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## *Memorandum*

TO: Air Quality Conformity Task Force

DATE: December 4, 2008

FR: Liz Brisson

W. I.

RE: Interagency Consultation Requirements for PM<sub>2.5</sub> Hot-Spot Analyses

This memo outlines the PM<sub>2.5</sub> conformity requirements and seeks input from the task force on the Bay Area's interagency consultation process for PM<sub>2.5</sub> hot-spot analysis.

### **PM<sub>2.5</sub> Designation & Requirements**

In 2006, EPA revised the 24-hour PM<sub>2.5</sub> standard from 65 micrograms per cubic meter (average of 98th percentile values for 3 consecutive years) to 35 micrograms per cubic meter; the level of the annual standard for PM<sub>2.5</sub> remained unchanged at 15 micrograms per cubic meter (average of annual averages for 3 consecutive years). Both ARB and EPA recommend that the Bay Area be designated non-attainment for the 2006 24-hour PM<sub>2.5</sub> standard. EPA plans to finalize the new designations by December 18, 2008.

The key effects due to the Bay Area being designated as nonattainment for the 2006 24-hour PM<sub>2.5</sub> standard are as follows:

- Within three years after the effective date of nonattainment designation, a State Implementation Plan (SIP) must be prepared and submitted to EPA. Two years after EPA determines the emissions budget to be adequate, a conformity determination using the approved emissions budget must be prepared.
- One year after the effective date of nonattainment designation, transportation conformity for the 2006 24-hour PM<sub>2.5</sub> standard applies.
- One year after the effective date of nonattainment designation, a qualitative PM<sub>2.5</sub> hot-spot analysis only for "projects of air quality concern" is required to be prepared in accordance with the latest EPA and FHWA guidance. When a hot-spot analysis is required, it is included within the project-level conformity determination that is made by FHWA or FTA. In completing the hot-spot analysis, interagency consultation is used to evaluate and choose associated methods and assumptions used in the hot-spot analysis.

### **PM<sub>2.5</sub> Hot-Spot Analysis**

In March 2006, EPA published a final rule that establishes the transportation conformity criteria and procedures for determining which transportation projects must be analyzed for local air quality impacts in PM<sub>2.5</sub> and PM<sub>10</sub> nonattainment and maintenance areas (71 FR 12468). EPA

and FHWA subsequently issued “Transportation Conformity Guidance for Qualitative Hot-spot Analyses in PM<sub>2.5</sub> and PM<sub>10</sub> Nonattainment and Maintenance Areas dated March 2006”<sup>1</sup>.

In general, a qualitative PM<sub>2.5</sub> hot-spot analysis is prepared prior to the completion of a project-level conformity determination (which is typically done during NEPA environmental review process). For the Bay Area, both the 2006 24-hour PM<sub>2.5</sub> standard and annual PM<sub>2.5</sub> standard must be addressed in the hot-spot analysis. The hot-spot analysis is prepared only for “projects of air quality concern” as defined in final rule by 40 CFR 93.123(b)(1), as follows:

- New or expanded highway projects that have a significant number of or significant increase in diesel vehicles;
- Projects affecting intersections that are at Level-of-Service D, E, or F with a significant number of diesel vehicles, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes from a significant number of diesel vehicles related to the project;
- New bus and rail terminals and transfer points that have a significant number of diesel vehicles congregating at a single location;
- Expanded bus and rail terminals and transfer points that significantly increase the number of diesel vehicles congregating at a single location; and
- Projects in or affecting locations, areas, or categories of sites which are identified in the PM<sub>2.5</sub> or PM<sub>10</sub> applicable implementation plan or implementation plan submission, as appropriate, as sites of violation or possible violation.

See the complete guidance for more details about the transportation conformity requirements, analytic requirements and methods for developing a qualitative hot-spot analysis, as well as examples of projects of air quality concern, examples of qualitative hot-spot analyses, and potential mitigation measures.

### **Interagency Consultation Process**

Interagency consultation is to occur before completing project-level conformity determinations and hot-spot analyses. Interagency consultation is used to evaluate and choose associated methods and assumptions to be used in the hot-spot analyses. Agencies involved in the interagency consultation process include the project sponsor, other state and local transportation and air quality agencies, EPA, FHWA and FTA.

Due to PM<sub>2.5</sub> and/or PM<sub>10</sub> nonattainment designations within their areas, SCAG, San Joaquin Valley MPOs and SACOG have interagency consultation processes in place for hot-spot analyses, as follows:

- SCAG’s Transportation Conformity Working Group meets every month to conduct two types of concurrence actions – (1) determine whether a project is a “project of air quality concern” and therefore a hot-spot analysis is required, and (2) finding of completed qualitative hot-spot analysis. Participation by at least FHWA, EPA, Caltrans, and sometimes ARB or the air district is needed for the concurrence action<sup>2</sup>. SCAG created a form for sponsors to complete and submit two weeks in advance of working group meeting, and should a hot-spot analysis be required, sponsor must submit the completed

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<sup>1</sup> Transportation Conformity Guidance for Qualitative Hot-spot Analyses in PM<sub>2.5</sub> and PM<sub>10</sub> Nonattainment and Maintenance Areas. March 2006. <<http://www.fhwa.dot.gov/environment/conformity/pmhotspotguid.pdf>>

<sup>2</sup> For Section 6004 projects, which are NEPA “Categorical Exclusion” projects for which Caltrans fulfills FHWA’s NEPA role, FHWA does not actively participate.

hot-spot analysis two weeks in advance of working group meeting. SCAG also maintains a website that provides instructions to project sponsors about the interagency consultation process, the necessary forms that must be completed, a public record of the minutes and agenda of each meeting, and any concurrence actions made (<http://www.scag.ca.gov/tcwg/>).

- San Joaquin Valley MPOs have a less formalized process than SCAG consisting of emails and hot-spot analyses that are sent by Caltrans for State projects or the MPO for local projects to all consultation participants, including the eight MPOs, FHWA, FTA, EPA, Caltrans, and ARB. At a minimum, concurrence emails are required from the air district, FHWA, EPA and Caltrans<sup>3</sup>. San Joaquin Valley's interagency consultation consultant tracks projects which are circulated and discussed at monthly teleconference meetings.
- SACOG, which is nonattainment in Sacramento County for PM<sub>10</sub>, uses the form created by SCAG and uses the Regional Planning Partnership to make the concurrence actions. SACOG uses a formal vote, rather than concurrence through consensus, on occasion.

For the Bay Area, MTC could assume the role to facilitate interagency consultation for hot-spot analyses through the Air Quality Conformity Task Force since this process is in place today for regional RTP and TIP conformity purposes. The Bay Area's own interagency consultation process could occur in the following way:

- Using project information provided by the sponsors, MTC would conduct a first-level screen to identify projects in the most current TIP, or in subsequent TIP amendments, that would be projects of air quality concern, similar to the existing process for air quality conformity, and provide this information to the task force for concurrence on a periodic basis (sponsors would need to seek concurrence action by FTA, FHWA, or Caltrans for NEPA-delegated projects because these agencies ultimately approve the project-level conformity determination).
- Sponsors of projects of air quality concern can subsequently submit information to the task force regarding the assumptions or methods to be used for the hot-spot analysis for review by the task force.
- The task force's role in facilitating interagency consultation could occur mostly through email, with additional meetings scheduled as deemed necessary

MTC welcomes the task force's input on the above general steps for the Bay Area's interagency consultation process for PM<sub>2.5</sub> project-level conformity determinations and hot-spot analyses, and intends to continue to work with the task force to prepare, review and finalize this interagency consultation process.

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<sup>3</sup> For Section 6004 projects, FHWA does not actively participate.