

California Transportation Conformity Working Group

May 12, 2008, 10:30 AM - 3:30 PM

San Diego Association of Government, 401 B Street, Suite 800, San Diego,
and statewide teleconference

MEETING NOTES

10:30 AM Welcome; introductions; housekeeping; agenda review

10:40 AM Public Comment on matters not otherwise on the agenda

None.

10:50 AM Conformity and Planning

FHWA Guidance Regarding Full Funding of Projects and NEPA

- Handouts/Links:
 - 1/2008 Guidance
 - Project Examples
 - 2003 Guidance
- Cursory discussion only. Supposed to provide more flexibility: studies can proceed even if full project is not funded in the RTP and TIP, but full funding is needed in both the RTP and TIP before it's a real project. In principle, no change from past requirements.
- Questions about Multiple RODs: if project (segment) has logical termini why study larger project? If you can or must do multiple RODs for multiple segments why not program them separately? Conformity applies for each ROD so multiple exposure to the conformity process.
- WHAT IF the project is a TCM? Must show funding in TIP for full project even if beyond TIP In addition to showing funding in the RTP?
 - Guidance allows funding corridor/preliminary studies in RTP and TIP; previously didn't seem to allow that.
- Working definition of Project vs. study?
 - Project goes on the ground, study doesn't. Must list pre-project studies in RTP to use earmarks.
- ADD SOMETHING TO THE TIP TABLES. Need CTIPS/database entry changes. Show phases of projects that are beyond the normal TIP period.
- Question: If a project has only PE funding in TIP, can we do Interagency Consultation for hot spot analysis? **Yes.**
- Maglev issue – earmark – LIST IT IN THE PLAN and proceed with study.
- Request: need side-by-side version showing changes from previous guidance!
- Nothing has changed regarding what's needed for project-level conformity determination.
- Viewpoint from a group member: "It came to light that the issues being addressed probably originated from a situation in Orange County (OCTA). In order for the agency to use some federal earmarked funds for an environmental study, they were required to have a "project" in the RTP. It was a Catch-22 type situation. The new guidance allows agencies to program just a "study" in the RTP in order to obtain and use the earmarked

federal funding to develop the environmental document. It was generally agreed that there is still confusion over what a “study” is and what a “project” is in this context. Overall the rest of the guidance does not differ significantly from past policy and practice. However, it was further explained that the guidance does provide the “flexibility” to allow the sponsors of larger projects to develop multiple RODs/Environmental Documents in order to meet the full funding requirements, as long as each segment has logical termini and independent utility. This generally was not well-received as being beneficial. Mike Brady in particular pointed out that the larger issue is constructability – what is needed is the ability to break down a larger project into pieces according to maximize construction efficiency.”

11:10 AM Federal Updates

EMFAC 2007

- EPA availability notice published 1/18/08.
 - Link: <http://www.epa.gov/fedrgstr/EPA-AIR/2008/January/Day-18/a876.pdf>
 - Very short grace period – effectively in place already due to FHWA sunset of 2002 regarding Latest Planning Assumptions.
- EPA/ARB will work on quantitative PM guidance. Work over next year or so – comment on draft – haven’t started yet.

2008 ozone standard – summary and status

- Final Rule published 3/27/08. Sets ozone standard at 0.075 ppm (75 ppb) for 8 hours using the same method of calculation as before (3-yr average of 4th highest).
- Timetable based on final rule effective date:
 - State area recommendations due: 2009
 - Nonattainment area designations: 2010; 2-year clock starts for new regional conformity determination
 - Conformity determinations based on new standard: 2011
 - Attainment SIPs due: 2013
 - Attainment Date Range: 2013-2030
- Probably will apply for 2011 conformity.
- Discuss new standard in NEPA documents now, but not for conformity.
- Implementation rule schedule? No timeline yet.
- Question: Relation to climate change plans? No direct connection, but temperature does affect regional ozone modeling done for SIPs so there could be an indirect effect on emission budgets.

2006 PM2.5 Standard – summary and status

- ARB recommendations submitted 12/07 as required.
- EPA hasn’t done designations yet: deadline 12/08.
- ARB Urban area recommendations: EPA generally prefers air basins and counties.

2008 lead standard – summary and status

- Proposed Rule released 5/1/2008, Federal Register publication date TBD

- Conformity implications of revised standard? Project delivery implications? No specific guidance at this time.
- CA looks OK at the proposed range of standards.

SAFETEA-LU Conformity Final Rule

- Link: <http://www.epa.gov/oms/stateresources/transconf/conf-regs.htm>
- Old news – similar to interim guidance.

Conformity SIPs

- OTAQ still working on Conformity SIP and other guidance updates.
- Little effect on Conformity SIPs being done now.
- Air District question: SHOULD we be working on Conformity SIPs?
 - EPA: Only one already done is Bay Area, and that needs changes per SAFETEA-LU provisions & Final Rule. Can move forward w/consultation part of older submittals if desired. Timeline already passed – no legal challenges apparent yet.
- Discussion: approach as statewide issue?
 - EPA: it's hard to do statewide consultation SIP because of area variations. Single State rule not needed – can/should be by area.
 - Consultation MOUs (including rural areas) – air districts need to do rules and submit thru ARB to EPA as SIPs even if MOU covers most of the details.

SIP Status and Other EPA Updates

- Recent Emission Budget Adequacy Findings: Ventura, Imperial, W. Mojave (5/5/2008), Coachella 8hO₃ (5/7/08). Letter sent 5/8 for South Coast PM_{2.5}.
- SANDAG: See John Kelly (EPA) for status of budget adequacy letter.
- San Joaquin Valley: proposed approval of PM₁₀ SIP 4//25 – includes realignment of SJV/E. Kern PM boundaries. Comment period ends 5/27 but may extend to accept additions from ARB. ARB: discovered that 2020 PM budgets have incorrect activity – valleywide result in 0.2t++ PM_{2.5}, no change PM₁₀; fixup letter is currently in the management chain.
- San Joaquin Valley ozone: budget adequacy review posted 4/13 – ends 5/19. Got 1 set of comments – should move quickly.
- E Kern: no comments submitted; should finalize adequacy soon.
- San Joaquin Valley: EPA concurred on TCM substitutions for Stanislaus & SJCOG on May 7. ARB will follow up with SIP cleanup amendment.
- 2/23: Reclassified Imperial from Marginal to Moderate for ozone – failed to attain. ARB: SIPs are in development; both ozone & PM₁₀ SIPS should be available to adopt later 2009.

Litigation Update

No update available.

11:45 AM Lunch Break

1:15 PM Project-Level Conformity

PM hot spot screening procedure

- Generally discussed whether development of this should continue – no recent work.
- Viewpoint from a group member: “It was generally agreed that Mike Brady and the CWGs should continue to develop a procedure to further screen projects for POAQC determinations. This will reduce the expenditure of unnecessary time and energy on projects that obviously are not projects of air quality concern. This will help streamline the process in interagency consultation and specifically help federal reviewers who are especially impacted. Steve Luxemburg will ask EPA if they will consider “categorical exclusions” (screening out groups of projects that meet certain criteria). There was discussion of how to coordinate this process with the quantitative PM analysis guidelines that EPA is developing. A *de minimus* level should be considered.”
- Discussion of categorical conformity: will FHWA do it? How does EPA feel about it?
- Steve: might reopen, but EPA may object to taking classes of projects out of the regional consultation loop. EPA: criteria are not set up for categories of projects.
- Quantitative hot spot rule in 2009 ... how can we be consistent with that; should the screening be in that rule?
- QUESTION: do we still need this, or are people satisfied with the current Interagency Consultation process? Consensus: probably we do.

Status of interagency consultation processes for PM

- San Joaquin Valley: have done a handful. NO serious issues yet.
- SCAG: no major concerns with the current process. MTA: process seems to go smoothly – discussion works. Several members’ concern: Lack of EPA at many meetings divides up the process forcing more review prior or after meeting – what can we do to help parties be there?
- Great Basin/Mojave: a couple have been done in D9 and China Lake area (PM10)?

Other Issues

- NEPA Delegation - 6004 vs. 6005 conformity – is there a different project-level conformity checklist for 6004? **Yes**
- Project Level Conformity 30 Day Review period for FHWA: FHWA is getting 6005 requests with no time to review. Have historically asked for & may still take 30 days. Take that into account when setting project delivery schedules.
- Sarah Siwek: lots of scrutiny of TCIF projects for air quality. Need Really Good Documentation. Check & be sure that all TCIF projects are in the RTPs.

2:00 PM Status of Air Quality and Transportation Planning in California

Near Term Air Quality Plans/SIPs especially for Ozone & PM2.5

- Ventura: released late March; adopt tomorrow; no public comments. Requested bumpup to Serious.

- South Coast: EPA found budgets adequate without using state measures. PM2.5 & 8h ozone SIPs now at EPA.
 - RFP/transport court case: ozone & PM2.5 rules currently different – no official guidance but tending toward PM2.5 approach.
 - Ventura might not meet RFP criteria? Ventura: early progress SIP covers 08 RTP action; full SIP will be submitted when litigation settled.
- Mohave/Deserts – Similar to Ventura but a little later.
- E. Kern subpart 1 area will be reclassified in implementation rule later this year.
- Already have SIPs in for SD, one other.
- Imperial – both SIPs in progress for local adoption in December.
- SJV: PM2.5 SIP adopted in April; scheduled for ARB 5/22 adoption. Karina covered 8hr ozone. TCM substitutions going to Board in August for SIP cleanup.
- Sacramento: requested reclassification to Severe for ozone – new SIP in 2009. Will use RFP until then.
- Question about Mojave Desert/San Bernardino Co. PM10 area: any move toward a maintenance SIP? Last area in SCAG that does Build/No Build conformity analysis. Arnie Sherwood says the area has attained. MDAQMD not present to answer.

RTP/TIP Timelines and Lockdowns

- Sacramento is in a “lockdown” situation because their RTP relied on EMFAC 2002. They will submit their SIP in early 2009. It will be an attainment SIP which will require new budgets.
- San Joaquin Valley: all 8 draft TIPs with conformity analysis to be out by the end of May. Doing parallel 09 TIP and interim TIP to allow for possibility of not having emission budgets from EPA by July. PM2.5 still using full-area interim conformity demonstration. Some RTP amendments in progress to clean up specific project issues & financial constraint for SAFETEA-LU compliances. Interim TIP if used will postpone 50 regionally significant projects @\$1.25B; MPOs are prepared to amend back in as soon as budgets available. EPA: will be tight because EPA must extend the conformity comment period.
- SCAG: RTP adopted last week; to FHWA this week. Draft TIP out for comment in June. Emission Budgets: waiting for Federal Register posting on budgets to support RTP conformity determination needed by June 6.
- SANDAG has an approved RTP using EMFAC2007. However, they need EPA to publish approval of the new emissions budgets in the Federal Register so they can be used for the conformity finding for the 2008 RTIP. The Draft RTIP is to be released in June 2008, with Board approval at the end of July.

8/1/2008 FSTIP submittal deadline to Caltrans

- Caltrans Programming: “willing to slide the date” for MPOs to submit an adopted FTIP from August 1, 2008 to August 15, 2008 or they may allow MPOs to submit a draft, in order to allow as many MPOs as possible to be included. SAFETEA-LU does not specify whether it has to be Board (MPO) adopted or not when it is submitted.

Steve Luxemburg (FHWA) stated that if the FSTIP changes significantly after public outreach is done, then it would have to undergo a new 30-day public outreach period

(statewide). The whole FSTIP must go out for comment even though part of it is the RTIP portion that the MPOs approved and adopted, and even though there may be no prospect of making changes in response to the public comment.

- Question: where is Caltrans' FSTIP public involvement process? Caltrans: got 32 comments on process but should be posted by June30.
- FHWA: reminder – FTIP not expiring in Fall – extended 2 years already.
- Arnie Sherwood: Conformity Rule says the FSTIP goes to FHWA in whole – so the only public process at State level should be for non-MPO. FHWA: NO – ALL of the state TIP has to be made available for comment in all areas. But state can't change anything; changes to address comments would have to be referred back to MPOs.
- Cari Anderson: What's the CALCOG perspective? Caltrans Programming: will have to follow up for a CFPG meeting.
- SACOG can't adopt its FTIP until 8/15; needs to extend submittal date. FHWA: will work with CT and MPOs for best options.

3:00 PM General Information Sharing

Mission Statement

Some thought the original was done by staff by ARB. Doug Thompson (ARB) doesn't know if they have something – suggests looking in older archives?

Next meeting

Bay Area, Valley? (November 2008) Settled on San Joaquin Valley APCD office (Fresno).

3:30 PM Adjournment