

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

4201 East Arkansas Avenue
Denver, Colorado 80222
(303) 757-9011



December 27, 1995

Mr. Steven Arnold
Acting Deputy Director
Air Pollution Control Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80222-1530

Dear Mr. Arnold:

Attached for your signature is the Memorandum of Agreement regarding project level air quality analysis procedures that our staffs have developed.

I believe this agreement serves both of our agencies well, and is an indication of the cooperation that is possible between state agencies. This agreement will result in a wiser use of our limited resources by allowing us to concentrate on activities that will have a true benefit to air quality while reducing the bureaucratic procedures that so often serve no useful purpose.

I wish to commend your staff, especially Mr. Jim DiLeo, for working with us to come up with this agreement, as well as thank you for your commitment to work with us as we implement the CDOT Air Quality Action Plan.

If you have any questions, please feel free to contact me at any time.

Sincerely,

A handwritten signature in cursive script that reads "James E. Siebels".

JAMES E. SIEBELS
Chief Engineer for Engineering, Design
and Construction

Attachment

**MEMORANDUM OF AGREEMENT BETWEEN THE COLORADO DEPARTMENT
OF TRANSPORTATION AND THE AIR POLLUTION CONTROL DIVISION OF
THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
REGARDING PROCEDURES FOR DETERMINING PROJECT LEVEL
CONFORMITY**

Purpose: The purpose of this memorandum of agreement is to identify procedures for ensuring compliance of federally funded transportation projects with the federal transportation conformity requirements and the National Environmental Policy Act (NEPA).

Background: Section 51.424 of the transportation conformity regulation identifies criteria for determining project level conformity. This section specifies that no Federal Highway Administration/Federal Transit Administration (FHWA/FTA) project may cause or contribute to any new localized air quality violations or increase the frequency or severity of any existing violations in an air quality nonattainment area. In nearly all cases, the Colorado Department of Transportation (CDOT) is responsible for determining conformity of FHWA transportation projects in Colorado.

Section 51.454(a) specifies that hot spot analyses must be based on Environmental Protection Agency (EPA) modeling guidance unless the EPA Regional Administrator approves otherwise. The regulation requires that hotspot analysis be completed for projects, not otherwise exempted, with the following characteristics:

1. Projects in or affecting locations or categories of sites identified in the applicable State Implementation Plans (SIPs) (ref.: 51.454(a)(1));
2. Intersections at Level of Service (LOS) D, E, or F, or those that will change to Level of Service D, E, or F because of increased traffic volumes related to a new project in the vicinity (ref.: 51.454(a)(2)); and
3. Any project involving or affecting any of the intersections which the SIP identifies as the top three intersections based on the highest traffic volumes or worst level of service. (ref.: 51.454(a)(3-4))

The regulation further specifies that the hotspot analysis must comply with the following criteria:

1. The EPA "Guideline" models must be used where practicable and reasonable, given the potential for violations. (ref.: 51.454(a)(5) and 51.454(b))
2. Hotspot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses. (ref.: 51.454(e))

3. PM10 or CO mitigation or control measures shall be assumed in the hotspot analysis only where there are written commitments from the project sponsor and/or operator to the implementation of such measures. (ref.: 51.454(f))

I. Consultation Procedures:

a. Environmental Assessments/Environmental Impact Statements

When CDOT conducts a conformity analysis as part of an environmental assessment or environmental impact statement, the APCD will be asked to review the conformity analysis and will be asked to provide a letter concurring with the conformity finding. The concurrence letter indicates APCD concurrence with the conformity finding and the associated hotspot analysis. Staff will meet to resolve any differences between the agencies. The concurrence letter will document the resolution of any differences between the agencies regarding conformity or the hotspot analysis.

b. Categorical Exclusions

When CDOT conducts a hotspot evaluation for a nonexempt project classified as a categorically excluded project the results of the hotspot analysis and conformity finding will be documented in a memo to file. If problems or unique situations arise, CDOT will notify and initiate consultation with APCD. The memo to the project file will be available to the APCD upon request.

c. Project Exempt from the Project Specific Conformity Requirements

Transportation projects of the types listed in Table 2 of the Transportation Conformity Regulation (attached) are exempt from the requirement that a conformity determination be made. As indicated in the Transportation Conformity Regulation (51.460) a particular action of the type listed in Table 2 is not exempt if the appropriate Metropolitan Planning Organization (MPO), in consultation with other agencies, the EPA, and the FHWA or FTA concur that it has potentially adverse emissions impacts for any reason. CDOT and the MPO must ensure that exempt projects do not interfere with Transportation Control Measure implementation.

II. Hotspot Project Modeling Procedures

- a. Quantitative Hotspot Evaluation: A quantitative hotspot evaluation will be completed for projects operating at LOS D,E, or F, or if traffic increases as a result of the project, causing an intersection to operate at LOS D,E, or F.

b. EPA Guideline Modeling: The hotspot analyses conducted by CDOT will comply with the following criteria:

1. The EPA "Guideline" models will be used where practicable and reasonable, given the potential for violations.
2. Hotspot analysis assumptions will be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.
3. CO mitigation or control measures will be assumed in the hotspot analysis only where there are written commitments from the project sponsor and/or operator to the implementation of such measures.

III. MOBILE Model Emission Factors/Assumptions

a. Upon request the APCD will provide to CDOT the following information:

1. Background concentrations consistent with SIP attainment demonstration modeling appropriate for the locations of the proposed project.
2. MOBILE emission factors consistent with SIP attainment demonstration modeling for forecast speeds and facility types and area types appropriate to the proposed project.
3. Meteorological data consistent with SIP attainment demonstration modeling appropriate for the proposed project.

b. Changes to the EPA Hotspot Modeling Guidance: If EPA revises it's guidance or models to allow the use of site specific, real time meteorological data, the APCD and CDOT will evaluate and agree upon the most appropriate approach for implementing such data for hotspot modeling purposes.

c. Forecast/Modeling Year: Project level conformity findings will be made for the applicable attainment year and the last year of the most recent applicable regional transportation plan.

IV. Procedures for Determining Whether a Project Conforms to Federal Standards.

a. A Project May be Found to Conform if:

1. The project reduces concentrations at the receptor with the highest violation and does not increase the number or severity of any violation in any area, or
2. The number or severity of violations is decreased as a result of the project whether or not the concentration at the highest receptor is exacerbated.

A. The likelihood of public exposure to exceedances of the standard for the time period of the standard will be the key criteria used in evaluating whether the project conforms under the procedures described in a.2. above.

V. Program Review

Representatives of CDOT, including the staff responsible for air quality modeling, and the APCD will meet annually to review the effectiveness of this agreement and any revisions to applicable federal requirements. Changes to the agreement will be made as necessary and agreed by both parties.

VI. Applicability

- a. This MOA applies only to the evaluation of project level conformity with the federal ambient air quality standard for carbon monoxide. The EPA at the time of this MOA has not issued guidance for evaluating the project level impacts of PM10. Should EPA publish guidance requiring the evaluation of project level PM10 this MOA will be revised accordingly.
- b. CDOT and the APCD are undertaking a cooperative evaluation of the project level air quality analysis procedures for carbon monoxide. This Memorandum of Agreement may be amended as appropriate in accordance with the results of this evaluation.

VII. Termination of the Agreement

Either party to this agreement may suspend it by written notice to the other party. If this occurs, the parties agree to consult further to determine whether the issues can be resolved and the Agreement reimplemented in an amended form.

James E. Siebels
James E. Siebels

12/22/95
date

Chief Engineer for Engineering, Design and Construction
Colorado Department of Transportation

Steven Arnold

19/Jan/96
date

Steven Arnold
Acting Deputy Director
Air Pollution Control Division
Colorado Department of Public Health and Environment