?”

For the purposes of determining a shortened horizon, a project is “included in the TIP” if any phase of the project other than an exempt phase, such as preliminary engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action, is included in the TIP. “Project” refers to the all required phases of a project necessary for implementation as reflected in the selected alternative in the NEPA document. In other words, if the TIP includes funding for any phase of final design, right-of-way acquisition, or construction, the horizon year must extend to the year beyond the completion date of the entire “project” as defined in the final NEPA document.

4.24 What is meant by “the project requires approval before the subsequent conformity determination?”

This provision requires that the conformity horizon extend to the year beyond the completion date of a regionally significant project before the regionally significant project can be determined to conform and be approved. In general, this provision applies to approval of any phase of a project other than an exempt phase such as preliminary engineering to assess social, economic, and environmental effects of the proposed action or alternatives. For example, the conformity horizon must extend to the year beyond the completion date of a regionally significant project before FHWA/FTA, for such project, can issue a Record of Decision (ROD), make a Finding of No Significant Impact (FONSI), or determine that the project is Categorically Excluded (CE). With FTA’s major transit capital investment projects, the project must be included in a conforming transportation plan before preliminary engineering can be approved. Therefore, the conformity horizon must extend to the year beyond the completion date of such project before FTA can approve preliminary engineering.
4.25 Can non-regionally significant, non-exempt projects be found to conform even if the completion date of the project is beyond the shortened horizon?

Yes, but the project would still need to meet the requirements for project-level conformity.

4.26 Under this election, does the appropriate conformity test have to be met for the last year of the transportation plan? What about for any year shown to exceed emission budgets by a prior analysis?

No. The regional emissions analysis described in Clean Air Act section 176(c)(7)(B), must be performed for the last year of the plan and for any year beyond the term of the conformity determination shown to exceed the emissions budgets by a prior informational analysis, but the analysis is for informational purposes only. This analysis does not need to meet the requirements of the budget test (40 CFR 93.118) or the interim emissions test(s) (40 CFR 93.119) for that year or years.

4.27 How would the provision “and for any year shown to exceed emission budgets by a prior analysis” apply if there were no applicable emissions budgets?

If there were no applicable emissions budgets at the time of the prior analysis, then the informational analysis would only need to be conducted for the last year of the plan.

4.28 Do MPOs that utilize this provision in the case of an adequate or approved second ten-year maintenance plan have to develop a regional emissions analysis for the last year of the plan?

No. The requirement to develop an informational analysis does not apply to MPOs that elect to only demonstrate conformity through the end of the second ten-year maintenance period.

4.29 Does this provision change the requirement to analyze hot-spot emissions required under 40 CFR 93.116 for the full length of the transportation plan?

No. This provision of SAFETEA-LU applies to the regional emissions analysis requirements for plans and TIPs, but does not apply to project-level hot-spot air quality analyses.
Section 5: Substitution of Transportation Control Measures

SAFETEA-LU section 6011(d) reads as follows:

(d) Substitution of Transportation Control Measures.--Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by subsection (c)) is amended by inserting after paragraph (7) the following:

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(8) Substitution of transportation control measures.--
    (A) In general.--Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures—
        (i) if the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an emissions impact analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;
        (ii) if the substitute control measures are implemented—
            (I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or
            (II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;
        (iii) if the substitute and additional control measures are accompanied with evidence of adequate personnel and funding and authority under State or local law to implement, monitor, and enforce the control measures;
        (iv) if the substitute and additional control measures were developed through a collaborative process that included—
            (I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);
            (II) consultation with the Administrator; and
            (III) reasonable public notice and opportunity for comment; and
        (v) if the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.
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“(B) Adoption.--(i) Concurrency by the metropolitan planning organization, State air pollution control agency and the Administrator as required by subparagraph (A)(v) shall constitute adoption of the substitute or additional control measures so long as the requirements of subparagraphs (A)(i), (A)(ii), (A)(iii) and (A)(iv) are met.

(ii) Once adopted, the substitute or additional control measures become, by operation of law, part of the State implementation plan and become federally enforceable.

(iii) Within 90 days of its concurrence under subparagraph (A)(v), the State air pollution control agency shall submit the substitute or additional control measure to the Administrator for incorporation in the codification of the applicable implementation plan. Notwithstanding any other provision of this Act, no additional State process shall be necessary to support such revision to the applicable plan.

(C) No requirement for express permission.--The substitution or addition of a transportation control measure in accordance with this paragraph and the funding or approval of such a control measure shall not be contingent on the existence of any provision in the applicable implementation plan that expressly permits such a substitution or addition.

(D) No requirement for new conformity determination.--The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

(i) a new conformity determination for the transportation plan; or

(ii) a revision of the implementation plan.

(E) Continuation of control measure being replaced.--A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

(F) Effect of adoption.--Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.”.

5.1 What does this provision do?

SAFETEA-LU amends the Clean Air Act to provide nonattainment and maintenance areas with a streamlined process for either replacing TCMs in approved SIPs with alternate TCMs or for adding TCMs to their approved SIPs. Under this provision, states are no longer required to include a TCM substitution mechanism in their SIPs in order to expedite the process for making TCM substitutions.

5.2 When does this provision apply?

This provision took effect on August 10, 2005, when SAFETEA-LU was signed into law.
Nonattainment and maintenance areas that do not have TCM substitution mechanisms in their approved SIPs may begin using this statutory mechanism immediately to make substitutions or to add TCMs to their SIPs.

Several nonattainment and maintenance areas have TCM substitution mechanisms in their approved SIPs. These areas must continue to use their SIP-approved TCM substitution mechanisms in addition to the new statutory mechanism as applicable to make substitutions. However, there may be conflicts between an already approved mechanism and the provision contained in SAFETEA-LU. In the event of such a conflict the area would follow the requirement contained in SAFETEA-LU. EPA, FHWA and FTA will work with areas with approved mechanisms on a case-by-case basis to answer any questions. These areas may elect to revise their SIPs to remove the approved TCM substitution mechanism. EPA will act expeditiously to approve requests to remove previously approved TCM substitution mechanisms. EPA will consider using either parallel processing or a direct final approval, as appropriate, to expedite such approvals.

5.3 How does this provision affect EPA’s April 7, 2004, guidance on TCM substitution mechanisms?

EPA is withdrawing the April 7, 2004, guidance document and replacing it with today’s guidance. While much of the earlier guidance remains relevant, the TCM substitution provision in SAFETEA-LU makes large portions of the existing guidance unnecessary. For example, the portion of the guidance that discusses what a state must include in its SIP in order to have an approvable TCM substitution mechanism is no longer relevant because the provision in SAFETEA-LU allows states to make substitutions without having a substitution mechanism approved into their SIPs.

We are including the portions of the April 7, 2004, guidance that remain relevant in this guidance document.

5.4 What does SAFETEA-LU require in order for a TCM substitution to occur?

For a TCM in an approved SIP to be removed and replaced with an alternate TCM SAFETEA-LU requires that:

- the substitute TCM(s) must achieve equal or greater emission reductions;
- the substitute TCM(s) must be implemented on a schedule that is consistent with the schedule for the TCM(s) being removed from the SIP; or, if the implementation date has passed for the TCM(s) being replaced, the replacement TCM must be implemented as soon as practicable but not later than the date on which emission reductions from the TCM(s) are necessary to achieve the purpose of the implementation plan;

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4 Portland, OR; Albuquerque, NM; Texas; and Boston, MA have TCM substitution mechanisms in their approved SIPs.
• the substitute TCM(s) must be accompanied by evidence of adequate personnel, and funding and authority under state or local law to implement, monitor and enforce the TCM(s);
• the substitute TCM(s) must be developed through a collaborative process that includes participation by all affected jurisdictions (state and local air pollution control agencies and state and local transportation agencies such as the MPO, state and city DOTs, and transit providers); consultation with EPA; and reasonable notice and opportunity for public comment; and
• the equivalency of the substitute TCM(s) must be concurred on by the MPO, the state air pollution control agency and EPA.

5.5 What does SAFETEA-LU require in order for a new TCM to be added to an area’s SIP?

SAFETEA-LU requires that in order for a new TCM to be added to an approved SIP:

• the new TCM(s) must be accompanied by evidence of adequate personnel, and funding and authority under state or local law to implement, monitor and enforce the TCM(s);
• the new TCM(s) must be developed through a collaborative process that includes participation by all affected jurisdictions and agencies (e.g., state and local air pollution control agencies and state and local transportation agencies); consultation with EPA; and reasonable notice and opportunity for public comment; and
• the MPO, the state air pollution control agency and EPA must concur on the addition of the new TCM to the SIP.

5.6 Who must concur for EPA on the substitution or addition of TCMs?

SAFETEA-LU requires concurrence by the Administrator of EPA. EPA intends to prepare a delegation of authority that will enable the Regional Administrators to concur on substitutions and additions. However, for any substitutions or additions that occur before the delegation is finalized, the EPA regional office should participate in the collaborative process that is used to develop the TCMs and keep the EPA Administrator’s office informed as the process proceeds. If the substitution or addition fulfills all of the requirements contained in SAFETEA-LU, the regional office would transmit the package to the Administrator for concurrence. After concurrence, the Administrator would send a letter to the MPO and the state air agency.

5.7 How does an MPO or state/local transportation or air agency demonstrate that a substitute TCM provides equivalent emissions reductions?

To demonstrate that the new TCM provides equal or greater emission reductions, the emission benefits of the substitute TCM should be analyzed in a manner that is consistent with the methodology used for analysis of the existing TCMs in the approved SIP, unless a better methodology is currently available. If a better methodology is available, the
project sponsor should recalculate the emissions benefits of the original TCM and use that emissions estimate in determining if the substitute TCM provides equivalent emissions reductions. EPA and US DOT believe that the Clean Air Act requires that the latest planning assumptions, and emissions models must also be used, as generally required for conformity and SIP purposes. If hot-spot analyses are needed, they should use the applicable air quality models, data bases, and other requirements specified in 40 CFR part 51, Appendix W (Guideline on Air Quality Models) or follow other relevant EPA guidance or approved methodologies for hot-spot analyses.

It should be noted that some approved SIPs include TCMs for which no emission reduction credit was claimed. If such a TCM is to be replaced through a TCM substitution, an emissions analysis should be performed for both the existing SIP-approved TCM and the proposed substitute TCM. It should be demonstrated that there will be an equivalent reduction in emissions as a result of the substitution.

In determining whether or not a substitute TCM provides equivalent emission reductions, the area should document that the substitute TCM provides emission reductions that are:

- permanent for the time period relied upon in the applicable SIP;
- for the same time of year (e.g., during the winter carbon monoxide season) or during a specific time of day (e.g., the morning or evening rush hour) relied upon in the applicable SIP;
- for the same pollutant or precursor as the original SIP TCM, unless the area has a SIP-approved trading mechanism that would allow trading between precursors or between a pollutant and its precursor(s); and
- for the same geographic location, if the such a location is identified as critical for the emission reductions for the applicable SIP (e.g., to meet applicable hot-spot requirements).

An area should also consider whether or not the substitution will have an effect on any other SIPs for the area. For example, if a TCM is relied upon in more than one SIP (e.g., a TCM is included in both an ozone attainment demonstration and a carbon monoxide maintenance plan) or is included in the baseline emissions, the emissions analysis that is performed for the substitution would need to consider the impacts on all the affected SIPs and motor vehicle emissions budgets.

It should also be noted that nonattainment areas must continue to meet the Clean Air Act’s requirements for implementation of Reasonably Available Control Measures (RACM); serious PM_{10} nonattainment areas must continue to meet requirements for implementation of Best Available Control Measures (BACM). Serious, severe and

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5 RACM requirements do not apply in maintenance areas.
6 Provided that all applicable RACM and BACM requirements are met, EPA believes that TCMs substituted through the use of the mechanism contained in SAFETEA-LU would fulfill the requirements of Clean Air Act section 193 because the substitute TCMs provide equivalent emission reductions and therefore would not interfere with reasonable further progress or attainment. The requirements in Clean Air Act section 110(l) would not apply to substitutions made through the mechanism contained in
extreme ozone areas and moderate and serious carbon monoxide areas that have adopted TCMs to comply with Clean Air Act sections 182(c)(5), 182(d)(1)(A), 182(e)(4), 187(a)(2)(A) or 187(b)(2) may substitute TCMs; however, they must also continue to comply with those Clean Air Act requirements.

5.8 What additional information should be provided to support a TCM substitution or addition?

The material prepared to support a substitution or addition should clearly identify and describe the TCM in the approved SIP and the substitute TCM or the additional TCM. The substitute or additional TCM should meet all of the requirements of Clean Air Act section 110 and EPA’s TCM SIP Guidance (EPA 450/2-89-020). Specifically, the documentation for each substitution or addition should include: 1) the name of the TCM in the approved SIP that is proposed to be replaced; 2) the name of the proposed substitute or additional TCM; 3) a brief but thorough description of both the original and substitute or additional TCMs including their locations and implementing agencies; 4) the steps and schedule for completing and operating the substitute or additional TCM; and 5) a brief explanation of why the substitution is necessary.

5.9 Can the TCM substitution process be used to remove a TCM from the applicable SIP without providing a substitute measure?

No. The TCM substitution process established in SAFETEA-LU does not provide legal authority for an area to remove a TCM from the applicable SIP unless it is replaced with a TCM that provides equivalent emissions reductions. TCMs can be removed from an applicable SIP through a SIP revision. Such a SIP revision would have to be shown to meet Clean Air Act section 110(l) requirements (e.g., the area would have to show that removal of the TCM would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable Clean Air Act requirement).

5.10 If a substitute TCM cannot be implemented on the same schedule as the original TCM, what is necessary in order to fulfill SAFETEA-LU’s requirement that “the replacement TCM must be implemented as soon as practicable but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan?”

If it is not possible for the substitute TCM to be implemented by the same deadline as the original TCM, the substitute TCM would have to be implemented as expeditiously as practicable so that emission reductions can be achieved by the year required by the SIP. For example, if the TCM being replaced was to be implemented in 2008 and was included in the area’s 2010 ozone attainment demonstration, the substitute TCM should be fully implemented no later than the beginning of the 2009 ozone season (i.e., the final complete ozone season before the maximum June 2010 attainment date). The substitute

SAFETEA-LU because section 110(l) only applies to control measures approved into the SIP by EPA and these substitutions do not require EPA SIP approval.
TCM would be implemented by the time reductions are needed to support the SIP, in this case by the beginning of the 2009 ozone season.

5.11 Would EPA concur on a substitution if the substitute TCM could not be implemented until after the date on which emission reductions are necessary to achieve the purpose of the implementation plan?

EPA would not concur on a given substitution if it would interfere with any applicable requirement for reasonable further progress or timely attainment or maintenance of any NAAQS. Reliance on the TCM substitution provision in SAFETEA-LU would not be appropriate in the case where both the implementation date for the original TCM and SIP milestone date have passed. For example, if a TCM that was included in an area’s 2010 ozone attainment demonstration was to be in place in 2009 and became delayed, it would not be appropriate to use a TCM substitution mechanism to replace it with one that could not be implemented until 2011. In this case, a formal SIP revision would be required to address the attainment demonstration as well as the substitute TCM, to ensure that sufficient control measures are in place to demonstrate timely attainment.

5.12 Are TCMs in 1-hour ozone SIPs subject to the Clean Air Act and conformity rule requirements for timely implementation? And, can a TCM in an approved 1-hour ozone SIP in an 8-hour ozone nonattainment area be replaced by a substitute TCM through the TCM substitution process?

EPA addressed requirements for the timely implementation of TCMs contained in 1-hour ozone SIPs in areas that are now designated as nonattainment or maintenance for the 8-hour ozone standard in the July 1, 2004 new standards rulemaking. Specifically, EPA stated that:

“Section 93.113 of the existing conformity rule requires that transportation plans, TIPs, and projects which are not from a conforming plan and TIP must provide for the timely implementation of TCMs from an approved SIP. EPA notes that today's final rule does not change the implementation of these requirements for any existing or new nonattainment or maintenance area, including 8-hour nonattainment areas that have approved 1-hour SIPs that contain TCMs.

Clean Air Act section 176(c) requires that TCMs in approved SIPs be implemented in a timely manner according to the schedules in the SIP. This requirement is not contingent on what type of SIP, pollutant, or standard for which the approved TCM was established. Conformity determinations for any pollutant and standard must provide for the timely implementation of TCMs in approved SIPs, including TCMs in approved SIPs for the 1-hour ozone standard after that standard is revoked. Such TCMs can only be removed from the 1-hour SIP through the SIP process.” (69 FR 40013)

Any area 8-hour ozone area considering changes to TCMs in an approved 1-hour SIP should consult with the EPA regional office in order to determine the appropriate mechanism for making the desired changes.
5.13 What is necessary in order for an MPO or other implementing agency to show that it has adequate personnel and funding to implement the substitute or additional TCM?

TCMs that are included in an area’s transportation plan and TIP need to meet all applicable requirements in US DOT’s metropolitan planning regulations, including the metropolitan plan and TIP fiscal constraint requirement (23 CFR 450). Therefore, inclusion of the substitute or additional TCM in a fiscally constrained metropolitan plan and TIP generally would serve as sufficient evidence that adequate resources are available to implement the TCM. It is possible that situations will arise where an MPO would need to make a TCM substitution and revise its TIP to remove the original TCM and add the substitute TCM simultaneously. In such situations the MPO should use the consultation process to reach agreement on the details of these simultaneous actions.

However, if the TCM is not federally funded or is not part of the plan and TIP, the implementing agency should provide additional information on the availability and commitment of adequate resources as necessary to implement the substitute TCM.

5.14 What is necessary in order for an MPO or other implementing agency to demonstrate that there is adequate authority under state or local law to implement, monitor and enforce the substitute or additional TCM?

Generally, inclusion of the substitute or additional TCM in a metropolitan area’s plan and TIP, or in the case of a rural area, inclusion of the substitute TCM in the Statewide Transportation Improvement Program (STIP), would indicate that the implementing agency had legal authority to carry out the project. However, if the TCM is not federally funded or is not part of the plan and TIP, the implementing agency should provide additional information on its legal authority to implement the substitute TCM.

Because the substitute or additional TCM becomes part of the approved SIP for the area, Clean Air Act sections 113 and 179(a) grant EPA the authority to enforce the implementation of such a TCM. Implementation of the substitute and additional TCMs may also be enforced by citizen suits under Clean Air Act section 304.

5.15 What agencies would be involved in the collaborative process used to develop substitute and additional TCMs?

The agencies involved in the collaborative process used to develop substitute and additional TCMs would be similar to the group that participates in the area’s conformity interagency consultation process. The involved agencies would include the state and local air quality and transportation agencies. The MPO and all of the jurisdictions affected by the substitution or addition that is being considered should also be involved. The process must also include the EPA regional office, who would be responsible for keeping the Administrator informed prior to the Administrator’s delegation of concurrence to the Regional Administrator, and should also include the relevant FHWA and the FTA offices. Early consultation with federal agencies is essential to facilitate
subsequent concurrence on each substitution by EPA, and on conformity determinations based in part on timely implementation of substituted TCMs by FHWA and FTA.

5.16 What is necessary in order to demonstrate that the collaborative process used to develop substitute and additional TCMs included reasonable public notice and opportunity for comment?

Reasonable public notice and a public comment period must be provided when the TCM substitution or addition is made. The public has to be provided access to all material relevant to the substitution, and all public comments submitted have to be considered and responded to. The state and/or local air agency should ensure that the TCM substitution process complies with all applicable laws and regulations for public participation including state or local sunshine laws. Copies of any prepared supporting documentation should be sent to the EPA regional office, which would be responsible for keeping the Administrator informed prior to the Administrator’s delegation of concurrence to the Regional Administrator, FHWA division office, the FTA regional office and any other relevant state and local air and transportation agencies. Because EPA’s concurrence on a specific substitution or addition would be EPA’s conclusion that the substitution or addition complies with the requirements set forth in SAFETEA-LU, commenters should be made aware through the announcement that they should submit comments not only on whether the state should concur on the substitution or addition but also on whether EPA should concur with that substitution or addition.

5.17 How do the involved agencies indicate their concurrence on the substitution or addition?

Following the close of the comment period, the state or local air agency and MPO as appropriate would summarize the comments received and prepare responses. Those agencies along with the EPA regional office should review the comments and responses and all material related to the substitution or addition. If the substitution or addition fulfills all of the requirements specified in SAFETEA-LU, the state air agency and EPA would each indicate its concurrence by sending a letter to the MPO and each other (i.e., the state air agency would send its letter to the EPA and vice versa). The MPO would indicate its concurrence by resolution of the MPO’s policy body. A substitution or addition could not go into effect unless EPA, the state air agency and the MPO have all concurred on the substitution. Within 90 days of its concurrence, the state air agency must submit the substitute or additional control measure and all supporting information to the EPA regional office so that the TCM can be incorporated in the codified applicable SIP.

Agencies should use their consultation process to establish the exact point in the process that concurrence will be given so that it meets SAFETEA-LU's requirements. SAFETEA-LU requires that concurrence by the air agency and EPA occur after equivalency of the substitute measure(s) is demonstrated and the SAFETEA-LU conference report clarifies that "adoption occurs when the MPO, state air agency and EPA concur that all four of the general requirements in subparagraph (A) of the provision
have been fulfilled." Therefore, concurrence would have to occur sufficiently late in the process so that the agencies are sure that all four criteria have been met.

5.18 When can an MPO make a conformity determination based on a substitution?

An MPO can make a conformity determination based on a substitution as soon as the MPO, the state air pollution control agency and EPA have concurred on the substitution. Once all of these agencies have concurred, the substitute TCM is considered to be adopted. Once adopted under this process, the substitute TCM becomes part of the federally enforceable SIP for the area. The adoption of the substitute TCM also serves to remove the original TCM from the federally enforceable SIP. Therefore, once the adoption occurs, the original TCM is no longer subject to the Clean Air Act and transportation conformity rule requirements for timely implementation of TCMs. It should be noted that the original TCM remains in the approved SIP and subject to the timely implementation requirements until the replacement TCM is adopted. Subsequent to adoption, EPA will incorporate the substitute or new TCM(s) into the federal codification of the SIP to clarify which TCMs are part of the federally enforceable SIP.

5.19 What action will EPA take to incorporate the substitute or additional TCM into the codified SIP?

Once a state has submitted the substitute or additional TCM to EPA for incorporation in the codified applicable SIP, EPA will need to update the Code of Federal Regulations (CFR) to reflect the changes to the SIP. This would be done through the publication of a notice in the Federal Register. When a state that has been converted to the “SIP notebook system” adds substitutes or adds a non-regulatory TCM through the process established by SAFETEA-LU, EPA would publish an informational notice in the rules section of the Federal Register to update the CFR. In states that have not yet been converted to the notebook system, or for TCMs that require regulations to be implemented, EPA would need to take a final action in the Federal Register to incorporate the substitute or additional TCM into the CFR.

Since EPA will have concurred on any substitutions or additions that comply with the procedure established by SAFETEA-LU, EPA would take the final action incorporating the specific substitution or addition into the CFR without additional notice-and-comment rulemaking. EPA believes that it would have good cause under the Administrative Procedure Act to take these actions without additional opportunity for public comment because the substitution or addition was made through the process established by

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7 The notebook system for compiling SIPs is a process under which EPA revises 40 CFR Part 52 by: 1) revising charts listed in the Identification of Plan section; 2) submitting State regulatory revisions for incorporation by reference into the SIP by means of a revised annual compilation (generally in a looseleaf notebook) of all State regulations listed in these Identification of Plan charts rather than by piecemeal regulation updates; and 3) updating the list of non-regulatory measures in the State’s SIP through the use of an informational notice in the rules section of the Federal Register. Non-regulatory measures are not incorporated by reference into the Code of Federal Regulations; therefore, these materials are maintained in the notebook for the State at the EPA regional office and in a notebook maintained in the Office of the Federal Register.
SAFE6EA-LU, and because the public would have had the opportunity to comment on the specific substitution or addition during the public comment period on the specific substitution or addition.

5.20 **Is a conformity determination or a SIP revision required when a substitution is made or when a TCM is added?**

No, neither a conformity determination nor a SIP revision is required when an area makes a substitution or adds a new TCM to the approved SIP. However, if the plan and/or TIP need to be amended in order to implement the substitute TCM, all other transportation planning requirements would have to be met.

5.21 **What process should areas outside of metropolitan areas follow to implement this provision?**

For donut areas (i.e., those areas within a nonattainment or maintenance area but outside the metropolitan planning area), this provision should be implemented as above and the MPO associated with the donut area should concur in any substitution.

For isolated rural areas (i.e., those areas within a nonattainment or maintenance area that does not contain any metropolitan area), this provision should be implemented as above, except the state DOT should concur on the substitution or addition because there is no MPO in such an area.
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Section 6: Lapse of Conformity

SAFETEA-LU section 6011(e) reads as follows:

(e) Lapse of Conformity.--Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by subsections (c) and (d)) is amended by inserting after paragraph (8) the following:

``(9) Lapse of conformity.--If a conformity determination required under this subsection for a transportation plan under section 134(i) of title 23, United States Code, or section 5303(i) of title 49, United States Code, or a transportation improvement program under section 134(j) of such title 23 or under section 5303(j) of such title 49 is not made by the applicable deadline and such failure is not corrected by additional measures to either reduce motor vehicle emissions sufficient to demonstrate compliance with the requirements of this subsection within 12 months after such deadline or other measures sufficient to correct such failures, the transportation plan shall lapse.

'(10) Lapse.--In this subsection, the term 'lapse' means that the conformity determination for a transportation plan or transportation improvement program has expired, and thus there is no currently conforming transportation plan or transportation improvement program.'"

6.1 What does this provision do?

If a nonattainment or maintenance area is not able to determine conformity for its transportation plan and/or TIP by a prescribed conformity deadline, this provision allows an additional 12 months from the missed deadline for the area to correct the problem before a conformity lapse occurs. This provision also provides a statutory definition for the term “conformity lapse.”

6.2 When does the provision take effect?

The provision took effect on August 10, 2005, when SAFETEA-LU was signed into law.

6.3 To which “applicable deadlines” does this provision apply?

This provision applies to two kinds of conformity determination deadlines: 1) the deadlines resulting from the requirement to determine conformity for the transportation plan and TIP at regular intervals; and 2) the deadlines resulting from the requirement to redetermine transportation plan/TIP conformity within two years of an EPA action establishing a new motor vehicle emissions budget.

The regular interval for redetermining conformity has now been amended to four years to coincide with the interval for updating the transportation plan and TIP. During the transition to the new SAFETEA-LU planning requirements, the conformity lapse grace period provision applies to the old three-year and two-year intervals for updating and determining conformity for transportation plans and TIPs, respectively.
The requirement to redetermine conformity after a new motor vehicle emissions budget is established has also been amended by SAFETEA-LU. Previously, conformity needed to be determined within 18 months; SAFETEA-LU increases that period to two years. The requirement to redetermine conformity within two years of EPA’s action establishing a new motor vehicle emissions budget applies to: a finding of adequacy; approval of a SIP with a budget that had not previously been found adequate; or promulgation of a federal implementation plan with a budget. (For a more thorough discussion of the deadlines, please refer to the “Frequency of Conformity Determination Updates” and “Conformity Redeterminations” sections of this interim guidance.)

6.4 Does this provision apply to newly designated nonattainment areas?

No. This provision does not apply to the deadline for newly designated nonattainment areas to make the initial transportation plan/TIP conformity determination within 12 months of the effective date of the nonattainment designation, as required under Clean Air Act section 176(c)(6) and 40 CFR 93.102(d). Thus, the restrictions of a conformity lapse will remain in effect for any nonattainment area for the 8-hour ozone standard that did not have a conforming transportation plan/TIP in place by June 15, 2005. For the fine particulate matter (PM$_{2.5}$) standard, a lapse will occur for any PM$_{2.5}$ nonattainment area that does not have a conforming transportation plan/TIP by April 5, 2006. Although DOT and EPA will continue to use the term “lapse” to describe these situations, the statutory and regulatory definition of “lapse” does not cover the newly designated areas since no conformity determination was ever made.

6.5 Does this provision apply to ‘donut’ areas (as defined in 40 CFR 93.101)?

Yes. The conformity lapse grace period applies to donut areas in the same manner as it applies to metropolitan areas.

6.6 How can projects be advanced pursuant to transportation planning requirements during the conformity lapse grace period?

The 12-month conformity lapse grace period begins when the conformity determination required for a transportation plan or TIP is not made by the applicable deadline. During the grace period, the state or MPO may continue to advance projects as long as there is a valid STIP/TIP in place. Project-level conformity requirements must be met. Three specific scenarios are presented below to show how expiration of the plan and/or STIP/TIP at the time of the missed deadline affects the ability to advance projects:

1. If the transportation plan has expired, but the STIP/TIP are still in effect, the nonattainment or maintenance area can continue to authorize and take action on projects in the STIP/TIP throughout the duration of the grace period or the duration of the STIP/TIP, whichever is shorter. The TIP and affected portion of the STIP cannot be amended once the transportation plan expires. Prior to plan expiration, MPOs and
states should ensure their STIP/TIP have the desired projects from their transportation plan to continue to operate during the conformity lapse grace period.

2. If the transportation plan is still in effect, but the STIP/TIP have expired, FHWA/FTA cannot authorize projects. In order to advance projects, a new STIP/TIP must be developed containing only non-exempt and/or exempt projects that are consistent with the transportation plan. A conformity determination must be made for the new TIP unless it includes only exempt projects or TCMs in an approved SIP. For example, including a non-exempt project from the out-years of the transportation plan in the new TIP would require a conformity determination.

3. If both the transportation plan and the STIP/TIP have expired, FHWA/FTA will not authorize projects.

6.7 Can conformity lapse grace periods accumulate, one after another, in a given area?

No. If an area fails to meet an applicable deadline for the transportation plan or TIP, and then while in the conformity lapse grace period also fails to meet an applicable deadline for the other document, there will only be one 12-month grace period, running from the date of the first missed deadline.

Similarly, for example, an area that misses its four-year conformity determination clock gets a 12-month grace period from that point. If during the grace period, the area misses a two-year clock running because new budgets were established, the grace period continues to run from the date of the first missed deadline.

6.8 What happens if an area misses the two-year trigger to redetermine conformity after an EPA action establishing a new motor vehicle emissions budget?

If, after two years, an area is unable to demonstrate conformity using the new emissions budget, and the transportation plan and STIP/TIP are still in effect, then the area will enter the conformity lapse grace period. The area can continue advancing projects in the existing transportation planning documents as long as project-level conformity requirements are met.

6.9 If a nonattainment or maintenance area has subarea budgets and one subarea is in a lapse grace period, can other subareas make conformity determinations?

Yes, if an area has subarea budgets and one subarea is in a lapse grace period, other subareas can continue to make conformity determinations because the subarea in the lapse grace period does not enter a conformity lapse until the end of the 12-month grace period.
6.10 What happens at the end of the 12-month conformity lapse grace period?

A conformity lapse will occur if an area is unable to demonstrate conformity of its transportation plan and TIP at the end of the grace period. The restrictions on the types of projects that can proceed during a conformity lapse did not change with SAFETEA-LU. Please see the joint guidance memorandum issued by FHWA and FTA in January 2002 (http://www.fhwa.dot.gov/environment/conformity/con_guid.htm) and the April 9, 2003, FTA revised procedures for a conformity lapse (http://www.fhwa.dot.gov/environment/conformity/ftalapse.htm) for more information about advancing projects during a conformity lapse.

6.11 Can project-level conformity be determined and final environmental documents be approved during the conformity lapse grace period?

Yes. Records of decision, FONSIs, and CEs may be approved during the grace period. Projects must meet all applicable project-level conformity requirements, including any required hot-spot analyses, and must come from the previously conforming transportation plan and TIP. In donut areas, projects must have been included in the regional emissions analysis supporting the previously conforming transportation plan and TIP of the associated MPO.

6.12 Can regionally significant non-federal projects be approved during the grace period?

Yes. However, the project must have been included in the regional emissions analysis supporting the previously conforming transportation plan and TIP.
Section 7: Inclusion of Criteria and Procedures in SIP

SAFETEA-LU section 6011(f)(4) reads as follows:

(f) Conforming Amendments.--Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4)) (as amended by subsection (b)) is amended--

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

``(E) Inclusion of criteria and procedures in sip.--Not later than 2 years after the date of enactment of the SAFETEA-LU the procedures under subparagraph (A) shall include a requirement that each state include in the state implementation plan criteria and procedures for consultation required by subparagraph (D)(i), and enforcement and enforceability (pursuant to sections 93.125(c) and 93.122(a)(4)(ii) of title 40, Code of Federal Regulations) in accordance with the Administrator's criteria and procedures for consultation, enforcement and enforceability.".

7.1 What does this provision do?

This provision streamlines the requirements for state conformity SIPs. Prior to SAFETEA-LU being signed into law, states were required to address all of the federal conformity rule’s provisions in their conformity SIPs. Most of the sections of the federal rule were required to be copied verbatim from the federal rule into a state’s SIP, as previously required under 40 CFR 51.390(d). States were also required to tailor all or portions of the following three sections of the federal rule to meet their state’s individual circumstances:

- 40 CFR 93.105, which addresses consultation procedures;
- 40 CFR 93.122(a)(4)(ii), which addresses written commitments to control measures that are not included in an MPO’s plan and TIP that must be obtained prior to a conformity determination and the requirement that such commitments must be fulfilled; and
- 40 CFR 93.125(c), which addresses written commitments to mitigation measures that must be obtained prior to a project-level conformity determination, and the requirement that project sponsors must comply with such commitments.

Now, under SAFETEA-LU, states are required to address and tailor only these three sections of the conformity rule in their conformity SIPs. In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule, except for limited cases that are described below.

7.2 When does this provision apply?

This provision took effect on August 10, 2005, when SAFETEA-LU was signed into law.

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8 Conformity SIPs are different from control strategy SIPs or maintenance plans, as they only include state conformity procedures and not motor vehicle emissions budgets or air quality demonstrations.
7.3 Are any new conformity SIP deadlines created by SAFETEA-LU?

No. SAFETEA-LU does not create any new deadlines for conformity SIPs. Any nonattainment or maintenance area that has missed earlier deadlines to submit conformity SIP revisions (e.g., after previous conformity rulemakings, or new nonattainment designations) continues to be subject to these previous deadlines, but only in regard to the three provisions now required under SAFETEA-LU.

In addition, states are required to submit a conformity SIP revision due to any future rulemaking that substantively changes the three specified sections in the current conformity rule. For example, SAFETEA-LU requires EPA to complete a rulemaking reflecting all SAFETEA-LU conformity provisions by August 10, 2007. If EPA substantively changes any of the three specified provisions in that rulemaking, a conformity SIP revision would be required one year from the publication date of the SAFETEA-LU final conformity rule (40 CFR 51.390(a)).

7.4 How does SAFETEA-LU impact areas that have not previously submitted or approved conformity SIPs?

States that do not currently have submitted or approved conformity SIPs are only required to address the three provisions listed in SAFETEA-LU in their conformity SIPs according to any existing conformity SIP deadline, as described in the previous question.

Once a state has an approved conformity SIP that addresses only the three sections that SAFETEA-LU requires, the state would only revise its conformity SIP if either EPA revises the conformity rule and it affects one of these sections, or the state elects to revise how it addresses one of these three provisions. Any future changes to the federal conformity rules beyond these three provisions would take effect immediately in all states that have only these three provisions in their approved conformity SIP.

7.5 How does SAFETEA-LU impact areas that have previously submitted or approved conformity SIPs?

States that have previously approved conformity SIPs that decide to eliminate the provisions that are no longer mandatory will need to go through a formal SIP revision process to eliminate those provisions from their SIPs. EPA will have to conduct rulemaking to approve the changes to the states’ conformity SIPs. EPA will act expeditiously to approve these revisions. EPA will consider using either parallel processing or direct final approval to expedite the approval of such SIP revisions. Such SIP revisions should not be controversial since the provisions are no longer required by the Clean Air Act as amended by SAFETEA-LU.

A state with a previously approved conformity SIP may decide to retain all or some of the federal rule in its SIP. In such a case, the state should be aware that the conformity determinations in the state continue to be governed by the state’s conformity SIP. Such a
state would need to revise its conformity SIP when EPA makes changes to the federal rule in order to have those changes apply in the state. For more information please refer to EPA’s November 2004 Conformity SIP Guidance which is found at: http://www.epa.gov/otaq/transp/conform/policy.htm.

In addition, some states have submitted conformity SIPs to EPA for approval, but EPA may not have acted on these revisions yet. These states may write their EPA regional office and request that EPA approve only the three provisions that are required to be included in their SIPs and that EPA take no action on the remainder of the submission. States could also leave the full conformity SIP pending before EPA for rulemaking action, however as noted above if EPA approves the full SIP states would need subsequent SIP revisions to coordinate their SIPs with any future changes to the federal conformity rules.

7.6 How does this provision affect the 12-month conformity SIP submission clocks that were started by the July 1, 2004, and May 6, 2005, final conformity rules?

EPA and DOT believe that those clocks have been eliminated because those rulemakings did not contain any substantive revisions to any of the three sections of the rule that states are now required to address in their SIPs.

It should be noted that both final rules made very minor changes to section 93.105. The July 2004 final rule changed a reference to a later section of the conformity rule and the May 2005 rule contained a technical correction to a reference to a section of DOT’s regulations. EPA and DOT do not believe that either of those changes is significant enough by itself to warrant states being required to update their conformity SIPs within 12 months of the publication of those final rules.

7.7 How does this provision affect EPA’s November 2004 conformity SIP guidance?

EPA intends to revise this guidance in the near future in order to make it consistent with the revised conformity SIP requirements contained in SAFETEA-LU.

7.8 Can states continue to include provisions in their SIPs that are more stringent than the federal rule?

Yes, states can continue to include provisions in their conformity SIPs that are more stringent than the federal rule as long as they apply equally to federal and non-federal entities, pursuant to 40 CFR 51.390(a). This aspect of the current conformity regulation is not affected by SAFETEA-LU.
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APPENDIX

Clean Air Act Section 176
As Amended by SAFETEA-LU

NOTES:
This appendix includes Clean Air Act section 176 as amended by SAFETEA-LU. EPA and US DOT are providing this document for informational purposes only as an official version of the revised section is not yet available.

The revised portions of this section of the Clean Air Act are shown in bold.

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 7, 2003]
[Document not affected by Public Laws enacted between January 7, 2003 and February 12, 2003]
[CITE: 42USC7506]

TITLE 42--THE PUBLIC HEALTH AND WELFARE
CHAPTER 85--AIR POLLUTION PREVENTION AND CONTROL
SUBCHAPTER I--PROGRAMS AND ACTIVITIES
Part D--Plan Requirements for Nonattainment Areas
subpart 1--nonattainment areas in general

Sec. 7506. Limitations on certain Federal assistance

(a), (b) Repealed. Pub. L. 101-549, title I, Sec. 110(4), Nov. 15, 1990, 104 Stat. 2470
(c) Activities not conforming to approved or promulgated plans
   (1) No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to an implementation plan after it has been approved or promulgated under section 7410 of this title. No metropolitan planning organization designated under section 134 of title 23, shall give its approval to any project, program, or plan which does not conform to an implementation plan approved or promulgated under section 7410 of this title. The assurance of conformity to such an implementation plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality. Conformity to an implementation plan means--
(A) 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

(B) that such activities will not--

(i) cause or contribute to any new violation of any standard in any area;

(ii) increase the frequency or severity of any existing violation of any standard in any area; or

(iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The determination of conformity shall be based on the most recent estimates of emissions, and such estimates shall be determined from the most recent population, employment, travel and congestion estimates as determined by the metropolitan planning organization or other agency authorized to make such estimates.

(2) Any transportation plan or program developed pursuant to title 23 or chapter 53 of title 49 shall implement the transportation provisions of any applicable implementation plan approved under this chapter applicable to all or part of the area covered by such transportation plan or program. No Federal agency may approve, accept or fund any transportation plan, program or project unless such plan, program or project has been found to conform to any applicable implementation plan in effect under this chapter. In particular--

(A) no transportation plan or transportation improvement program may be adopted by a metropolitan planning organization designated under title 23 or chapter 53 of title 49, or be found to be in conformity by a metropolitan planning organization until a final determination has been made that emissions expected from implementation of such plans and programs are consistent with estimates of emissions from motor vehicles and necessary emissions reductions contained in the applicable implementation plan, and that the plan or program will conform to the requirements of paragraph (1)(B);

(B) no metropolitan planning organization or other recipient of funds under title 23 or chapter 53 of title 49 shall adopt or approve a transportation improvement program of projects until it determines that such program provides for timely implementation of transportation control measures consistent with schedules included in the applicable implementation plan;

(C) a transportation project may be adopted or approved by a metropolitan planning organization or any recipient of funds designated under title 23 or chapter 53 of title 49, or found in conformity by a metropolitan planning organization or approved, accepted, or funded by the Department of Transportation only if it meets either the requirements of subparagraph (D) or the following requirements--

(i) such a project comes from a conforming plan and program;

(ii) the design concept and scope of such project have not changed significantly since the conformity finding regarding the plan and program from which the project derived; and

(iii) the design concept and scope of such project at the time of the conformity determination for the program was adequate to determine emissions.

(D) Any project not referred to in subparagraph (C) shall be treated as conforming to the applicable implementation plan only if it is demonstrated that the projected emissions from such project, when considered together with emissions projected for the conforming
transformation plans and programs within the nonattainment area, do not cause such plans and programs to exceed the emission reduction projections and schedules assigned to such plans and programs in the applicable implementation plan.

(E) The appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004);

(ii) approves an implementation plan that establishes a motor vehicle emissions budget if that budget has not yet been determined to be adequate in accordance with clause (i); or

(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.

(3) Until such time as the implementation plan revision referred to in paragraph (4)(C) is approved, conformity of such plans, programs, and projects will be demonstrated if—

(A) the transportation plans and programs--

(i) are consistent with the most recent estimates of mobile source emissions;

(ii) provide for the expeditious implementation of transportation control measures in the applicable implementation plan; and

(iii) with respect to ozone and carbon monoxide nonattainment areas, contribute to annual emissions reductions consistent with sections 7511a(b)(1) and 7512a(a)(7) of this title; and

(B) the transportation projects--

(i) come from a conforming transportation plan and program as defined in subparagraph (A) or for 12 months after November 15, 1990, from a transportation program found to conform within 3 years prior to November 15, 1990; and

(ii) in carbon monoxide nonattainment areas, eliminate or reduce the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

With regard to subparagraph (B)(ii), such determination may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.

(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY

(A) IN GENERAL—The Administrator shall promulgate, and periodically update, criteria and procedures for determining conformity (except in the case of transportation plans, programs, and projects) of, and for keeping the Administrator informed about, the activities referred to in paragraph (1).

(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update, criteria and procedures for demonstrating and assuring conformity in the case of transportation plans, programs, and projects.

(C) CIVIL ACTION TO COMPEL PROMULGATION—A civil action may be brought against the Administrator and the Secretary of Transportation under section 7604 of this title to compel promulgation of such criteria and procedures and the Federal district court shall have jurisdiction to order such promulgation.
(D) The procedures and criteria shall, at a minimum—

(i) address the consultation procedures to be undertaken by metropolitan planning organizations and the Secretary of Transportation with State and local air quality agencies and State departments of transportation before such organizations and the Secretary make conformity determinations;

(ii) address the appropriate frequency for making conformity determinations, but; the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and

(iii) address how conformity determinations will be made with respect to maintenance plans.

(E). INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the SAFETEA–LU the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation required by subparagraph (D)(i), and enforcement and enforceability (pursuant to sections 93.125(e) and 93.122(a)(4)(ii) of title 40, Code of Federal Regulations) in accordance with the Administrator’s criteria and procedures for consultation, enforcement and enforceability.”.

(F) Compliance with the rules of the Administrator for determining the conformity of transportation plans, programs, and projects funded or approved under title 23 or chapter 53 of title 49 to State or Federal implementation plans shall not be required for traffic signal synchronization projects prior to the funding, approval or implementation of such projects. The supporting regional emissions analysis for any conformity determination made with respect to a transportation plan, program, or project shall consider the effect on emissions of any such project funded, approved, or implemented prior to the conformity determination.

(5) Applicability.—This subsection shall apply only with respect to—

(A) a nonattainment area and each pollutant for which the area is designated as a nonattainment area; and

(B) an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 7505a of this title with respect to the specific pollutant for which the area was designated nonattainment.

(6) Notwithstanding paragraph 5, this subsection shall not apply with respect to an area designated nonattainment under section 7407(d)(1) of this title until 1 year after that area is first designated nonattainment for a specific national ambient air quality standard. This paragraph only applies with respect to the national ambient air quality standard for which an area is newly designated nonattainment and does not affect the area's requirements with respect to all other national ambient air quality standards for which the area is designated nonattainment or has been redesignated from nonattainment to attainment with a maintenance plan pursuant to section 7505a of this title (including
any pre-existing national ambient air quality standard for a pollutant for which a new or revised standard has been issued).

(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

(A) IN GENERAL.—Each conformity determination required under this section for a transportation plan under section 134(i) of title 23, United States Code, or section 5303(i) of title 49, United States Code, shall require a demonstration of conformity for the period ending on either the final year of the transportation plan, or at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, the longest of the following periods:

(i) The first 10-year period of any such transportation plan.

(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

(iii) The year after the completion date of a regionally significant project if the project is included in the transportation improvement program or the project requires approval before the subsequent conformity determination.

(B) REGIONAL EMISSIONS ANALYSIS.—The conformity determination shall be accompanied by a regional emissions analysis for the last year of the transportation plan and for any year shown to exceed emission budgets by a prior analysis, if such year extends beyond the applicable period as determined under subparagraph (A).

(C) EXCEPTION.—In any case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicles emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or has approved the revision, the demonstration of conformity at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, shall be required to extend only through the last year of the implementation plan required under section 175A(b).

(D) EFFECT OF ELECTION.—Any election by a metropolitan planning organization under this paragraph shall continue in effect until the metropolitan planning organization elects otherwise.

(E) AIR POLLUTION CONTROL AGENCY DEFINED.—In this paragraph, the term ‘air pollution control agency’ means an air pollution control agency (as defined in section 302(b)) that is responsible for developing plans or controlling air pollution within the area covered by a transportation plan.

(8) SUBSTITUTION OF TRANSPORTATION CONTROL MEASURES.—

(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures

(i) if the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an emissions impact analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

(ii) if the substitute control measures are implemented——
(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

(iii) if the substitute and additional control measures are accompanied with evidence of adequate personnel and funding and authority under State or local law to implement, monitor, and enforce the control measures;

(iv) if the substitute and additional control measures were developed through a collaborative process that included—

(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

(II) consultation with the Administrator; and

(v) if the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

(B) ADOPTION.—

(i) Concurrency by the metropolitan planning organization, State air pollution control agency and the Administrator as required by subparagraph (A)(v) shall constitute adoption of the substitute or additional control measures so long as the requirements of subparagraphs (A)(i), (A)(ii), (A)(iii) and (A)(iv) are met.

(ii) Once adopted, the substitute or additional control measures become, by operation of law, part of the State implementation plan and become federally enforceable.

(iii) Within 90 days of its concurrence under subparagraph (A)(v), the State air pollution control agency shall submit the substitute or additional control measure to the Administrator for incorporation in the codification of the applicable implementation plan. Notwithstanding any other provision of this Act, no additional State process shall be necessary to support such revision to the applicable plan.

(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph and the funding or approval of such a control measure shall not be contingent on the existence of any provision in the applicable implementation plan that expressly permits such a substitution or addition.

(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

(i) a new conformity determination for the transportation plan; or

(ii) a revision of the implementation plan.

(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this
paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.

(9) LAPSE OF CONFORMITY.—If a conformity determination required under this subsection for a transportation plan under section 134(i) of title 23, United States Code, or section 5303(i) of title 49, United States Code, or a transportation improvement program under section 134(j) of such title 23 or under section 5303(j) of such title 49 is not made by the applicable deadline and such failure is not corrected by additional measures to either reduce motor vehicle emissions sufficient to demonstrate compliance with the requirements of this subsection within 12 months after such deadline or other measures sufficient to correct such failures, the transportation plan shall lapse.

(10) LAPSE.—In this subsection, the term ‘lapse’ means that the conformity determination for a transportation plan or transportation improvement program has expired, and thus there is no currently conforming transportation plan or transportation improvement program.”.

(d) Priority of achieving and maintaining national primary ambient air quality standards

Each department, agency, or instrumentality of the Federal Government having authority to conduct or support any program with air-quality related transportation consequences shall give priority in the exercise of such authority, consistent with statutory requirements for allocation among States or other jurisdictions, to the implementation of those portions of plans prepared under this section to achieve and maintain the national primary ambient air-quality standard. This paragraph extends to, but is not limited to, authority exercised under chapter 53 of title 49, title 23, and the Housing and Urban Development Act.


References in Text

Section 7505a of this title, referred to in subsec. (c)(6), was in the original "section 175(A)" and was translated as reading "section 175A", meaning section 175A of act July
14, 1955, which is classified to section 7505a of this title, to reflect the probable intent of Congress.


Codification

Amendments

1990--Subsecs. (a), (b). Pub. L. 101-549, Sec. 110(4), struck out subsec. (a) which related to approval of projects or award of grants, and subsec. (b) which related to implementation of approved or promulgated plans.

Subsec. (c). Pub. L. 101-549, Sec. 101(f), designated existing provisions as par. (1), struck out ``(1)'', ``(2)'', ``(3)'', and ``(4)' before ``engage in'', ``support in'', ``license or'', and ``approve, any'', respectively, substituted ``conform to an implementation plan after it'' for ``conform to a plan after it'', ``conform to an implementation plan approved'' for ``conform to a plan approved'', and ``conformity to such an implementation plan shall'' for ``conformity to such a plan shall'', inserted ``Conformity to an implementation plan means--'' followed immediately by subpars. (A) and (B) and closing provisions relating to determination of conformity being based on recent estimates of emissions and the determination of such estimates, and added pars. (2) to (4).

1977--Subsec. (a)(1). Pub. L. 95-190 inserted ``national'' before ``primary''.

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