

Texas Commission on Environmental Quality

4 Chapter 114 - Control of Air Pollution from Motor Vehicles

4G Subchapter G : Transportation Planning

§114.270. Transportation Control Measures.

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SUBCHAPTER G: TRANSPORTATION PLANNING

§114.270

~~STATUTORY AUTHORITY~~

~~The amendment is adopted under Texas Water Code (TWC), §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC, and under Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.002 concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which provides for general powers and duties under the TCAA; §382.012, which authorizes the commission to develop a general, comprehensive plan for the proper control of the state's air; and §382.208, which authorizes the commission to work with federal, state, and local transportation planning agencies to develop and implement transportation programs and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards. The amendment is also adopted under the statutory requirement for transportation conformity found in §176(c) of the 1990 Federal Clean Air Act Amendments. In addition, 40 Code of Federal Regulations (CFR) Part 51, Subpart T and Part 93, Subpart A established criteria and procedures for determining whether transportation plans, programs, and projects in nonattainment and maintenance areas conform with the state implementation plan.~~

~~The adopted amendment implements THSC, §§382.002, 382.011, 382.012, 382.017, and 382.019.~~

§114.270. Transportation Control Measures.

(a) Purpose. The purpose of this section is to implement requirements relating to transportation control measures (TCMs). These requirements address the roles and responsibilities of the metropolitan planning organizations (MPOs) and implementing transportation agencies in nonattainment and maintenance areas.

(b) Applicability. This section applies to MPOs and agencies that implement TCMs in designated nonattainment or maintenance areas. The affected nonattainment and maintenance areas are listed in §101.1 of this title (relating to Definitions).

(c) General. 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 United States Code, 1970, as amended; and the EPA TCM SIP approval criteria listed in the EPA guidance document "Transportation Control Measures: State Implementation Plan Guidance," EPA 450/2-89-020, September 1990.

(d) MPO responsibilities. The MPO shall:

(1) ensure that all responsibilities required by subsection (c) of this section are fulfilled;

(2) maintain, on a rolling basis, complete and accurate records of all TCMs for at least five years. TCM records shall be sufficient to accurately reflect the effectiveness of the TCM program and shall include the following:

(A) the annual status of the implementation of the TCM, including quantification of progress;

(B) an annual estimate of the funding and other resources expended toward implementing the TCM, and a comparison of the actual and projected expenditures;

(C) an annual estimate of the emission reductions achieved from implementation of the TCM, and a comparison of the actual and projected reductions; and

(D) any modifications to the TCM since the last annual report and/or projected modifications for the next reporting period to compensate for a shortfall in the implementation of the TCM or in the associated emissions reductions; and

(3) make such records available to representatives of the commission, the EPA, the Federal Highway Administration, the Federal Transit Administration, the Texas Department of Transportation, local air pollution agencies having jurisdiction in the area, and the public, upon request;

(e) Implementing agency responsibilities. The implementing agency shall have the responsibility to:

(1) ensure that all responsibilities required by subsection (c) of this section are fulfilled;

and

(2) provide to the MPO upon request:

(A) a complete description of the TCMs and their associated estimated emission reduction benefits;

(B) evidence that the TCMs were properly adopted by a jurisdiction with legal authority to commit to and execute the program;

(C) evidence that funding has been, or will be, obligated to implement the TCMs;

and

(D) a description of the monitoring program to assess the TCM effectiveness.