

REVISIONS TO THE STATE IMPLEMENTATION PLAN (SIP)
FOR THE CONTROL OF OZONE AIR POLLUTION

TRANSPORTATION CONTROL MEASURES SIP FOR
FOR TEXAS NONATTAINMENT AND MAINTENANCE AREAS

VEHICLE MILES TRAVELED SIP

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
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VEHICLE MILES TRAVELED SIP REVISION

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4.1 ENFORCEABILITY

The 1990 FCAA Amendments require states to ensure that all TCMs included in the SIP are enforceable by rule. Title 30 Texas Administrative Code, Chapter 114, §114.270 (Transportation Control Measures), has been adopted by the commission to require Metropolitan Planning Organizations (MPOs), including the HGAC, to submit specific TCM commitments and to ensure adequate funding, implementation, and emissions reductions through the TIP and MTP process. The MPOs have an opportunity to revise the TIP and MTP to provide additional TCMs as necessary to achieve full anticipated emission reductions.

4.2 FUNDING

Transportation projects with demonstrated air quality benefits are to receive priority allocation of funds regardless of funding source. Therefore, TCMs included in the SIP must receive maximum priority for approval, funding, and timely implementation.

TRANSPORTATION CONTROL MEASURES SIP REVISION

CHAPTER 1: INTRODUCTION

TCMs are transportation projects and related activities that are designed to achieve on-road mobile source emissions reductions and are included as control measures in the SIP. Allowable types of TCMs are listed in section 108 of the Federal Clean Air Act and defined in 40 CFR §93.101, 30 TAC §114.260 and 30 TAC §101.1. In general, TCMs are transportation related projects that reduce vehicle use or change traffic flow and/or congestion conditions. Projects that add single-occupancy vehicle roadway capacity or are based on improvements in vehicle technology or fuels are not eligible as TCMs.

Sections 182(c)(5) and 182(d)(1)(A) of the Federal Clean Air Act (FCAA) require the state, under certain circumstances, to include enforceable transportation control measures (TCMs) in the SIP. In addition, 40 CFR 93.113 and 30 TAC 114.260, the transportation conformity rule, require the timely implementation of TCMs in order for an area to demonstrate transportation conformity.

The TCM rule (30 TAC §114.270) is the enforcement mechanism for TCMs. The Texas Natural Resource Conservation Commission (commission) adopted the TCM rule on October 27, 1993. Revisions to the rule were adopted by the commission on July 27, 1994. The rule provided for the enforcement of TCMs by establishing specific requirements for nonattainment area Metropolitan Planning Organizations (MPOs) and implementing agencies designed to ensure that estimated emissions reductions and timely implementation were achieved. The rule allowed TCMs to be grouped and quantified by categories, without project specific descriptions and associated estimated emissions reductions. Nonattainment area MPOs could substitute TCMs within, but not between, categories without a SIP revision.

The 1999 rule (30 TAC §114.270) and SIP revision are necessary because both the Environmental Protection Agency (EPA) and nonattainment area MPOs have objected to the 1994 TCM rule. EPA has objected to the rule because it does not require the listing of specific TCM projects or allow for public comment on TCM substitutions. EPA TCM SIP guidance requires states to provide EPA with a complete description of the TCM and its estimated emission reduction benefits. Nonattainment area MPOs have objected to the rule because it does not provide a method for substituting TCMs between categories without a SIP revision. SIP revisions trigger a transportation conformity determination which may have not been necessary otherwise. There are also adverse transportation conformity consequences if all TCMs are not completed on schedule.

CHAPTER 2: GENERAL

The 1999 rule and SIP revision applies to MPOs and agencies that implement TCMs in designated nonattainment or maintenance areas, as defined in 30 TAC §101.1 (relating to Definitions). The purpose of the rule is to implement requirements relating to TCMs, address the roles and responsibilities of the MPOs and implementing transportation agencies in nonattainment and maintenance areas, and provide a method for the substitution of TCMs without a SIP revision. The rule requires TCM project specific descriptions and estimated emissions reductions to be included in the SIP. The TCM rule also allows nonattainment area MPOs to substitute TCMs without a SIP revision if the substitution(s) result in equal or greater emission reductions. The TCM substitution process requires interagency consultation and a public comment period.

CHAPTER 3: CRITERIA AND PROCEDURES

General criteria and procedures are addressed in §114.270(c), which indicates that all TCMs shall be developed, coordinated, funded, approved, implemented, tracked, evaluated, and monitored in accordance with §114.260 of this title (relating to Transportation Conformity); Title 40, Code of Federal Regulations, Part 93 (Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 USC or the Federal Transit Laws, as amended); the Federal Clean Air Act, 42 USC, 1970, as amended (FCAA); and the EPA TCM SIP approval criteria listed in the guidance document EPA 450/2-89-020 (Transportation Control Measures: State Implementation Plan Guidance, September 1990).

Nonattainment and maintenance area MPO responsibilities are addressed in §114.270(d). The MPOs shall ensure that all responsibilities required by subsection (c) are fulfilled. MPOs are also responsible for maintaining complete and accurate records on TCMs for five years on a rolling basis and making these records available to appropriate agencies and the public.

Implementing agency responsibilities are addressed in §114.270(e). Implementing agencies shall ensure that all responsibilities required by subsection (c) are fulfilled. Implementing agencies are also responsible for providing the following information to the MPOs upon request: a complete description of the TCMs and their associated emission reduction benefits; evidence that the TCMs were properly adopted by a jurisdiction with legal authority to commit to and execute the program(s); evidence that funding has been, or will be, obligated to implement the TCMs; and a description of the monitoring program to assess the TCM's effectiveness.

The TCM substitution process is outlined in §114.270(f). The rule provides a TCM substitution process that allows nonattainment area MPOs to change the TCMs used as control strategies in the SIP without a SIP revision if the substitution(s) result in equal or greater emission reductions. The substitute TCM(s) must be implemented in the same time frame as the original TCM(s). If the implementation date has already passed, TCMs that require funding must be included in the first year of the next Transportation Improvement Program (TIP) and Metropolitan Transportation Plan (MTP) adopted by the MPO. The substitute measures must be fully implemented not later than two years of the original measure's scheduled implementation date in order to meet the requirement for timely implementation of TCMs under 30TAC Chapter 114.260, Transportation Conformity. In order for the commission to approve substitute TCMs there must be evidence of adequate personnel, funding and authority under state or local law to implement and enforce the measures. Commitments to implement the substitute TCMs must be made by the agency with legal authority for implementation.

The analysis of the substitute measures must be consistent with the methodology used for evaluating measures in the SIP. If emissions models and /or transportation models have changed since those used for evaluating measures in the SIP, the TCM to be replaced and the substitute measure(s) must be evaluated using the latest modeling techniques. Key methodologies and assumptions that must be consistent are: EPA approved regional and hot-spot models, the area's transportation model, and population and employment growth projections.

The MPO will convene a committee (or working group) to identify and evaluate possible substitute measures. The committee shall include members from all affected jurisdictions, the commission and state and local transportation agencies and local air agencies. The working group will also consult with EPA

Region 6. This consultation may be accomplished by sending copies of all draft and final documents, agendas and reports to EPA Region 6. The MPO, the commission and EPA Region 6 must concur with the appropriateness and equivalency of the substitute TCM.

A public comment period with reasonable (30 days) notice must be held on the substitute TCMs before they can be approved by the commission. The commission will be responsible for conducting the public comment period. The commission will submit to EPA Region 6 a summary of comments received, along with the agency's response to comments, after the comment period closes. EPA will notify the commission within 14 days of EPA's receipt of the comments and responses if EPA's concurrence with the substitution has changed as a result of public comments. If EPA fails to notify the commission within 14 days, EPA is deemed to concur.

The commission will maintain documentation of approved TCM substitutions. The documentation will provide a description of the substitute and original TCMs, including requirements and schedules. The documentation will also include a description of the substitution process, including committee or working group members, the public hearing and comment period, EPA's concurrence and approved by the commission. The documentation will be submitted to EPA following approval by the commission of the substitute measure and will be made available to the public as an attachment to the SIP.