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1992 Transportation & Air Quality Planning Guidelines

THE 1992

TRANSPORTATION & AIR QUALITY

PLANNING GUIDELINES

The 1992 Transportation & Air Quality Planning Guidelines are provided in response to Section 108(e) of the Clean Air Act, as amended November 15, 1990 (CAAA), which directs the Administrator of the Environmental Protection Agency (EPA) to "update the 1978 Transportation-Air Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards."

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Chapter 1

Introduction

The 1990 Clean Air Act Amendments (CAAA) direct the Administrator of the Environmental Protection Agency (EPA) to "update the 1978 Transportation & Air Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards." This document provides guidelines and guidance to State and local government officials to assist them in planning for transportation related emissions reductions that will contribute to the attainment and maintenance of the national ambient air quality standards (NAAQS) for ozone, carbon monoxide and particulate matter (PM10).

Publication Content

The introduction of the publication provides an overview and summary of: the transportation related provisions of the Clean Air Act Amendments, the air quality planning process, the transportation planning process, and an overview of the document. Chapter 2 addresses many of the considerations involved in the planning process including: development of planning procedures, critical questions that need to be considered in the planning process, funding, and public participation. Chapter 3 provides

examples of draft planning procedures proposed by two States and an example memorandum of understanding (MOU) from the State of Michigan pursuant to Section 174 of the CAAA. This memorandum assigns joint responsibilities between the State and the MPO for planning purposes.

Appendix A includes a list of abbreviations used throughout the text. Appendix B includes an annotated list of references. Appendix C includes relevant sections of the CAAA. Appendix D includes relevant sections of transportation laws. Appendix E includes an expanded summary of transportation related provisions of the CAAA. Appendix F includes a summary table with the State submittals and actions required by the Act. Appendix G contains selected portions of the Intermodal Surface Transportation Efficiency Act of 1991.

Background on the Clean Air Act Amendments

Since 1968, when the first emission controls were installed on motor vehicles and 1974, when the first motor vehicle emissions inspection and maintenance (I/M) programs were instituted, significant emissions reductions have been achieved by the Federal Motor Vehicle Control Program (FMVCP) and the States' vehicle I/M programs. However, benefits from these emissions reductions have been increasingly eroded by the growth in vehicle use. The United States has experienced substantial growth in vehicle miles traveled

(VMT). Nationally, VMT has grown at rates three to four times higher than the rate of population growth, and in some urban areas, VMT has increased by five to eight percent per year. Continued increases in VMT will eventually result in increased emissions despite the FMVCP and I/M and make it more difficult to maintain air quality improvements over the long term.

The 1977 CAAA were the first to focus strongly on the widespread NAAQS nonattainment problem and the substantial contribution of the transportation sector to urban air pollution. Nonetheless, by the final date for attainment of the NAAQS, in December 1987, most large urban areas across the country had not attained the national air quality standards for either ozone or carbon monoxide. Concurrently, the number of urban area experiencing increases in violations of the particulate matter standards also increased. Although transportation control measures (TCMs) are mentioned prominently as part of a potential attainment strategy in the 1977 Act, the law lacked specificity regarding the control measures to be adopted by the States. As a result, few TCMs were adopted by the States and incorporated into the State Implementation Plans (SIPs).

Currently, there are approximately 120 nonattainment areas in the United States. More than 90 urban areas fail to meet the national standard for ozone, and more than 40 areas fail to meet the carbon

monoxide standard. More than 60 areas are in nonattainment for PM-10, fourteen of which are being elevated from moderate to serious nonattainment. Mobile source emissions contribute significantly to the air pollution problems in many of the cities. An estimated 30 - 70 percent of ozone precursors, and up to 90 percent of carbon monoxide pollution is attributed to motor vehicles. Diesel vehicles alone produce almost 50 percent of the PM-10 in New York City.

The Clean Air Act Amendments of 1990 (CAAA) establish a process of designation and classification of areas of the country with regard to nonattainment of the standards. The amendments establish new attainment deadlines and new requirements for the State air quality implementation planning process.

Title I of the Act presents the overall framework and strategies for attaining the national ambient air quality standards. The provisions of this title consider a number of technological and non-technological approaches to emissions reductions. Unlike the previous statute which had a single attainment date for all areas with the possibility of a one-time extension of the date, the new Act classifies areas according to the severity of their air quality problems, and attainment dates ranging from three to twenty years hence are assigned for each classification.

The requirements and control measures for motor vehicles become increasingly rigorous and prescriptive as the nonattainment classifications increase in severity. Areas classified as "marginal" for ozone nonattainment must submit comprehensive inventories including transportation emission sources and must undertake immediate corrections to previously adopted but inadequate vehicle inspection/maintenance (I/M) programs. Areas classified as "moderate" must accomplish these tasks as well as develop additional plans and programs which will achieve a 15 percent reduction in volatile organic compounds (VOCs) within six years from the date of enactment. Moderate areas which have not already adopted I/M programs must do so. In addition to meeting the requirements for the moderate areas, serious nonattainment areas must implement a variety of programs which include: reducing VOC emissions by an additional 3 percent per year beyond 1996, establishing a clean fuels program for commercial fleets, and adopting an enhanced I/M program (if the 1980 urban population exceeds 200,000).

"Severe" and "extreme" nonattainment areas must also adopt TCMs necessary to offset emissions increases from increases in either VMT or vehicle trips and to meet the Act's reasonable further progress (RFP) and attainment requirements. In addition, they must adopt employer trip reduction provisions (ETR) which require employers with more than 100 employees to increase the average

passenger occupancy (APO) during commute trips by no less than 25% above the average vehicle occupancy (AVO) for the nonattainment area.

Title II of the Act includes new requirements for cars, trucks, and buses, and the fuels they use, in order to further limit air pollution emissions at the source. There is a five-year phase-in, beginning in 1994, of tougher tailpipe emission standards for cars and light trucks with the possibility of even stricter limits if necessary. EPA is also directed to issue more stringent emission standards for urban buses. There are requirements for controlling evaporative emissions from vehicles and refueling emissions and for developing and marketing less polluting fuels (reformulated gasoline, low-sulfur diesel fuel, etc.). To stimulate development of alternative fuel technologies, Title II outlines the clean-fuel fleet vehicle program which will be introduced in the worst nonattainment areas. A pilot program for alternative-fueled cars is to be implemented in California.

The CAAA establish milestones for monitoring a nonattainment area's progress during the time period allotted for reaching attainment. The reasonable further progress (RFP) milestones are designed to keep the nonattainment areas moving toward attainment of the NAAQS. If the RFP milestones are not achieved, the CAAA mandate the implementation of contingency measures.

Tables 1 and 2 summarize the Clean Air Act requirements by nonattainment area classification for ozone and carbon monoxide. Tables 3 and 4 summarize transportation-related requirements by deadlines for program submittal and include listings of relevant documents and references. Appendix C contains relevant Sections of the CAAA. Appendix E contains a more detailed summary of the transportation-related provisions of the CAAA. Appendix F contains a summary table of the required State SIP submittals and actions by submittal deadline. Appendix G contains selected portions of the Intermodal Surface Transportation Efficiency Act of 1991.

TABLE 1

SPECIFIC TRANSPORTATION-RELATED PROVISIONS OF THE CLEAN AIR ACT AMENDMENTS OF 1990 (CAAA) BY *OZONE* NONATTAINMENT AREA CLASSIFICATIONS

Marginal

Albany, NY	Allentown, PA-NJ	Altoona, PA
Birmingham, AL	Buffalo, NY	Canton, OH
Cherokee Co, SC	Columbus, OH	Door Co, WI
Edmonson Co, KY	Erie, PA	Essex Co, NY
Evansville, IN-KY	Greenbrier Co WV	Hancock & Waldo Co.s, ME
Harrisburg, PA	Indianapolis, IN	Jefferson Co, NY
Jersey Co, IL	Johnstown, PA	Kent & Queen Anne's MD
Knoxville, TN	Lake Charles, LA	Lancaster, PA
Lexington, KY	Manchester, NH	Memphis, TN-AR-MS
Norfolk, VA	Owensboro, KY	Paducah, KY
Portland,OR	Poughkeepsie, NY	Reno, NV
Scranton, PA	Seattle-Tacoma, WA	Smyth Co, VA
South Bend, IN	Sussex Co, DE	Tampa, FL
Walworth Co. WI	York, PA	Youngstown, OH
Sharon, PA		

- These areas exceed the ozone standard of .12 parts per million (ppm) by 15 percent or less (.121 ppm up to .138 ppm), and are required to attain the standard within 3 years of enactment (11/15/93).

- Emission inventories are due within 2 years of enactment. Revised emission inventories are required at the end of each 3-year period until attainment.

- These areas must correct existing or previously required inspection/maintenance (I/M) programs.

- These areas will be reclassified as moderate nonattainment areas if they fail to attain the standard by the deadline (plus up to two one-year available extensions).

Moderate

Atlantic City, NJ	Charleston, WV	Charlotte, NC-SC
Cincinnati, OH-KY-IN	Cleveland, OH	Dallas, TX
Dayton, OH	Detroit, MI	Grand Rapids, MI
Greensboro, NC	Huntington, WV-KY-OH	Kewaunee Co, WI
Knox & Lincoln Co.s, ME	Lewiston, ME	Louisville, KY-IN
Manitowoc Co, WI	Miami, FL	Monterey Bay, CA
Nashville, TN	Parkersburg, WV-OH	Phoenix, AZ
Pittsburgh, PA	Portland, ME	Raleigh, NC
Reading, PA	Richmond, VA	Salt Lake City, UT

San Francisco, CA	Santa Barbara, CA	St Louis, MO-IL
Toledo, OH		

- These areas exceed the standard by 15 percent to 33 percent (.138 ppm to .160 ppm), and are required to attain the standard in 6 years (11/15/93). Moderate areas must meet marginal area requirements.

- In addition to meeting marginal area requirements, moderate areas have to submit SIP revisions within 3 years of enactment demonstrating volatile organic compound (VOC) reductions, within 6 years of enactment of at least a 15 percent from 1990 baseline emissions, while accounting for any growth in emissions after enactment. (Additional requirements for major Nox sources apply in certain areas.)

- Contingency measures be implemented if the area fails to make reasonable further progress or attain the NAAQS by the attainment date. These measures are to be included in the SIP and are to take effect without further action by the State or EPA.

- These areas must adopt basic I/M programs.

- These areas will be reclassified as serious nonattainment areas if they fail to attain the standard by the deadline (plus up to two one-year available extensions).

Serious

Atlanta, GA	Baton Rouge, LA	Beaumont, TX
Boston, MA-NH (east MA)	El Paso, TX	Greater Connecticut
Muskegon, MI	Portsmouth, NH-ME	Providence, RI
Sacramento, CA	San Joaquin Valley, CA	Sheboygan, WI
Springfield, MA	Washington, DC-MD-VA	

- These areas exceed the standard by 33 percent to 50 percent (.160 ppm to .180 ppm), and are required to attain the standards in 9 years (11/15/99). Serious areas must meet moderate area requirements.

- In addition to meeting moderate area requirements, these areas have to submit SIP revisions within 4 years of enactment that demonstrate VOC reductions that average 3 percent per year each consecutive 3-year period beginning 6 years after enactment.

- These areas must submit SIP revisions within 42 months of enactment establishing clean-fuel vehicle programs, mandating that certain percentages of new fleet vehicles be clean-fuel vehicles and use clean-fuels within the nonattainment area, including measures to make the use of clean alternative fuels economical to clean-fuel vehicle owners.

- Beginning 6 years after enactment and each 3-year period thereafter, the State has to submit a demonstration as to whether vehicle emissions, congestion levels, vehicle miles traveled (VMT), and other relevant parameters are consistent with those used in the SIP; if not the State has 18 months to submit SIP revisions that include transportation control measures (TCMs) to reduce emissions to levels consistent with SIP levels.

- In addition to the contingency provisions required under Section 172(c)(9), the SIP shall provide for implementation of specific measures to be undertaken if the area fails to meet any applicable milestone.

- These areas must adopt enhanced I/M programs if the 1980 urban population exceeds 200,000.

- These areas will be reclassified as severe nonattainment areas if they fail to attain the standard by the deadline (plus up to two one-year available extensions).

Severe

Baltimore, MD*	Chicago, IL-IN-WI*	Houston, TX*
Milwaukee, WI	New York NY-NJ-CT*	San Diego, CA*
Philadelphia, PA-NJ-DE-MD	Ventura Co. CA	
South East Desert Modified AQMA, CA		

- These areas exceed the standard by 50 percent to 133 percent (.180 ppm - .280 ppm). Areas with design values from .180 - .189 ppm are required to attain the standards in 15 years (11/15/05). *Areas with design values from .189 - .280 ppm are required to attain the standards in 17 years (11/15/07). Severe areas must meet serious area requirements.

- In addition to meeting serious area requirements, these areas must submit SIP revisions within 2 years of enactment, which identify and adopt TCMs to offset growth in emissions from growth in trips or VMT.

- Within 2 years of enactment, SIP revisions are due that require employers of 100 or more to increase the average

passenger occupancy per vehicle for work trips by not less than 25 percent above the average for all work trips in the area. The average vehicle occupancy for the nonattainment area needs to be established at the time of the SIP submittal. The affected employers have to submit compliance plans within 2 years of the SIP revision (within 4 years of enactment) demonstrating compliance not later than 4 years after the revision (within 6 years of enactment).

- Severe areas which fail to attain the standard by the deadline are subject to mandatory fees on stationary emission sources and the more stringent new source review requirements applicable to extreme areas.

Extreme

Los Angeles, CA

- The area exceeds the standard by more than 133 percent (.280 ppm and above), and has 20 years to attain (11/15/10).

- Extreme areas must meet severe area requirements.

- In addition to meeting severe area requirements, each SIP revision may contain measures to reduce the use of high polluting vehicles or heavy-duty vehicles during heavy traffic hours.

- Extreme areas which fail to attain the standard by the deadline must submit a SIP revision within nine months to implement a program of economic incentives and transportation controls.

TABLE 2

SPECIFIC TRANSPORTATION-RELATED PROVISIONS OF THE CLEAN AIR ACT AMENDMENTS OF 1990 (CAAA) BY *CARBON MONOXIDE (CO)* NONATTAINMENT AREA CLASSIFICATIONS

Moderate

Albuquerque, NM
Baltimore, MD
Chico, CA
Duluth, MN-WI
Denver-Boulder, CO
Fairbanks Ed, AK(Non-MSA)
Fresno, CA
Hartford CMSA (& Planning Area), CT
Klamath Co., OR (Klamath Falls, Non-MSA)
Medford, OR
Minneapolis-St. Paul, MN-WI
Modesto, CA
Philadelphia-Wilm.-Trent., PA-NJ-DE-MD
Portland-Vancouver, OR-WA
Raleigh-Durham, NC
Sacramento, CA
San Francisco-Oakland-San Jose, CA
Spokane, WA
Syracuse, NY
Anchorage, AK
Boston CMSA (& Planning Area), MA-NH
Cleveland-Akron-Lorain, OH
Colorado Springs, CO
El Paso, TX
Fort Collins-Loveland, CO
Greensboro-Winston Salem-H. Point, NC
Josephine Co., OR (Grants Pass, Non-MSA)
Las Vegas, NV
Memphis, TN-AR-MS
Missoula Co., MT (Non-MSA)
New York- New Jer.-Long Is., NY-NJ-CT
Phoenix, AZ
Provo-Orem, UT
Reno, NV
San Diego, CA
Seattle-Tacoma, WA
Stockton, CA
Washington, DC-MD-VA

- These areas exceed the 8-hour CO standard of 9 parts per million (ppm) by not more than 82 percent (9.1 ppm to 16.4 ppm), and are required to attain the standard by December 31, 1995.

- Emissions inventories are due within 2 years of enactment with revised inventories no later than September 30, 1995, and no later than the end of each 3-year period thereafter until attainment.

- States with CO nonattainment areas which have CO design values of 9.5 ppm and above based on 1988 and 1989 data, or for any 2-year period after 1989, must submit SIP revisions requiring any gasoline sold in the metropolitan statistical area (MSA) or consolidated metropolitan statistical area (CMSA) to contain not less than 2.7 percent oxygen by weight. This requirement must be in effect for not less than 4 months per year. Those areas with design values of 9.5 ppm or more on the date of enactment of the CAAA must provide for the requirement to take effect no later than November 1, 1992. Areas that reach the design value after enactment must provide for the requirements to take effect no later than November 1,

of the third year after the 2-year period for which the design value is determined.

- For those areas with design values above 12.7 ppm, State Implementation Plan (SIP) revisions (due no later than 2 years of enactment) have to contain vehicle miles traveled (VMT) forecasts for each year until the attainment date, based on the Environmental Protection Agency's guidance; the SIPs have to provide for annual updates of forecasts, and annual reports regarding the forecast accuracy. The SIPs must include contingency provisions to be undertaken if actual or projected VMT exceed the prior forecast.

- These areas are required to correct existing or previously required inspection and maintenance (I/M) programs, with those areas with design values above 12.7 and a 1980 urban population greater than 200,000 being required to adopt enhanced I/M programs.

- These areas will be reclassified as serious nonattainment areas if they fail to attain the standard by the deadline (plus two one-year available extensions).

Serious

Los Angeles-South Coast Air Basin, CA

- These areas exceed the 8-hour CO standard by 83 percent or more (16.5 ppm and higher), and are required to attain by December 31, 2000. *Winnebago and Steubenville-Weirton may apply for waivers from mobile source controls, based on a determination, yet to be made, that mobile sources do not contribute significantly to CO levels.

- Serious areas have to meet the requirements for moderate areas with design values of 12.7 ppm or greater.

- In addition to meeting moderate area requirements, States with serious areas have to submit SIP revisions within 2 years of enactment that include transportation control measures to reduce CO emissions and offset emission increases from growth in VMT, employer trip reduction programs, and require the seasonal use of oxygenated fuel for the MSA or CMSA, whichever is larger. The oxygen content must be sufficient, in combination with other measures, to provide for attainment of the CO standard by the applicable attainment date. The oxygenated fuels requirement is to be in effect no later than October 1, 1993.

- Attainment demonstrations have to include annual emission reduction milestones; if the areas fail to meet the milestones, a SIP revision to implement economic incentives and a transportation control program is required

TABLE 3

TRANSPORTATION-RELATED REQUIREMENTS[1]
Ozone Nonattainment Areas

Timing/ Deadline	Requirement (Clean Air Act Citation)	Planning/ Implementation Actions	Relevant Documents & References (ref.s in Appendix B)
Marginal (.121 PPM)[2]			
11/15/92	Emission Inventory (Section 182(a)(1)) with periodic updates every 3 yrs. (182(a)(3))	Determine current/projected mobile source contribution to total emissions	- Procedures for Emission Inventory Preparation Vol. IV: Mobile Sources - VMT Forecasting and Tracking Guidance
Moderate (.138 PPM)			
11/15/93	Reasonable Further Progress [RFP] (182(b)(1)): 15% VOC reduction by '96	Determine, in preparing '93 SIP revision, role TCMs play for 15% red'n	General Preamble to Title I
Serious (.160 PPM)			
11/15/94	RFP Demonstration (182(c)(2)(B)): avg. ann. 3% VOC red'n over 3-yr. periods after '96	- Determine, in preparing '94 SIP revision, role TCMs play for 3% red'n - Schedule TCM planning & implementation to insure contribution to 3%	General Preamble to Title I

[1] Requirements for each classification apply to all higher classifications.

[2] Design values in Table are minimum for each classification. Some areas within 5% of the minimum have been reclassified.

Timing/ Deadline	Requirement (Clean Air Act Citation)	Planning/ Implementation Actions	Relevant Documents & References (ref.s in Appendix B)
11/15/96 99/02/05 etc.	Milestones [VOC red'ns](182(g)): 15% by '96, 3% (ann. avg.) every 3 yrs. after	- Insure those TCMs selected to contribute to 15% and 3% are planned and implemented on schedule - Possible implementation of Contingency Plan or Economic Incentive and Transportation Control Program if milestones missed	TCM Information Documents
1996 or 1997 (to be determined) & every 3 yrs. after Within 18 mo.s of above	Transportation Control (182(c)(5)(A)): - VMT, veh. emissions, congestion checks - If projection levels exceeded, a revised SIP with TCMs must be submitted	- Verify consistency of VMT, etc. levels with those in attainment demonstration - Develop TCMs for SIP revision to reduce excess emissions	- Procedures for Emission Inventory Preparation Vol. IV: Mobile Sources - VMT Forecasting and Tracking Guidance - TCM Information Documents
Severe (.180 PPM)			
11/15/92	VMT (182(d)(1)(A)): SIP revision with Section 108(f) TCMs to: - Offset emissions growth due to VMT/vehicle trip growth - Help achieve periodic VOC red'ns	- Determine emissions to be offset due to VMT/veh trip growth - Determine TCM contributions to periodic VOC red'ns - Adopt TCMs to achieve offset & contribution	- Procedures for Emission Inventory Preparation Vol. IV: Mobile Sources - VMT Forecasting and Tracking Guidance -General Preamble to Title I

Timing/ Deadline	Requirement (Clean Air Act Citation)	Planning/ Implementation Actions	Relevant Documents & References (ref.s in Appendix B)
no later than 11/15/92 no later than 11/15/94	Employer Trip Reduction Program (182(d)(1)(B)) to reduce work VMT and trips: - SIP revision due - Employer plans that "convincingly demonstrate compliance" due	- Determine Employer Trip Reduction Program & get approval through legislature if nec. & establish area AVO - Employers w/>100 employees submit compliance plans.	TCM Information Documents
Extreme (.280 PPM)			
optional: no date given	Traffic Control Measures (182 (e)(4): Any SIP revision may restrict high polluting/heavy duty veh.s during peak hrs.	- Evaluate contribution of veh. restrictions to emission red'n targets - Adopt effective, feasible restrictions in legally enforceable form	General Preamble to Title I

TABLE 4

TRANSPORTATION-RELATED REQUIREMENTS[3]
Carbon Monoxide Nonattainment Areas

Timing/ Deadline	Requirement	Planning/ Implementation Actions	Relevant Documents & References
Moderate (12.7 PPM)[4]			
11/15/92 9/30/95	Inventory (Section 187(a)(1)) with updates every 3 yrs. beginning in 09/30/95	Determine current/projected mobile source contribution to total emissions	Procedures for Emission Inventory Preparation Vol. IV: Mobile Sources
beginning 11/15/92	Vehicle Miles Traveled (187(a)(2)(A)):(applies to > 12.7 ppm) SIP revision with: - annual VMT forecast to attainment - provisions for ann. reports of actual VMT & VMT forecast updates	- Ann. VMT forecasts by 11/92 consistent w/ guidance - Ann. estimates of actual VMT & updated VMT forecasts beginning 11/93 - Determine if actual VMT or subsequent forecast exceeds prior forecast	VMT Forecasting and Tracking Guidance
11/15/92	Contingency Provisions (187(a)(3)): SIP revision providing for automatic implementation of measures when forecasted VMT exceeded by actual VMT or subsequent forecast	- Develop/evaluate contingency measures assessing VMT/ emissions impacts - Adopt contingency measures for implementation if forecasted VMT exceeded or attainment missed	General Preamble to Title I

[3] Requirements for each classification apply to all higher classifications.

[4] Design values in Table are minimum for each classification.

11/15/92	Attainment Demonstration, Ann. Em. Red'ns (187(a)(7)): SIP revision with ann. emission red'ns for attainment by 12/31/95	- Determine, in preparing '92 SIP revision, if TCMs are needed for ann. emission red'n attainment - Insure needed TCMs are planned & implemented on schedule	TCM Information Documents
Serious (16.5 PPM)			
11/15/92	Vehicle Miles Traveled (187(b)(2)) SIP revision that: - offsets emissions due to VMT or veh. trip growth[5] - provides employer trip reduction programs per Section 182(d)(1)(B) - explains rejection of 108(f) measures & contains alternatives providing comparable red'n or explains red'n not needed to demonstrate attainment [6]	- Determine emissions to be offset due to VMT/trip growth - Determine TCM contribution to attainment - Adopt TCMs needed to achieve offset/contribution - Insure needed TCMs are planned & implemented on schedule - Determine Employer Trip Red'n Program & get approval through legislature if nec. & establish area AVO - Employers w/>100 employees submit compliance plans (11/15/94)	- VMT Forecasting and Tracking Guidance - TCM Information Documents
3/31/96	Milestone Demonstration (187(d)(1): show emission red'n required by 12/31/95	Demonstrate red'n required by 12/31/95 and TCM contribution	- VMT Forecasting and Tracking Guidance - TCM Information Documents

[5] Program applies also to Denver, Colorado under 187(a)(2)(B).

[6] Required only for areas subject to Clean Fuel Vehicle Program with exception of areas in New York State.

12/31/96	Failure to Meet...Milestone (187(d)(3)): SIP revision in 9 mos. to implement economic incentive and transportation control program	Develop/adopt economic incentive/TCM program for 12/31/96 implementation	TCM Information Documents

Overview of the Air Quality Planning Process

The Act requires States to achieve the NAAQS in order to provide an adequate safety margin for the protection of public health and to protect against known and anticipated adverse effects on public welfare. The State's commitment to attaining the NAAQS is outlined in the State Implementation Plan (SIP), a planning document that, when implemented, is designed to insure the achievement of the NAAQS. Each State currently has a SIP in place, and the CAAA require that SIP revisions be made periodically within the next several years. SIPs include, among other elements,the following:

- Inventories of emissions from point, area, and mobile sources.
- Statutes and regulations adopted by the State Legislature and executive agencies.
- Air quality analyses that include a demonstration that adequate controls are in place to reduce emissions sufficiently to meet the NAAQS.
- Contingency measures to be undertaken if an area fails to make reasonable further progress or to attain the air quality standards by the applicable attainment date.

The SIP must be submitted to public hearings and approved by the Governor of the State or an appointed designee prior to submittal to EPA. The approved SIP serves as the State's commitment to actions that will reduce or eliminate air quality problems. Once approved by EPA, the SIP becomes part of the Code of Federal Regulations and is *federally enforceable*. Any subsequent changes must go through the formal SIP revision process specified in the Act.

Lead Planning Organization

An important first step for States in the air quality planning process is certification of the Lead Planning Organization (LPO). States with ozone, CO, or PM-10 nonattainment areas are urged to take actions to insure that the LPO is certified as soon as possible. Once certified, the LPO can expedite the planning process for implementation of the CAAA requirements.

In most cases, State air quality agencies have been designated the Lead Planning Organization (LPO) by the governor of the State and have had primary responsibility for preparing SIPs. Historically, the LPOs have delegated portions of the SIP preparation to State transportation agencies, regional and metropolitan planning organizations (MPO), and/or councils of governments.

Guidance regarding the certification of LPO's is included in the General Preamble to Title I of CAAA (FR 13498, April 16, 1992) and Section 174 of the CAAA. The General Preamble indicates that States will have two options available to them. One option is to continue to use the planning organization previously certified. A second option is to certify a new planning organization. Section 174 of the CAAA requires that if a new planning organization is certified by a State, it must include elected officials of local governments in the affected area and representatives of:

- the State air quality planning agency,

- the State transportation planning agency,
- the MPO designated to conduct the continuing cooperative and comprehensive transportation planning process for the area under Section 134 of Title 23, United States Code,
- the organization responsible for the air quality maintenance planning process, and
- any other organization with responsibilities for developing, submitting or implementing the SIP.

Regardless of which certification option is selected, States should notify their Regional EPA office of their LPO selection and certification prior to SIP submission.

Planning Requirements/Procedures

There have been significant changes in the planning requirements under Section 174 of the CAAA. Previously, planning procedures applied only to ozone and CO nonattainment areas. Under the amended Act, Section 174 of the 1990 CAAA applies to PM-10 nonattainment areas in addition to ozone and CO nonattainment areas. States with areas in nonattainment for ozone, CO, or PM-10, must jointly review and update, as necessary, their pre-1990 planning procedures with affected local governments.

In preparing these procedures the State and local elected officials must determine which elements of a revised SIP will be developed, adopted, and implemented by the State and which elements will be carried out by other local, regional, or State entities. Changes in planning procedures should be

reported to EPA Regional offices prior to the inventory SIP submittal, due in November of 1992. Chapter 2 of this document contains a more detailed discussion of the planning procedures related to Section 174. Relevant guidance on Section 174 is contained in Appendix U (40 CFR Part 51). Sections 3.2-3.4 of Appendix U provide guidance on joint determination of responsibilities. Although the dates, some procedures, and documents contained in Appendix U are not current, the information contained within is useful.

An example of an agreement outlining the joint determination of responsibilities, pursuant to Section 174, is contained in Appendix G of this document. The State of Michigan's Memorandum of Understanding (MOU) with the Southeast Michigan Council of Governments (SEMCOG) is a solid framework upon which to model joint determination of responsibilities agreements.

Funding

The Administrator of the Environmental Protection Agency makes grants under Section 105 of the Act to air pollution control agencies for programs designed to attain the national air quality standards. Fundable activities include planning, developing, establishing, and carrying out programs which are contained in the SIP. During fiscal year 92, more than $164 million was appropriated for Section 105 planning grants to the States.

Overview of the Transportation Planning Process

It is the stated purpose of U.S. transportation policy to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, develop transportation plans and programs for urbanized areas of the State which provide for the construction or funding of transportation facilities (including pedestrian walkways and bicycle transportation facilities). The process for developing these plans and programs is required to be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

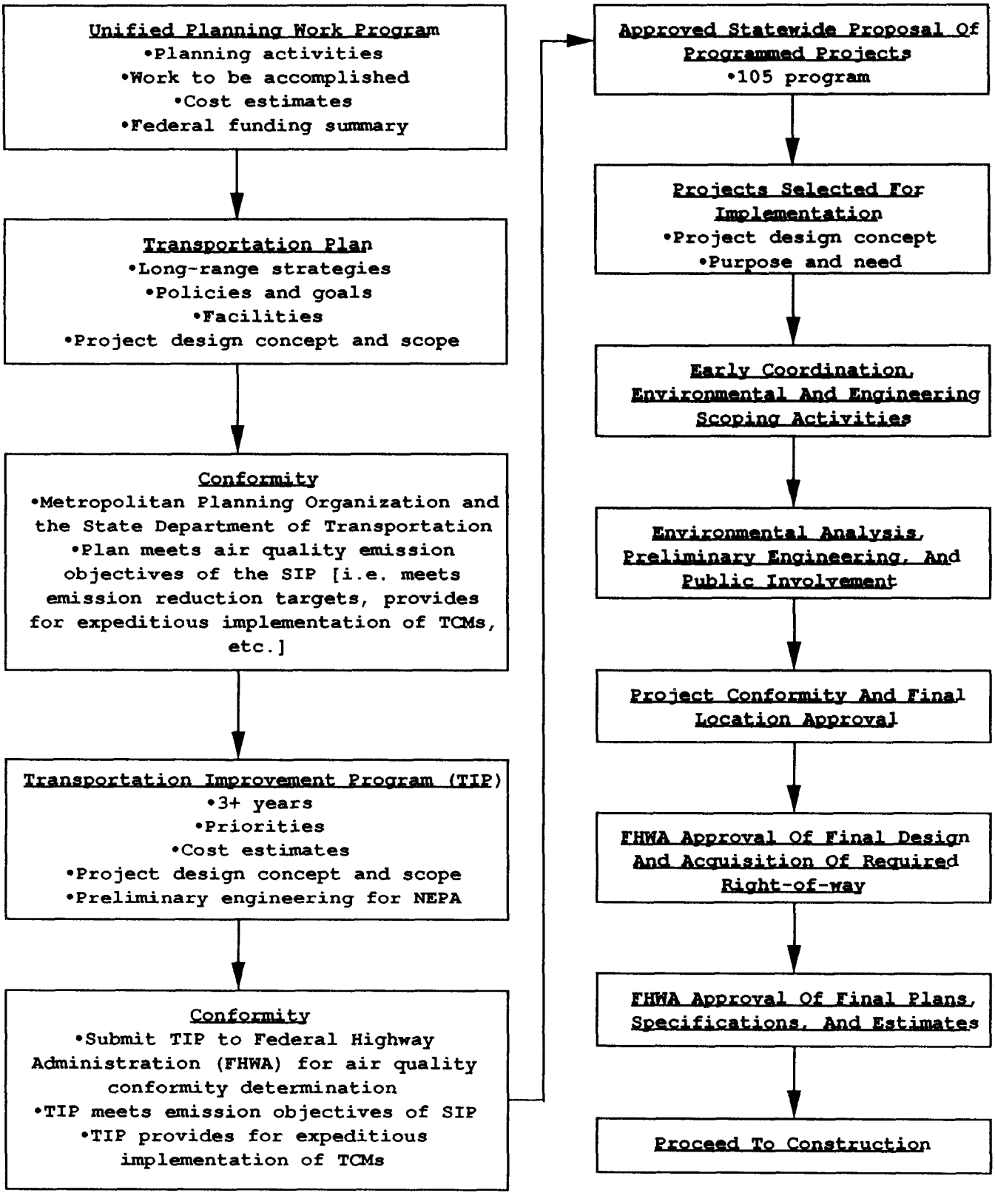
A metropolitan planning organization (MPO) is designated for each urbanized area of more than 50,000 population by agreement between the Governor and units of local government which together represent at least 75 percent of the affected population. For areas designated as nonattainment for ozone or carbon monoxide under the CAAA, the boundaries of the metropolitan area for planning purposes are to include the entire nonattainment area except as otherwise provided by agreement between the MPO and the Governor.

There are two products associated with the transportation planning process: transportation plans and transportation improvement programs (TIPs). The transportation plan describes long term policies, strategies, goals, and existing and proposed facilities and programs to enhance mobility over a 20 year forecast period. Plans in urbanized areas with more than 200,000 in population must also include an analysis of transportation systems management and transportation demand management to reduce congestion. All transportation plans must indicate resources from public and private sources that are reasonably expected to be made available to carry out the plan and to recommend any innovative financing techniques which may be needed.

The TIP is developed by the MPO in cooperation with the State and affected transit operators. The TIP includes either an annual or a biennial listing of specific transportation projects which are proposed for Federal funding, and which will, when implemented achieve the goals of the transportation plan. The TIP details the area's priorities, includes realistic estimates of the total costs and revenues for the program period, and covers a 3 year time frame. Before approving a TIP, the MPO must provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties an opportunity to comment.

TABLE 5

TRANSPORTATION PLANNING AND THE PROJECT DEVELOPMENT PROCESS



FUNDING

The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) is a major source of funding for transportation and air quality planning. ISTEA authorizes more than $155 billion in funding for highways, highway safety, and mass transportation over the next six years. The $24 billion "Surface Transportation Program" provides funding for transit, highway, or non-motorized transportation projects, with flexibility to transfer substantial amounts from one category to another. The new legislation also advances several programs, specifically it: provides an expanded source of Federal funding for developing transportation SIPs; assures the funds set aside for urban transportation planning have been doubled to 1 percent of total program resources; and allows planning activities to be funded from categories traditionally reserved for capital projects.

A major new program to deal with congestion and transportation-related air pollution problems has been created. The Congestion Mitigation and Air Quality Improvement Program (CMAQ), authorizes $6 billion for transportation projects and programs which contribute to the attainment of the NAAQS in ozone and CO nonattainment areas. There are several conditions that programs and projects must satisfy for inclusion in the CMAQ program. All projects and programs must come from a conforming transportation plan and TIP, and must be consistent with the conformity provisions contained in

Section 176(c) of the CAAA. EPA and the United States Department of Transportation (DOT) have agreed that the following types of projects meet the necessary criteria and may be funded under the CMAQ:

- Transportation activities in an approved SIP,
- TCMs included in Section 108(b)(1)(A) of the 1990 CAAA, except items xii and xvi which are excluded by ISTEA,
- Developing and establishing management systems for traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems, where it can be demonstrated that they are likely to contribute to the NAAQS,
- Capital and operation costs for traffic monitoring, management, and control facilities and programs, where it can be demonstrated that they are likely to contribute to the attainment of the NAAQS. However, CMAQ program funds <u>may not</u> replace existing local and State funds used for operation costs, but are intended to augment and reinforce new efforts,
- Construction of bicycle and pedestrian facilities, nonconstruction projects related to safe bicycle use, and State bicycle/pedestrian coordination positions, as established in ISTEA, for promoting and facilitating the increased use of nonmotorized modes of transportation. This includes public educational, promotional, and safety programs for using such facilities.
- Emission Inspection and Maintenance Programs. Construction of public facilities and purchase of equipment for public stations would be eligible. Planning projects and one-time start-up activities such as updating quality assurance software or developing a mechanic training curriculum would also be eligible.

Other projects and programs may be funded if, after consultation with EPA, FHWA determines they are likely to contribute to the attainment of the NAAQS. The CMAQ program funds may

also be used for preliminary engineering associated with projects and programs that have air quality benefits, and related project development activities. This would include planning directly related to a TCM or feasibility/development studies for any other eligible project or program.

Integration of Transportation and Air Quality Planning

In the past, transportation plans were developed independently of the State's air quality planning process and hence failed to incorporate and implement important air quality measures. Similarly, SIPs developed by air quality planners often failed to consider the feasibility of their plans with respect to implementation by the transportation community. In order to comply with the CAAA, States will need to take actions to ensure the effective integration of transportation planning and air quality planning.

Both the Clean Air Act and ISTEA emphasize the importance of coordination and consultation in the preparation of clean air and transportation plans. Air quality specialists cannot guarantee a continuing reduction in motor vehicle related pollutants if vehicle miles traveled continue to grow unabated, and transportation specialist cannot improve mobility if the emissions budget for an area is created without regard to transportation needs. The following chapter discusses the particular areas in which transportation and air quality planners need to consult and cooperate.

Chapter 2

Considerations in the Planning Process

Section 174 of the CAAA requires that areas in nonattainment for ozone, CO or PM-10 review and update or develop planning procedures before November 15, 1992. Section 174 also requires that in the preparation of planning procedures the State and local elected officials must determine which elements of a SIP revision will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies or the State.

The task involved in developing emission and VMT estimates and the implementing of TCMs can be complex and require an active planning process. Careful planning will help States to allocate the resources for implementing and monitoring the measures required under CAAA. Poor planning may result in both expensive duplication of effort and failure to meet the requirements.

Planning Procedures

Each State will need to establish planning procedures appropriate for its organizational structure. The planning procedures should be developed jointly by State officials and elected officials of affected local governments. By developing the procedures in this manner, the States will also

satisfy the consultation requirement of Section 121 of the CAAA (see Appendix C).

As a starting point, the State should delineate the CAAA's transportation related requirements for each nonattainment area and the deadlines for completing these requirements. The planning procedures should consider in detail what agency will have the primary responsibility for each CAAA requirement, the other agencies that will be involved, and the specific role each will play. The principal CAAA transportation and air quality planning requirements are in the areas of VMT and inventory estimation, TCMs, conformity, consultation, and the development and adoption of public participation.

The planning process should also be designed to continue beyond adoption of the SIP. For example, planning agencies have primary responsibility for selection of transportation measures for the SIP, but the local government agencies that would implement the TCMs need to be included from the beginning of the TCM selection process and participate throughout the selection process. Likewise, once implementation begins, local governments responsible for much of the implementation should keep the planning agencies informed of the implementation progress, so that corrective changes may be made if needed.

In serious nonattainment areas, it must be demonstrated beginning in 1996, and every three years afterward that current vehicle emissions, congestion levels, VMT, and other relevant parameters are consistent with those used in the SIP. Coordination from the beginning will be required to insure consistency. Planning for adequate validation of models used in transportation-air quality projects is also important to consider throughout the planning process. The assumptions made in the planning process are particularly important. They should be documented and their sensitivity taken into account throughout both the planning and implementation process. For example, an assumption that fuel prices will be at a certain level will result in predicting that a certain number of individuals will select transit or ridesharing over use of a single occupancy vehicle. A considerable drop in the price of fuel may switch those individuals back into their cars. Conversely, a sharp rise in gas prices may put an unexpected strain on transit lines, and reduce congestion on previously crowded highways.

Considerations for Inventory and VMT Estimates

Section 187(a) of the CAAA requires Moderate and Serious CO nonattainment areas, with design values above 12.7 ppm, to forecast and track VMT in each year prior to attaining the NAAQS. The EPA has published VMT Forecasting and Tracking Guidance, based on Section 187(a) of the CAAA, which calls for identification of a VMT Tracking Area for purposes of VMT forecasting and tracking. The Highway Performance Monitoring

System (HPMS), which is based upon traffic counts collected in accordance with FHWA guidance, will be the cornerstone for tracking VMT. However, for many nonattainment areas, there will be a portion of the nonattainment area that does not fall within Federal Aid Urbanized Area (FAUA), which is the geographic base for the HPMS program. The VMT in the remainder of the VMT Tracking Area should be estimated by a method selected by the State, in consultation with the LPO of the area and other appropriate State and Federal organizations.

VMT estimates should be consistent with HPMS unless a State can justify the use of an alternate method. Justification of an alternate method must be based upon criteria in the VMT guidance, and the justification must be documented in the SIP.

Some areas have travel demand forecasting models for the transportation study area which will cover a large portion of the VMT Tracking Area for which VMT forecasts are made. Growth factors, derived from a base year and forecast year or from the past year's HPMS reports, will be applied to the 1990 HPMS-based VMT in the forecasting process. The assumptions used in the travel demand forecasting models must be understood by the air agency responsible for the overall inventory, so that the figures can be integrated in the Urban Airshed Model which is used to demonstrate attainment of the

standard. The percentage of VMT for the following operating conditions is particularly important:

-different speed bands,
-hot starts,
-cold starts, and
-hot stabilized driving modes.

The VMT estimation and forecasting process will require close collaboration among the local governments, the MPOs, the air agencies, transit authorities, etc. Complete documentation of the VMT Tracking Area and the VMT estimating and forecasting methods used should be included in the SIP revision.

Considerations for Transportation Control Measures

The adoption of TCMs, whether mandated or voluntary, will be required in order to meet the NAAQS in many nonattainment areas. The TCMs considered may include but need not be restricted to the list contained in Section 108(f) of the CAAA. Consideration of alternative TCMs is encouraged. TCM planning and selection raises a number of issues. These include:

- the potential energy requirements,
- the total cost of the measure or project,
- the effects on the community, (economic impacts, transportation impacts, and air quality impacts)
- the potential participants and/or affected parties,
- the role each participant or affected party should play,
- the legal authority required for implementation,

- the affect implementation will have on existing laws,
- how the deadlines for the requirements impact ongoing annual activities of participants in the process, (for example, annual TIP reviews by MPOs)
- the geographic scope of implementation,
- available resources, (as yet untapped sources of expertise and funding should be considered in addition to current sources)
- the relevant political issues,
- how implementation affects agencies not directly involved with air quality planning, (such as Federal and State DOE's or traffic controllers working on congestion management, or current and projected plans of land use planning agencies)
- the expertise required,
- the need for tracking or enforcement,
- the potential emissions benefits,
- the segments of the population that are likely to participate, (for example, not everyone can or will use bicycles, hence this TCM has a limited audience. Any projections in reductions based on this TCM should take this point into account.)

Planning procedures should include a process for addressing these issues.

EPA has published two documents to assist in the understanding and implementation of TCMs. The first of these documents, Transportation Control Measures Information Documents, provides basic information on transportation control measures for local elected officials, private employers and other public and private sector decision-makers who will need to

assess the applicability of different strategies for solving mobiles source emissions problems in their areas. The second publication, Transportation Control Measures: State Implementation Plan Guidance, discusses institutional guidance involved in TCM planning in depth. Although this document was published prior to enactment of the 1990 CAAA, it is valuable for assisting in the planning process. The document outlines the factors that need to be considered in TCM selection. (See Appendix B for complete reference).

Considerations for PM-10

Section 189 of the CAAA requires that each State in which all or part of a PM-10 nonattainment area is located develop and submit a SIP that provides for the attainment of the NAAQS.[7] Transportation planning activities should include measures to reduce PM-10 in order to facilitate the attainment of the NAAQS. PM-10 emissions can originate from both stationary and mobile sources. Mobile source-related PM-10 emissions, a category that includes dust from paved and unpaved surfaces along with motor vehicle exhaust, warrant consideration from transportation planners. Areas of significance to transportation planners within stationary and mobile sources include the following: exhaust emissions from highway and off-highway mobile sources, e.g., impacts of diesel vehicle exhaust and bus terminals; re-entrained materials from traveled surfaces, primarily paved and unpaved roads; and re-entrained materials

[7] PM-10 is defined as particulate matter of less than 10 micrometers in aerodynamic diameter.

from other unpaved surfaces, e.g., open areas such as parking lots.

Areas designated nonattainment for PM-10 and classified moderate, on November 15, 1990, are required by section 189(a) of the amended act to submit a SIP no later than November 15, 1991. Among other requirements, this SIP must include the following two elements:

> Either a demonstration that the plan will provide for attainment on or before December 31, 1994 or a demonstration that attainment by that date is impracticable.
>
> Provisions to assure that reasonably available control measures (RACM) for the control of PM-10 are implemented by December 10, 1993.

Areas designated nonattainment for PM-10 after November 15, 1990, must submit a SIP within 18 months after being designated nonattainment. States with a moderate nonattainment area are required to submit a plan that includes, among other provisions, a demonstration of attainment, quantitative milestones and provisions to guarantee that RACM are implemented. Specific requirements are set forth in sub-parts 1 and 4 of Title I of the CAAA.

A revised model for mobile source PM-10 emissions is not currently available, however one is expected within the next year. In the interim, questions regarding mobile source PM-10 emissions modeling can be directed to Dr. Joseph Somers, USEPA/OMS, 2565 Plymouth Road, Ann Arbor, Michigan, 48105.

Conformity

The conformity provisions contained in Section 176(c) of the new CAAA will have a significant impact on the transportation planning process. Conformity is a complex issue, and this portion of the Planning Guidelines is only intended to provide an overview.

Section 176(c) of the CAAA defines conformity to an implementation plan as:

- conforming to an implementation plan's purpose of eliminating and reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the standards,
- not causing or contributing to new NAAQS violations, not increasing the frequency or severity of any existing violation of any standard, and
- not delaying timely attainment of any NAAQS or required interim emissions reductions milestones.

In making conformity determinations, MPO's will analyze transportation plans, TIPs, and projects for regional and/or local air quality impacts. Regional impacts from transportation plans and TIPs will be analyzed, on a system-wide basis. Localized impacts may require "hot-spot" analysis at the project level, where design detail is adequate to identify potential impacts.

Section 176(c)(4) of the CAAA requires EPA to establish procedures for transportation planners to consult with air quality planners prior to making conformity determinations. This consultation process is intended to ensure greater

coordination and cooperation between transportation and air quality officials during the development of transportation plans, TIPs and the SIP.

Criteria and procedures for determining conformity of transportation plans, programs and projects must be promulgated by the EPA, with the concurrence of DOT. The States must then submit SIP revisions that include criteria and procedures for determining conformity to the EPA. Until the promulgation of the final conformity rule, the interim conformity guidance, jointly issued by EPA and DOT on June 7, 1991, should be referred to regarding conformity matters. (See Appendix B for the annotated references to this document.) The promulgation of the final conformity rule will supersede the interim guidance.

Until States submit implementation plans which contain strategies for the attainment of the NAAQS, there exists an interim period with special requirements for making conformity determinations. EPA and DOT have jointly issued guidance for use during phase I of the interim period. During phase I of the interim period, transportation plans and TIPs conform if:

- their emissions are consistent with the most recent estimates of mobile source emissions,
- they provide for the expeditious implementation of TCMs in the applicable implementation plan, and

- they contribute to the annual emission reductions consistent with those specified in the Act for ozone and CO nonattainment areas.

Transportation projects conform during phase I of the interim period if they come from a conforming plan and TIP and, in CO nonattainment areas, analyses show that they eliminate or reduce the number and severity of violations of the CO standard in the area substantially affected by the project.

The final rule will establish criteria and procedures for determining conformity during the rest of the interim period; the control strategy period, after States submit implementation plan revisions containing strategies for attaining the NAAQS; and the maintenance period after an area has been reclassified to attainment.

Public Participation

The CAAA call for these Guidelines to include information on methods to assure participation by the public in all phases of the planning process. Given that the institutional framework for decision making among areas varies widely, a prescriptive formula for how public participation should be included in the transportation-air quality planning process is inappropriate. Early involvement and participation of the general public and of interested organizations, however, may prove to be especially critical in terms of the political viability of projects.

The public will need to understand the role transportation-air quality projects play in emissions reductions. Planning procedures should include methods for informing and involving the public very early in the process. The successful implementation of many TCMs may ultimately depend on public support, so public education is an important component of planning and implementation.

EPA recommends that each area develop a public participation plan whereby public participation is sought and considered in the planning process, documented, and verified. Public participation is already built into the SIP review process, and ISTEA requires public participation in the transportation planning process. It is important that the public:

- is made aware of the decision making process,
- understands the implications of the choices before decision makers, and
- is provided with an opportunity to provide input on the decisions at hand.

Until now, the emphasis on controlling air pollution has been almost exclusively on the technological controls that can be applied directly at the source. As the non-technological solutions begin to play more of a role in the effort to achieve attainment, the role of the public in the transportation-air quality arena will expand as well.

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Chapter 3

Some Case Studies

New Jersey

In New Jersey, the Department of Transportation has proposed an organizational infrastructure to review and update planning procedures that would include development of a State certified organization to prepare the TCM components of SIPs. The entire State of New Jersey is in nonattainment for ozone. The TCM planning component fits into the overall planning process including the stationary source component and the vehicle controls and alternate fuels sub-component as well. Table 6 is a summary of the proposed planning procedures. Flow charts of the proposed organization are in Tables 6-10. These provide an example of how one State is considering implementation of TCM related planning procedures.

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TABLE 6

CAAA/SIP DEVELOPMENT

Proposed Planning Procedures -- Five Stages

SETTING THE STAGE

Step 1	NJDOT	Identify expectations/targets for Transportation Control Measures (TCMs) Universe of Candidate TCMs First-cut of what might work for each level of government
Step 2	STAQPO	Adopts universe of candidate TCMs Charge RTAQPOs to tailor as appropriate
Step 3	RTAQPO/ Planning Agency	Tailor candidate TCM set to fit nonattainment area problems/opportunities Agree on candidate TCM subset(s) and municipal participation plan
Step 4	STAQPO/NJDEP/ USEPA	Reasonableness check and adjustments

DOING THE DETAILED PLANNING

Step 5	State level Planning Agency	Apply agency candidate TCM subset to jurisdictional system components Propose actual set of TCMs to be implemented under SIP
Step 6	Local Level Planning Agency	Apply agency candidate TCM subset to jurisdictional system components Propose actual set of TCMs to be implemented by county & MCDs under SIP Propose means to achieve local commitment to implementation
Step 7	RTAQPO	Review TCM proposals: effectiveness, interplay, packaging Accept, comment, modify
Step 8	Planning Agency	Revise set of TCMs as required
Step 9	RTAQPO	Accept revised proposals and submit to STAQPO

TRANSPORTATION AIR QUALITY PLAN ASSEMBLY AND EVALUATION

Step 10	STAQPO	Assemble first-cut aggregate plan for entire state Evaluate plan for air quality target effectiveness Compare emissions reductions to nonmattainment area requirements Return to RTAQPOs for more work OR Accept as proposed TCM portion of draft NJ SIP
Step 11	RTAQPO/ Planning Agency	Work with planning agencies on proposal amendments Submit revisions to STAQPO
Step 12	STAQPO	Review proposal revisions and revises draft transportation air quality plan Evaluate revised plan for air quality target effectiveness Compare emissions reductions to nonmattainment area requirements If targets reached, accept as proposed TCM portion of draft NJ SIP OR Repeat Steps 11 & 12 until targets are reached

SIP ASSEMBLY, TESTING, AND ADOPTION

Step 13	SCO	Merge transportation and stationary source elements into first-cut SIP Test entire SIP (air shed modelling) Compare to CAAA requirements for nonattainment areas If targets reached, adopt as draft NJ SIP and submit to USEPA OR Repeat Steps 7 thru 12 as appropriate until targets are reached

IMPLEMENTATION

Step 14	All parties	Adopt respective air quality attainment plan and commit to implementation

TABLE 7

Proposed Process to:

- Review and Update SIP Planning Procedures
- Develop a Certified Organization to Prepare Transportation Control Measures (TCM) Component of SIP

Phase I Meetings - Proposed Draft Procedures and TCM Component of State Certified Organization (SCO)
21 County Planning Directors
5 City Planning Directors
NJDOT & NJDEP Staff
5 MPOs - staff

↓

Phase II - Planning Directors Meet With Their Individual County Freeholders/City Mayors to Discuss Draft Procedures and Proposed TCM Component of SCO

↓

Phase III - Adopotion of Procedures and Agreement on TCM Component of SCO by Resolution from each of:
21 Counties
5 Cities

↓

LEADS TO:

↓

Governor Certifies SIP Preparation Organization (SCO) through Executive Order

TABLE 8

STATE CERTIFIED ORGANIZATION

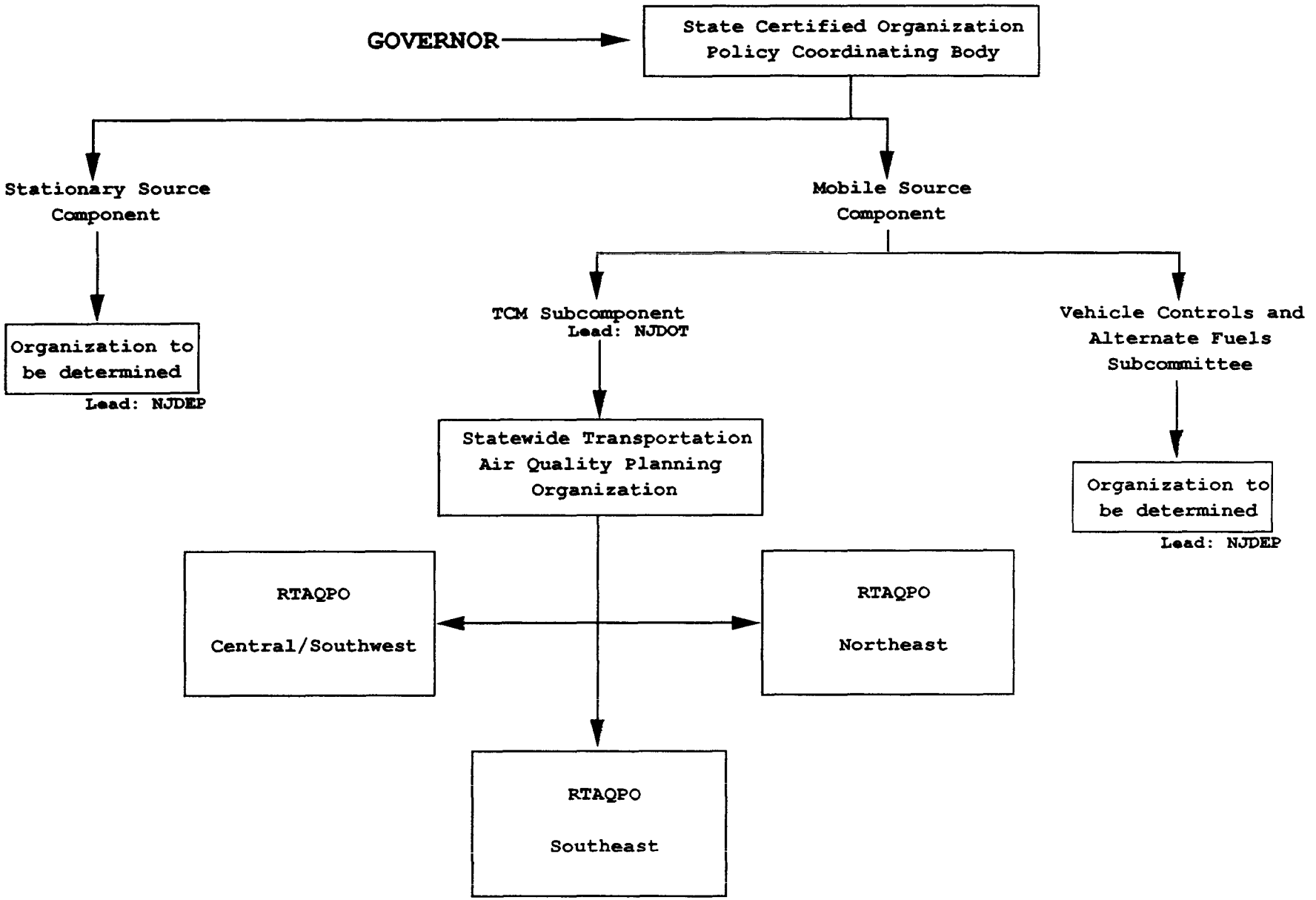

TABLE 9

TCM Component of the State Certified Organization

Statewide Transportation Air Quality Planning Organization (STAQPO):

Metropolitan Planning Organizations
- NJTCC
- DVRPC
- WILMAPCO
- ACUATC
- CCUATS

State Agencies/Authorities
- NJDOT (Chair)
- NJ TRANSIT
- NJDEP
- Pinelands Commission
- NJ Turnpike Authority

Local Government Representatives
- New Jersey Association of Counties
- League of Municipalities

Private Sector Representatives
- New Jersey Business & Industry Association
- Alliance for Action
- New Jersey Chamber of Commerce
- Southern Jersey Development Council

Private/Non-Profit Planning Representatives
- Regional Plan Association
- New Jersey Future
- Partnership for New Jersey
- New Jersey Federation of Planning Officials
- Association of Environmental Commissions

↓

Regional Transportation Air Quality Planning Organizations (RTAQPO)
- Northeast Region
- Central/Southwest Region
- Southeast Region

TABLE 10

REGIONAL TRANSPORTATION AIR QUALITY PLANNING ORGANIZATIONS (RTAQPO)

CENTRAL/SOUTHWEST REGION MEMBERSHIP

MPOS:

DVRPC (Chair) WILMAPCO
CCUATS

Authorities & Commissions:

NJTA	NJHA	NJEA
BCBC	DRPA	DRJTBC
DRBA	NJDOT	NJTRANSIT
NJDEP		

Counties:

Mercer	Burlington	Camden
Gloucester	Salem	Cumberland

Cities:

Trenton Camden

TMAs:

Greater Princeton TMA
Cross-County Connection

Southern Jersey Chamber of Commerce

NORTHEAST REGION MEMBERSHIP

MPOS:

NJTCC (Chair)

Authorities & Commissions:

NJTA	NJHA	PANY & NJ
PIPC	DRJTBC	HMDC
NJDOT	NJTRANSIT	NJDEP

Counties:

Bergen	Passaic	Sussex
Warren	Morris	Essex
Hudson	Hunterdon	Somerset
Middlesex	Monmouth	Ocean
	Union	

Cities:

Newark Jersey City

TMAs:

Meadowlink McRides
Keep Middlesex Moving Monmouth TMA
Somerset Alliance TMA

SOUTHEAST REGION MEMBERSHIP

MPO:

ACUATC

Authorities & Commissions:

NJHA	NJEA	ACTA
DRBA	CMCBC	NJDOT (Chair)
NJTRANSIT	NJDEP	

Counties:

Atlantic
Cape May

City:

Atlantic City

Florida

The Department of Transportation in the State of Florida has created a proposed flow chart for its transportation planning as well (see Table 11). The last box of this flow chart indicates that the procedures for seeing that conformity determinations are made is yet to be delineated according to the Interim Conformity Guidance and the Final Conformity Rulemaking.

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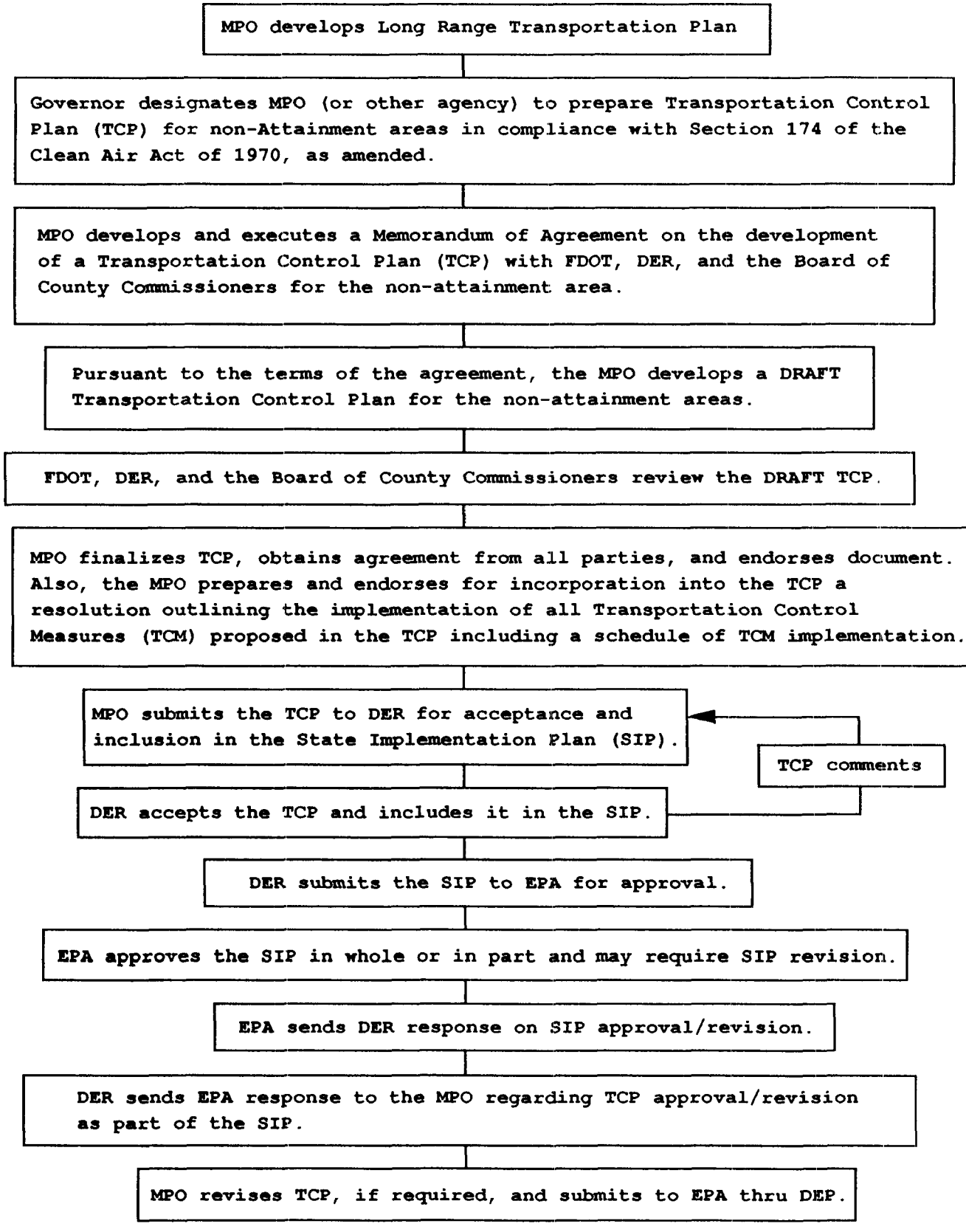
TABLE 11

Air Quality Process in Florida(Draft)



California

In addition to a formal statewide organization with decision-making responsibilities, California has established an interagency organization specifically designed to facilitate communication among transportation and air quality personnel from all levels. The Transportation Air Quality Review Group (TARG), has an elected chair and an executive board, and meets every 6 weeks, rotating in various locations throughout California. Membership is informal and is currently comprised of 150 - 200 staff members from transportation and air quality agencies throughout California and in Arizona and Nevada as well. Agencies volunteer to host meetings and are responsible for mailing out the agenda to those on the mailing list. Presentations include a wide range of topics that are relevant to the participants. The major function of TARG is to provide an opportunity for transportation and air quality personnel to meet one another and to hear about the issues relevant to both disciplines. Participants cite the value of face-to-face contact with peers from various agencies as especially helpful in their work.

Michigan

The following pages contain an example memorandum of understanding (MOU) from the State of Michigan pursuant to Section 174 of the CAAA. This memorandum assigns joint responsibilities between the State and the MPO for planning purposes.

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MEMORANDUM OF UNDERSTANDING

BETWEEN

THE STATE OF MICHIGAN

ACTING THROUGH THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES

AND THE MICHIGAN DEPARTMENT OF TRANSPORTATION

AND

THE SOUTHEAST MICHIGAN COUNCIL OF GOVERNMENTS

REGARDING

RESPONSIBILITIES PURSUANT TO SECTIONS 121 AND 174 OF THE CLEAN AIR ACT FOR STATE IMPLEMENTATION PLAN REVISIONS FOR SOUTHEAST MICHIGAN

I. Introduction/History

Section 110 of the Clean Air Act as amended (Act) in 1977 required that each state prepare a state implementation plan (SIP) which provided for the implementation, maintenance, and enforcement of national ambient air quality standards (NAAQS). Pursuant to this and other provisions of the Act, and as a result of the revision of certain NAAQS, the State of Michigan (State) undertook a major revision of the SIP.

Section 121 of the Act required that the State provide a satisfactory process of consultation with elected officials of local governments and designated organizations of general purpose local governments in carrying out requirements of the Act related to the development of certain provisions of a revised SIP.

Section 174 of the Act required that for each region in which the national primary ambient air quality standard for carbon monoxide or photochemical oxidants was not attained, the State and elected officials of affected local governments jointly determine which elements of a revised SIP would be planned for and implemented or enforced by the State, local governments, regional agencies, or any combination of these agencies.

Pursuant to Section 174 on April 3, 1978, Governor William G. Milliken designated the Southeast Michigan Council of Governments (SEMCOG) as the lead local planning agency for air quality planning in the Detroit metropolitan area. This designation specified that the geographic jurisdiction of the SEMCOG responsibility included the counties of Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne. While SEMCOG's primary responsibility focused on mobile source planning, SEMCOG worked in cooperation with the Michigan Department of

Natural Resources (MDNR) and the Michigan Department of Transportation (MDOT) on a number of other programs, including offset policies and air toxics control strategies.

II. The Clean Air Act Amendments of 1990

Major revisions to the Clean Air Act as amended in 1977 were enacted by Congress and signed by the President on November 15, 1990. These are known as the Clean Air Act Amendments of 1990.

Section 121 (Consultation) of the new law was essentially unchanged. However, changes were made to Section 174 (Planning Procedures). The requirements of revised Section 174 of the 1990 Clean Air Act Amendments now include, for any ozone, carbon monoxide, or PM-10 nonattainment area:

1. A joint review, by State and elected local officials, and update as necessary, of the existing planning procedures established pursuant to Section 174 of the Clean Air Act Amendments of 1977, or, as appropriate, the development of new planning procedures.

2. Such planning procedures shall include the determination as to which entity shall develop, adopt, and implement (through means including enforcement) each element of the revised SIP for the nonattainment area.

3. The SIP shall be prepared by an organization certified by the State, in consultation with elected officials of local government and in accordance with the determination contained in the planning procedures as to which entity is responsible for each element of the revised SIP. This organization is to include elected officials of local government, the State Air Quality Planning agency, the State Transportation Planning agency, the Metropolitan Planning Organization, and any other organization with responsibilities for developing, adopting, implementing, or submitting the SIP revision for the nonattainment area.

4. The preparation of SIP provisions and subsequent SIP revision provisions under the continuing transportation-air quality planning process described in Section 108 (e) of the Act shall be coordinated with the ongoing continuing, cooperative, and comprehensive (3C) transportation planning process.

5. In the case of a multi-state nonattainment area, the affected states may jointly undertake and implement all or part of the planning procedures as described elsewhere in Section 174.

III. Purpose

This Memorandum of Understanding:

1. Represents the joint determination of responsibilities between the State and SEMCOG, the lead local planning organization for Southeast Michigan, pursuant to Section 174 of the Act, for development, adoption, and implementation of the various elements of the revised SIP for the ozone, carbon monoxide, and PM-10 nonattainment areas in Southeast Michigan pursuant to sound planning principles; and

2. Establishes general guidelines for the intergovernmental consultation process between the State and SEMCOG as the designated organization of local governments pursuant to Section 121 of the Act; and

3. Constitutes an agreement by all parties on institutional and consultative issues related to air quality planning and implementation.

IV. Definition of Terms

Develop: The technical process of evaluating, selecting, and recommending a policy-level component of the control strategy for air quality attainment and maintenance.

Adopt: The process of drafting, proposing, promulgating, and administering, or as necessary, working with the appropriate law-making body for the enactment of, specific rules, procedures, laws, and other measures in order to carry out a policy-level component of the control strategy for air quality attainment and maintenance.

Implement: Any activity (through means including enforcement) relating to or designed to ensure compliance with or implementation of a rule, law, procedure, or other measure which is a component of the control strategy for air quality attainment and maintenance.

Control Strategy: The overall plan for reducing the emissions of air contaminants to ensure air quality attainment and maintenance, compliance with the Act and federal regulations, and compliance with State law. The control strategy may include a mix of control measure components requiring emissions reductions from industrial sources, commercial and consumer sources, and/or mobile sources.

V. SIP Revision Elements Covered by the Memorandum

The determination of responsibilities contained in this Memorandum for development, adoption, and implementation of air pollution control measures in conformance with the Act shall apply to the following elements of the Michigan SIP for Southeast Michigan:

1. Any transportation controls, air quality maintenance plan requirements, or preconstruction review of direct sources of air pollution.

2. Any measure referred to in part D of the Act (pertaining to nonattainment requirements).

3. Any measure referred to in part C of the Act (pertaining to prevention of significant deterioration).

4. The requirements of section 113(d) of the Act (relating to certain enforcement orders).

5. The appropriate provisions of section 110 of the Act (pertaining to state implementation plans).

VI. Responsibilities for the Development, Adoption, and Implementation of Revisions to the Michigan State Implementation Plan for Southeast Michigan

The State of Michigan, operating through the Michigan Department of Natural Resources and the Michigan Department of Transportation, and the Southeast Michigan Council of Governments agree to the following:

1. In accordance with the requirements of the Act, the State must revise the SIP to attain and maintain national ambient air quality standards. Under the State Air Pollution Act (Act 348, 1965, as amended) and the Governor's Executive Order 1976-8, MDNR was given the overall responsibility for the Michigan SIP. Further, MDOT was given the responsibility for managing the local transportation planning activities required by the Act. Unless specifically authorized by law, identified in this Memorandum of Understanding, or agreed upon by the State and Local Agency Review Group (as defined below), MDNR has the responsibility for ensuring the development, adoption, and implementation of all control measures included in the Michigan SIP.

2. The organization called for in Section 174 of the 1990 Clean Air Act Amendments shall consist of the following elements:

   a) A State and Local Agency Review Group composed of the following agencies:

      - MDNR - Michigan Department of Natural Resources
      - MDOT - Michigan Department of Transportation
      - SEMCOG - Southeast Michigan Council of Governments
      - Other organizations, agreed upon by MDOT, MDNR, and SEMCOG, when issues relate to a program for which another organization has statutory authority or responsibility or has historically been responsible for developing, adopting, or implementing such program.

The key purposes of this group are to:

1) Develop a recommended control strategy for air quality attainment and maintenance for Southeast Michigan.
2) Provide ideas, technical information, and general direction through preliminary recommendations to the group on potential control strategy components.
3) Build, to the extent possible through a public forum, consensus toward development of the appropriate control measure components of the control strategy for Southeast Michigan.
4) Facilitate resolution of policy issue disputes related to the development of required SIP revisions.
5) Determine the appropriate agency to be responsible for the development, adoption, and implementation of components of the control strategy which are not otherwise identified herein.
6) Develop appropriate growth-related components for the recommended control strategy for air quality attainment and maintenance for Southeast Michigan.
7) Provide for the free exchange of ideas and information among all parties.

b) State policy development: Using the recommendation of the State and Local Agency Review Group, MDNR shall formulate a proposed State policy and, as appropriate, work with the Governor's office to develop a final State policy. The MDNR shall, in discussions with the Governor's Office, report any issues for which a member of the State and Local Agency Review Group disagreed with the proposed State policy. Other members of the State and Local Agency Review Group may also direct any of their concerns to the Governor's office.

c) Adoption of necessary rules, laws, procedures, and other measures: Each member of the State and Local Agency Review Group shall provide the necessary support and coordination to work with the appropriate law-making bodies, agencies, or commissions to adopt the necessary rules, laws, procedures, and other measures in order to carry out the individual control measure components of the State policy.

d) Formal SIP submittal: MDNR shall be responsible for identifying the required components for a complete SIP revision request submittal and making the actual submittal to the U.S. Environmental Protection Agency. Each member of the State and Local Agency Review Group shall provide to MDNR the information and documentation which is identified by MDNR as being necessary for the development of a complete SIP revision request submittal package.

3. All members of the State and Local Agency Review Group shall regularly report progress on developing, adopting, and implementing the components of the revised SIP for which they are responsible, specifically identifying any potential impacts or delays which may interfere with meeting statutory or federal administrative deadlines.

4. SEMCOG, as the lead local planning agency, in cooperation with MDOT and MDNR, shall be responsible for technical aspects of the SIP as they relate to mobile sources in Southeast Michigan. Examples include the development of highway mobile source emissions inventories, the development of transportation system-related control measures, and the assessment of transportation plan conformity with the SIP. The development of these air quality requirements shall be accomplished within the existing planning structure consistent with the ongoing planning activities required by the federal Surface Transportation Act.

5. SEMCOG shall provide technical support to MDOT and MDNR in I/M activities and shall, to the extent allowed by available funding, carry out appropriate public information and participation programs for those I/M activities.

6. All parties to this Memorandum shall seek to educate their constituents on appropriate issues related to the SIP.

7. To the extent funding and resources are available, SEMCOG and MDNR shall cooperatively organize and facilitate a public forum for discussing the required and optional components of a control strategy to meet the Clean Air Act requirements for southeast Michigan. The purpose of this public forum is to provide all interested groups and citizens the opportunity for input to the State and Local Agency Review Group and, to the extent possible, build consensus and support for the chosen control strategy to meet the Clean Air Act requirements. This public forum shall, to the extent possible, include the following representation:

   - Michigan Department of Natural Resources
   - Southeast Michigan Council of Governments
   - Michigan Department of Transportation
   - Other State of Michigan Departments
   - Local Transportation Agencies
   - Citizens
   - Environmental Interest Groups
   - Business Interest Groups
   - Local Governments
   - Michigan Legislature
   - State Executive Office

8. SEMCOG's data on population, travel, and the economy shall be used in the SIP. This does not exclude the use of other data provided by SEMCOG.

4. Pursuant to Section 121 of the Act, SEMCOG, MDNR, and MDOT shall continuously consult in the development of the specified revisions to the SIP which relate to Southeast Michigan. This consultation process shall consist of regularly scheduled meetings between SEMCOG, MDNR, and MDOT to coordinate air quality development, adoption, and implementation activities underway at each agency. As appropriate, other agencies involved in air quality-related activities shall be invited to attend.

VII. Modification of this Memorandum

The State of Michigan and SEMCOG view the determination of responsibilities as a process which may result in the periodic modification of this Memorandum. This agreement shall be reviewed for necessary modifications every 12 months, or at the request of any participant. Any party may terminate this Memorandum after not less than ninety (90) days written notice to the other parties.

FOR THE SOUTHEAST MICHIGAN COUNCIL OF GOVERNMENTS:

John Ten Broeke DATE: 1-17-92

FOR THE STATE OF MICHIGAN, DEPARTMENT OF NATURAL RESOURCES:

Roland Harmes DATE: 1-27-92

FOR THE STATE OF MICHIGAN, DEPARTMENT OF TRANSPORTATION:

Philip Sewell DATE: 1-23-92

Relevant Publications

A number of documents are currently available that directly address transportation-air quality planning issues. The contents of these are not restated in this publication. The reader is encouraged to refer to them directly for details on these subjects. Additional references are scheduled to be published after the publication of this document. Relevant publications that are currently available or will be available in the near future are included in the annotated reference list in Appendix B.

Some of the subjects that are or will be covered by these documents include:

- Emissions inventory preparation
- Estimation of Vehicle Miles Traveled (VMT)
- Interim conformity guidance
- Conformity final rule
- State implementation plan guidance for Transportation Control Measures (TCMs)
- Information documents for TCMs
  Each of the 16 TCMs listed in Section 108(f) will be addressed through these documents. (See Section 108(f) in Appendix C for this list of TCMs.) These information documents will provide general implementation issues, variations of measures, degree of effectiveness, and institutional processes for these TCMs, and will be qualitative rather than quantitative in nature.

- Transportation control measure emission reduction potential. This document is intended to be more quantitative than the series of TCM information documents. It will focus on current methods, strategies, and variables for making estimates on how TCMs affect the number of vehicle trips, VMT, and congestion.

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APPENDICES

Appendix A:	List of Abbreviations
Appendix B:	Annotated list of references and documents including full title, reference number and, where available, name of contact person, address, and telephone number.
Appendix C:	Relevant sections of the CAAA including Sections 108, 110, 121, 171-182, 187.
Appendix D:	Relevant sections of transportation-related laws.
Appendix E:	Summary of Transportation-related provisions of the CAAA
Appendix F:	Table of Required State Submittals and Actions (from "Getting Started" document)
Appendix G:	Selected Portion of the Intermodal Surface Transportation Efficiency Act of 1991

APPENDIX A

APPENDIX A

List of Abbreviations

APO	Average Passenger Occupancy per Vehicle
AVO	Average Vehicle Occupancy
CAA	Clean Air Act
CAAA	Clean Air Act Amendments of 1990
CO	Carbon Monoxide
CMSA	Consolidate Metropolitan Statistical Area
DOE	Department of Energy
DOT	Department of Transportation
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FIP	Federal Implementation Plan
FTA	Federal Transit Administration
HOV	High Occupancy Vehicle
I/M	Inspection and Maintenance
LPO	Lead Planning Organization
MPO	Metropolitan Planning Organization
MSA	Metropolitan Statistical Area
NAAQS	National Ambient Air Quality Standards
NARC	National Association of Regional Councils
NJDEP	New Jersey Department of Environmental Protection
NJDOT	New Jersey Department of Transportation
NOx	Oxides of Nitrogen
PM-10	Particulate Matter less than 10 microns in diameter
PPM	Parts Per Million
SIP	State Implementation Plan
SCO	State Certified Organization
TARG	Transportation Air Quality Review Group
TCM	Transportation Control Measure
TIP	Transportation Improvement Program
UPWP	Unified Planning Work Program
VMT	Vehicle Miles Traveled
VOC	Volatile Organic Compound

APPENDIX B

APPENDIX B

ANNOTATED LIST OF REFERENCES AND DOCUMENTS

Analysis of the Emission Benefits from Transportation Control Measures in San Diego County. (Currently in draft form.)

Published by the County of San Diego Air Pollution Control District.

Document contains the results of a study to determine the maximum level of emission reductions that Transportation Control Measures could achieve in San Diego County, California. It contains sections on: The Development of Travel and Emission Estimates, Review of Transportation Control Measures, Quantifying Emission Reductions for Candidate TCMs, Evaluation of the Effects of the TCMs on CAAA mandates, and Draft Criteria for TCM Planning.

Contact: Paul Davis, County of San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California 92123-1095.

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An Assessment of Travel Demand Approaches at Suburban Activity Centers. July 1989.

Prepared by K.T. Analytics, Inc. for the U.S. Department of Transportation System Center, Office of Technical Assistance and Safety.

Document reviews experience with Transportation Systems Management and Parking Management through employer case studies and synthesis of suburban demand management literature. It provides recommendations to local government decision makers and planners on strategy effectiveness and implementation, as well as adoption and implementation of demand management of trip reduction policy instruments.

Contact: National Technical Information Service, Springfield, Virginia 22161.

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California Clean Air Act Transportation Requirements Guidance. February, 1990.

Air Resources Board, Office of Strategic Planning, Transportation Strategies Group.

Under the California Clean Air Act, air pollution control districts

have been granted explicit authority to adopt and implement transportation controls. This document offers guidance regarding how the Act's requirements can be met in the required 1991 air quality plans.

Contact: Sharon Brehmer, State of California Air Resources Board, 1102 Q Street, PO Box 2815, Sacramento, California 95812.

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Clean Air in Our Times?: The Amendments to Reform Transportation Planning in the Clean Air Act Amendments of 1990. June 1991.

Robert Yuhnke, Senior Attorney, Environmental Defense Fund.

Provides an overview of the CAAA from the perspective of on of the environmental organizations most involved with transportation-air quality issues.

Contact: Robert Yuhnke, Senior Attorney, Environmental Defense Fund, 1405 Arapohoe Avenue, Boulder, Colorado 80302. FAX: 303-440-8052.
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Conformity Rulemaking. Publication pending.

To be issued by the U.S. Environmental Protection Agency. Transportation portions will have U.S. Department of Transportation concurrence.

This document will contain final criteria and procedures for determining conformity of all Federal actions and MPO transportation plans, programs, and projects effective immediately upon issuance, as well as consultation procedures among agencies.

Contact: Kathryn Sargeant, Emission Control Strategies Branch, Office of Mobile Sources, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. FAX: 313-668-4531.

General Preamble Title I Clean Air Act Amendments 1990.
Fall 1991.

Document describes EPA's policy and technical judgements related to the implementing Title I of the 1990 Clean Air Act. Designed to be used as guidance to States on how to prepare State Implementation Plans (SIP) submittals required under the Clean Air Act Amendments of 1990 for nonattainment areas. Guidance on VMT offset provisions of the Act are included in this document.

Contact: Sheila Holman, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. FAX: 919-541-0804.

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Getting Started on Title I. April, 1991.

Document outlines the requirements for states which must develop ozone and/or CO SIPs pursuant to the new provisions in Title I of CAAA.

Contact: David Johnson, Air Quality Management Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. FAX:919-541-0804.

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Guidance for Determining Conformity of Transportation Plans, Programs and Projects with the Clean Air Act Implementation Plans During Phase 1 of the Interim Period. June, 1991.

Jointly issued by the U.S. Environmental Protection Agency and the U.S. Department of Transportation.

These Interim Conformity Guidelines apply to all transportation plans, programs, and projects in nonattainment areas submitted after November 15, 1990, until Final Conformity Rulemaking is published.

Contact: Kathryn Sargeant, Emission Control Strategies Branch, Office of Mobile Sources, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. FAX: 313-668-4531.

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Methodology to Calculate Cost Effectiveness of Potential Transportation Control Measures. Interim Report, November, 1990.

Prepared by Sierra Research Inc. for the San Diego Association of Governments.

This report documents the operation of a FORTRAN program designed to quantify the emissions reductions that could be produced by separate transportation control measures being considered by local air quality/transportation planners. It is the second of three modules that comprise a system designed to aid communities in evaluating the effectiveness of alternative TCMs.

Contact: John Duve, San Diego Association of Governments, Suite

800, 1st Industrial Plaza, 401 B Street, San Diego, California 92101. Phone (619) 595-5300.

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Procedures for Emission Inventory Preparation. Revised, summer 1992.

Volume IV: Mobile Sources, EPA 450/4-81-026d
Provides assistance to States for meeting the requirements for emissions inventory development by focusing on the technical aspects of inventorying emissions from mobile sources. Identifies specific methods that can be used to identify and inventory sources, estimate emissions, and establish and maintain a useful, current mobile sources inventory file.

Contact: Natalie Dobie, Environmental Protection Agency Motor Vehicle Emissions Laboratory, Ann Arbor, MI 48105. Phone: 313-668-4200.

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Review and Evaluation of Current VMT Forecasts. (Currently in draft form.)

Measures of vehicle miles traveled (VMT) are used by many government agencies and private organizations. Levels of VMT are important in analyzing fuel use, highway use and roadway capacity, city planning and a variety of other purposes. This document looks at different uses of VMT projections and the models associated with them.

Contact: John German, U.S. Environmental Protection Agency Office of Mobile Sources, Certification Division, Ann Arbor, Michigan 48105. Phone (313) 668-4214.

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Staff Report on the Implementation of Regulation XV - Trip Reduction/ Indirect Source. February, 1991.

Waldo Lopez-Aqueres, PH.D., South Coast Air Quality Management District Transportation Programs Division.

Document discusses various aspects of Regulation XV to include: background, anticipated benefits, review of progress, trip

reduction plan process, the continuing significance of Regulation XV, and staff responses to issues raised during the informational and Public Meetings.

Contact: Catherine Wasikowski, South Coast Air Quality Management District, 9150 Flair Drive, El Monte, California 91731. Phone FAX: 714-396-2000.

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Transportation Control Measure Emission Reduction Potential
Winter, 1992.

To be prepared by System Applications International for the U.S. Environmental Protection Agency.

The planned document is intended to analyze existing TCM benefits methodologies, develop methodologies for a few select TCMs, calculate VMT speed and changes, and develop look-up tables form MOBILE emissions model to assist TCM analysts in determining the emissions effects of VMT, trip, and speed changes resulting from TCMs.

Contact: Mark Simons, Emission Control Strategies Branch, Office of Mobile Sources, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. FAX: 313-668-4531.

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Transportation Control Measures Information Documents.
USEPA 400-R-92-0006. March 1992.

Documents address the portion of Section 108 calling for "the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards." Each of the 16 TCMs listed in Section 108 (f) will be addressed through these documents. They will provide general implementation issues, variations of measures, degree of effectiveness, and institutional processes for these TCMs, and will be qualitative rather than quantitative in nature.

Contact: Mark Simons, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

For Document Copies contact: NTIS, 5285 Port Royal Road, Springfield, Virginia 22161. Request document #PB 92-173566.

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Transportation Control Measures: State Implementation Plan Guidance.
EPA 450/2-89-020. Revised Spring 1992.

Document summarizes current knowledge about transportation control measures. Information presented demonstrates that there have been significant advances in TCM development over the past decade, and that TCMs are appropriate control options for state implementation plans. Designed for transportation and air quality management staff at all government levels.

Contact: Frances Wicher, United States EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105. FAX: 415-484-1076

For Document Copies contact: NTIS, 5285 Port Royal Road, Springfield, Virginia 22161. Request document #PB 92-182013.

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Transportation Efficiency: Tackling Southern California's Air Pollution and Congestion. March 1991.

Environmental Defense Fund (EDF) Regional Institute of Southern California.

Document explores approaches to lessen smog and congestion in Southern California by managing demand to achieve more efficient use of transportation resources. Recommends a number of transportation pricing policies, including: peak-period pricing on congested corridors, buying out employer-subsidized parking; non-employee parking pricing; annual smog fees based on mileage and emissions performance; and deregulation of private transit.

Contact: Environmental Defense Fund, 5655 College Ave. Suite 304 Oakland, California 94618.

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VMT Forecasting and Tracking

Issued by Environmental Protection Agency.

Provides guidance under section 187(a) of CAAA on how to project and track vehicle miles traveled in moderate and serious CO

nonattainment areas with design values greater than 12.7 ppm at time of classification.

Contact: Mr. Mark A. Wolcott, State Support and Regulatory Analysis Section, Technical Support Branch, U.S. EPA, 2565 Plymouth Road, Ann Arbor, MI 48105.

For Document Copies contact: NTIS, 5285 Port Royal Road, Springfield, Virginia 22161. Request document #PB 92-164961.

APPENDIX C

APPENDIX C

SELECTED SECTIONS OF THE CLEAN AIR ACT AMENDMENTS OF 1990

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Section 108	Air Quality Criteria And Control Techniques
Section 110	Implementation Plans
Section 121	Consultation
Section 171	Definitions (RFP, Nonattainment Area)
Section 172	Nonattainment Plan Provisions In General *-Classification and Attainment Dates* *-Schedule for Plan Submissions* *-Nonattainment Plan Provisions* *-Required Plan Revisions in Response to Finding of Plan Inadequacy*
Section 173	Permit Requirements
Section 174	Planning Procedures
Section 175	Environmental Protection Agency Grants
Section 176	Limits on Certain Federal Assistance (Conformity)
Section 177	New Motor Vehicle Emissions Standards In Nonattainment Areas
Section 178	Guidance Documents
Section 179	Sanctions and Consequences of Failure to Attain *-State Failure* *-Sanctions* *-Notice of Failure to Attain* *-Consequences of Failure to Attain*
Section 181	Classifications and Attainment Dates *-Classifications and Attainment Dates for 1989* *-New Designations and Reclassification* *-Voluntary Reclassification*

Section 182	Plan Submissions and Requirements *-Marginal Areas* **Inventory* **Corrections to the SIP* **Periodic Inventory* **General Offset Requirements* *-Moderate Areas* **Reasonable Further Progress (RFP)* **Reasonably Available Control Technology* **Gasoline Vapor Recovery* **Motor Vehicle Inspection & Maintenance* **General Offset Requirements* *-Serious Areas* **Enhanced Monitoring* **RFP Demonstrations* **Enhanced Inspection & Maintenance* **Clean Fuel Vehicle Program* **Transportation Control* **De Minimis Rule* **Special Rules for Modification of Sources Emitting More or Less than 100 Tons* **Contingency Provisions* **General Offset Requirements* *-Severe Areas* **Vehicle Miles Traveled* **Offset Requirements* **Enforcement Under Section 185* *-Extreme Areas* **Offset Requirements* **Clean Fuels* **Traffic Control Measures* **New Technologies* **NOx Requirements* **Milestones* **Economic Incentive Program*
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Section 188 Classification and Attainment Dates for PM-10

Section 189 Plan Provisions and Schedules for Plan Submission for PM-10

Section 190 Issuance of RACM and BACM Guidance

Section 191 Plan Submission Deadlines

Section 192 Attainment Dates

Section 193 General Savings Clause

AIR QUALITY CRITERIA AND CONTROL TECHNIQUES

Sec. 108.(a)(1) For the purpose of establishing national primary and secondary ambient air quality standards, the Administrator shall within 30 days after the date of enactment of the Clean Air Amendments of 1970 publish, and shall from time to time thereafter revise, a list which includes each air pollutant-

(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;
[PL 95-95, August 7, 1977]

(B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and

(C) for which air quality criteria had not been issued before the date of enactment of the Clean Air Amendments of 1970, but for which he plans to issue air quality criteria under this section.

(2) The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on-

(A) those variable factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

(B) the types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and

(C) any known or anticipated adverse effects on welfare.
(b)(1) Simultaneously with the issuance of criteria under subsection (a), the Administrator shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on air pollution control techniques, which information shall include data

relating to the cost of installation and operation, energy requirements, emission reduction benefits, and environmental impact of the emission control technology. Such information shall include such data as are available on available technology and alternative methods of prevention and control of air pollution. Such information shall also include data on alternative fuels, processes, and operating methods which will result in elimination or significant reduction of emissions.

(2) In order to assist in the development of information on pollution control techniques, the Administrator may establish a standing consulting committee for each air pollutant include in a list published pursuant to subsection (a)(1), which shall be comprised of technically qualified individuals representative of State and local governments, industry, and the academic community. Each such committee shall submit as appropriate, to the Administrator information related to that required by paragraph (1).

(c) The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section.

Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1977, the Administrator shall revise and reissue criteria relating the concentrations of NO_2 over such period (not more than three hours) as he deems appropriate. Such criteria shall include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.
[PL 95-95, August 7, 1977]

(d) The issuance of air quality criteria and information on air pollution control techniques shall be announced in the Federal Register and copies shall be made available to the general public.

TRANSPORTATION PLANNING AND GUIDELINES

(e) The Administrator shall, after consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, and with State and local officials, within nine months after enactment of the Clean Air Act Amendments of 1989 and periodically thereafter as necessary to maintain a continuous transportation-air quality planning process, update the June 1978 Transportation-Air

Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards. Such guidelines shall include information on-

(1) methods to identify and evaluate alternative planning and control activities;

(2)methods of reviewing plans on a regular basis as conditions change or new information is presented;

(3) identification of funds and other resources necessary to implement the plan, including interagency agreements on providing such funds and resources;

(4) methods to assure participation by the public in all phases of the planning process; and

(5) such other methods as the Administrator determines necessary to carry out a continuous planning process.
[PL 95-95, August 7, 1977; PL 101-549]

(f)(1) The Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies not later than one year after enactment of the Clean Air Act Amendments of 1990, and from time to time thereafter-

(A) information prepared, as appropriate, in consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the formulation and emission reduction potential of transportation control measures related to criteria pollutants and their precursors, including, not limited to-

(i) programs for improved public transit;

(ii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;

(iii) employer-based transportation management plans, including incentives;

(iv) trip-reduction ordinances;

(v) traffic flow improvement programs that achieve emission reductions;

(vi) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit service;

(vii) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use;

(viii) programs for the provision of all forms of high-occupancy, shared-ride services;

(ix) programs to limit portions of read surfaces or certain sections of the metropolitan area to the use of non-motorized vehicles or pedestrian use, both as to time and place;

(x) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

(xi) programs to control extended idling of vehicles;

(xii) programs to reduce motor vehicle emissions, consistent with title II, which are caused by extreme cold start conditions;

(xiii) employer-sponsored programs to permit flexible work schedules;

(xiv) programs and ordinances to facilitate non-automobile travel, provision and utilization of mass transit, and to generally reduce the need for single-occupant vehicle travel, as part of transportation planning and development efforts of a locality, including programs and ordinances applicable to new shopping centers, special events, and other centers of vehicle activity;

(xv) programs for new construction and major reconstructions of paths, tracks or areas solely for the use by pedestrian or other non-motorized means of transportation when economically feasible and in the public interest. For purposes of this clause, the Administrator shall also consult with the Secretary of the Interior; and

(xvi) program to encourage the voluntary removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model light duty trucks.
[Sec. 108(f)(1)(A) amended by PL 101-549]

(B) information on additional methods or strategies that will contribute to the reduction of mobile source related pollutants during periods in which any primary ambient air quality standard will be exceeded and during episodes for which an air pollution alert, warning or emergency has been declared;

(C) information on other measures which may be employed to reduce the impact on public health or protect the health of sensitive or susceptible individuals or groups; and

(D) information on the extent to which any process, procedure, or method to reduce or control such air pollutant may cause an increase in the emissions or formation of any other pollutant.

(2) In publishing such information the Administrator shall also include an assessment of -

(A) the relative effectiveness of such processes, procedures, and methods;

(B) the potential effect of such processes, procedures, and methods on transportation systems and the provision of transportation services; and

(C) the environmental, energy, and economic impact of such processes, procedures and methods.
[PL 95-95, August 7, 1977]
[Sec. 108(f)(3) and (4) added by PL 101-549]

(3) The Secretary of Transportation and the Administrator shall submit to Congress by January 1, 1993, and every 3 years thereafter a report that-

(A) reviews and analyzes existing State and local air quality-related transportation programs, including specifically any analyses of whether adequate funding is available to complete transportation projects identified in State implementation plans in the time required by applicable State implementation plans and any Federal efforts to promote those programs;

(B) evaluates the extent to which the Department of Transportation's existing air quality-related transportation programs and such Department's proposed budget will achieve the goals of and compliance with this Act;and

(C) recommends what, if any, changes to such existing programs and proposed budget as well as any statutory

authority relating to air quality-related transportation programs that would improve the achievement of the goals of and compliance with the Clean Air Act.

(4) In each report to Congress after the first report required under paragraph (3), the Secretary of Transportation shall include a description of the actions taken to implement the changes recommended in the preceding report.

(g) Assessment of Risks To Ecosystems.-The Administrator may assess the risks to ecosystems from exposure to criteria air pollutants (as identified by the Administrator in the Administrator's sole discretion).
[Sec. 108(g) added by PL 101-549]

(h) RACT/BACT/LAER Clearinghouse.-The Administrator shall make information regarding emission control technology available to the States and to the general public through a central data-base. Such information shall include all control technology information received pursuant to State plan provisions requiring permits for sources, including operating permits for existing sources.
[Sec. 108.(h) added by PL 101-549]

IMPLEMENTATION PLANS

Sec. 110(a)(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 109 for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.
[Sec. 110(a)(1) amended and (2) revised by PL 101-549]

(2) Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall--

(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;

(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to--

(i) monitor, compile, and analyze data on ambient air quality, and

(ii) upon request, make such data available to the Administrator;

(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source

within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D;

(D) contain adequate provisions--

(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will--

(I) Contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or

(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility,

(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);

(E) provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for insuring adequate implementation of such plan provision;

(F) require, as may be prescribed by the Administrator--

(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and

(iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;

(G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;

(H) provide for revision of such plan--

(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standards or the availability of improved or more expeditious methods of attaining such standard, and

(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;

(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);

(J) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);

(K) provide for--

(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;

(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a

condition of any permit required under this Act, a fee sufficient to cover--

(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V; and

(M) provide for consultation and participation by local political subdivisions affected by the plan.

(3)(A) [Deleted]
[Sec. 110(a)(3)(A) deleted by PL 101-549]

(B) As soon as practicable, the Administrator shall, consistent with the purposes of this Act and the Energy Supply and Environmental Coordination Act of 1974, review each State's applicable implementation plans and report to the State on whether such plans can be revised in relation to fuel burning stationary sources (or persons supply fuel to such sources) without interfering with the attainment and maintenance of any national ambient air quality standard within the period permitted in this section. If the Administrator determines that any such plan can be revised, he shall notify the State that a plan revision may be submitted by the State.

Any plan revision which is submitted by the State shall, after public notice and opportunity for public hearing, be approved by the Administrator if the revision relates only to fuel burning stationary sources (or persons supplying fuel to such sources), and the plan as revised complies with paragraph (2) of this subsection. The Administrator shall approve or disapprove any revision no later than three months after its submission.
[PL 93-319], June 24, 1974]

(C) Neither the State, in the case of a plan (or portion thereof) approved under this subsection, nor the Administrator, in the case of a plan (or portion thereof) promulgated under subsection (c), shall be required to revise an applicable implementation plan because one or more exemptions under section 118 (relating to Federal facilities), enforcement orders under section 113(d),

suspensions under section 110.(f) or (g)(relating to temporary energy or economic authority), orders under section 119 (relating to primary nonferrous smelters), or extensions of compliance in decrees entered under section 113.(e) (relating to iron- and steel-producing operations) have been granted, if such plan would have met the requirements of this section if no such exemptions, orders, or extensions had been granted.
[PL 95-95, August 7, 1997; amended by PL 97-23]
(D) [Deleted]
[Sec. 110(a)(3)(D) deleted by PL 101-549]

(4) [Deleted]
[Sec. 110(a)(4) deleted by PL 101-549]

(5)(A)(i) Any State may include in a State implementation plan, but the Administrator may not require as a condition of approval of such plan under this section, any indirect source review program. The Administrator may approve and enforce, as part of an applicable implementation plan, an indirect source review program which the State chooses to adopt and submit as part of its plan.

(ii) Except as provided in subparagraph (B), no plan promulgated by the Administrator shall include any indirect source review program for any air quality control region, or portion thereof.

(iii) Any State may revise an applicable implementation plan approved under section 110.(a) to suspend or revoke any such program included in such plan, provided that such plan meets the requirements of this section.

(B) The Administrator shall have the authority to promulgate, implement and enforce regulations under section 110.(c) respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources.

(C) For purposes of this paragraph, the term "indirect source" means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110.(c)(2)(D)(ii)), including regulation of existing off-street parking but such term does not include new or existing on-street parking. Direct emissions sources

or facilities at, within, or associated with, any indirect source shall not be deemed indirect sources for the purpose of this paragraph.

(D) For purposes of this section the term "indirect source review program" means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations--

(i) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

(ii) preventing maintenance of any such standard after such date.

(E) For purposes of this paragraph and paragraph (2)(B), the term "transportation control measure" does not include any measure
which is an "indirect source review program."
[PL 95-95, August 7, 1977]

(6) No State plan shall be treated as meeting the requirements of this section unless such plan provides that in the case of any source which uses a supplemental, or intermittent control system for purposes of meeting the requirements of an order under section 113.(d) or section 119 (relating to primary nonferrous smelter orders), the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system.
[PL 95-95, August 7, 1977]

(b) The Administrator may, wherever he determines necessary, extend the period for submission of any plan or portion thereof which implements a national secondary ambient air quality standard for a period not to exceed 18 months from the date otherwise required for submission of such plan.

(c)(1) The Administrator shall promulgate a Federal implementation plan at any time within two years after the Administrator--

(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(k)(1)(A), or

(B) disapproves a State implementation plan submission in whole or in part, unless the State corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such Federal implementation plan.
[PL 95-95, August 7, 1977, PL 101-549]

(2)(A)[Deleted]
[Sec. 110(c)(2)(A) deleted by PL 101-549]

(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subparagraph. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

(C)[Deleted]
[Sec. 110 (c)(2)(C) deleted by PL 101-549]

(D) For purposes of this paragraph--

(i) The term "parking surcharge regulation" means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles.

(ii) The term "management of parking supply" shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(iii) The term "preferential bus/carpool lane" shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses or carpools, or both.

(E) No standard, plan, or requirement, relating to management of parking supply or preferential bus/carpool lanes shall be promulgated after the date of enactment to this paragraph by the Administrator pursuant to this section, unless such promulgation has been subjected to at least one public hearing which has been held in the area affected and

for which reasonable notice has been given in such area. If substantial changes are made following public hearings, one or more additional hearings shall be held in such area after such notice.
[PL 93-319, June 24, 1974]

(3) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the authority to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from implementing or enforcing any applicable provision of a plan promulgated under this subsection.
[PL 95-95, August 7, 1977]

(4) [Deleted]
[Sec. 110(c)(4) deleted by PL 101-549]

(5)(A) Any measure in an applicable implementation plan which requires a toll or other charge for the use of a bridge located entirely within one city shall be eliminated from such plan by the Administrator upon application by the Governor of the State, which application shall include a certification by the Governor that he will revise such plan in accordance with subparagraph (B).

(B) In the case of any applicable implementation plan with respect to which a measure has been eliminated under subparagraph (A), such plan shall, not later than one year after the date of the enactment of this subparagraph be revised to include comprehensive measures to:
[Sec. 110(c)(5)(B) amended by PL 101-549]

(i) establish, expand, or improve public transportation measures to meet basic transportation needs, as expeditiously as is practicable; and

(ii) implement transportation control measures necessary to attain and maintain national ambient air quality standards, and such revised plan shall, for the purpose of implementing such comprehensive public transportation measures, include requirements to use (insofar as is necessary) Federal grants, State or local funds, or any combination of such grants and funds as may be consistent with the terms of the legislation providing such grants and funds. Such measures shall, as a substitute for the tolls or

charges eliminated under subparagraph (A), provide for emissions reductions equivalent to the reductions which may reasonably be expected to be achieved through the use of the tolls or charges eliminated.

(C) Any revision of an implementation plan for purposes of meeting the requirements of subparagraph (B) shall be submitted in coordination with any plan revision required under part D.
[PL 95-95, August 7, 1977]

(d),(e)[Deleted]

[Sec. 110(d) and (e) deleted by PL 101-549]

(f)(1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and opportunity for public hearing, the Governor of the State in which such source is located may petition the President to determine that a national or regional energy emergency exists of such severity that--

(A) a temporary suspension of any part of the applicable implementation plan or any requirement under section 411 (concerning excess emissions penalties or offsets) of title IV of the Act may be necessary, and
[Sec.110(f)(1) amended by PL 101-549]

(B) other means of responding to the energy emergency may be inadequate. Such determination shall not be delegable by the President to any other person. If the President determines that a national or regional energy emergency of such severity exists, a temporary emergency suspension of any part of an applicable implementation plan adopted by the State may be issued by the Governor of any State covered by the President's determination under the conditions specified in paragraph (2) and may take effect immediately.

(2) A temporary emergency suspension under this subsection shall be issued to a source only if the Governor of such State finds that--

(A) there exists in the vicinity of such source a temporary energy emergency involving high levels of unemployment or loss of necessary energy supplies for residential dwellings; and

(B) such unemployment or loss can be totally or partially alleviated by such emergency suspension. Not more than one such suspension may be issued for any source on the

basis of the same set of circumstances or on the basis of the same emergency.

(3) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator, if any. The Administrator may disapprove such suspension if he determines that it does not meet the requirements of paragraph (2).

(4) This subsection shall not apply in the case of a plan provision or requirement promulgated by the Administrator under subsection (c) of this section, but in any such case the President may grant a temporary emergency suspension for a four month period of any such provision or requirement if he makes the determinations and findings specified in paragraphs (1) and (2).

(5) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule (or increment of progress) to which such source is subject under section 119, as in effect before the date of the enactment of this paragraph or section 113.(d) of this Act, upon a finding that such source is unable to comply with such schedule (or increment) solely because of the conditions on the basis of which a suspension was issued under this subsection.
[PL 95-95, August 7, 1977]

(g)(1) In the case of any State which has adopted and submitted to the Administrator a proposed plan revision which the State determines--

(A) meets the requirements of this section, and

(B) is necessary (i) to prevent the closing for one year or more of any source of air pollution, and (ii) to prevent substantial increases in unemployment which would result from such closing, and which the Administrator has not approved or disapproved under this section within 12 months of submission of the proposed plan revision, the Governor may issue a temporary emergency suspension of the part of the applicable implementation plan for such State which is proposed to be revised with respect to such source. The determination under subparagraph (B) may not be made with respect to a source which would close without regard to whether or not the proposed plan revision is approved.
[Sec. 110(g)(1)(B) amended by PL 101-549]

(2) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator. The Administrator may disapprove such suspension if he determines that it does not meet the requirements of this subsection.

(3) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule (or increment of progress) to which such source is subject under section 119 as in effect before the date of the enactment of this paragraph or section 113.(d) upon a finding that such source is unable to comply with such schedule (or increment) solely because of the conditions on the basis of which a suspension was issued under this subsection.
[PL 95-95, August 7, 1977]

(h)(1) Not later than five years, after the date of the enactment of the Clean Air Act Amendments of 1990 and every three years thereafter, the Administrator shall assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the Federal Register of the availability of such documents.
[Sec. 110(h)(1) amended by PL 101-549]

(2) The Administrator may promulgate such regulations as may be reasonable necessary to carry out the purpose of this subsection.

(i) Except for a primary nonferrous smelter order under section 119, a suspension under section 110(f) or (g) (relating to emergency suspensions), as exemption under section 118 (relating to Federal facilities), an order under section 113(d) (relating to compliance orders), a plan promulgation under section 110.(c), or a plan revision under section 110.(a)(3), no order, suspension, plan revision, or other action modifying any requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or by the Administrator.

(j) As a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technology system of continuous emission reduction which is to be used at will enable such source to comply with the standards of performance which are to apply

to such source and that the construction or modification and operation of such source will be in compliance with all other requirements of this Act.
[PL 95-95, August 7, 1977; PL 95-190, November 16, 1977]
[Sec. 110(k)--(p) added by PL 101-549]

(k) Environmental Protection Agency Action On Plan Submissions, -- (1) Completeness Of Plan Submissions, -- (A) Completeness Criteria -- Within nine months after the date of the enactment of the Clean Air Amendments of 1990, the Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection. The criteria shall be limited to the information necessary to enable the Administrator to determine whether the plan submission complies with the provisions of this Act.

(B) Completeness Finding. -- Within 60 days of the Administrator's receipt of a plan or plan revision, but no later than six months after the date, if any, by which a State is required to submit the plan or revision, the Administrator shall determine whether the minimum criteria established pursuant to subparagraph (A) have been met. Any plan or plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date six months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.

(C) Effect of Finding of Incompleteness. -- Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made he submission (or, in the Administrator's discretion, part thereof).

(2) Deadline for Action. -- Within twelve months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), if applicable (or, if those criteria are not applicable, within twelve months of submission of the plan or revision), the Administrator shall act on the submission in accordance with paragraph (3).

(3) Full and Partial Approval and Disapproval. -- In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall approve

such submittal as a whole if it meets all of the applicable requirements of this Act. If a portion of the plan revision meets all the applicable requirements of this Act, the Administrator may approve the plan revision in part and disapprove the plan revision in part. The plan revision shall not be treated as meeting the requirements of this Act until the Administrator approves the entire plan revision as complying with the applicable requirements of this Act.

(4) Conditional Approval. -- The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than one year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

(5) Calls For Plan Revisions. -- Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed eighteen months after the date of such notice) for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date prescribed under part D, unless such date has elapsed).

(6) Corrections. -- Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

(1) Plan Revision. -- Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

(m) Sanctions. -- The Administrator may apply any of the sanctions listed in section 179(b) at any time (or at any time after) the Administrator makes a finding, disapproval, or determination under paragraphs (1) through (4), respectively, of section 179(a) in relation to any plan or plan item (as that term is defined by the Administrator) required under this Act, with respect to any portion of the State the Administrator determines reasonable and appropriate, for the purpose of ensuring that the requirements of this Act relating to such plan or plan item are met. The Administrator shall, by rule, establish criteria for exercising his authority under the previous sentence with respect to any deficiency referred to in section 179(a) to ensure that, during the 24-month period following the finding, disapproval, or determination referred to in section 179(a), such sanctions are not applied on a statewide basis where one or more political subdivisions covered by the applicable implementation plan are principally responsible for such deficiency.

(n) Savings Clauses. -- (1) Existing Plan Provisions. -- Any provision of any applicable implementation plan that was approved or promulgated by the Administrator pursuant to this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect as part of such applicable implementation plan, except to the extent that a revision to such provision is approved or promulgated by the Administrator pursuant to this Act.

(2) Attainment Dates. -- For any area not designated non-attainment, any plan or plan revision submitted or required to be submitted by a State--

(A) in response to the promulgation or revision of a national primary ambient air quality standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990, or

(B) in response to a finding of substantial inadequacy under subsection (a)(2) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of

1990), shall provide for attainment of the national primary ambient air quality standards within three years of the date of the enactment of the Clean Air Act Amendments of 1990 shall provide for attainment of the national primary ambient air quality standards within three years of the date of the enactment of the Clean Air Act Amendments of 1990 or within five years of issuance of such finding of substantial inadequacy, whichever is later.

(3) Retention of Construction Moratorium in Certain Areas. -- In the case of an area to which, immediately before the date of the enactment of the Clean Air Act Amendments of 1990, the prohibition on construction or modification of major stationary sources prescribed in subsection (a)(2)(1) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) applied by virtue of a finding of the Administrator that the State containing such area had not submitted an implementation plan meeting the requirements of section 172(b)(6) (relating to establishment of a permit program)(as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) or 172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(5) (relating to permit programs) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide), respectively.

(o) Indian Tribes. -- If an Indian tribe submits an implementation plan to the Administrator pursuant to section 301(d), the plan shall be reviewed in accordance with the provisions for review set forth in this section for State plans, except as otherwise provided by regulation promulgated pursuant to section 301(d)(2). When such plan becomes effective in accordance with the regulations promulgated under section 301(d), the plan shall become applicable to all areas (except as expressly provided otherwise in the plan) located within the exterior boundaries of the reservation, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

(p) Reports. -- Any State shall submit, according to such schedule as the Administrator may prescribe, such reports as the Administrator may require relating to emission

reductions, vehicle miles traveled, congestion levels, and any other information the Administrator may deem necessary to assess the development effectiveness, need for revision, or implementation of any plan or plan revision required under this Act.

CONSULTATION

Sec. 121. In carrying out the requirements of this Act requiring applicable implementation plans to contain-

(1) any transportation controls, air quality maintenance plan requirements or prereconstruction review of direct sources of air pollution, or

(2) any measure referred to-

(A) in part D (pertaining to nonattainment requirements), or

(B) in part C (pertaining to prevention of significant deterioration),

and in carrying out the requirements of Section 113(d) (relating to certain enforcement orders), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies, effective with respect to any such requirement which is adopted more than one year after the date of enactment of the Clean Air Act amendments of 1977 as part of such plan. Such process shall be in accordance with regulations promulgated by the Administrator to assure adequate consultation. The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to ensure adequate consultation. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for judicial review of such action on the basis of a violation of the requirements of this section.

[PL 95-95, August 7, 1977; amended by PL 101-549]

Part D-Plan Requirements for Nonattainment Areas

[PL 95-95. August 7, 1977]

Subpart 1-Nonattainment Areas in General

[Subpart 1 designated by PL 101-549]

DEFINITIONS

Sec. 171. For the purpose of this part [Sec. 171 into para., (1) and (2) amended by PL 101-549]

(1) Reasonable Further Progress.-The term 'reasonable further progress' means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.

(2) Nonattainment Area.-The term 'nonattainment area' means for any air pollutant, an area which is designated 'nonattainment' with respect to that pollutant within the meaning of section 107(d).

(3) The term 'lowest achievable emission rate' means for any source that rate of emissions which reflects-

(A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(B) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(4) The terms 'modification' and 'modified' mean the same as the term 'modification' as used in section 111(a)(4) of this Act.

NONATTAINMENT PLAN PROVISIONS IN GENERAL

Sec.172. (a) Classifications And Attainment Dates.-(1) Classifications.-(A) On or after the date the Administrator promulgates the designation of an area as a nonattainment area pursuant to section 107(d) with respect to any national ambient air quality standard (or any revised standard including a revision of any standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990), the Administrator may classify the area for the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes. In determining the appropriate classification, if any, for a nonattainment area, the Administrator may consider such factors as the severity of nonattainment in such area and the availability and feasibility of the pollution control measures that the Administrator believes may be necessary to provide for attainment of such standard in such area.

(B) The Administrator shall publish a notice in the Federal Register announcing each classification under subparagraph (A), except the Administrator shall provide an opportunity for at least 30 days for written comment. Such classification shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (concerning notice and comment) and shall not be subject to judicial review until the Administrator takes final action under subsection (k) or (1) of section 110 (concerning action on plan submissions) or section 179 (concerning sanctions) with respect to any plan submissions required by virtue of such classification.

(C) This paragraph shall not apply with respect to nonattainment areas for which classifications are specifically provided under other provisions of this part.

(2) Attainment Dates for Nonattainment Areas.-(A) The attainment date for an area designated nonattainment with respect to a national primary ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than 5 years from the date such area was designated nonattainment under section 107(d), except that the Administrator may extend the attainment date to the extent the Administrator determines appropriate, for a period no greater than 10 years from the date of designation as nonattainment, considering the severity of nonattainment and the availability, and feasibility of pollution control measures.

(B) The attainment date for an area designated nonattainment with respect to a secondary national ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable after the date such areas was designated nonattainment under section 107(d).

(C) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension year') the attainment date determined by the Administrator under subparagraph (A) or (B) if-

(i) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(ii) in accordance with guidance published by the Administrator, no more than a minimal number of exceedances of the relevant national ambient air quality standard has occurred in the area in the year preceding the Extension Year. No more than 2 one-year extensions maybe issued under this subparagraph for a single nonattainment area.

(D) This paragraph shall not apply with respect to nonattainment areas for which attainment dates are specifically provided under other provisions of this part.

(b) Schedule for Plan Submissions.-At the time the Administrator promulgates the designation of an area as nonattainment with respect to a national ambient air quality standard under section 107(d), the Administrator shall establish a schedule according to which the State containing such area shall submit a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2). Such schedule shall at a minimum, include a date or dates, extending no later than 3 years from the date of the nonattainment designation, for the submission of a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2).

(c) Nonattainment Plan Provisions.-The plan provisions (including plan items) required to be submitted under this part shall comply with each of the following:

(1) In General.-Such plan provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reduction in emissions form existing sources in the area as

may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards.

(2) RFP.-Such plan provisions shall require reasonable further progress.

(3) Inventory.-Such plan provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met.

(4) Identification An Quantification.-Such plan provisions shall expressly identify and quantify the emissions, if any, of any such pollutant or pollutants which will be allowed, in accordance with section 173(a)(1)(B), from the construction and operation of major new or modified stationary sources in each such area. The plan shall demonstrate to the satisfaction of the Administrator that the emissions quantified for this purpose will be consistent with the achievement of reasonable further progress and will not interfere with attainment of the applicable national ambient air quality standards by the applicable attainment date.

(5) Permits for New and Modified Major Stationary Sources.-Such plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with section 173.

(6) Other Measures.-Such plan provisions shall include enforceable emission limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date specified in this part.

(7) Compliance With Section 110(a)-(2).-Such plan provisions shall also meet the applicable provisions of section 110(a)(2).

(8) Equivalent Techniques.-Upon application by any State, the Administrator may allow the use of equivalent modeling, emission inventory, and planning procedures, unless the Administrator determines that the proposed techniques

are, in the aggregate, less effective than the methods specified by the Administrator.

(9) Contingency Measures.-Such plan shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.

(d) Plan Revisions Required in Response to Finding of Plan Inadequacy.-Any plan revision for a nonattainment area which is required to be submitted in response to a finding by the Administrator pursuant to section 110(k)(5) (relating to calls for plan revisions) must correct the plan deficiency (or deficiencies) specified by the Administrator and meet all other applicable plan requirements of section 110 and this part. The Administrator may reasonably adjust the dates otherwise applicable under such requirements to such revision (except for attainment dates that have not yet elapsed), to the extent necessary to achieve a consistent application of such requirements. In order to facilitate submittal by the States of adequate and approvable plans consistent with the applicable requirements of this Act, the Administrator shall, as appropriate and from time to time, issue written guidelines, interpretations, and information to the States which shall be available to the public, taking into consideration any such guidelines, interpretations, or information provided before the date of the enactment of the Clean Air Act Amendments of 1990.

(e) Future Modification of Standard.-If the Administrator relaxes a national primary ambient air quality standard after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, within 12 months after the relaxation, promulgate requirements applicable to all areas which have not attained that standard as of the date of such relaxation. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment before such relaxation.
[Sec. 172 revised by PL 101-549]

PERMIT REQUIREMENTS

Sec. 173.(a) In General-The permit program required by section 172(b)(6) shall provide that permits to construct and operate may be issued if-

(1) in accordance with regulations issued by the Administrator for the determination of baseline emissions in a manner consistent with the assumptions underlying the applicable implementation plan approved under section 110 and this part, the permitting agency determines that-

(A) by the time the source is to commence operation, sufficient offsetting emissions reductions have been obtained, such that total allowable emissions from existing sources in the region, from new or modified sources which are not major emitting facilities, and from the proposed source will be sufficiently less than total emissions from existing sources (as determined in accordance with the regulations under this paragraph) prior to the application for such permit to construct or modify so as to represent (when considered together with the plan provisions required under section 172) reasonable further progress (as defined in section 171); or [PL 95-190, November 16, 1977]

(B) in the case of a new or modified major stationary source which is located in a zone (within the nonattainment area) identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, that emissions of such pollutant resulting from the proposed new or modified major stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for such pollutant for such area form new or modified major stationary sources under section 172(c);

(2) the proposed source is required to comply with the lowest achievable emission rate;

(3) the owner or operator of the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common with such person) in such State are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under this Act: and

(4) the Administrator has not determined that the applicable implementation plan is not being adequately

implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of this part; and
[PL 95-190, November 16, 1977]

(5) an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. [Sec. 173(a)(5) added by PL 101-549] Any emission reductions required as a precondition of the issuance of a permit under paragraph (1) shall be federally enforceable before such permit may be issued.

(b) Prohibition on Use of Old Growth Allowances.--Any growth allowance included in an applicable implementation plan to meet the requirements of section 172(b)(5) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall not be valid for use in any area that received or receives a notice under section 110(a)(2)-(H)(ii) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or under section 110(k)(1) that its applicable implementation plan containing such allowance is substantially inadequate.

(c) Offsets.-(1) The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant only by obtaining emission reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area if (A) the other area has an equal or higher nonattainment classification than the area in which the source is located and (B) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located. Such emission reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable in the actual emissions of such air pollutant from the same or other sources in the area.

(2) Emission reductions otherwise required by this Act shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission

reductions which are not otherwise required by this Act shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of paragraph (1).

(d) Control Technology Information.-The States shall provide that control technology information from permits issued under this section will be promptly submitted to the Administrator for purposes of making such information available through the RACT/BACT/LAER clearinghouse to other States and to the general public.

(e) Rocket Engines or Motors.-The permitting authority of a State shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

(1) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this subsection.

(2) The source demonstrates to the satisfaction of the permitting authority of the State that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offset are not available to the source.

(3) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate Federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

(4) The source will comply with an alternative measure imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee to be paid to such authority of a State which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous 3 years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reduction in that area. [Sec. 173 revised by PL 101-549]

PLANNING PROCEDURES

Sec. 174.(a) In General.-For any ozone, carbon monoxide, or PM-10 nonattainment area, the State containing such area and elected officials of affected local governments shall, before the date required for submittal of the inventory described under sections 182(a)(1) and 187(a)(1), jointly review and update as necessary the planning procedures adopted pursuant to this subsection as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, or develop new planning procedures pursuant to this subsection, as appropriate. In preparing such procedures the State and local elected officials shall determine which elements of a revised implementation plan will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. The implementation plan required by this part shall be prepared by an organization certified by the State, in consultation with elected officials of local governments and in accordance with the determination under the second sentence of this subsection. Such organization shall include elected officials of local governments in the affected area, and representatives of the State air quality planning agency, the State transportation planning agency, the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 title 23, United States Code, the organization responsible for the air quality maintenance planning process under regulations implementing this Act, and any other organization with responsibilities for developing, submitting, or implementing the plan required by this part. Such organization may be one that carried out these functions before the date of the enactment of the Clean Air Act Amendments of 1990.

(b) Coordination.-The preparation of implementation plan provisions and subsequent plan revisions under the continuing transportation-air quality planning process described in section 108(e) shall be coordinated with the continuing, cooperative and comprehensive transportation planning process required under section 134 of title 23, United States Code, and such planning processes shall take into account the requirements of this part.

(c) Joint Planning.-In the case of a nonattainment area that is included within more than one State, the affected States may jointly, through interstate compact or otherwise,

undertake and implement all or part of the planning procedures described in this section.
[Sec. 174 revised by PL 101-549]

ENVIRONMENTAL PROTECTION AGENCY GRANTS

Sec. 175.(a) The Administrator shall make grants to any organization of local elected officials with transportation or air quality maintenance planning responsibilities recognized by the State under section 174(a) for payment of the reasonable costs of developing a plan revision under this part.

(b) The amount granted to any organization under subsection (a) shall be 100 percent of any additional costs of developing a plan revision under this part for the first two fiscal years following receipt of the grant under this paragraph, and shall supplement any funds available under Federal law to such organization for transportation or air quality maintenance planning Grants under this section shall not be used for construction.

MAINTENANCE PLANS

Sec. 175A.(a) Plan Revision.-Each State which submits a request under section 107(d) for redesignation of a nonattainment area for any air pollutant as an area which has attained the national primary ambient air quality standard for that air pollutant shall also submit a revision of the applicable State implementation plan to provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation. The plan shall contain such additional measures, if any, as may be necessary to ensure such maintenance.

(b) Subsequent Plan Revisions.-8 years after redesignation of any area as an attainment area under section 107(d), the State shall submit to the Administrator an additional revision of the applicable State implementation plan for maintaining the national primary ambient air quality standard for 10 years after the expiration of the 10-year period referred to in subsection(a).

(c) Nonattainment Requirements Applicable Pending Plan Approval.-Until such plan revision is approved and an area is redesignated as attainment for any area designed as a nonattainment area, the requirements of this part shall continue in force and effect with respect to such area.

(d) Contingency Provisions.-Each plan revision submitted under this section shall contain such contingency provisions as the Administrator deems necessary to assure that the State

will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area before redesignation of the area as an attainment area. The failure of any area redesignated as an attainment area to maintain the national ambient air quality standard concerned shall not result in a requirement that the State revise its State implementation plan unless the Administrator, in the Administrator's discretion, requires the State to submit a revised State implementation plan.
[Sec.175A.added by PL 101-549]

LIMITATION ON CERTAIN FEDERAL ASSISTANCE

Sec. 176.(a), (b) [Repealed by PL 101-549]

(c)(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 110. No metropolitan planning organization designated under section 134 of title 23, United States Code, shall give its approval to any project, program, or plan which does not conform to an implementation plan approved or promulgated under section 110. 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 of 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, United States Code, or the Urban Mass Transportation Act shall implement the transportation provisions of any applicable implementation plan approved under this Act 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 Act. In particular-

(A) no transportation plan or transportation improvement program may be adopted by a metropolitan planning organization designated under title 23, United States Code, or the Urban Mass Transportation Act, or be found to be in conformity by a metropolitan planning organization until a final determination has been made that emission 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, Untied States Code, or the Urban Mass Transportation Act 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, United States Code, or the Urban Mass Transportation Act, 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 and 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 transportation 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.

(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 182(b)(1) and 187(a)(7); and

(B) the transportation projects-

(i) come from a conforming transportation plan and program as defined in subparagraph (A) or for 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, form a transportation program found to conform within 3 years prior to such date of enactment; 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)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate 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). No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate criteria and

procedures for demonstrating and assuring conformity in the case of transportation plans, programs, and projects. A suit may be brought against the Administrator and the Secretary of Transportation under section 304 to compel promulgation of such criteria and procedures and the Federal district court shall have jurisdiction to order such promulgation.

(B) The procedures and criteria shall, at a minimum-

(i) address the consultation procedures to be undertaken by metropolitan planning organization 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 in no case shall such determinations for transportation plans and programs be less frequent than every three years; and

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

(C) Such procedures shall also include a requirement that each State shall submit to the Administrator and the Secretary of Transportation within 24 months of such date of enactment, a revision to its implementation plan that includes criteria and procedures for assessing the conformity of any plan, program, or project subject to the conformity requirements of this subsection.
[Sec. 176(c) revised by PL 101-549]

(d) 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 standards. This paragraph extends to, but is not limited to, authority exercised under the Urban Mass Transportation Act, title 23 of the United States Code, and the Housing and Urban Development Act.

INTERSTATE TRANSPORT COMMISSIONS

Sec. 176.(a) Authority to Establish Interstate Transport Regions.-Whenever, on the Administrator's own motion or by petition from the Governor of any State, the Administrator has reason to believe that the interstate transport of air pollutants from one or more States contributed significantly to a violation of a national ambient air quality standard in one or more other States, the Administrator may establish, by rule, a transport region for such pollutant that includes such States. The Administrator, on the Administrator's own motion or upon petition from the Governor of any State, or upon the recommendation of a transport commission established under subsection (b), may-

(1) add any State or portion of a State to any region established under this subsection whenever the Administrator has reason to believe that the interstate transport of air pollutants from such State significantly contributes to a violation of the standard in the transport region, or

(2) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the attainment of the standard in any area in the region.

The Administrator shall approve or disapprove any such petition or recommendation within 18 months of its receipt. The Administrator shall establish appropriate proceedings for public participation regarding such petitions and motions, including notice and comment.

(b) Transport Commissions.-

(1) Establishment.-Whenever the Administrator establishes a transport region under subsection (a), the Administrator shall establish a transport commission comprised of (at a minimum) each of the following members:

(A) The Governor of each State in the region or the designee of each such Governor.

(B) The Administrator or the Administrator's designee.

(C) The Regional Administrator (or the Administrator's designee) for each Regional Office for each Environmental Protection Agency Region affected by the transport region concerned.

(D) An air pollution control official representing each State in the region, appointed by the Governor.

Decisions of , and recommendations and requests to, the Administrator by each transport commission may be made only by a majority vote of all members other than the Administrator and the Regional Administrators (or designees thereof).

(2) Recommendations.-The transport commission shall assess the degree of interstate transport of the pollutant or precursors to the pollutant throughout the transport region, assess strategies for mitigating the interstate pollution, and recommend to the Administrator such measures as the Commission determines to be necessary to ensure that the plans for the relevant States meet the requirements of section 110(a)(2)(D). Such commission shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C.App.).

(c) Commission Requests.-A transport commission established under subsection (b) may request the Administrator to issue a finding under section 110(k)(5) that the implementation plan for one or more of the States in the transport region is substantially inadequate to meet the requirements of section 110(a)(2)(D). The Administrator shall approve, disapprove, or partially approve and partially disapprove such a request within 18 months of its receipt and, to the extent the Administrator approves such request, issue the finding under section 110(k)(5) at the time of such approval. In acting on such request, the Administrator shall provide an opportunity for public participation and shall address each specific recommendation made by the commission. Approval or disapproval of such a request shall constitute final agency action within the meaning of section 307(b).
[Sec. 176A. added by PL 101-549]

NEW MOTOR VEHICLE EMISSION STANDARDS IN NONATTAINMENT AREAS

Sec. 177. Notwithstanding section 209(a), any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 209(a) respecting such vehicles if-

(1) such standards are identical to the California standards for which a waiver has been granted for such model year, and

(2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator).

Nothing in this section or in title II of this Act shall be construed as authorizing any such State to prohibit or limit, directly or indirectly, the manufacture or sale of a new motor vehicle or motor vehicle or motor vehicle engine that is certified in California as meeting California standards, or to take any action of any kind to create, or have the effect of creating, a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards (a 'third vehicle') or otherwise create such a 'third vehicle'.
[Sec. 177 amended by PL 101-549]

GUIDANCE DOCUMENTS

Sec. 178. The Administrator shall issue guidance documents under section 108 for purposes of assisting States in implementing requirements of this part respecting the lowest achievable emission rate. Such a document shall be published not later than nine months after the date of enactment of this part and shall be revised at least every two years thereafter.

[Editor's note: Section 129(c) of PL 95-95 provides:

(c) Notwithstanding the requirements of section 406(d)(2) (relating to date required for submission of certain implementation plan revisions), for purposes of section 110(a)(2) of the Clean Air Act each State in which there is any nonattainment area (as defined in part D of title I of the Clean Air Act) shall adopt and submit an implementation plan revision which meets the requirements of section 110(a)(2)(I) and part D of title I of the Clean Air Act not later than January 1, 1979. In the case of any State for which a plan revision adopted and submitted before such date has made the demonstration required under section 172(a)(2) of the Clean Air Act (respecting impossibility of attainment before 1983), such State shall adopt and submit to the Administrator a plan revision before July 1, 1982, which meets the requirements of section 172(b) and (c) of such Act.)
[PL 95-190, November 16, 1977]

SANCTIONS AND CONSEQUENCES OF FAILURE TO ATTAIN

Sec. 179(a) State Failure.-For any implementation plan or plan revision required under this part (or required in response to a finding of substantial inadequacy as described in section 110(k)(5)), if the Administrator-

(1) finds that a State has failed, for an area designated nonattainment under section 107(d), to submit a plan, or to submit 1 or more of the elements has determined by the Administrator) required by the provisions of this Act applicable to such an area, or has failed to make a submission for such an area that satisfies the minimum criteria established in relation to any such element under section 110(k).

(2) disapproves a submission under section 110(k), for an area designated nonattainment under section 107, based on the submission's failure to meet one or more of the elements required by the provisions of this Act applicable to such an area,

(3)(A) determines that a State has failed to make any submission as may be required under this Act, other than one described under paragraph (1) or (2), including an adequate maintenance plan, or has failed to make any submission, as may be required under this Act, other than one described under paragraph (1) or (2), that satisfies the minimum criteria established in relation to such submission under section 110(k)(1)(A), or

(B) disapproves in whole or in part a submission described under subparagraph (A), or

(4) finds that any requirement of an approved plan (or approved part of a plan) is not being implemented, unless such deficiency has been corrected within 18 months after the finding, disapproval, or determination referred to in paragraphs (1), (2), (3), and (4), one of the sanctions referred to in subsection (b) shall apply, as selected by the Administrator, until the Administrator determines that the State has come into compliance, except that if the Administrator finds a lack of good faith, sanctions under both paragraph (1) and paragraph (2) of subsection (b) shall apply until the Administrator determines that the State has come into compliance. If the Administrator has selected one of such sanctions and the deficiency has not been corrected within 6 months thereafter, sanctions under both paragraph (1) and paragraph (2) of subsection (b) shall apply until the

Administrator determines that the State has come into compliance. In addition to any other sanction applicable as provided in this section, the Administrator may withhold all or part of the grants for support of air pollution planning and control programs that the Administrator may award under section 105.

(b) Sanctions.-The sanctions available to the Administrator as provided in subsection (a) are as follows:

(1) Highway sanctions.-(A) The Administrator may impose a prohibition, applicable to nonattainment area, on the approval by the Secretary of Transportation of any projects or the awarding by the Secretary of any grants, under title 23, United States Code, other than projects or grants for safety where the Secretary determines, based on accident or other appropriate data submitted by the State, that the principal purpose of the project is an improvement in safety to resolve a demonstrated safety problem and likely will result in a significant reduction in, or avoidance of, accidents. Such prohibition shall become effective upon the selection by the Administrator of this sanction.

(B) In addition to safety, projects or grants that may be approved by the Secretary, notwithstanding the prohibition in subparagraph (A), are the following-

(i) capital programs for public transit;

(ii) construction or restriction of certain roads or lanes solely for the use of passenger buses or high occupancy vehicles;

(iii) planning for requirements for employers to reduce employee work-trip-related vehicle emissions;

(iv) highway ramp metering, traffic signalization, and related programs that improve traffic flow and achieve a net emission reduction;

(v) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit operations;

(vi) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs;

(vii) programs for breakdown and accident scene management, nonrecurring congestion, and vehicle information systems, to reduce congestion and emissions; and

(viii) such other transportation-related programs as the Administrator, in consultation with the Secretary of Transportation, finds would improve air quality and would not encourage single occupancy vehicle capacity.

In considering such measures, the State should seek to ensure adequate access to downtown, other commercial, and residential areas, and avoid increasing or relocating emissions and congestion rather than reducing them.

(2) Offsets.-In applying the emissions offset requirements of section 173 to new or modified sources or emissions units for which a permit is required under part D, the ratio of emission reductions to increased emissions shall be at least 2 to 1.

(c) Notice of Failure to Attain.-(1) As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.

(2) Upon making the determination under paragraph (1), the Administrator shall publish a notice in the Federal Register containing such determination and identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis concerning the area's air quality as of the attainment date.

(d) Consequences for Failure to Attain.-(1) Within 1 year after the Administrator publishes the notice under subsection (c)(2) (relation to notice of failure to attain), each State containing a nonattainment area shall submit a revision to the applicable implementation plan meeting the requirements of paragraph (2) of this subsection.

(2) The revision required under paragraph (1) shall meet the requirements of section 110 and section 172. In addition, the revision shall include such additional measures as the Administrator may reasonably prescribe, including all measures that can be feasibly implemented in the area in

light of technological achievability, costs, and any nonair quality and other air qualtity-related health and environmental impacts.

(3) The attainment date applicable to the revision required under paragraph (1) shall be the same as provided in the provisions of section 172(a)(2), except that in applying such provisions the phrase from the date of the notice under section 179(c)(2) 'shall be substituted for the phrase from the date such area was designated nonattainment under section 107(d)' and for the phrase from the date of designation as nonattainment'.
[Sec. 179 added by PL 101-549]

CLASSIFICATION AND ATTAINMENT DATES

Sec. 181.(a) Classification and Attainment Dates for 1989 Nonattainment Areas.-(1) Each area designated nonattainment for ozone pursuant to section 107(d) shall be classified at the time of such designation under table 1, by operation of law, as a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendment of 1990. For each area classified under this subsection, the primary standard attainment date for ozone shall be as expeditiously as practicable but not later than the date provided in table 1.

TABLE 1

Area class	Design value*	Primary standard attainment date**
Marginal	0.121 up to 0.138	3 years after enactment
Moderate	0.138 up to 0.160	6 years after enactment
Serious	0.160 up to 0.180	9 years after enactment
Severe	0.180 up to 0.280	15 years after enactment
Extreme	0.280 and above	20 years after enactment

* design value is measured in parts per million (ppm).
** The primary standard attainment date is measured form the date of the enactment of the Clean Air Amendments of 1990.

(2) Notwithstanding table 1, in the case of a severe area with a 1988 ozone design value between 0.190 and 0.280 ppm, the attainment date shall be 17 years (in lieu of 15 years) after the date of the enactment of the Clean Air Amendments of 1990.

(3) At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each ozone nonattainment area, the Administrator shall publish a notice announcing the classification of such ozone nonattainment area, the Administrator shall publish a notice announcing the classification of such ozone nonattainment area. The Provisions of section 172(a)(1)(B) (relating to lack of notice and comment and judicial review) shall apply to such classification.

(4) If an area classified under paragraph (1) (Table 1) would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the initial classification, by the procedure required under paragraph (3), adjust the classification to place the area in such other category. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for ozone in the area, the level of pollution transport between the area and other affected areas, including both intrastate and interstate transport,and the mix of sources and air pollutants in the area.

(5) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the "Extension Year") the date specified in table 1 of paragraph (1) of this subsection if-

(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

(b) New Designations and Reclassifications.-(1) New designations to nonattainment.-Any area that is designated attainment or unclassifiable for ozone under section 107(d)(4), and that is subsequently redesignated to nonattainment for ozone under section 107(d)(3), shall, at time of the redesignation, be classified by operation of law in accordance with table 1 under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(3), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified under this paragraph.

(2) Reclassification upon failure to attain.-(A) Within 6 months following the applicable attainment date (including

any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date. Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) to the higher of-

(i) the next higher classification for the area, or

(ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

No area shall be reclassified as Extreme under clause (ii).

(B) The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined under subparagraph (A) as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

(3) Voluntary reclassification.-The Administrator shall grant the request of any State to reclassify a nonattainment area in that State in accordance with table 1 of subsection (a) to a higher classification. The Administrator shall publish a notice in the Federal Register of any such request and of action by the Administrator granting the request.

(4) Failure of severe areas to attain standard.-(A) If any Severe Area fails to achieve the national primary ambient air quality standard for ozone by the applicable attainment date (including any extension thereof), the fee provisions under section 185 shall apply within the area, the percent reduction requirements of section 182(c)(2)(B) and (C) (relating to reasonable further progress demonstration and NOx control) shall continue to apply to the area, and the State shall demonstrate that such percent reduction has been achieved in each 3-year interval after such failure until the standard is attained. Any failure to make such a demonstration shall be subjected to the sanctions provided under this part.

(B) In addition to the requirements of subparagraph (A), if the ozone design value for a Severe Area referred to in subparagraph (A) is above 0.140 ppm for the year of the applicable attainment date, or if the area has failed to

achieve its most recent milestone under section 182(g), the new source review requirements applicable under this subpart in Extreme Areas shall apply in the area and the term 'major source' and 'major stationary source' shall have the same meaning as in Extreme Areas.

(C) In addition to the requirements of subparagraph (A) for those areas referred to in subparagraph (A) for those areas referred to in subparagraph (A) and not covered by subparagraph (B), the provisions referred to in subparagraph (B) shall apply after 3 years from the applicable attainment date unless the area has attained the standard by the end of such 3-year period.

(D) If, after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator modifies the method of determining compliance with the national primary ambient air quality standard, a design value or other indicator comparable to 0.140 in terms of its relationship to the standard shall be used in lieu of 0.140 for purposes of applying the provisions of subparagraphs (B) and (C).

(c) References to terms.-(1) Any reference in this subpart to a 'Marginal Area', a 'Serious Area', a 'Severe Area', or an 'Extreme Area' shall be considered a reference to a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area as respectively classified under this section.

(2) Any reference in this subpart to `next higher classification' or comparable terms shall be considered a reference to the classification related to the next higher set of design values in table 1.

PLAN SUBMISSIONS AND REQUIREMENTS

Sec. 182. (a) Marginal Areas.-Each State in which all or part of a Marginal Area is located shall, with respect to the Marginal Area (or portion thereof, to the extent specified in this subsection), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection except to the extent the State has made such submissions as of the date of the enactment of the Clean Air Act Amendments of 1990.

(1)Inventory.-Within 2 years after the date of the enactment of the Clean Air Act amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

(2) Corrections to the State Implementation Plan.-Within the periods prescribed in this paragraph, the State shall submit a revision to the State implementation plan that meets the following requirements-

(A) Reasonably Available Control Technology Corrections.-For any Marginal Area (or, within the Administrator's discretion, portion thereof) the State shall submit, within 6 months of the date of classification under section 181(a), a revision that includes such provisions to correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 172(b) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in guidance issued by the Administrator under section 108 before the date of the enactment of the Clean Air Amendments of 1990.

(B) Savings Clause for Vehicle Inspection and Maintenance.-(i) For any marginal Area (or, within the Administrator's discretion, portion thereof), the plan for which already includes, or was required by section 172(b)(11)(B) (as in effect immediately before the enactment of the Clean Air Act Amendments of 1990) to have included, a specific schedule for implementation of a vehicle emission control inspection and maintenance program, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments 1990, a revision that includes any provisions necessary to provide for a vehicle inspection and maintenance program of no less stringency than that of either the program defined in House Report Numbered 95-294, 95th Congress, 1st Session, 281-291 (1977) as interpreted in

guidance of.the Administrator issued pursuant to section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or the program already included in the plan whichever is more stringent.

(ii) Within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review, revise, update, and republish in the Federal Register the guidance for the States for motor vehicle inspection and maintenance programs required by this Act, taking into consideration the Administrator's investigations and audits of such program. The guidance shall, at a minimum, cover the frequency of inspections, the types of vehicles.to be inspected (which shall include leased vehicles that are registered in the nonattainment area), vehicle maintenance by owners and operators, audits by the State, the test method and measures, including whether.centralized or decentralized, inspection methods and procedures, quality of inspection, components covered, assurance that a vehicle subject to a recall notice from a manufacturer has complied with that notice, and effective implementation and enforcement, including ensuring that any retesting of a vehicle after a failure shall include proof of corrective action and providing for denial of vehicle registration in the case of tampering or misfueling. The guidance which shall be incorporated in the applicable State implementation plans by the States shall provide the States with continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer. No later than 2 years after the Administrator.promulgates regulations under section 202(m)(3) (relating to emission control diagnostics), the State shall submit a revision to such program to meet any requirements that the Administrator.may prescribe under that section.

(C) Permit Programs.-Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that includes each of the following:

(i) Provisions to require permits, in accordance with sections 172(c)(5) and 173, for the construction and operation of each new or modified major stationary source (with respect to ozone) to be located in the area.

(ii) Provisions to correct requirements in (or add requirements to) the plan concerning permit programs as were required under section 172(b)(6) (as in effect immediately

before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in regulations of the Administrator promulgated as of the enactment of the Clean Air Act Amendments of 1990.

(3) Periodic Inventory.-(A) General Requirement.- No later than the end of each 3-year period after submission of the inventory under paragraph (1) until the area is redesigned to attainment, the State shall submit a revised inventory meeting the requirements of subsection(a)(1).

(B) Emissions Statements.-(i) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the State implementation plan to require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source. The first such statement shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. Subsequent statements shall be submitted at least every year thereafter. The statement shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement

(ii) The State may waive the application of clause (i) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.

(4) General Offset Requirement.-For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increased emissions of such air pollutant shall be at least 1.1 to 1. The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. The requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable

implementation plan provides for attainment of the ozone standard by the applicable attainment date in any Marginal Area. Section 172(c)(9) (relating to contingency measures) shall not apply to Marginal Areas.

(b) Moderate Areas.- Each State in which all or part of a Moderate Areas is located shall, with respect to the Moderate Area, make the submission described under subsection(a) (relating to Marginal Areas), and shall also submit the revisions to the applicable implementation plan described under this subsection.

(1) Plan Provisions for Reasonable Further Progress.-(A) General Rule.-(i) By no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, The State shall submit a revision to the applicable implementation plan to provide for volatile organic compound emission reductions, within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, of at least 15 percent from baseline emissions, accounting for any growth in emissions after the year in which the Clean Air Act Amendments of 1990 are enacted. Such plan shall provide for such specific annual reductions in emissions of volatile organic compounds and oxides of nitrogen as necessary to attain the national primary ambient air quality standard for ozone by the attainment date applicable under this Act. This subparagraph shall not apply in the case of oxides of nitrogen for those areas for which the Administrator determines (when the Administrator approves the plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment.

(ii) A percentage less than 15 percent may be used for purposes of clause (i) in the case of any State which demonstrates to the satisfaction of the Administrator that-

(I) new source review provisions are applicable in the nonattainment areas in the same manner and to the same extent as required under subsection (e) in the case of Extreme Areas (with the exception that, in applying such provisions, the terms 'major source' and 'major stationary source' shall include (in addition to the sources described in section 302) any stationary source or group of source is located within a contiguous area and under common control that emits or has the potential to emit, at least 5 tons per year of volatile organic compounds);

(II) reasonably available control technology is required for all existing major sources (as defined in subclause (I)); and

(III) the plan reflecting a lesser percentage than 15 percent includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To qualify for a lesser percentage under this clause, a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher category.

(B) Baseline Emissions.-For purposes of subparagraph (A), the term 'baseline emissions' means the total amount of actual VOC or NOx emissions from all anthropogenic sources in the area during the calendar year of the enactment of the Clean Air Act Amendments of 1990, excluding emissions that would be eliminated under the regulations described in clauses (i) and (ii) of subparagraph (D).

(C) General Rule for Creditability of Reductions.-Except as provided under subparagraph (D), emissions reductions are creditable toward the 15 percent required under subparagraph (A) to the extent they have actually occurred, as of 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit under title V.

(D) Limits on Creditability of Reductions.-Emission reductions from the following measures are not creditable toward the 15 percent reductions required under subparagraph (A):

(i) Any measures relating to motor vehicle exhaust or evaporative emissions promulgated by the Administrator by January 1, 1990.

(ii) Regulations concerning Reid Vapor Pressure promulgated by the Administrator by the date of the enactment of the Clean Air Act Amendments of 1990 or required to be promulgated under section 211(h).

(iii) Measures required under subsection (a)(2)(A) (concerning corrections to implementation plans prescribed under guidance by the Administrator).

(iv) Measures required under subsection (a)(2)(B) to be submitted immediately after the date of the enactment of the

Clean Air Act Amendments of 1990 (concerning corrections to motor vehicle inspection and maintenance programs).

(2) Reasonably Available Control Technology.- The State shall submit a revision to the applicable implementation plan to include provisions to require the implementation of reasonably available control technology under section 172(c)(1) with respect to each of the following:

(A) Each category of VOC sources in the area covered by a CTG document issued by the Administrator between the date of the enactment of the Clean Air Act Amendments of 1990 and the date of attainment.

(B) All VOC sources in the area covered by any CTG issued before the date of the enactment of the Clean Air Act Amendments of 1990.

(C) All other major stationary sources of VOCs that are located in the area. Each revision described in subparagraph (A) shall be submitted within the period set forth by the Administrator in issuing the relevant CTG document. The revisions with respect to sources described in subparagraphs (B) and (C) shall be submitted by 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, and shall provide for the implementation of the required measures as expeditiously as practicable but no later than May 31, 1995.

(3) Gasoline Vapor Recovery.-(A) General Rule.-Not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to require all owners or operators of gasoline dispensing systems to install and operate, by the date prescribed under subparagraph (B), a system for gasoline vapor recovery of emissions from the fueling of motor vehicles. The Administrator shall issue guidance as appropriate as to the effectiveness of such system. This subparagraph shall apply only to facilities which sell more than 10,000 gallons of gasoline per month (50,000 gallons per month in the case of an independent small business marketer of gasoline as defined in section 325).

(B) Effective Date.-The date required under subparagraph (A) shall be-

(i) 6 months after the adoption date, in the case of gasoline dispensing facilities for which construction commenced after the date of the enactment of the Clean Air Act Amendments of 1990.

(ii) one year after the adoption date, in the case of gasoline dispensing facilities which dispense at least 100,000 gallons of gasoline per month, based on average monthly sales for the 2-year period before the adoption date; or

(iii) 2 years after the adoption date, in the case of all other gasoline dispensing facilities.

Any gasoline dispensing facility described under both clause (i) and clause (ii) shall meet the requirements of clause (i).

(C) Reference to Terms.-For purposes of this paragraph, any reference to the term 'adoption date' shall be considered a reference to the date of adoption by the State of requirements for the installation and operation of a system for gasoline vapor recovery of emissions from the fueling of motor vehicles.

(4) Motor Vehicle Inspection and Maintenance.- For all Moderate areas, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan that includes provisions necessary to provide for a vehicle inspection and maintenance program as described in subsection (a)(2)(B) (without regard to whether or not the area was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included a specific schedule for implementation of such a program).

(5) General Offset Requirement.-For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.15 to 1.

(c) Serious Areas.-Except as otherwise specified in paragraph (4), each State in which all or part of a Serious Area is located shall, with respect to the Serious Area (or portion thereof, to the extent specified in this subsection), make the submissions described under subsection (b) (relating to Moderate Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Serious Area, the terms 'major source' and 'major stationary source' include (in addition to the source described in section 302) any stationary source or group or sources located within a

contiguous area and under common control that emits or has the potential to emit, at least 50 tons per year of volatile organic compounds.

(1) Enhanced Monitoring.- In order to obtain more comprehensive and representative data on ozone air pollution not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 the Administrator shall promulgate rule, after notice and public comment, for enhanced monitoring of ozone, oxides of nitrogen, and volatile organic compounds. The rules shall, among other things, cover the location and maintenance of monitors. Immediately following the promulgation of rules by the Administrator relating to enhanced monitoring, the State shall commence such actions as may be necessary to adopt and implement a program based on such rules, to improve monitoring for ambient concentrations of ozone, oxides of nitrogen and volatile organic compounds and to improve monitoring of emissions of oxides of nitrogen and volatile organic compounds. Each State implementation plan for the area shall contain measures to improve the ambient monitoring of such air pollutants.

(2) Attainment and Reasonable Further Progress Demonstrations.- Within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan that includes each of the following:

(A) Attainment Demonstration.-A demonstration that the plan, as revised, will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.

(B) Reasonable Further Progress Demonstration.-A demonstration that the plan, as revised, will result in VOC emissions reductions from the baseline emissions described in subsection (b)(1)(B) equal to the following amount averaged over each consecutive 3-year period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, until the attainment date:

(i) at least 3 percent of baseline emissions each year; or

(ii) an amount less than 3 percent of such baseline emissions each year, if the State demonstrates to the

satisfaction of the Administrator that the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To lessen the 3 percent requirement under clause (ii), a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher classification. Any determination to lessen the 3 percent requirement shall be reviewed at each milestone under section 182(g) and revised to reflect such new measures (if any) achieved in practice by sources in the same category in any State, allowing a reasonable time to implement such measures. The emission reductions described in this subparagraph shall be calculated in accordance with subsection (b)(1)(C) and (D) (concerning creditability of reductions). The reductions creditable for the period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, shall include reductions that occurred before such period, computed in accordance with subsection (b)(1), that exceed the 15-percent amount of reductions required under subsection (b)(1)(A).

(C) NOx Control. The revision may contain, in lieu of the demonstration required under subparagraph (B), a demonstration to the satisfaction of the Administrator that the applicable implementation plan, as revised, provides for reductions of emissions of VOC's and oxides of nitrogen (calculated according to the creditability provisions of subsection (b)(1)(C) and (D)), that would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emission reductions required under subparagraph (B). Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidance concerning the conditions under which NOx control may be substituted for VOC control or may be combined with VOC control in order to maximize the reduction in ozone air pollution. In accord with such guidance, a lesser percentage of VOCs may be accepted as an adequate demonstration for purposes of this subsection.

(3) Enhanced Vehicle Inspection and Maintenance Program.- (A) Requirement For Submission-Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for an enhanced program to reduce hydrocarbon emissions and NOx emissions from inuse motor vehicles registered in each urbanized area (in the

nonattainment area), as defined by the Bureau of the Census, with a 1980 population of 200,000 or more.

(B) Effective Date of State Program; Guidance.- The State program required under subparagraph (A) shall take effect no later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, and shall comply in all respects with guidance published in the Federal Register (and from time to time revised) by the Administrator for enhanced vehicle inspection and maintenance programs. Such guidance shall include-

(i) a performance standard achievable by a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and

(ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard.

Compliance with the performance standard under clause (i) shall be determined using a method to be established by the Administrator.

(C) State Program.- The State program required under subparagraph (A) shall include, at a minimum, each of the following elements-

(i) Computerized emission analyzers, including on-road testing devices.

(ii) No waivers for vehicles and parts covered by the emission control performance warranty as provided for in section 207(b) unless a warranty remedy has been denied in writing, or for tampering-related repairs.

(iii) In view of the air quality purpose of the program, if, for any vehicle, waivers are permitted for emissions-related repairs not covered by warranty, an expenditure to qualify for the waiver of an amount of $450 or more for such repairs (adjusted annually as determined by the Administrator on the basis of the Consumer Price Index in the same manner as provided in title V).

(iv) Enforcement through denial of vehicle registration (except for any program in operation before the date of the

enactment to the Clean Air Act Amendments of 1990 whose enforcement mechanism is demonstrated to the Administrator to be more effective than the applicable vehicle registration program in assuring that noncomplying vehicles are not operated on public roads).

(v) Annual emission testing and necessary adjustment, repair, and maintenance, unless the State demonstrates to the satisfaction of the Administrator that a biennial inspection, combination with other features of the program which exceed the requirements of this Act, will result in emission reductions which equal or exceed the reductions which can be obtained through such annual inspections.

(vi) Operation of the program on a centralized basis, unless the State demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective. An electronically connected testing system, a licensing system, or other measures (or any combination thereof) may be considered in accordance with criteria established by the Administrator, as equally effective for such purposes.

(vii) Inspection of emission control diagnostic systems and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems.

Each State shall biennially prepare a report to the Administrator which assesses the emission reductions achieved by the program required under this paragraph based on data collected during inspection and repair of vehicles. The methods used to assess the emission reductions shall be those established by the Administrator.

(4) Clean-Fuel Vehicle Programs.- (A) Except to the extent that substitute provisions have been approved by the Administrator under subparagraph (B), the State shall submit to the Administrator, within 42 months of the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan for each area described under part C of title II to include such measures as may be necessary to ensure the effectiveness of the applicable provisions of the clean-fuel vehicle program prescribed under part C of title II, including all measures necessary to make the use of clean alternative fuels in clean-fuel vehicles (as defined in part C of title II) economic from the standpoint of vehicle owners. Such a revision shall also be submitted for each area that opts into the clean fuel-vehicle program as provided in part C of title II.

(B) The Administrator shall approve, as a substitute for all or a portion of the clean-fuel vehicle program prescribed under part C of title II, any revision to the relevant applicable implementation plan that in the Administrator's judgement will achieve long-term reductions in ozone-producing and toxic air emissions equal to those achieved under part C of title II, or the percentage thereof attributable to the portion of the clean-fuel vehicle program for which the revision is to substitute. The Administrator may approve such revision only if it consists exclusively of provisions other than those required under this Act for the area. Any State seeking approval of such revision must submit the revision to the Administrator within 24 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve or disapprove any such revision within 30 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall publish the revision submitted by a State in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on whether or not to approve such revision and shall be deemed to comply with the requirements concerning notice of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States Code (related to notice and comment). Where the Administrator approves such revision for any area, the State need not submit the revision required by subparagraph (A) for the area with respect to the portions of the Federal clean-fuel vehicle program for which the Administrator has approved the revision as a substitute.

(C) If the Administrator determines, under section 179, that the State has failed to submit any portion of the program required under subparagraph (A), then, in addition to any sanctions available under section 179, the state may not receive credit, in any demonstration of attainment or reasonable further progress for the area, for any emission reductions from implementation of the corresponding aspects of the Federal clean-fuel vehicle requirements established in part C of title II.

(5) Transportation Control - (A) Beginning six years after the date of the enactment of the Clean Air Act Amendments of 1990 and each third year thereafter, the State shall submit a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emission, congestion levels, and other relevant parameter are consistent with those used for the area's demonstration of attainment. Where such parameters and emissions levels exceed the levels projected for purposes of the area's attainment demonstration, the State shall within 18 months develop and

submit a revision of the applicable implementation plan that includes a transportation control measures program consisting of measures from, but limited to, section 108(f) that will reduce emissions to levels that are consistent with emission levels projected in such demonstration. In considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(e) and with the requirements of section 174(b) and shall include implementation and funding schedules that achieve expeditious emissions reductions in accordance with implementation plan projections.

(6) De Minimis Rule. - The new source review provisions under this part shall ensure that increased emissions of volatile organic compounds resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall not be considered de minimis for purposes of determining the applicability of the permit requirements established by this Act unless the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years which includes the calendar year in which such increase occurred.

(7) Special Rule for Modifications of Sources Emitting Less than 100 Tons. - In the case of any major stationary source of volatile organic compounds located in the area (other than a source which emits or has the potential to emit 100 tons or more of volatile organic compounds per year), whenever any change (as described in section 111(a)(4) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that such increase shall not be considered a modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds concerned from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such election, such change shall be considered a modification for such purposes, but in applying section 173(a)(2) in the case of any such modification, the best available control technology (BACT),

as defined in section 169, shall be substituted for the lowest achievable emission rate (LAER). The Administrator shall establish and publish policies and procedures for implementing the provisions of this paragraph.

(8) Special Rule for Modification of Sources Emitting 100 Tons or More. - In the case of any major stationary source of volatile organic compounds located in the area which emits or has the potential to emit 100 tons or more of volatile organic compounds per year, whenever any change (as described in section 11(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of section 173(a)(2) concerning the lowest achievable emission rate (LAER) shall not apply.

(9) Contingency Provisions. - In addition to the contingency provisions required under section 172(c)(9), the plan revision shall provide for the implementation of specific measures to be undertaken if the area fails to meet any applicable milestone. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator upon a failure by the State to meet the applicable milestone.

(10) General Offset Requirement. - For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.2 to 1. Any reference to 'attainment date' in subsection (b), which is incorporated by reference into this subsection, shall refer to the attainment date for serious areas.

(d) Severe Areas. - Each State in which all or part of a Severe Area is located shall, with respect to the Severe Area, make the submissions described under subsection (c) (relating to Serious Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Severe Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in

section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of volatile organic compounds.

(1) Vehicle Miles Traveled.- (A) Within two years after the date of enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area and to attain reduction in motor vehicle emissions as necessary, in combination with other emission reduction requirements of this subpart, to comply with the requirements of subsection (b)(2)(B) and (c)(2)(B) (pertaining to periodic emissions reduction requirements). The State shall consider measures specified in section 108(f), and choose from among and implement such measures as necessary to demonstrate attainment with the national ambient air quality standards; in considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them.

(B) Within two years after the date of enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision requiring employers in such area to implement programs to reduce work-related vehicle trips and miles traveled by employees. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall, at a minimum, require that each employer of 100 or more persons in such area increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25 percent above the average vehicle occupancy for all such trips in the area at the time the revision is submitted. The guidance of the Administrator may specify average vehicle occupancy rates which vary for locations within a nonattainment area (suburban, center city, business district) or among nonattainment areas reflecting existing occupancy rates and the availability of high occupancy modes. The revision shall provide that each employer subject to a vehicle occupancy requirement shall submit a compliance plan within two years after the date the revision is submitted which shall convincingly demonstrate compliance with the requirements of this paragraph not later than four years after such date.

(2) Offset Requirement. - For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.3 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

(3) Enforcement Under Section 185. - By December 31, 2000, the State shall submit a plan revision which includes the provisions required under section 185. Any reference to the term 'attainment date' in subsection (b) or (c), which is incorporated by reference into this subsection (d), shall refer to the attainment date for Sever Areas.

(e) Extreme Areas. - Each State in which all or part of an Extreme Area is located shall, with respect to the Extreme Area, make the submissions described under subsection (d) (relating to Severe Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. The provisions of clause (ii) of subsection (c)(2)(B) (relating to reductions of less than 3 percent), the provisions of paragraphs (6), (7) and (8) of subsection (c) relating to de minimus rule and modification of sources), and the provisions of clause (ii) of subsection (b)(1)(A) (relating to reductions of less than 15 percent) shall not apply in the case of an Extreme Area. For any Extreme Area, the terms "major source" and "major stationary source" includes (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 10 tons per year of volatile organic compounds.

(1) Offset Requirement. - For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.5 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

(2) Modifications - Any change (as described in section 111(a)(4)) at a major stationary source which results in any increase in emissions from any discrete operation, unit, or other pollutant emitting activity at the source shall be considered a modification for purposes of section 172(c)(5)

and section 1173(a), except that for purposes of complying with the offset requirement pursuant to section 173(a)(1), any such increase shall not be considered a modification if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of the air pollutant concerned from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. The offset requirements of this part shall not be applicable in Extreme Areas to a modification of an existing source if such modification consists of installation of equipment required to comply with the applicable implementation plan, permit, or this Act.

(3) Use of Clean Fuels or Advanced Control Technology. - For Extreme Areas, a plan revision shall be submitted within three years after the date of the enactment of the Clean Air Act Amendments of 1990 to require, effective eight years after such date, that each new, modified, and existing electric utility and industrial and commercial boiler which emits more than 25 tons per year of oxides of nitrogen --

(A) burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low polluting fuel), or

(B) use advanced technology (such as catalytic control technology or other comparably effective control methods) for reduction of emissions of oxides of nitrogen. For purposes of this subsection, the term "primary fuel" means the fuel which is used 90 percent or more of the operating time. This paragraph shall not apply during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act 1978).

(4) Traffic Control Measures During Heavy Traffic Hours. - For Extreme Areas, each implementation plan revision under this subsection may contain provisions establishing traffic control measures applicable during heavy traffic hours to reduce the use of high polluting vehicles or heavy-duty vehicles, notwithstanding any other provision of law.

(5) New Technologies. - The Administrator may, in accordance with section 110, approve provisions of an implementation plan for an Extreme Area which anticipate development of new control techniques or improvement of existing control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that -

(A) such provisions are not necessary to achieve the incremental emission reductions required during the first 10

years after the date of the enactment of the Clean Air Act Amendments of 1990, and

(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions. Such contingency measures shall be submitted to the Administrator no later than three years before proposed implementation of the plan provisions and approved or disapproved by the Administrator in accordance with section 110. The contingency measures shall be adequate to produce emission reductions sufficient, in conjunction with other approved plan provisions, to achieve the periodic emission reductions required by subsection(b)(1) or (c)(2) and attainment by the applicable dates. If the Administrator determines that an Extreme Area has failed to achieve an emission reduction requirement set forth in subsection (b)(1) or (c)(2), and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with subsections (b)(1) and (c)(2). Any reference to the term 'attainment date' in subsection (b), (c), or (d) which is incorporated by reference into this subsection, shall refer to the attainment date for Extreme Areas.

(f) NOx Requirements. - (1) The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of this section) of oxides of nitrogen. This subsection shall not apply in the case of oxides of nitrogen for those sources for which the Administrator determines (when the Administrator approves a plan or plan revision) that net air quality benefits are greater in the absence of reductions of oxides of nitrogen from the sources concerned. This subsection shall also not apply in the case of oxides of nitrogen for -

(A) nonattainment areas not within an ozone transport region under section 184 if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment of the national ambient air quality standard for ozone in the area, or

(B) nonattainment areas within such an ozone transport region if the Administrator determines (when the Administrator approves a plan or plan revision) that

additional reductions of oxides of nitrogen would not produce net ozone air quality benefits in such region. The Administrator shall, in the Administrator's determinations, consider the study required under section 185B.

(2)(A) If the Administrator determines that excess reductions in emissions of NOx would be achieved under paragraph (1), the Administrator may limit the application of paragraph (1) to the extent necessary to avoid achieving such excess reductions.

(B) For purposes of this paragraph, excess reductions in emission of NOx are emission reductions for which the Administrator determines that net air quality benefits are greater in the absence of such reductions. Alternatively, for purposes of this paragraph, excess reductions in emissions of NOx are, for -

(i) nonattainment areas not within an ozone transport region under section 184, emission reductions that the Administrator determines would not contribute to attainment of the national ambient air quality standard for ozone in the area, or

(ii) nonattainment areas within such ozone transport region, emission reductions that the Administrator determines would not produce net ozone air quality benefits in such region.

(3) At any time after the final report under section 185B is submitted to Congress, a person may petition the Administrator for a determination under paragraph (1) or (2) with respect to any nonattainment area or any ozone transport region under section 184. The Administrator shall grant or deny such petition within six months after its filing with the Administrator.

(g) Milestones. - (1) Reductions In Emissions. - six years after the date of the enactment of the Clean Air Amendments of 1990 and at intervals of every three years thereafter, the State shall determine whether each nonattainment area (other than an area classified as Marginal or Moderate) has achieved a reduction in emissions during the preceding intervals equivalent to the total emission reductions required to be achieved by the end of such interval pursuant to subsection (b)(1) and the corresponding requirements of subsections (c)(2)(B) and (C), (d), and (e). Such reduction shall be referred to in this section as an applicable milestone.

(2) Compliance Demonstration. - For each nonattainment area referred to in paragraph (1), no later than 90 days after the date on which an applicable milestone occurs (not including an attainment date on which a milestone occurs in cases where the standard has been attained), each State in which all or part of such area is located shall submit to the Administrator a demonstration that the milestone has been met. A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require, by rule. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

(3) Serious and Severe Areas, State Election. - If a State fails to submit a demonstration under paragraph (2) for any Serious or Severe Area within the required period or if the Administrator determines that the area has not met any applicable milestone, the State shall elect, within 90 days after such failure or determination-

(A) to have the area reclassified to the next higher classification,

(B) to implement specific additional measures adequate, as determined by the Administrator, to meet the next milestone as provided in the applicable contingency plan, or

(C) to adopt an economic incentive program as described in paragraph (4). If the State makes an election under subparagraph (B), the Administrator shall, within 90 days after the election, review such plan and shall, if the Administrator finds the contingency plan inadequate, require further measures necessary to meet such milestone. Once the State makes an election, it shall be deemed accepted by the Administrator as meeting the election requirement. If the State fails to make an election required under this paragraph within the required 90-day period or within six months thereafter, the area shall be reclassified to the next higher classification by operation of law at the expiration of such 6-month period. Within 12 months after the date required for the State to make an election, the State shall submit a revision of the applicable implementation plan for the area that meets the requirements of this paragraph. The Administrator shall review such plan revision and approve or disapprove the revision within nine months after the date of its submission.

(4) Economic Incentive Program. - (A) An economic incentive program under this paragraph shall be consistent with rules published by the Administrator and sufficient, in combination with other elements of the State plan, to achieve the next milestone. The State program may include a nondiscriminatory system, consistent with applicable law regarding interstate commerce, of State established emissions fees or a system of marketable permits, or a system of State fees on sale or manufacture of products the use of which contributes to ozone information, or any combination of the foregoing or other similar measures. The program may also include incentives and requirements to reduce vehicle emissions and vehicle miles traveled in the area, including any of the transportation control measures identified in section 108(f).

(B) Within two years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish rules for the programs to be adopted pursuant to subparagraph (A). Such rules shall include model plan provisions which may be adopted for reducing emissions from permitted stationary sources, area sources, and mobile sources. The guidelines shall require that any revenues generated by the plan provisions adopted pursuant to subparagraph (A) shall be used by the State for any of the following:

(i) Providing incentives for achieving emission reductions.

(ii) Providing assistance for the development of innovative technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings. Such assistance shall not provide for the payment of more than 75 percent of either the costs of any project to develop such a technology or the costs of development of a lower-polluting solvent or surface coating.

(iii) Funding the administrative costs of State programs under this Act. Not more than 50 percent of such revenues may be used for purposes of this clause.

(5) Extreme Areas. - If a State fails to submit a demonstration under paragraph (2) for any Extreme Area within the required period, or if the Administrator determines that the area has not met any applicable milestone, the State shall, within nine months after such failure or determination, submit a plan revision to implement an economic incentive program which meets the requirement of

paragraph (4). The Administrator shall review such plan revision and approve or disapprove the revision within nine months after the date of its submission.

(h) Rural Transport Areas. - (1) Notwithstanding any other provision of section 181 or this section, a State containing an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census), which area is treated by the Administrator, in the Administrator's discretion, as a rural transport area within the meaning of paragraph (2), shall be treated by operation of law as satisfying the requirements of this section if it makes the submissions required under subsection(a) of this section (relating to marginal areas).

(2) The Administrator may treat an ozone nonattainment area as a rural transport area if the Administrator finds that sources of VOC (and, where the Administrator determines relevant, NOx) emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.

(i) Reclassified Areas. - Each State containing an ozone nonattainment area reclassified under section 181(b)(2) shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.

(j) Multi-State Ozone Nonattainment Areas. - (1) Coordination Among States - Each State in which there is located a portion of a single ozone nonattainment area which covers more than one State (hereinafter in this section referred to as 'multi-State ozone nonattainment area') shall-

(A) take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned; and

(B) use photochemical grid modeling or any other analytical method determined by the Administrator, in his discretion, to be at least as effective. The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a

multi-State ozone nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

(2) Failure to Demonstrate Attainment. - If any State in which there is located a portion of a multi-State ozone nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for ozone in that portion within the required period, the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 182 (relating to plan submissions and requirements for ozone nonattainment areas). If the Administrator makes such finding, the provisions of section 179 (relating to sanctions) shall not apply, by reason of the failure to make such demonstration, in the portion of the multi-State ozone nonattainment area within the State submitting such petition.

CONTROL OF INTERSTATE OZONE AIR POLLUTION

Sec. 184.(a) Ozone Transport Regions.-A single transport region for ozone (within the meaning of section 176A (a)),comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, is hereby established by operation of law. The provisions of section 176(a)(1) and (2) shall apply with respect to the transport region established under this section and any other transport region established for ozone, except to the extent inconsistent with the provisions of this section. The Administrator shall convene the commission required (under section 176A(b)) as a result of the establishment of such region within 6 months of the date of the enactment of the Clean Air Act Amendments of 1990.

(b) Plan Provisions for States in Ozone Transport Regions.-(1) In accordance with section 110, not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 (or 9 months after the subsequent inclusion of a State in a transport region established for ozone), each State included within a transport region established for ozone shall submit a State implementation plan or revision thereof to the Administrator which requires the following-

(A) that each area in such State that is in an ozone transport region, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more comply with the provisions of section 182(c)(2)(A) (pertaining to enhanced vehicle inspection and maintenance programs); and

(B) implementation of reasonably available control technology with respect to all sources of volatile organic compounds in the State covered by a control techniques guideline issued before or after the date of the enactment of the Clean Air Act Amendments of 1990.

(2) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study identifying control measures capable of achieving emission reductions comparable to those achievable through vehicle refueling controls contained in section 182(b)(3), and such measures or such vehicle refueling controls shall be implemented in accordance with the provisions of this section. Notwithstanding other deadlines in this section, the applicable implementation plan shall be

revised to reflect such measures within 1 year of completion of the study. For purposes of this section any stationary source that emits or has the potential to emit at least 50 tons per year of volatile organic compounds shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area is classified as a Moderate nonattainment area.

(c) Additional Control Measures. -(1) Recommendations.- Upon petition of any State within a transport region established for ozone, and based on a majority vote of the Governors on the Commission (or their designees), the Commission may, after notice and opportunity for public comment, develop recommendations for additional control measures to be applied within all or a part of such transport region if the commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by this subpart. The commission shall transmit such recommendations to the Administrator.

(2) Notice and Review.-Whenever the Administrator receives recommendations prepared by a commission pursuant to paragraph (1) (the date of receipt of which shall hereinafter in this section be referred to as the receipt date), the Administrator shall-

(A) immediately publish in the Federal Register a notice stating that the recommendations are available and provide an opportunity for public hearing within 90 days beginning on the receipt date; and

(B) commence a review of the recommendations to determine whether the control measures in the recommendations are necessary to bring any area in such region into attainment by the dates provided by this subpart and are otherwise consistent with this Act.

(3) Consultation.-In undertaking the review required under paragraph (2)(B), the Administrator shall consult with members of the commission of the affected States and shall take into account the data, views, and comments received pursuant to paragraph (2) (A).

(4) Approval and Disapproval.-Within 9 months after the receipt date, the Administrator shall (A) determine whether to approve, disapprove, or partially disapprove and partially approve the recommendations; (B) notify the commission in writing of such approval, disapproval, or partial disapproval; and (C) publish such determination in the

Federal Register. If the Administrator disapproves or partially disapproves the recommendations, the Administrator shall specify-

(i) why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by this subpart or are otherwise not consistent with the Act; and

(ii) recommendations concerning equal or more effective actions that could be taken by the commission to conform the disapproved portion of the recommendations to the requirements of this section.

(5) Finding.-Upon approval or partial approval of recommendations submitted by a commission, the Administrator shall issue to each State which is included in the transport region and to which a requirement of the approved plan applies, a finding under section 110(k) (5) that the implementation plan for such State is inadequate to meet the requirements of section 110 (a) (2) (D). Such finding shall require each such State to revise its implementation plan to include the approved additional control measures within one year after the finding is issued.

(d) Best Available Air Quality Monitoring and Modeling.- For purposes of this section, not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria for purposes of determinig the contribution of sources in one area to concentrations of ozone. Such criteria shall require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations.

ENFORCEMENT FOR SEVERE AND EXTREME OZONE NONATTAINMENT AREAS FOR FAILURE TO ATTAIN.

Sec. 185. (a) General Rule.-Each implementation plan revision required under section 182(d) and (e) (relating to the attainment plan for Severe and Extreme ozone nonattainment areas) shall provide that, if the area to which such plan revision applies has failed to attain the national primary ambient air quality standard for ozone by the applicable attainment date, each major stationary source of VOCs located in the area shall, except as otherwise provided under subsection (c), pay a fee to the State as a penalty for such failure, computed in accordance with subsection (b), for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. Each such plan revision should include procedures for assessment and collection of such fees.

(b) Computation of Fee.-(1) Fee Amount.-The fee shall equal $5,000 adjusted in accordance with paragraph (3), per ton of VOC emitted by the source during the calendar year in excess of 80 percent of the baseline amount, computed under paragraph (2).

(2) Baseline Amount.-For purposes of this section, the baseline amount shall be computed, in accordance with such guidance as the Administrator may provide, as the lower of the amount of actual VOC emissions ('actuals') or VOC emissions allowed under the permit applicable to the source (or, if no such permit has been issued for the attainment year the amount of VOC emissions allowed under the applicable implementation plan ('allowables')) during the attainment year. Notwithstanding the preceding sentence, the Administrator may issue guidance authorizing the baseline amount to be determined in accordance with the lower of average actuals or average allowables, determined over a period of more than one Calendar year. Since guidance may provide that such average calculation for a specific source may be used if that source's emissions are irregular, cyclical, or otherwise vary significantly from year to year.

(3) Annual Adjustment.-The fee amount under paragraph (1) shall be adjusted annually, beginning in the year beginning after the year of enactment, in accordance with section 502(b)(3)(B)(v) (relating to inflation adjustment).

(c) Exception.-Notwithstanding any provision of this section no source shall be required to pay any fee under subsection (a) with respect to emissions during any year that is treated as an Extension Year under section 181(a)(5).

(d) Fee Collection by the Administrator.-If the Administrator has found that the fee provisions of the implementation plan do not meet the requirements of this section, or if the Administrator makes a finding that the State is not administering and enforcing the fee required under this section, the Administrator shall, in addition to any other action authorized under this title, collect, in accordance with procedures promulgated by the Administrator, the unpaid fees required under subsection (a). If the Administrator makes such a finding under section 179(a)(4), the Administrator may collect fees for periods before the determination, plus interest computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes), to the extent the Administrator finds such fees have not been paid to the State. The provisions of clauses (ii) through (iii) of section 502(b)(3)(C) (relating to penalties and use of the funds, respectively) shall apply with respect to fees collected under this subsection.

(e) Exemption for Certain Small Areas.-For areas with a total population under 200,000 which fail to attain the standard by the applicable attainment date, no sanction under this section or under any other provision of this Act shall apply if the area can demonstrate, consistent with guidance issued by the Administrator, that attainment in the area is prevented because of ozone precursors transported from other areas. The prohibition applies only in cases in which the area has met all requirements and implemented all measures applicable to the area under this Act.

TRANSITIONAL AREAS

Sec. 185A. If an area designated as an ozone nonattainment area as of the date of enactment of the Clean Air Act Amendments of 1990 has not violated the national primary ambient air quality standard for ozone for the 36-month period commencing on January 1, 1987, and ending on December 31, 1989, the Administrator shall suspend the application of the requirements of this subpart to such area until December 31, 1991. By June 30, 1992, the Administrator shall determine by order, based on the area's design value as of the attainment date, whether the area attained such standard by December 31, 1991. If the Administrator determines that the area attained the standard, the Administrator shall require, as part of the order, the State to submit a maintenance plan for the area within 12 months of such determination. If the Administrator determines that the area failed to attain the standard, the Administrator shall, by June 30, 1992, designate the area as nonattainment under section 107(d)(4).

NOX AND VOC STUDY

Sec/ 185B. The Administrator, in conjunction with the National Academy of Sciences, shall conduct a study on the role of ozone precursors in tropospheric ozone formation and control. The study shall examine the roles of NOx and VOC emission reductions, the extent to which NOx reductions may contribute (or be counterproductive) to achievement of attainment in different nonattainment areas, the sensitivity of ozone to the control of NOx, the availability and extent of controls for NOx, the role of biogenic VOC emissions, and the basic information required for air quality models. The study shall be completed and a proposed report made public for 30 days comment within 1 year of the date of the enactment of the Clean Air Act Amendments of 1990, and a final report shall be submitted to Congress within 15 months after such date of enactment. The Administrator shall utilize all available information and studies, as well as develop additional information, in conducting the study required by this section.

Subpart 3 - Additional Provisions for Carbon Monoxide Nonattainment Areas
[Subpart 3 added by PL 101-549]

CLASSIFICATION AND ATTAINMENT DATES

Sec. 186.(a) Classification by Operation of Law and Attainment Dates for Nonattainment Areas.- (1) Each area designated non-attainment for carbon monoxide pursuant to section 107(d) shall be classified at the time of such designation under table 1, by operation of law, as a Moderate Area or a Serious Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for carbon monoxide shall be as expeditiously as practicable but not later than the date provided in table 1:

TABLE 3

Area classification	Design value	Primary standard attainment date
Moderate	9.1-16.4 ppm	December 31, 1995
Serious	16.5 and above	December 31, 2000

(2) At the time of publication of the notice required under section 107 (designating carbon monoxide nonattainment areas), the Administrator shall publish a notice annnouncing the clasification of each such carbon monoxide nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

(3) If an area classified under paragraph (1), table 1, would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the date of the enactment of the Clean Air Act Amendments of 1990 by the procedure required under paragraph (2), adjust the classification of the area. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality

standard for carbon monoxide in the area, the level of pollution transport between the area and the other affected areas, and the mix of sources and air pollutants in the area. The Administrator may make the same adjustment for purposes of paragraphs (2), (3), (6), and (7) of section 187(a).

(4) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter in this subpart referred to as the 'Extension Year') the date specified in table 1 of subsection (a) if-

(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) no more than one exceedance of the national ambient air quality standard level for carbon monoxide has occurred in the area in the year preceding the Extension Year. No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

(b) New Designations and Reclassifications.- (1) New Designations to Nonattainment.- Any area that is designated attainment or unclassifiable for carbon monoxide under section 107(d)(4), and that is subsequently redesignated to nonattainment for carbon monoxide under section 107(d)(3), shall, at the time of the redesigantion, be classified by operations of law in accordance with table 1 under subsections (a)(1) and (a)(4). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(2), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified.

(2) Reclassification of Moderate Areas Upon Failure to Attain.- (A) General Rule.-Within 6 months following the applicable attainment date for a carbon monoxide nonattainment area, the Administrator shall dertermine, based on the area's design value as of the attainment date, whether the area has attained the standard by that date. Any Moderate Area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a)(1) as a Serious Area.

(B) Publication of Notice.- The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined, under subparagraph (A), as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

(c) References to Terms,- Any reference in this subpart to a 'Moderate Area' or a 'Serious Area' shall be considered a reference to a Moderate Area or a Serious Area, respectively, as classified under this section.

PLAN SUBMISSIONS AND REQUIREMENTS

Sec. 187.(a) Moderate Areas.- Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area (or portion thereof, to the extend specified in guidance of the Administrator issued before the date of the enactment of the Clean Air Act Amendments of 1990), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection, within such periods as are prescribed under this subsection, except to the extent the State has made such submission as of such date of enactment:

(1) Inventory.- No later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Adminstrator.

(2)(A) Vehicle Miles Traveled.-No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall contain a forecast of vehicle miles traveled in the nonattainment area concerned for each year before the year in which the plan projects the national ambient air quality standard for carbon monoxide to be attained in the area. The forecast shall be based on guidance which shall be published by the Administrator, in consultation with the Secretary of Transportation, within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990. The plan revision shall provide for annual updates of the forecasts to be submitted to the Administrator together with annual reports regarding the extent to which such forecasts proved to be accurate. Such annual reports shall contain estimates of actual vehicle miles traveled in each year for which a forecast was required.

(B) Special Rule for Denver.- Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, in the case of Denver, the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1)(A) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. If the State fails to include any such measure, the implementation plan shall contain an explanation of why such measures was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such

reduction is not necessary to attain the national primary ambient air quality standard for carbon monoxide.

(3) Contingency Provisions.- No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall provide for the implementation of specific measures to be undertaken if any estimate of vehicle miles traveled in the area which is submitted in an annual report under paragraph (2) exceeds the number predicted in the most recent prior forecast or if the area fails to attain the national primary ambient air quality standard for carbon monoxide by the primary standard attainment date. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator if the prior forecast has been exceeded by an updates forecast or if the national standard is not attained by such deadline.

(4) Savings Clause for Vehicle Inspection and Maintenance Provisions of the State Implementation Plan.- Immediately after the date of the enactment of the Clean Air Amendments of 1990, for any Moderate Area (or, within the Administrator's discretion, portion thereof), the plan for which is of the type described in section 182(a)(2)(B) any provisions necessary to ensure that the applicable implementation plan includes the vehicle inspection and maintenance program described in section 182(a)(2)(B).

(5) Periodic Inventory.- No later than September 30, 1995, and no later than the end of each 3 year period thereafter, until the area is redesignated to attainment a revised inventory meeting the requirements of subsection (a)(1).

(6) Enhanced Vehicle Inspection and Maintenance.- No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 in the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, a revision that includes provisions for an enhanced vehicle inspection and maintenance program as required in section 182(c) (3) (concerning serious ozone nonattainment areas), except that such program shall be for the purpose of reducing carbon monoxide rather than hydrocarbon emissions.

(7) Attainment Demonstration and Specific Annual Emission Reductions.- In the case of Moderate Areas with a design value grater than 12.7 ppm at the time of

classification, no later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to provide, and a demonstration that the plan as revised will provide, for attainment of the carbon monoxide NAAQS by the applicable attainment date and provisions for such specific annual emission reductions as are necessary to attain the standard by that date.

The Administrator may, in the Administrator's discretion, require States to submit to schedule for submitting any of the revisions or other items required under this subsection. In the case of Moderate Areas with a design value of 12.7 ppm of lower at the time of classification, the requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the carbon monoxide standard by the applicable attainment date.

(b) Serious Areas.- (1) In general.- Each State in which all or part of the Serious Area is located shall, with respect to the Serious Area, make the submissions (other than those required under subsection (a)(1)(B) applicable under subsection (a) to Moderate Areas with a design value of 12.7 ppm or greater at the time of classification, and shall also submit the revision and other items described under this subsection.

(2) Vehicle Miles Traveled.- Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. In the case of any such area (other than an area in New York State) which is a covered area (as defined in section 246(a)(2)(B) for purposes of the Clean Fuel Fleet program under part C of title II, if the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary ambient air quality standard for carbon monoxide.

(3) Oxygenated Gasoline.-(A) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to require that gasoline sold, supplied, offered for sale or supply, dispensed, transported or introduced into commerce in the larger of-

(i) the Consolidated Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) (CMSA) in which the area is located, or

(ii) if the area is not located in a CMSA, the Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) in which the area is located, be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide (as determined by the Administrator), with fuels containing such level of oxygen as is necessary, in combination with other measures, to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area. The revision shall provide that such requirement shall take effect no later than October 1, 1993, and shall include a program for implementation and enforcement of the requirement consistent with guidance to be issued by the Administrator.

(B) Notwithstanding subparagraph (A), the revision described in this paragraph shall not be required for an area if the State demonstrates to the satisfaction of the Administrator that the revision is not necessary to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenace of the national ambient air quality standard thereafter in the area.

(c) Areas With Significant Stationary Source Emissions of CO.-(1) Serious Areas.-In the case of Serious Areas in which stationary sources contribute significantly to carbon monoxide levels (as determined under rules issued by the Administrator), the States shall submit a plan revision within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, which provides that the term 'major stationary source' includes (in addition to the sources described in section 302) any stationary source which emits, or has the potential to emit, 50 tons per year or more of carbon monoxide.

(2) Waivers for Certain Areas.-The Administrator may, on a case-by-case basis, waive any requirements that pertain to transportation controls, inspection and maintenance, or oxygenated fuels where the Administrator determines by rule that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in the area.

(3) Guidelines.- Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990,.the

Administrator shall issue guidelines for and rules determining whether stationary sources contribute significantly to carbon monoxide levels in an area.

(d) CO Milestone.-(1) Milestone Demonstration.-By March 31, 1996, each State in which all or part of a Serious Area is located shall submit to the Administrator a demonstration that the area has achieved a reduction in emissions of CO equivalent to the total of the specific annual emission reductions required by December 31, 1995. Such reductions shall be referred to in this subsection as the milestone.

(2) Adequacy of Demonstration.-A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Adminsitrator.

(3) Failure to Meet Emission Reduction Milestone.- If a State fails to submit a demonstration under paragraph (1) within the required period, or if the Administrator notifies the State that the State has not met the milestone, the State shall, within 9 months after such a failure or notification, submit a plan revision to implement an economic incentive and transportation control program as described in section 182(g)(4). Such revision shall be sufficient to achieve the specific annual reductions in carbon monoxide emissions set forth in the plan by the attainment date.

(e) Multi-State CO Nonattainment Areas-(1) Coordination among States.-Each State in which there is located a portion of a single nonattainment area for carbon monoxide which covers more than one State ('multi-State nonattainment area') shall take all reasonable steps to coordinate, substantively and procedurally the revisions and implementation of State implementation plans applicable to the nonattainment area concerned. The Administrator may not approve any revision of a State in which part of a multi-State nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

(2) Failure to Demonstrate Attainment,-If any State in which there is located a portion of a multi-State nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for carbon monoxide in that portion within the period required

under this part the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 187 (relating to plan submissions for carbon monoxide nonattainment areas). If the Administrator makes such finding, in the portion of the nonattinment areas within the State submitting such petition, no sanction shall be imposed under section 179 or under any other provision of this Act, by reason of the failure to make such demonstration.

(f) Reclassified Areas.-Each State containing a carbon monoxide nonattainment area reclassified under section 186(b)(2) shall meet the requirements of subsection (b) of this section, as may be applicable to the area as reclassified, according to the schedules prescribed in conncection with such requirements, except that the Administrator may adjust any applicable deadlines (other than the attainment date) where such deadlines are shown to be infeasible.

(g) Failure of Serious Area to Attain Standards.-If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that a program of incentives and requirements as described in section 182(g)(4) shall be applicable in the area, and such program, in combination with other elements of the revised plan shall be adequate to reduce the total tonnage of emissions of carbon monoxide in the area by at least 5 percent per year in each year after approval of the plan revision and before attainment of the national primary ambient air quality standard for carbon monoxide.

Subpart 4-Additional Provisions for Partriculate Matter Nonattainment Areas [Subpart 4 added by PL 101-549]

CLASSIFICATION AND ATTAINMENT DATES

Sec. 188.(a) Initial Classification.- Every area designed nonattainment for PM-10 pursuant to section 107(d) shall be classified at the time of such designation, by operation of law, as a moderate PM-10 nonattainment area (also referred to in this subpart as a 'Moderate Area') at the time of such designation. At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each PM-10 nonattainment area, the Administrator shall publish a notice announcing the classification of such area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

(b) Reclassificcation as Serious.-(1) Reclassification Before Attainment Date.- The Administrator may reclassify as a Serious PM-10 nonattainment area identified in this subpart also as a 'Serious Area') any area that the Administrator determines cannot praticable attain the national ambient air quality standard for PM-10 by the attainment date (as prescribed in subsection (c)) for Moderate Areas. The Adminsitrator shall reclassify appropriate areas as Serious by the following dates:

(A) For areas designated nonattainment for PM-10 under section 107(d)(4), the Administrator shall propose to reclassify appropriate areas by June 30, 1991, and take final action by December 31, 1991.

(B) For areas subsequently designated nonattainment, the Administrator shall reclassify appropriate areas within 18 months after the required date for the State's submission of a SIP for the Moderate Area.

(2) Reclassification upon failure to attain.-Within 6 months following the applicable attainment date for a PM-10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date. If the Administrator finds that any Moderate Area is not in attainment after the applicable attainment date-

(A) the area shall be reclassified by operation of law as a Serious Area; and

(B) the Administrator shall publish a notice in the Federal Register no later than 6 months following the attainment date, identifying the area as having failed to attain and identifying the reclassification described under subparagraph (A).

(c) Attainment Dates.- Except as provided under subsection (d), the attainment dates for PM-10 nonattainment areas shall be as follows:

(1) Moderate Areas.-For a Moderate Area, the attainment date shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the attainment date shall not extend beyond December 31, 1994.

(2) Serious Areas.- For a Serious Area, the attainment date shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the date shall not extend beyond December 31, 2001.

(d) Extension Of Attainment Date For Moderate Areas.- Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in paragraph (c)(1) if-

(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan; and

(2) no more than one exceedance of the 24-hour national ambient air quality standard level for PM-10 has occurred in the area in the year preceding the Extension Year, and the annual mean concentration of PM-10 in the area for such year is less than or equal to the standard level.

No more than 2 one-year extensions may be issued under the subsection for a single nonattainment area.

(e) Extension of Attainment Date for Serious Areas.- Upon application by any State, the Administrator may extend the attainment date for a Serious Area beyond the date specified under subsection (c), if attainment by the date established under subsection (c) would be impracticable, the State has complied with all requirements and commitments pertaining to that area in the implementation plan, and the

State demonstrates to the satisifaction of the Administrator that the plan for that area includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area. At the time of such application, the State must submit a revision to the implementation plan that includes a demonstration of attainment by the most expeditious alternative date practicable. In determining whether to grant an extension, the Administrator may consider the nature and extent of nonattainment, the types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources and transboundary emissions from foreign countries), the population exposed to concentrations in excess of the standard, the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasiblility of various control measures. The Administrator may not approve an extension until the States submit an attainment demonstration for the area. The Administrator may grant at most one such extension for an area, of no more than 5 years.

(f) Waivers for Certain Areas.-The Administrator may, on a case-by-case basis, waive any requirement applicable to any Serious Area under this subpart where the Administrator determines that anthropogenic sources of PM-10 do not contribute signifcantly to the violation of the PM standard in the area. The Administrator may also waive a specific date for attainment of the standard where the Administrator determines that nonanthropogenic sources of PM-10 contribute significantly to the violation of the PM-10 standard in the area.

PLAN PROVISIONS AND SCHEDULES FOR PLAN SUBMISSIONS

Sec. 189.(a) Moderate Areas.-(1) Plan Provisions.-Each State in which all or part of a Moderate Area is located shall submit, according to the applicable schedule under paragraph (2), an implementation plan that includes each of the following:

(A) for the purpose of meeting the requirements of section 172(c)(5), a permit program providing that permits meeting the requirements of section 173 are required for the construction and operation of new and modified major stationary sources of PM-10.

(B) Either (i) a demonstration (including air quality modeling) that the plan will provide for attainment by the applicable attainment date; or (ii) a demonstration that attainment by such date is impracticable.

(C) Provisions to assure that reasonably available control measures for the control of PM-10 shall be implemented no later than December 10, 1993, or 4 years after implemented and that the milestone has been met. A demonstration under this subsection shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration under this subsection is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

(3) If a State fails to submit a demonstration under paragraph (2) with respect to a milestone within the required period or if the Administrator determines that the area has not met any applicable milestone, the Administrator shall require the State, within 9 months after such failure or determination to submit a plan revision that assures that the State will achieve the next milestone (or attain the national ambient air quality standard for PM-10, if there is no next milestone) by the applicable date.

(d) Failure to Attain.-In the case of a Serious PM-10 nonattainment area in which the PM-10 standard is not attained by the applicable attainment date, the State in which such area is located shall, after notice and opportunity for public comment, submit within 12 months after the appplicable attainment date, plan revisions which provide for attainment of the PM-10 air quality standard and, from the date of such submission until attainment, for an annual

reduction in PM-10 or PM-10 precusor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.

(e) PM-10 Precursors.-The control requirements applicable under plans in effect under this part for major stationary sources of PM-10 shall also apply to major stationary sources of PM-10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM-10 levles which exceed the standard in the area. The Administrator shall issue guidelines regarding the application of the preceding sentence.

ISSUANCE OF RACM AND BACM GUIDANCE

Sec. 190, The Administrator shall issue, in the same manner and according to the same procedure as guidance is issued under section 108(c), technical guidance on reasonably available control measures and best avialable control measures for urban fugitive dust, and emissions from residential wood combustion (including curtailments and exemptions from such curtailments) and prescribed agricultural and agricutural burning, no later than 18 months following the date of the enactment of the Clean Air Act Amendment of 1990. The Administrator shall also examine other categories of sources contributing to nonattainment of the PM-10 standard, and determine whether additional guidance on reasonably available control measures and best available control measures is needed, and issue any such guidance no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. In issuing guidelines and making determinations under this section, the Administrator (in consultation with the State) shall take into account emission reductions achieved, or expected to be achieved, under title IV and other provisions of this Act.

Subpart 5--Additional Provisions for Areas Designed Nonattainment for Sulfur Oxides, Nitrogen Dioxide, or Lead

[Subpart 5 added by PL 101-549]

Plan Submission Deadlines

Sec. 191.(a) Submission.--Any State containing an area designated or redesignated under section 107(d) as nonattainment with respect to the national primary ambient air quality standards for sulfur oxides, nitrogen dioxide, or lead subsequent to the date of the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator, within 18 months of the designation, an applicable implementation plan meeting the requirements of this part.

(b) States Lacking Fully Approved State Implementation Plans.-Any State containing an area designated nonattainment with respect to national primary ambient air quality standards for sulfur oxides or nitrogen dioxide under section 107(d)(1)(C)(i), but lacking a fully approved implementation plan complying with the requirements of this Act (including part D) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, shall submit to the Administrator, within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990, an implementation plan meeting the requirements of subpart 1 (except as otherwise prescribed by section 192).

ATTAINMENT DATES

Sec. 192.(a) Plans Under Section 191(a).-Implementation plans required under section 191(a) shall provide for attainment of the relevant primary standard as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation.

(b) Plans Under Section 191(b).-Implementation plans required under section 191(b) shall provide for attainment of the relevant primary national ambient air quality standard within 5 years after the date of the enactment of the Clean Air Act Amendments of 1990.

(c) Inadequate Plans.-Implementation plans for nonattainment areas for sulfur oxides or nitrogen dioxide with plans that were approved by the Administrator before the date of the enactment of the Clean Air Act Amendment of 1990 but subsequent to such approval, shall provide for attainment of the relevant primary standard within 5 years from the date of such finding.

Subpart 6--Savings Provisions
[Subpart 6 added by PL 101-549]

GENERAL SAVINGS CLAUSE

Sec. 193. Each regulation, standard, rule, notice, order and guidance promulgated or issued by the Administrator under this Act, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect according to its terms, except to the extent otherwise provided under this Act, inconsistent with any provision of this Act, or revised by the Administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

APPENDIX D

APPENDIX D

RELEVANT SECTIONS OF TRANSPORTATION LAWS

FROM 23 CFR CHAPTER 1 (4-1-90 EDITION)

Section 150.100 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 134 and section 8 of the Urban Mass Transportation Act of 1964, as amended (UMT Act) 49 U.S.C. 1607), which require that each urbanized area. As a condition to the receipt of Federal capital or operating assistance, have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs consistent with the comprehensively planned development of the urbanized area. These plans and programs support transportation improvements and subsequent project development activities in the area.

Section 150.102 Applicability.

The provisions of this subpart are applicable to the transportation planning process in urbanized areas.

Section 150.104 Definitions.

(a) Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

(b) As used in this part:

(1) "Governor" means the Governor of any one of the fifty States, or Puerto Rico, and includes the Mayor of the District of Columbia.

(2) "Designated section 9 recipient means that organization designated in accordance with section 9(m) or 5(b)(1) of the UMT Act, as amended, as being responsible for receiving and dispensing section 9 and/or section 5 funds.

(3) "Metropolitan planning organization" means that organization designated as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134, as provided in 23 U.S.C. 104(f)(3), and capable of meeting the requirements of sections 3(e)(1), 5(1), 8 (a) and (c) and 9 (e)(3)(G) of the UMT Act (49 U.S.C. 1602(e)(1), 1604(1), 1607 (a) and (c) and 1607a(e)(3)(C)). The metropolitan planning organization is the forum for cooperative transportation decision

making.

(4) "Annual (or biennial) element" means a list of transportation improvement projects proposed for implementation during the first year (or 2 years) of the program period.

(5) "Transportation improvement program (TIP)" means a staged multi-year program of transportation improvements including an annual (or biennial) element.

Section 450.106 Metropolitan planning organization.

(a) Designation of a metropolitan planning organization shall be made by agreement among the units of general purpose local governmental and the Governor. To the extent possible, only one metropolitan planning organization to the extent agreed to pursuant to paragraph (a) of this section.

Section 450.108 Urban transportation planning process: Funding.

(a) Funds authorized by 23 U.S.C. 104(f) shall be made available by the State to the metropolitan planning organization, as required by 23 U.S.C. 104(f)(3).

(b) Funds authorized by section 8 of the UMT Act (49 U.S.C. 1607) shall be made available to the metropolitan planning organization, to the extent possible, in urbanized areas with populations of 200,000 or more or where the metropolitan planning organization represents a group of contiguous or related urbanized areas with an aggregate population of 200,000 or more. In urbanized areas with populations below 200,000, such funds shall be made available to the State , at the State's option, to allocate among such urbanized area, to use for the benefit of such area with the concurrence of the metropolitan planning organization. If the State does not elect this option, these funds shall be made available directly to the metropolitan planning organization, to the extent possible.

(c) In urbanized areas with populations of 200,000 or more, the State, metropolitan planning organization, and designated section 9 or 9A funds recipient, where section 9 or 9A funds are used for planning purposes, shall develop a unified planning work program (UPWP) which describes urban transportation and transportation related planning activities anticipated in the area during the next 1 or 2-year period including the planning work to be performed with Federal planning assistance and with funds available under section 9 or 9A, if any. The UPWP shall be endorsed by the metropolitan planning organization.

(d) In urbanized areas with populations below 200,000, the State and the metropolitan planning organization (and where section 9 or 9A funds are to be used for planning, the designated

recipient) shall cooperatively describe and document how Federal planning funds and funds available under section 9 or 9A if any, would be expended for planning in each area, who would do the work and what work in general would be done. The work proposed shall be endorsed by the metropolitan planning organization.

(e) The staff resources of other agencies (such as the State, local government and transit operator staff) may be utilized where appropriate to carry out the planning process, including the activities funded with Federal planning funds, through contractual agreements.

(The reporting requirements contained in paragraph (c) were approved by the Office of Management and Budget under OMB control number 2132 0031)

Section 450.110 Urban transportation planning process: Products.

The urban transportation planning process shall include the development of:

(a) A transportation plan describing policies, strategies and facilities or changes in facilities proposed. The transportation plan shall be formulated according to the requirements of 23 U.S.C. 134 and section 8 of the UMT Act (49 U. S.C. 1607) which include an analysis of transportation system management strategies to made more efficient use of existing transportation systems.

(b) A transportation improvement program (TIP) including annual (or biennial) element a prescribed in Sub part B of this part. The program shall be a staged multi-year program of transportation improvement projects consistent with the transportation plan.

(c) Other planning and project development activities deemed necessary by State and local officials to assist in addressing transportation issues in the area.

(The reporting requirements contained in paragraph (b) were approved by the Office of Management and Budget under OMB control number 2132 0529)

Section 450.112 Urban transportation planning process: Participant responsibilities.

(a) The metropolitan planning organization, the State, and publicly owned operators of mass transportation services shall determine their mutual responsibilities in the development of the planning work program, transportation plan and TIP specified in Sections 450.108 and 450.110.

(b) the metropolitan planning organization shall endorse the transportation plan and TIP required by Sections 450.110 and 450.204. These endorsements are prerequisites for the approval of programs of projects in urbanized areas pursuant to 23 U.S.C. 105(d) and 134(a), section 8(c) of the UMT Act (49 U.S.C. 1607(c)), and Sub part B of the part.

Section 450.114 Urban transportation planning process: Certification.

(a) The urban transportation planning process shall include activities to support the development and implementation of a transportation plan and TIP/annual (or biennial) element and subsequent project development activities including the environmental impact assessment process. These activities shall be included as necessary and to the degree appropriate for the size of the metropolitan area and the complexity of its transportation problems.

(b) The planning process shall be consistent with:

(1) Sections 8(e) and 3(e) (49 U.S.C. 1607 and 1602(e)) of the UMT Act concerning involvement of the appropriate public and provide transportation providers;

(2) Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794.

(3) Section 105(f) of the Surface Transportation Assistance Act of 1982 regarding the involvement of minority business enterprises in FHWA and UMTA funded projects (Pub. L. 97-424, section 105(f); 49 CFR Part 23); and

(4) Section 16 of the UMIT Act 49 U.S.C. 1612), section 165(b) of the Federal-Aid Highway Act of 1973, as amended, and 49 CFR Part 27, which call for special efforts to plan public mass transportation facilities and services that can effectively be utilized by elderly and handicapped persons.

(c) At the time the TIP/annual (or biennial) element is submitted, the State and the metropolitan planning organization shall certify that the planning process is being carried on in conformance with all applicable requirements of:

(1) 23 U.S.C. 134, section 8 of the UMT Act (49 U.S.C. 1607) and these regulations;

(2) Sections 174 and 176 (c) and (d) of the Clean Air Act (42 U.S.C. 7504, 7506(c) and (d)).

Subpart B--Transportation Improvement Program

Authority: 23 U.S.C. 105, 134(a), and 135(b); secs. 3,5, and 8(c) of the Urban Mass transportation Act of 1964, as amended (49 U.S.C. 1602, 1604 and 1607(c); secs. 174 and 176 of the Clean Air Act (42 U.S.C. 7504 and 7506); and 49CFR 1.48(b) and 1.51.

Source: 48 FR 30350, June 30, 1983, unless otherwise noted.

Section 450.200 Purpose.

The purpose of this subpart is to establish regulations for the development, content, and processing of a cooperatively developed transportation improvement program (TIP) in urbanized areas.

Section 450.202 Applicability.

(a) the provisions of this subpart shall be applicable to projects in or serving urbanized areas with funds made available under:

(1 23 U.S.C. 104(b)(6) (urban system projects);

(2) 23 U.S.C. 103(e)(4) (Interstate substitution projects);

(3) Sections 3, 5, 9, and 9A of the Urban Mass Transportation Act of 1964, as amended (UMT Act) (49 U.S.C. 1602, 1604, 1607a and 1607a-1) (UMTA capital and operating assistance projects);

(4) 23 U.S.C. 104(b)(1) (projects on extensions of primary systems in urbanized areas), except as provided in this subpart.

(5) 23 U.S.C. 104(b)(5) (A) and (B) (projects on the Interstate System), except as provided in this subpart.

(6) 23 U.S.C. 144 (highway bridge replacement and rehabilitation projects), except as provided in this subpart.

(b) Projects under paragraphs (a) (4), (5) and (6) of this section which are for resurfacing, restoration, rehabilitation, reconstruction (4R), or highway safety improvement; and which will not alter the functional traffic capacity or capability of the facility being improved may be excluded from the TIP including its annual (or biennial) element by agreement between the State and the metropolitan planning organization.

Section 450.204 Transportation Improvement Program: General.

(a) The TIP, including the annual (or biennial) element, shall be developed by the metropolitan planning organization, the State and publicly owned operators of mass transportation services in cooperation with recipients authorized under sections 5, 9, or

9A of the UMT Act (49 U.S.C. 1604, 1607a or 1607a-1).

(b) The TIP shall as a minimum: (1) Consist of Improvements from the transportation plan developed under Section 450.110(a) and recommended for Federal funding during the program period;

(2) Cover a period of not less than 3 years;

(3) Indicate the area's priorities; and

(4) Include realistic estimates of the total costs and revenues for the program period.

(c) The metropolitan planning organization endorsement of the TIP including the annual (or biennial) element is a prerequisite for the approval of programs of projects in urbanized areas pursuant to 23 U.S.C. 105(d) and 134(a), and section 8(c) of the UMT Act (49 U.S.C. 1607(c)). The State, metropolitan planning organization, and publicly owned operators of mass transportation services are encouraged to develop simplified procedures for updating or modifying an endorsed annual (or biennial) element.

(d) The TIP including the annual (or biennial) element shall be submitted:

(1) To the Governor and the Urban Mass Transportation Administrator, and

(2) Through the State to the Federal Highway Administrator for use as a basis for meeting the applicable air quality procedures contained in 23 CFR Part 770 and for the subsequent approval of the statewide program of projects under 23 U.S.C. 105 in accordance with Section 450. 212 and 23 CFR Part 630.

Section 450.206 Annual (or biennial) element: Project selection.

(a) Federally funded projects shall be selected for inclusion in the annual (or biennial) element at all phases in the development of the transportation improvement for which program action is proposed. The projects to be included in the annual (or biennial) element of the TIP shall be selected in accordance with:

(1) State and local law;

(2) 23 U.S.C. 105(d) regarding the selection of urban system projects by the appropriate local officials with concurrence of the State highway department;

(3) 23 U.S.C. 103(e)(4) and 23 CFR Part 476 regarding the selection of Interstate substitution projects by the responsible

local officials; and

(4) Procedures acceptable to the State highway department, the metropolitan planning organization, and local public transit operating officials.

(b) The endorsement of the annual (or biennial) element of the TIP by the metropolitan planning organization constitutes the selection of the projects by local officials pursuant to 23 U.S.C. 105(d) and 23 U.S.C. 103(e)(4).

Section 450.208 Annual (or biennial) element: Content.

(a) Except as provided in Section 450.210(b)(3) nd (4), the annual (or biennial) element shall contain projects selected under Section 450.206 and endorsed under Section 450.204.

(b) With respect to each project under paragraph (a) of this section the annual (or biennial) element shall include:

(1) Identification of the projects, including the phase of phases proposed for implementation.

(2) Estimated total cost and the amount of Federal funds proposed to be obligated during the program period.

(3) Proposed source of Federal and non-Federal matching funds; and

4) Identification of the recipient and State and local agencies responsible for carrying out the project.

(c) Projects proposed for Federal funding that are not considered to be of appropriate scale for individual inclusion in the annual (or biennial) element may be grouped by functional classification, geographic area or work type.

(d) The annual (or biennial) element shall be reasonably consistent with the amount of Federal funds expected to be available to the area. Federal funds that have been allocated to the area pursuant to 23 U.S.C. 150 shall be identified.

(e) The total Federal share of projects included in the annual (or biennial) element and proposed for funding under sections 5, 9, or 9A of the UMT Act (49 U.S.C. 1604, 1607a and 1607a 1) may not exceed apportioned section 5 or 9A funds available to the urbanized area during the program year (or 2 years).

Section 450.210 Selection of projects for implementation.

(a) The projects proposed to be implemented with Federal assistance under section 3, 5, 9 and 9A of the UMT Act (49 U.S.C.

1602, 1604, 1607a and 1607a-1) and nonhighway public mass transit projects under 23 U.S.C. 103(e)(4) shall be those contained in the annual (or biennial) element of the TIP submitted to the Urban Mass Transportation Administrator.

(b) Upon receipt of the TIP, the State shall include in the statewide program of projects required under 23 U.S.C. 105:

(1) Those projects drawn from the annual (or biennial) element and proposed to be implemented with Federal assistance under 23 U.S.C. 104(b)(6) (Federal-aid urban system) in which the State concurs): provided, however, that in case any where the State does not concur in a nonhighway public mass transit project, a statement describing the reasons for the nonconcurrence shall accompany the statewide program of projects.

(2) Those projects drawn from the annual (or biennial) element and proposed to be implemented with Federal assistance under 23 U.S.C. 104(b)(s) (projects on urban extensions of the Federal-aid primary system) and 23 U.S.C. 144 (highway bridge replacement and rehabilitation projects), in which it concurs;

(3) Those projects not drawn from the annual (or biennial) element that are proposed to be implemented with Federal assistance under 23 U.S.C. 104(b)(6) (Federal-aid highway urban system), 23 U.S.C. 104(b)(1) (Projects on urban extensions of the Federal-aid primary system) and 23 U.S.C. 104(b)(5) (Projects on the Interstate System) provided that :

(i) Previous phases of such project or projects were selected pursuant to Section 450.206, and advanced;

(ii) Such project or projects are for highway transportation improvements for which there has been a Federal authorization to acquire right-of-way or Federal approval of physical construction or implementation where right-of-way acquisition was not previously federally funded; and

(iii) A statement accompanies the statewide program of projects
which includes for such projects the views of the metropolitan planning organization and indicates how the requirements of 23 U.S.C. 134(a) have been met; and

(4) Those projects not drawn from the annual (or biennial) element that were excluded under Section 450.202(b) and are proposed to be implemented.

(c) The preparation and endorsement of the TIP, the selection of projects in accordance with this subpart, and the agreement under Section 450.202(b), if any, will meet the requirements of 23 U.S.C. 105(d), 23 U.S.C. 134(a) and section 8(c) of the UMT Act (49 U.S.C. 1607(c)).

(d) The State shall notify the appropriate metropolitan planning organizations of the 23 U.S.C. 105 program actions taken on projects in each urbanized area.

Section 450.212 Program approval.

(a) Upon the determination by the Federal Highway Administrator and the Urban Mass Transportation Administrator that the TIP or portion thereof is in conformance with this subpart and that the planning process in conformance with Subpart A, programs of projects and Interstate Substitution projects selected for implementation under Sections 450.210 and 450.206, respectively will be considered for approval as follows:

(1) Federal-aid urban system projects included in the statewide program of projects under 23 U.S.C. 105 will be approved by:

(i) The Federal Highway administrator with respect to highway projects;

(ii) The Federal Highway Administrator and the Urban Mass Transportation Administrator jointly in any case where the statewide program of projects submitted pursuant to 23 U.S.C. 105 does not include all Federal aid urban system nonhighway public mass transit projects contained in the annual (or biennial) element.

(2) Interstate substitution nonhighway public mass transit projects included in the annual (or biennial) element will be approved by the Urban Mass Transportation Administrator.

(3) Projects proposed to be implemented under sections 3, 5, 9, and 9A of the UMT act (49 U.S.C. 1602, 1604, 1607a and 1607a 1) included in the annual (or biennial) element will be approved by the Urban Mass Transportation Administrator after considering any comments received from the Governor within 30 days of the submittal required by Section 450.204(d)(1).

(4) Federal-aid urban extensions of primary projects, Interstate projects and highway bridge replacement and rehabilitation projects included in the statewide program of projects under 23 U.S.C. 105 will be approved by the Federal Highway Administrator.

(b) Approvals by the Federal Highway Administrator or joint approvals by the Federal Highway Administrator or joint approvals by the Federal Highway Administrator and Urban Mass Transportation Administrator will be in accordance with the provisions of this subpart and with 23 CFR Part 630, Subpart A. These approvals will constitute:

(1) The approval required under 23 U.S.C. 105; and

(2) A finding that the program is based on a continuing, cooperative and comprehensive transportation planning process carried on in accordance with the provisions of section 8 of the UMT Act (49 U.S.C. 1607), as applicable;

(3) A finding that the projects are needed to carry out a program for a unified officially coordinated urban transportation system in accordance with the provisions of section 3 (e)(1),5(1), or 8(c) of the UMT Act (49 U.S.C. 1602(e)(1), 1604(1) or 1607(c), as applicable; and

(4) In nonattainment areas which require transportation control measures, a finding that the program conforms with SIP in accordance with procedures in 49 CFR Part 623.

APPENDIX E

APPENDIX E

Summary of the Transportation-Related Provisions of the Clean Air Act Amendments of 1990

Planning Procedures

This section provides for review and update, if necessary, of air quality planning procedures. It provides for assigning responsibilities for plan development and implementation. The 1977 amendment to the CAA made it clear that the MPO should be the organization to develop the transportation portion of the SIP. The 1990 CAAA is less clear on this point. For example, the new Act indicates that the State certified organization for preparing the SIP shall include locally elected officials, and representatives of the State air quality planning agency, the State transportation planning agency, the MPO, the organization responsible for the air quality maintenance planning process, and any other organization responsible for developing, submitting, or implementing the SIP. The committee report that accompanied the Senate bill indicates that this provision should not require changes in existing responsibilities where relevant State, local and regional agencies have, within the last 2 years, reviewed these issues and reached agreement.

Transportation Planning Guidance

The EPA is required to update the 1978 transportation/air quality planning guidelines within 9 months after enactment and after consultation with DOT and public comment. These guidelines are intended to provide a framework for a continuous transportation/air quality planning process, and provide guidance on the development and implementation of transportation-related and other measures deemed necessary to attain and maintain the national ambient air quality standards (NAAQS).

Emission Reduction Requirements In Moderate And Higher Classification Ozone Nonattainment Areas

Within 3 years of enactment, States with moderate ozone nonattainment areas must submit SIP revisions that demonstrate emission reductions of volatile organic compounds, within 6 years of enactment of at least 15 percent, accounting for any growth in emissions that occur after enactment. Emission reductions from motor vehicle exhaust or evaporative emissions, promulgated by EPA by January 1, 1990, or controls on fuel volatility promulgated by EPA after enactment of the CAAA of 1990 cannot be credited toward the required 15 percent reductions. Measures required to correct SIPs under EPA guidance, and measures required to correct inspection and maintenance (I/M) programs also cannot be credited toward the demonstration of the 15 percent reduction.

Within 4 years of enactment, Serious, Severe and Extreme areas have to submit SIP revisions that demonstrate VOC reductions that average 3 percent per year each consecutive 3-year period beginning 6 years after enactment.

Transportation Control Provisions In Serious And Higher Classification Ozone Nonattainment Areas

Beginning 6 years after enactment and each third year thereafter, States must submit data demonstrating whether aggregate vehicle mileage, aggregate vehicle emissions, and congestion levels are consistent with projected levels included in the SIP. Where the monitored levels exceed projected levels, SIP revisions that include TCMs are due within 18 months that will reduce emissions to levels that are consistent with those contained in the SIP which demonstrated attainment of the air quality standards. The revisions are to be developed in accordance with guidance issued by EPA.

Vehicle Miles Traveled Provisions In Severe And Higher Classification Ozone Nonattainment Areas

Within 2 years of enactment, States with severe ozone nonattainment areas must submit SIP revisions that identify and adopt TCMs to offset any growth in emissions from growth in VMT or growth in vehicle trips. Employers of 100 or more will need to reduce work-related trips and VMT of their employees in accordance with guidance issued by EPA.

Traffic Control Measures During Heavy Traffic Hours In Extreme Ozone Nonattainment Areas

Currently, Los Angeles is the only area that is classified as Extreme. Its SIP revisions may contain provisions to reduce the use of high polluting or heavy-duty vehicles during heavy traffic hours.

Vehicles Miles Traveled Provisions In Carbon Monoxide Nonattainment Areas

Within 2 years of enactment, CO nonattainment areas with design values above 12.7 ppm must revise their SIPs to contain annual forecasts of VMT in the area for each year until attainment. The forecasts must be made in accordance with guidance issued by EPA, in consultation with DOT, within 6 months of enactment. The SIP revisions must include contingency provisions to provide for the implementation of specific measures to be undertaken if VMT levels exceed the amount forecast or it the area fails to attain the CO standards on time. The contingency measures are to take effect without further action by the State or EPA.

Vehicle Miles Traveled Provisions In Serious Carbon Monoxide Nonattainment Areas

Within 2 years of enactment, Serious CO nonattainment areas must revise their SIPs to provide for the identification and adoption of TCMs to offset any growth in emissions from growth in VMT or growth in vehicle trips.

Failure To Meet CO Emission Reduction Milestone

By March 31, 1996, Serious CO nonattainment areas must submit data to EPA demonstrating that they have achieved CO emission reductions equal to the total specified annual emission reductions required by December 31, 1995. If a State fails to make the submission or achieve the total reductions, the State must submit a SIP revision, within 9 months of notification, to implement an economic incentive and transportation control program. The program may include incentives and requirements to reduce vehicle emissions and VMT, including TCMs.

Miscellaneous Guidance On Transportation Control Measures

The EPA after consultation with DOT and public comment, must issue information on the emission reduction potential of TCMs for attaining the standards. A list of 16 TCMs, which is not intended to be all inclusive, is presented. The information is to be published and made available to Federal, State, and local transportation and environmental agencies within 1 year of enactment of the CAAA.

Transportation System Impacts On Clean Air

The DOT and EPA must submit a report to Congress by January 1, 1993, and every 3 years thereafter. The report must contain the results of reviews of State and local air quality-related transportation programs, including the adequacy of funding for transportation projects identified in the SIP. It must also evaluate the extent to which the DOT's existing air quality-related transportation programs and proposed budget will achieve the goals of the CAAA. Finally, it must include recommended changes, if any, to existing programs and proposed budgets as well as to any statutory authority relating to air quality-related transportation programs that would improve the achievement of the goals of the CAAA. Each report after the first one must include the disposition of recommendations from the preceding report.

APPENDIX F

APPENDIX F

REQUIRED STATE SUBMITTALS AND ACTIONS

Submittal/Action	Ozone Classification					CO Classification	
	Marginal	Moderate	Serious	Severe	Extreme	Moderate	Serious
By March 15, 1991 (120 days after enactment)[1]							
A request for more time to study boundaries foe serious+ area that was designated and classified as of enactment (due 45 days after classification)			X	X	X		X
List of all areas with proposed designations and boundaries (except boundaries for serious+ areas with request for more time to study	X	X	X	X	X	X	X
A request for more time to study boundaries for serious+ area that was designated and classified at 240 days after enactment (request to be in March 15, 1991, submittal; latest date for request is August 27, 1991)			X	X	X		X
Commitment to submit SIP revision to correct I/M program (i.e., implement previously-required program) ("immediate submittal" of revisions for I/M)	X					X	
Commitment to submit SIP revision to implement basic I/M program ("immediate submittal" of revision for I/M) (plus serious areas where urbanized population greater than 200,000)		X					
By May 15, 1991 (6 Months after enactment)							
Submit RACT Corrections	X	X	X	X	X		
Northeast ozone transport commission convened (applies to Northeast region)							

Submittal/Action	Ozone Classification					CO Classification	
	Marginal	Moderate	Serious	Severe	Extreme	Moderate	Serious
By November 15, 1991 (12 Months after enactment)							
Implement basic I/M program	X	X					
By May 15, 1992 (18 Months after enactment)							
Commence actions to adopt and implement enhanced monitoring program			X	X	X		
By November 15, 1992 (24 months after enactment)							
Submit comprehensive emission inventory	X	X	X	X	X	X	X
Submit requirements for emission statements	X	X	X	X	X		
Submit VOC RACT rules (existing CTG's; non-CTG major source)		X	X	X	X		
Submit Nox RACT rules (unless demonstrate not appropriate)		X	X	X	X		
Submit NSR rules (VOC and NOx)	X	X	X	X	X		
Submit State II vapor recovery program		X	X	X	X		
Submit Enhanced I/M program; begin implementation			X	X	X		
Submit requirements for transport region (VOC, NOx, RACT, and NSR; Enhanced I/M) (applies across transport region)							
Submit conformity requirements	X	X	X	X	X	X	X
Submit measure for reducing VMT				X	X		X
Submit CO attainment demonstration						X	X
Submit contingency measures (if VMT forecast exceeded)						X	X

Submittal/Action	Ozone Classification					CO Classification	
	Marginal	Moderate	Serious	Severe	Extreme	Moderate	Serious
Submit transportation control measures (TCMs)				X	X		X
Submit revision requiring employer trip reduction programs (25% vehicle occupancy rate reduction)				X	X		
Submit oxygenated fuels program						X	X
By November 15, 1993 (36 Months after enactment)							
Submit "15% SIP" (i.e., measures showing 15% reduction in VOC baseline)		X	X	X	X		
Submit demonstration re: additional VOC, NOx reductions as necessary to attain		X					
Submit NSR program (CO)						X	X
By November 15, 1994 (4 years after enactment)							
Submit attainment demonstration (photochemical dispersion modeling)			X	X	X		
Submit RFP demonstration showing 3% average annual reductions commencing 6 years after enactment			X	X	X		
Submit contingency measures for failures to meet milestones			X	X	X		
Submit clean-fuel vehicle program			X	X	X		
Submit Stage II program (or "reflect comparable measures") in transport region							
Submit plans to incorporate EPA's emission diagnostic rules (estimated time)	X	X	X	X	X		

1.Certain Submittals/actions may actually be required before the end of the time period specified. Check the narrative portion of the document for specific submittal time schedules.

APPENDIX G

APPENDIX G

SELECTED PORTIONS OF
THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Section 149, Congestion mitigation and air quality improvement program

"(a) Establishment.--The Secretary shall establish a congestion mitigation and air quality improvement program in accordance with this section.

"(b) Eligible Projects.--Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program--

"(1)(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clauses (xii) and (xvi) of such section), that the project or program is likely to contribute to the attainment of a national ambient air quality standard; or

"(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;

"(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standards, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

"(c) States Without a Nonattainment Area.--If a State does not have a nonattainment area for ozone or carbon monoxide

under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104b)(2) for any project eligible for assistance under the surface transportation program.

"(d) Applicability of Planning Requirements.--Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title."

(b) Apportionment.--Section 104(b)(2) of such title is amended to read as follows:

"(2) Congestion Mitigation and Air Quality Improvement Program.--For the congestion mitigation and air quality improvement program, in the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States. The weighted nonattainment area population shall be calculated by multiplying the population of each area within any State that is a nonattainment area (as defined in the Clean Air Act) for ozone by a factor of--

"(A) 1.0 if the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act;

"(B) 1.1 if the area is classified as a moderate ozone nonattainment area under such subpart;

"(C) 1.2 if the area is classified as a serious ozone nonattainment area under such subpart;

"(D) 1.3 if the area is classified as a severe ozone nonattainment area under such subpart; or

"(E) 1.4 if the area is classified as an extreme ozone nonattainment area under such subpart.

If the area is also classified under subpart 3 of part D of title I of such Act as a nonattainment area for carbon monoxide, for purposes of calculating the weighted nonattainment area population, the weighted nonattainment area population of the area, as determined under the preceding provisions of this paragraph, shall be further multiplied by a factor of 1.2. Notwithstanding any provision of this paragraph, in the case of States with a total 1990 census population of 15,000,000 or greater, the amount apportioned under this paragraph in a fiscal year to all of such States in the aggregate, shall be distributed more than 42 percent of the aggregate amount so apportioned to all of such states. Notwithstanding any other provision of this paragraph, each State shall receive a minimum apportioned of 1/2 of 1 percent of the funds apportioned under this paragraph. The Secretary shall use

estimates prepared by the Secretary of Commerce when determining population figures."

(c) Conforming Amendment.--The analysis for chapter 1 of such title is amended by striking
"149. Truck lanes>"
and inserting
"149. Congestion mitigation and air quality improvement program."

Section 134. Metropolitan planning

"(a) General Requirements.--It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within any through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) Designation of Metropolitan Planning Organizations,--

"(1) In General.--To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

(2) Membership of Certain MPO's.--In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) Limitation on Statutory Construction.--Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to--

"A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) Continuing Designation.--Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) Redesignation.--

"(A) Procedures.--A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by
the Bureau of the Census) as appropriate to carry out this section.

"(B) Certain Requests to Redesignate.--A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment are for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) Treatment of Large Urban Areas.--More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) Metropolitan Area Boundaries.--For the purposes of this section, the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the

Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) Coordination in Multistate Areas--

"(1) In General.--The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) Compacts.-- The consent of Congress is hereby given to 2 for more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) Coordination of MPO's.--If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) Factors to be Considered.--In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at minimum, consider the following:

"(1) Preservation of existing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following;

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short-and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that wold result in increased security in transit systems.

"(g) Development of Long Range Plan.--

"(1) In General.--Each metropolitan planning organization shall prepare, and update periodically, according to schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) Long Range Plan.--A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from pubic and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls nd congestion pricing.

"(C) Assess capital investment and other measures necessary to--

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) Coordination with Clean Air Act Agencies.--In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures for the State implementation plan required by the Clean Air Act.

"(4) Participation by Interested Parties.--Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) Publication of Long Range Plan.--Each long range plan prepared by a metropolitan planning organization shall be--

"(i) published or otherwise made readily available for pubic review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) Transportation Improvement Program.--

"(1) Development.--The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) Priority of Projects.--The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3 -year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) Selection of Projects.--Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) Major Capital Investments.--Not later than 6 months after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy act of 1069 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) Included Projects.--A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act and which are consistent with the long range plan developed under subsection (g) for the area. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(6) Notice and Comment.-- Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(i)Transportation Management Areas.--

"(1) Designation.--The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin s defined by Public Law 96-551.

"(2) Transportation Plans and Programs.--Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) Congestion Management System.--Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish and appropriate phase-in schedule for compliance with the requirements of this section.

"(4) Selection of Projects.--All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated

for such area and shall be in conformance with the transportation improvement program for such area.

"(5) Certification.--The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions for Federal law, nd shall so certify at lest once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, nd (2) there is a transportation improvement program for the area that has been approved by
the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) nd capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be reported to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 8(o) of the Federal Transit Act.

"(j) Abbreviated Pans nd Programs for Certain Areas.--For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k)Transfer of Funds.--Funds made available for a highway project under the Federal Transit Act shall be transferred to and administered by the Secretary in accordance with the requirements of the Federal Transit Act.

"(1) Additional Requirements for Certain Nonattainment Areas.--Notwithstanding any other provisions of this title or the Federal Transit Act, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such areas for any highway project that will result in a significant increase in

carrying capacity for single-occupant vehicles unless the project is part of an approved congestion management system.

"(m) Limitation on Statutory Construction.--Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act.

"(n) Reprogramming of Set Aside Funds.--Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135."

Section 135. Statewide planning

"(a) General Requirements.--It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve all areas of the State efficiently and effectively. subject to section 134 of this title, the State shall develop transportation plans and programs for all areas of the State. such plans and programs shall provide for development of transportation facilities (including pedestrian walkways nd bicycle transportation facilities) which will functions as an intermodal State transportation system. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) Coordination With Metropolitan Planning; State Implementation Plan.--In carrying out planning under this section, planning activities carried out under section 134 of this title for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plans to the extent required by the Clean Air Act.

"(c) State Planning Process.--Each State shall undertake a continuous transportation planning process which shall, at a minimum, consider the following:

"(1) The results of the management systems required pursuant to subsection (b).

"(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements.

"(3) Strategies for incorporation bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the State.

"(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

"(5) The transportation needs of non-metropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

"(6) Any metropolitan area plan developed pursuant to section 134.

"(7) Connectivity between metropolitan areas within the State and with metropolitan areas in other States.

"(8) Recreational travel and tourism.

"(9) Any State plan developed pursuant to the Federal Water Pollution Control Act.

"(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

"(11) The overall social, economic, energy, nd environmental effects of transportation decisions.

"(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel.

"(13) Methods to expand and enhance transit services and to increase the use of such services.

"(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decision making and the provisions of all applicable short-range and long-range use and development plans.

"(15) The transportation needs identified through use of the management systems required by section 303 of this title.

"(16) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

"(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identify those corridors for which action is most needed to prevent destruction or loss.

"(18) Long-range needs of the State transportation system.

"(19) Methods to enhance the efficient movement of commercial motor vehicles.

"(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(d) Additional Requirements.--Each State in carrying out planning under this section shall, at a minimum, consider the following:

"(1) The coordination of transportation plans and programs developed for metropolitan areas of the State under section 134 with the State transportation plans and programs developed under this section and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

"(2) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development.

"(3) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.

"(e) Long-Range Plan.--The State shall develop a long-range transportation plan for all areas of the State. With respect to metropolitan areas of the State, the plan shall be developed in cooperation with metropolitan planning organizations designated for metropolitan ares in the State under section 134. With respect to areas of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in cooperation with such government and the Secretary of the Interior. In developing the plan, the State shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan. In addition, the State shall develop a long range plan by bicycle transportation and pedestrian walkways for appropriate areas of the State which shall be incorporated in to the long-range transportation plan.

"(f) Transportation Improvement Program.--

"(1) Development.--The State shall develop a transportation improvement program for all areas of the State. With respect to metropolitan ares of the State, the program shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) Include Projects.--A transportation improvement program for a State developed under this subsection shall include projects within the boundaries of the State which are proposed for funding under this title and the Federal transit Act, which are consistent with the long-range plan developed under this section for the State, which are consistent with the metropolitan transportation improvement program, and which in areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act conform with the applicable State implementation plan developed pursuant to the Clean Air Act. The program shall include a project, or an identified phase of a project only if full funding can reasonably be anticipated to be available for such project within the time period contemplated for completion of the project. The program shall also reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) Project Section for Areas Less Than 50,000 Population.--projects undertaken in areas of less than 50,000 population (excluding projects under taken on the National Highway System and pursuant to the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials.

"(4) Biennial Review and Approval.--A transportation improvement program developed under this subsection shall be reviewed and approved no less frequently than biennially by the Secretary.

"(g) Funding.--Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.

"(h) Treatment of Certain State Laws as Congestion Management Systems.--For purposes of this section, section 134, and section 8 of the Federal Transit Act, United States Code, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under this Act if the Secretary funds that the State laws, rules or

regulations are consistent with, and fulfill the intent of, the purposes of this section, section 134 or section 8 of such Act, as appropriate."