WEST CENTRAL INDIANA ECONOMIC DEVELOPMENT DISTRICT, INC.
TRANSPORTATION POLICY COMMITTEE

RESOLUTION NUMBER 031808-04

A resolution approving the West Central Indiana Economic Development District, Inc., ***TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL***, included as Attachment A (Conformity Procedures) and Attachment B (Interagency Consultation Procedures) to this resolution, for determining the conformity of the Transportation Plan (TP) and Transportation Improvement Program (TIP) with state and federal air quality plans and procedures. These two attachments constitute the "Conformity SIP" (the conformity portion of the state and federal air quality plan called the State Implementation Plan (SIP) for the Terre Haute Urbanized Area and Vigo County Metropolitan Planning Area).

This Resolution will be submitted to the Indiana Department of Environmental Management (IDEM) and the U.S. Environmental Protection Agency (EPA) for approval as revisions to the Indiana SIP, which governs transportation conformity and decisions in the Terre Haute Urbanized Area and Vigo County MPA.

WHEREAS, West Central Indiana Economic Development District, Inc. (WCIEDD) is the Metropolitan Planning Organization, hereafter referred to as the MPO, designated by the Governor of Indiana, for the Terre Haute Urbanized Area and the Vigo County Metropolitan Planning Area, hereafter collectively referred to as the MPA, pursuant to 23 CFR 450 and 49 CFR 613; and

WHEREAS, the MPO and IDEM are collectively responsible for developing and implementing various portions of federal air quality plans in the MPA; and

WHEREAS, prior to adopting or amending the TP and TIP, the MPO must first determine that these plans and programs conform to the SIP for the MPA using procedures established by the EPA; and

WHEREAS, eight agencies have cooperatively prepared a protocol for determining transportation air quality conformity in compliance with Federal regulation entitled: ***METROPOLITAN PLANNING ORGANIZATION, WEST CENTRAL INDIANA ECONOMIC DEVELOPMENT DISTRICT, TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL*** ("the Protocol"), which includes certain conformity procedures relating to transportation plans and programs, and projects and interagency consultation procedures, attached hereto as Attachment A and Attachment B, respectively, and incorporated herein as though set forth at length; and

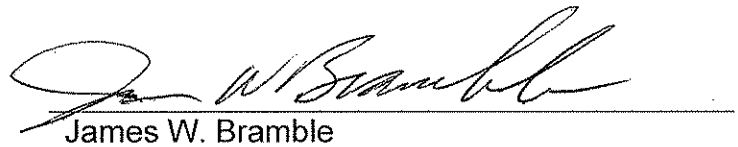
WHEREAS, the eight agencies have revised the Protocol to reflect the most recent guidance provided by the EPA; and

WHEREAS, the Protocol must be submitted to IDEM for review and subsequent submittal to the EPA for revision of the Vigo County, Indiana SIP; now therefore be it

RESOLVED, that the Protocol to be included in the Conformity SIP is approved for submission to IDEM and to the EPA; and, be it further

RESOLVED, that the MPO staff may make minor adjustments, as necessary, to the Protocol in the Conformity SIP in response to IDEM and EPA comments.

The above and foregoing resolution is hereby adopted this 18th day of March 2008 during a regular meeting of the MPO's Transportation Policy Committee held in Terre Haute, IN.



James W. Bramble
Transportation Policy Committee Chair

METROPOLITAN PLANNING ORGANIZATION
WEST CENTRAL INDIANA ECONOMIC DEVELOPMENT DISTRICT
TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Conformity Procedures

Article I. Summary:

Current federal law does not require that EPA's detailed procedures for determining the conformity of plans, programs and projects be included in a "Conformity SIP". This SIP revision however must include procedures for interagency consultation (Federal, State and local), resolution of conflict and public consultation set forth in 40 CFR 93.105 (consultation procedures are found in Attachment B), and provisions for written commitments for control and mitigation measures required by 40 CFR 93.122(a)(4)(ii) and 125(c) (these commitments are below). This document, when submitted and approved as a SIP revision, gives full legal effect to the following three requirements of the Federal Transportation Conformity Rule, 40 CFR Part 93 Subpart A:

(1) 40 CFR 93.105, which addresses consultation procedures.

(2) 40 CRR 93.122(a)(4)(ii), which states conformity SIPs must provide that written commitments to control measures that are not included in a Metropolitan Planning Organization's (MPO) Transportation Plan (TP) and Transportation Improvement Program (TIP) must be obtained prior to a conformity determination and that such commitments must be fulfilled.

(3) 40 CFR 93.125(c), which states that conformity SIPs must require written commitments to mitigation measures and that the written commitments must be obtained prior to a positive project-level conformity determination, and that project sponsors comply with such commitments.

Following EPA approval of these procedures as a revision to the SIP, conformity determinations will be governed by the approved state criteria and procedures as well as any applicable portions of the federal conformity rules that are not addressed by this document.

Article II. PROVISIONS FOR Written Commitments Required by 40 CFR 93.122(a)(4)(ii) and 93.125(c):

As set forth in 40 CFR 93.122(a)(4)(ii), emission reduction credit from control measures that are not included in the TP and TIP and that do not require a regulatory action in order to be implemented may not be included in the emissions study unless the conformity determination includes written commitments from the appropriate entities to implement those control measures, as defined in 40 CFR 93.101. Written commitments to control measures not included in the TP and TIP must be obtained prior to a conformity determination and such commitments must be fulfilled. Consultation on

these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

As set forth in 40 CFR 93.125(c), prior to determining that a transportation project is in conformity, the MPO, other recipients of funds designated under Title 23 U.S.C. or the Federal Transit Laws, FHWA or FTA must obtain from the project sponsor and/or operator, written commitments to implement in the construction of the project and operation of the resulting facility or service, any project-level mitigation or control measures which are identified as conditions for NEPA process completion, with respect to local CO, PM_{10}, or $PM_{2.5}$ impacts. Before a conformity determination is made, written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a TP or TIP, and are included in the project design concept and scope which is used in the regional emissions analysis, required by 40 CFR 93.118 and 93.119, or used in the project-level hot-spot analysis, required by 40 CFR 93.116. Consultation on these commitments will take place as a part of the consultation process prior to the conformity analysis and determination.

METROPOLITAN PLANNING ORGANIZATION
WEST CENTRAL INDIANA ECONOMIC DEVELOPMENT DISTRICT
TRANSPORTATION AIR QUALITY CONFORMITY PROTOCOL

Interagency Consultation Procedures

1. **Definitions:**

AQCA - Air Quality Conformity Analysis
EPA - United States Environmental Protection Agency
FHWA - Federal Highway Administration
FTA - Federal Transit Administration
HPMS - Highway Performance Monitoring System
ICG - Interagency Consultation Group
IDEM - Indiana Department of Environment Management
INDOT- Indiana Department of Transportation
INSTIP - Indiana Statewide Transportation Improvement Program
MPO - Metropolitan Planning Organization
MVEB - Motor Vehicle Emissions Budget
NEPA - National Environmental Policy Act
PPP – Public Participation Plan
SIP - State Implementation Plan
TCMs - Transportation Control Measures
TDM - Travel Demand Model
TIP - Transportation Improvement Program
TP - Transportation Plan
USDOT - United States Department of Transportation
VMT - Vehicle Miles Traveled

2. **General:**

2.1. These procedures implement the interagency consultation process as required by 40 CFR 93.105(b) for the Terre Haute Urbanized Area and Vigo County Metropolitan Planning Area, hereafter collectively referred to as the MPA, and include procedures to be undertaken by West Central Indiana Economic Development District, hereafter referred to as the MPO, Indiana Department of Transportation (INDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Indiana Department of Environmental Management (IDEM), U.S. Environmental Protection Agency (EPA), local air and transit agencies (as appropriate) and other agencies not listed, before making transportation conformity determinations on the TP and TIP.

2.2. Additional details on consultation are contained in the Indiana guidance document on transportation conformity entitled "Interagency Consultation Group Conformity Consultation Guidance, August 2007". This guidance document provides MPOs with detailed guidance on conformity consultation and

procedures, but is not legally binding. Only the procedures approved into the State Implementation Plan (SIP) are legally binding.

2.3. The TP will be fiscally responsible and the TIP will be fiscally constrained. The Indiana Statewide Transportation Improvement Plan (INSTIP) will be consistent with the TIP, in order to comply with 23 CFR 450.216(b). INDOT and the MPO will reach consensus regarding the list of INDOT-sponsored projects to be included in the MPO TP and TIP, project design concept and scope, project phasing (PE, RW, CN, etc.), and the projected year that each project is expected to be open to traffic. INDOT jurisdiction projects are fiscally constrained in the context of the INSTIP, and thus the MPO will not add INDOT jurisdiction projects, other than those listed in the INDOT Statewide Transportation Plan (INTP), without prior concurrence from INDOT or prior to identifying an alternate funding source.

2.4. For transportation activities which cross the borders of the established MPA or nonattainment areas, or where a nonattainment area involves a donut area and/or multiple MPOs, the conformity test methodology will clearly delineate agency responsibilities for modeling, assembly of the air quality conformity analysis document, public involvement, and how the respective conformity finding(s) will be issued.

3. **Interagency Consultation Group:**

3.1. To conduct consultation, staff involved in conformity issues for their respective agencies will participate in an Air Quality Conformity Task Force, hereafter referred to as the "Interagency Consultation Group." The Interagency Consultation Group (ICG) is open to all interested agencies, but typically includes, as a minimum, staff representation from the following agencies:

- Federal agencies: FHWA, EPA and FTA
- State agencies: INDOT and IDEM
- Regional planning agencies: West Central Indiana Economic Development District, Inc.
- Local transit agencies: Terre Haute Transit Utility
- Local air agencies: Vigo County Air Pollution Control

3.2. The MPO will maintain a directory of ICG contacts at each ICG member agency. These agencies are responsible for notifying ICG member agencies of individual contact changes. The ICG agencies should also establish the practice of having at least one (1) staff member who can serve as an alternate contact if the primary contact at the agency is unavailable for consultation.

3.3. Interagency Consultation Group Meetings:

3.3.1. The MPO is responsible for initiating consultation with the ICG when the TP/TIP is to be amended or updated.

3.3.2. The Initial ICG Meeting (typically a conference call) should include, but not be limited to, all of the agencies listed above. The MPO should attempt to pre-coordinate conference calls for a time that is acceptable to all ICG representatives.

3.3.3. The purpose of the Initial ICG Meeting is to establish consensus regarding the TP/TIP update/amendment schedule, latest planning assumptions, and the analysis methodology. The MPO should provide the ICG with necessary background information concerning the update/amendment as soon as possible, and prior to the conference call. If there are no changes to the schedule, planning assumptions, etc., the ICG may reaffirm the existing practices. The MPO will respond verbally or by email to all questions and comments from ICG members regarding the update/amendment or the background information.

3.3.4. The MPO will prepare initial meeting minutes to document ICG concurrence regarding items and all decisions made during the initial consultation meeting. The MPO will forward these meeting minutes and the project list to the ICG as soon as reasonably possible. The MPO will follow-up with ICG representatives as needed during the consultation period to clarify outstanding issues. The MPO will schedule a follow-up meeting if needed (i.e. agency concurrence cannot be reached). The MPO will also schedule a follow-up meeting if any ICG member(s) requests a meeting to discuss issues under the purview of the ICG as described below, including whether certain events would trigger the need to make a new conformity determination for the TP/TIP. The agency requesting the follow-up meeting will be responsible for preparing and distributing the meeting minutes from that meeting.

3.3.5. Meeting frequency will be as needed, unless there is consensus among the federal and state transportation agencies and air quality agencies to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). In most cases, consultation will be via conference call and/or email, unless the ICG decides that certain items may require a face-to-face meeting and cannot be handled via conference call or email.

3.3.6. Persons from any organizational level in the member agencies may attend or participate in meetings of the ICG. All meetings of the ICG will be open to the public, but official public notification of scheduled ICG meetings is not required.

4. **Consultation for an update or amendment of the TP/TIP when a new regional analysis is required:**

4.1. Consultation Structure and Process

4.1.1. TP/TIP updates/amendments that require a new regional emission analysis will be developed through the ICG. The MPO is responsible for convening meetings of the ICG for this purpose.

4.1.2. Early in the TP/TIP development process, the MPO will develop a schedule for key activities and meetings leading up to the adoption of the TP/TIP. In developing the draft TP/TIP, the MPO will bring important related development issues to the ICG for discussion and feedback. The MPO is responsible for transmitting all supporting materials used for these discussions to the ICG prior to the meetings, or on occasion, they may distribute materials at the meetings. All materials relevant to interagency consultation, such as the TP/TIP schedule(s), background or related material, and the draft TP/TIP, will also be transmitted to the ICG for discussion and feedback.

4.1.3. Public involvement in the development of the TP/TIP will be in accordance with the MPO's adopted Public Participation Plan (PPP) established under 23 CFR 450. The MPO staff will respond to all significant public comments received during the TP/TIP development process.

4.1.4. Policy decisions and actions pertaining to the TP/TIP are the responsibility of the MPO and will be made through the Transportation Policy Committee (TPC) and its standing committee structure. The MPO will transmit TP/TIP related materials to be discussed at the TPC meeting(s) to the ICG prior to the meeting, or on occasion, they may distribute materials at the meeting(s). MPO staff and members of the ICG agencies are also invited to attend and participate in TPC meetings.

4.2. Agency Roles and Responsibilities:

40 CFR 93.105 (b)(2)(i) establishes a requirement for identification of roles and responsibilities in the consultation SIP. As such, the following table outlines expected roles and responsibilities of key agencies in TP/TIP development and review.

Agency	Roles
MPO	• Runs travel demand model (TDM) • Updates/amends the TP and TIP • Prepares Conformity Demonstrations for the TP and/or TIP Responsibilities of the MPO should be mutually agreed upon by the MPO in consultation with other appropriate ICG parties. • Prepares the AQCA document for nonattainment areas in the MPO planning area • Manages public participation in the process in accordance with the adopted PPP • Transportation Policy Committee makes the conformity determination and adopts the TP and/or TIP via formal resolution • Provides a final copy of AQCA, TP and/or TIP packages to review agencies • Maintains and manages conformity process schedule
INDOT	• Runs Statewide travel demand model for non-MPO areas of the State • Submits INDOT expansion projects to the MPO for inclusion in modeling and conformity demonstrations, in accordance with the established conformity schedule • Provides traffic count information, HPMS VMT, and other data, as needed, to the MPO • Prepares AQCA for rural nonattainment areas (ozone and PM 2.5), as needed • Reviews AQCA and comments within the allotted time
IDEM	• Develops motor vehicle emissions budgets (MVEBs) in consultation with all other ICG members • Creates and develops state implementation plans (SIPs) in consultation with all other ICG members • Develop SIP emissions factors using the approved emissions model (or delegates responsibility as agreed with other appropriate ICG members) • Reviews AQCA and comments within the allotted time
Local Air Agencies (If applicable)	• Reviews conformity documentation • Provides technical guidance and advice • May develop emissions factors using the appropriate emissions model
FHWA	• Coordinates the federal review conformity determination • Facilitates additional consultation as necessary if adverse comments are received during consultation • Monitors MPO conformity process schedule • Assists other ICG members with commitment follow-up • Provides technical guidance and advice on conformity • Reviews conformity documentation • Issues United States Department of Transportation (USDOT) conformity determination letter
FTA	• Reviews conformity documentation • Reviews AQCA and comments within the allotted time

Agency	Roles
EPA	• Promulgates conformity regulations • Approves the SIP and reviews motor vehicle emissions budgets (MVEBs) for adequacy. • Provides technical advice and guidance on conformity • Reviews conformity determination • Reviews final AQCA and submits a recommendation for conformity finding letter

4.3. Consultation on TP and/or TP Amendment Conformity Analysis:

Consultation on the assumptions and approach to the conformity analysis of the TP and/or a TP update/amendment will occur during the preparation or discussion of required documents outlined above. As a part of the development process, the MPO should consult with the ICG, at a minimum, on the following topics:

- Identification of exempt projects (by list or reference),
- Discussion of which activities trigger a conformity analysis. (40 CFR 93.105(c)(2)(1)),
- Identification of projects included in each analysis scenario,
- Travel demand modeling description (assumptions, methods, geographical and functional classification coverage and VMT Summary Table for various analysis years),
- Discussion of the most recent travel survey and the need for funding of research and data collection efforts and regional transportation model development (40 CFR 93.105(c)(6)),
- Description of the emissions modeling (emissions model used, methodology, assumptions, and sample input/output printouts),
- Description of post process analysis (including off-network VMT),
- Tabulation of analysis results, including the calculated emissions of the applicable pollutants and/or precursors, as per 40 CFR 113.118(a) and 40 CFR 93.119(d) showing that required conformity tests were met,
- Discussion of other relevant observations or issues,
- An outline of the progress in implementing TCMs in the applicable SIP(s) and an explanation of any delays incurred in implementing the TCMs (if applicable), and
- Action(s) by the MPO adopting the TP and that a finding of conformity with the SIP is demonstrated.

4.4. Consultation and Notification Procedures for Conformity Analysis of TIP and/or TIP Amendments:

4.4.1. Consultation on the assumptions and approach to the conformity analysis of a TIP and/or TIP amendment will occur during the preparation of the draft amendment.

4.4.2. When preparing a new TIP, the MPO will consult with the ICG on the same topics listed for the TP (see 4.3), as well as the additional topics listed below:

- Identification of exempt projects in the TIP,
- Identification of exempt projects which should be treated as non exempt,
- Determination of projects which are regionally significant (both FHWA/FTA and non FHWA/FTA funded projects), and
- Development of an Interim TIP (in the event of a conformity lapse) .

4.4.3. For TIP amendments, the MPO will consult with the ICG, as a minimum, when a new conformity determination is triggered by:

- Addition of a regionally significant project to the TIP when it has already been appropriately accounted for in the regional emissions analysis for the TP,
- Addition of a non-regionally significant project to the TIP,
- Addition of non-exempt, regionally significant project that has not been accounted for in the regional emissions analysis,
- Change in non-exempt, regionally significant project that is not consistent with the design concept and scope or the conformity analysis years, and
- Activities that trigger a new conformity analysis and/or determination such as the effective date of adequate or approved motor vehicle emissions budgets (a new conformity determination must be made within 2 years).

4.5. The ICG review of any draft conformity analysis will typically begin during the public review period conducted in accordance with the adopted PPP. The MPO will request that the FHWA initiate the formal conformity consultation process. This is typically done by e-mail after the MPO has adopted the TP/TIP update or amendment and issued the associated conformity resolution(s). The ICG will respond promptly to the MPO staff with any comments.

4.6. The following process provides for final documents to be provided to all ICG members as required by 40 CFR 93.105(c)(7):

After the TPC approves the final conformity analysis, the MPO will provide the final conformity analysis and supporting documentation to FHWA and the ICG for a federal conformity finding determination. FHWA will initiate formal consultation and provide a 30 day period for written comments from ICG members. If appropriate, FHWA will issue the formal conformity finding on behalf of USDOT. The TP update or amendment becomes effective on the date the USDOT conformity finding is issued. The TIP update or amendment only becomes effective after the USDOT conformity finding is issued, and the

FHWA approves the associated TIP update or amendment into the INSTIP. The MPO will transmit electronic copies of the final conformity analysis to ICG members and post a copy of the final determination on the MPO's Web site.

4.7. Limited Consultation Required:

4.7.1. TP/TIP amendments/updates that only involve exempt projects will be handled in an expedited fashion. The MPO will forward the project list to the ICG and request that any questions or comments regarding the exempt status of any project(s) be submitted back to the MPO within 1-week. No response from the ICG will be construed as agency concurrence in the finding that the projects are exempt. ICG members who are not available during the 1-week timeframe should appoint a backup to review proposed amendments/updates on their behalf, so as not to delay the coordination process. The AQCA documentation and/or resolution adopting the exempt amendment will specifically state that the list of exempt projects was circulated to the ICG and there is ICG concurrence that the associated projects are exempt.

4.7.2. Likewise, an ICG meeting will not be scheduled if a TP/TIP amendment or update does not require a new regional emissions analysis. The MPO will forward the project list to the ICG, identify which projects are exempt, non-exempt, and/or not regionally significant, confirm that each project is consistent with the design concept and scope of the project that was modeled in the most recent conformity demonstration, affirm that the open-to-traffic date of each project is consistent with the associated analysis scenario in the most recent regional emissions analysis, confirm that the previous emissions analysis is consistent with the requirements of 40 CFR 93.118 (including that conformity to all currently applicable budgets is demonstrated) and/or 40 CFR 93.119, and establish a deadline for ICG comments (minimum 2-week comment period) on the conformity demonstration. No response will be construed as agency concurrence. ICG members who are not available during the 2-week timeframe should appoint a backup to review proposed amendments/updates on their behalf so as not to delay the coordination process. A follow-up meeting may be needed if concurrence of all agencies is not reached. The AQCA document and/or conformity finding/resolution will specifically reference ICG consultation and concurrence with the TP/TIP amendment/update conformity demonstration.

5. **State Implementation Plan (SIP) Consultation Structure and Process:**

5.1. IDEM has responsibility for developing SIPs and, as such, must assure that assumptions made during the emissions analysis process are consistent with those in the appropriate SIP. The SIP will normally be developed independently of the ICG. However, all ICG agencies will be provided with applicable information and the opportunity to participate in the development of the SIP, with

a focus on setting emission budgets and developing TCMs for inclusion, when and if appropriate. IDEM will develop and update schedules for SIP development and insure these schedules are made available to all agencies and the public. Public involvement will be in accordance with IDEM's public involvement procedures. Key documents will also be posted on IDEM's website. SIP development will normally cover inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

5.2. IDEM may request the MPO provide the travel activity data used to develop the on-road motor vehicle emissions inventory. If new transportation control strategies or TCMs are necessary to achieve and/or maintain federal air quality standards, IDEM may request the MPO evaluate potential new measures. The ICG will be convened to discuss possible TCMs for inclusion in the SIP. This SIP and consultation process will define the motor vehicle emissions budget (MVEB), and various components that will be used for future conformity determinations of the TP and TIP. Before the draft SIP begins the public review process, the ICG will have an opportunity to review and comment on the proposed MVEB.

5.3. IDEM will circulate the draft SIP for public review and provide a written response to all comments prior to adoption of the SIP. IDEM will then transmit the adopted submittal, along with the public notice, public hearing transcript and a summary of comments and responses, to the EPA.

6. **Monitoring of Transportation Control Measures (TCMs):**

6.1. Periodic conformity analyses of the TP and TIP will include updates on implementation of TCMs, if TCMs are specified in the applicable SIP. If applicable, the ICG may request more frequent TCM updates on an as needed basis.

6.2. As a part of the new conformity analysis of a TP or TIP, the MPO will document the status of TCMs that have not been completed, by comparing progress to the implementation steps in the SIP. Where TCM emissions reductions are included as part of the MVEB, the MPO will also estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a TCM, the MPO will describe the steps being taken to overcome these obstacles, including means to ensure that funding agencies are giving these TCM maximum priority. The MPO may propose substitution of a new TCM for all or a portion of an existing TCM that is experiencing implementation difficulties (see below).

7. **Substitution of TCMs in the SIP:**

After consultation with the ICG, the MPO may recommend and proceed with the substitution of a new TCM in the SIP to overcome implementation difficulties with an existing TCM(s). The substitution will take place in accordance with MPO's adopted TCM substitution procedures, which provide for full public involvement. In the event of possible discrepancies between the MPO's TCM Substitution Procedures and those in SAFETEA-LU (Public Law 109-59), the provisions of SAFETEA-LU will take precedence.

8. **Other Interagency Consultation Group Processes and Procedures:**

Interagency consultation procedures for specific conformity issues are described below:

8.1. **Defining regionally significant projects (40 CFR 93.105(c)(1)(ii))**: A regionally significant project is defined as a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs and would normally be included in the coded network for the regional transportation demand forecast model, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. The MPO's travel demand model roadway network may also include other types of facilities for reasons of functionality or connectivity that would not normally be considered regionally significant. The MPO will periodically review, with the ICG, the types of facilities and projects that are coded in the network, but that the MPO recommends should not be classified as regionally significant (and would therefore not trigger a new regional emissions analysis, if amended into the TP/TIP). The MPO will document the decisions of the ICG for future reference. The ICG will also discuss and determine projects that would normally not be determined as regionally significant, according to the modeling definition above, but should be treated as regionally significant for conformity purposes. This consultation will take place prior to the beginning of the conformity modeling analysis.

8.2. **Determination of significant change in project design concept and scope (CFR 93.105(c)(4) and (5))**: Project sponsors should provide timely notice to the MPO of any change in the design concept or scope of any regionally significant project in the TP and/or TIP. The MPO will consider a significant change in design concept and scope to be one that would alter the coding of the project in the transportation network associated with the regional travel demand model. When a project(s) has a change in design concept and scope from that assumed in the most recent conforming TP and/or TIP, the MPO will consider a revision to the TP and/or TIP, if such a revision requires a new regional emissions analysis for the entire TP and/or TIP. The MPO will evaluate projects that may be considered to have a change in design concept and scope and will consult with the ICG prior to advising the project sponsor as to how the MPO intends to proceed with any request to amend the TP and/or TIP. Project sponsors should

also provide timely notice to the MPO, of any proposed regionally significant projects which should be included in TP/TIP updates prior to the beginning of the conformity analysis, and they must work with the MPO to provide the design concept and scope of projects in sufficient detail to allow the MPO to perform the regional emissions analysis.

8.3. **Determining if exempt projects should be treated as non-exempt (CFR 93.105(c)(iii)**: The MPO will identify all projects in the TP/TIP that meet the definition of an exempt project, as defined in the conformity regulations. The MPO will provide a list of these exempt projects to the ICG for review prior to releasing the draft TP/TIP for public comment. If any member of the ICG believes an exempt project has potentially adverse emission impacts or interferes with TCM implementation, they can bring their concern to the ICG for review and resolution. If it is determined by the ICG that the project should be considered non exempt, the MPO will notify the project sponsor of this determination and make appropriate changes to the conformity analysis, as required.

8.4. **Treatment of non-FHWA/FTA regionally significant projects (CFR 93.105(c)(4))**: Any recipient of federal funding is required to disclose to the MPO the design concept and scope of regionally significant projects that do not use FHWA or FTA funds. The MPO will request that INDOT and local agencies identify all such projects prior to conducting a new conformity analysis for the TP and/or TIP. As part of the conformity analysis, the MPO will also include a written response to any significant comment received about whether any project or projects of this type are adequately accounted for in the regional emissions analysis.

8.5. **Projects that can advance during a conformity lapse:** In the event of a conformity lapse, the MPO will consult with the ICG to identify projects in the TP/TIP that may move forward. The MPO will also consult the ICG on the process for preparing an Interim TP/TIP.

8.6. **Addressing activities and emissions that cross MPO boundaries (CFR 93.105(c)(3))**: When a regionally significant non-exempt project proposed in another MPO's TP/TIP crosses MPO boundaries, the WCIEDD MPO will review the project with the ICG to determine appropriate methods for addressing the emissions impact of the project in this MPO's conformity analysis, consistent with EPA's conformity regulations.

9. **Conflict Resolution (40 CFR 93.105(d)):**

Conflicts between state agencies or between state agencies and the MPO that arise during consultation will be resolved as follows:

9.1. A statement of the nature of the conflict will be prepared by the agency with the conflict and agreed upon by the ICG.

9.2. Staff of the affected ICG agencies will meet in a good faith effort to resolve the conflict in a manner acceptable to all parties.

9.3. If the staff cannot successfully resolve the matter, the MPO Executive Director or his/her designee, management officials within state agencies and all other parties to the conflict shall meet to try and resolve differences in a manner acceptable to all parties.

9.4. If the matter is not resolved following the steps outlined above, IDEM has 14 days to appeal to the Governor after INDOT or the MPO has notified IDEM via letter that either party plans to proceed with their conformity decision or the policy that is the source of the conflict. If IDEM appeals to the Governor, the final conformity determination must have the concurrence of the Governor. If IDEM does not appeal to the Governor within 14 days, the MPO or INDOT may proceed with the final conformity determination or policy in dispute. The Governor may delegate his or her role in this process, but not to the head or staff of the state or local air agency, state department of transportation, state transportation commission or board, or the MPO. The 14 day clock for this procedure begins when IDEM signs for the notification letter, which may be personally delivered or sent via certified mail, priority mail or courier delivery service.

10. **Public Consultation Procedures (40 CFR 93.105(e))**

The MPO will follow its adopted Public Participation Plan, developed in accordance with 23 CFR 450.316(a), when making conformity determinations on transportation plans and programs. This plan establishes a proactive public involvement process which provides the public reasonable access to technical and policy information used in the conformity decision making process, before an actual conformity decision is made. Any charges imposed for public inspection and copying must be consistent with the fee schedule contained in 49 CFR 7.43. ICG agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.