

## APPENDIX A

## **Clean Air Act Section 176(c)**

*(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 7410 of this title. No metropolitan planning organization designated under section 134 of title 23, shall give its approval to any project, program, or plan which does not conform to an implementation plan approved or promulgated under section 7410 of this title. 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 or 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 or chapter 53 of title 49 shall implement the transportation provisions of any applicable implementation plan approved under this chapter 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 chapter. In particular—*

- (A) no transportation plan or transportation improvement program may be adopted by a metropolitan planning organization designated under title 23 or chapter 53 of title 49, or be found to be in conformity by a metropolitan planning organization until a final determination has been made that emissions 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 or chapter 53 of title 49 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 or chapter 53 of title 49, 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 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 7511a(b)(1) and 7512a(a)(7) of this title; and*

*(B) the transportation projects--*

- (i) come from a conforming transportation plan and program as defined in subparagraph (A) or for 12 months after November 15, 1990, from a transportation program found to conform within 3 years prior to November 15, 1990; 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 November 15, 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 November 15, 1990, 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 7604 of this title 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*

*organizations 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 November 15, 1990, 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.*

*(D) Compliance with the rules of the Administrator for determining the conformity of transportation plans, programs, and projects funded or approved under title 23 or chapter 53 of title 49 to State or Federal implementation plans shall not be required for traffic signal synchronization projects prior to the funding, approval or implementation of such projects. The supporting regional emissions analysis for any conformity determination made with respect to a transportation plan, program, or project shall consider the effect on emissions of any such project funded, approved, or implemented prior to the conformity determination.*

*(5) Applicability.--This subsection shall apply only with respect to--*

*(A) a nonattainment area and each pollutant for which the area is designated as a nonattainment area; and*

*(B) an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 7505a of this title with respect to the specific pollutant for which the area was designated nonattainment.*

*(d) Priority of achieving and maintaining national primary ambient air quality standards. 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 standard. This paragraph extends to, but is not limited to, authority exercised under chapter 53 of title 49, title 23, and the Housing and Urban Development Act.*

*(6) Notwithstanding paragraph 5, this subsection shall not apply with respect to an area designated nonattainment under section 107(d)(1) until one year after that area is first designated nonattainment for a specific national ambient air quality standard. This paragraph only applies with respect to the national ambient air quality standard for which an area is newly designated nonattainment and does not affect the area's requirements with respect to all other national ambient air quality standards for which the area is designated nonattainment or has been redesignated from nonattainment to attainment with a maintenance plan pursuant to section 175(A) (including any pre-existing national ambient air quality standard for a pollutant for which a new*

*or revised standard has been issued).*

## SEC. 1203. METROPOLITAN PLANNING.

(a) GENERAL REQUIREMENTS.--Section 134(a) of title 23, United States Code, is amended to read as follows:

"(a) GENERAL REQUIREMENTS.--

"(1) FINDINGS.-- It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.-- To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.-- The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS OF DEVELOPMENT.-- The process for developing the 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 to be addressed."

(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.--

(1) IN GENERAL.-- Section 134(b) of such title is amended by striking paragraphs (1) and (2) and inserting the following:

"(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 with a population of more than 50,000 individuals-

"(A) by agreement between the Governor and units of general purpose local government that 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

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.-- Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of-

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning

organization as of June 1, 1991); and

"(C) appropriate State officials."

(2) CONTINUING DESIGNATION.-- Section 134(b)(4) of such title is amended to read as follows:

"(4) CONTINUING DESIGNATION.-- A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5)."

(3) REDESIGNATION.-- Section 134(b)(5)(A) of such title is amended--

(A) by striking "among" and inserting "between"; and

(B) by striking "which together" and inserting "that together".

(4) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.-- Section 134(b)(6) of such title is amended to read as follows:

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.-- More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate."

(c) METROPOLITAN PLANNING AREA BOUNDARIES.-- Section 134(c) of such title is amended--

(1) in the subsection heading by inserting "Planning" before "Area";

(2) in the first sentence--

(A) by striking "For the purposes" and inserting the following:

"(1) IN GENERAL.-- For the purposes"; and

(B) by inserting "planning" before "area";

(3) by striking the second sentence and all that follows and inserting the following:

"(2) Included area.-- Each metropolitan planning area--

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.-- Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.-- In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area--

"(A) shall be established in the manner described in subsection (b)(1);

"(B) shall encompass the areas described in paragraph (2)(A); and  
"(C) may encompass the areas described in paragraph (2)(B); and  
"(D) may address any nonattainment area identified under the Clean  
Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide." and  
(4) by aligning paragraph (1) (as designated by paragraph (2)(A) of this  
subsection) with paragraphs (2) through (4) (as inserted by paragraph (3)  
of this subsection).

(d) COORDINATION IN MULTISTATE AREAS.-- Section 134(d) of such title is  
amended to read as follows:

"(d) COORDINATION IN MULTISTATE AREAS.--

"(1) IN GENERAL.-- The Secretary shall encourage each Governor with  
responsibility for a portion of a multistate metropolitan area and the  
appropriate metropolitan planning organizations to provide coordinated  
transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.-- The consent of Congress is granted to any  
2 or more States-

"(A) 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  
the activities pertain to interstate areas and localities within the  
States; and

"(B) to establish such agencies, joint or otherwise, as the States  
may determine desirable for making the agreements and compacts  
effective.

"(3) LAKE TAHOE REGION.--

"(A) DEFINITION.-- In this paragraph, the term 'Lake Tahoe Region'  
has the meaning given the term 'region' in subdivision (a) of article  
II of the Tahoe Regional Planning Compact, as set forth in the first  
section of Public Law 96-551 (94 Stat. 3234.)

"(B) TRANSPORTATION PLANNING PROCESS.-- The Secretary shall-

"(i) establish with the Federal land management agencies that  
have jurisdiction over land in the Lake Tahoe region a  
transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the  
planning process required of State and local governments under  
this section, section 135, and chapter 53 of title 49.

"(C) INTERSTATE COMPACT.--

"(i) IN GENERAL.-- Subject to clause (ii), notwithstanding  
subsection (b), to carry out the transportation planning process  
required by this section, the consent of Congress is granted to  
the States of California and Nevada to designate a metropolitan  
planning organization for the Lake Tahoe region, by agreement  
between the Governors of the States of California and Nevada and  
units of general purpose local government that together represent  
at least 75 percent of the affected population (including the  
central city of cities as defined by the Bureau of the Census), or  
in accordance with procedures established by applicable State or  
local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.--

"(I) REPRESENTATION.-- The policy board of a metropolitan

planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) FUNDING.-- In addition to funds made available to the metropolitan planning organization under other provisions of this title and under chapter 53 of title 49, not more than 1 percent of the funds allocated under section 202 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) ACTIVITIES.-- Highway projects included in transportation plans developed under this paragraph-

"(i) shall be selected for funding in a manner that facilitates that participation of the Federal land management agencies that have jurisdiction over land in that Lake Tahoe region; and

"(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

"(4) RECIPIENTS OF OTHER ASSISTANCE.-- The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided-

"(A) by recipients of assistance under chapter 53 of title 49; and

"(B) by governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services."

(e) COORDINATION OF MPOs.-- Section 134(e) of such title is amended-

(1) in the subsection heading by striking "MPO's" and inserting "MPOs";

(2) by striking "If" and inserting the following:

"(1) NONATTAINMENT AREAS.-- If";

(3) by adding at the end of the following:

"(2) PROJECT LOCATED IN MULTIPLE MPOs.-- If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organization shall coordinate plans regarding the project."; and

(4) by aligning paragraph (1) (as designated by paragraph (2) of this subsection) with paragraph (2) (as added by paragraph (3) of this subsection.)

(f) SCOPE OF THE PLANNING PROCESS.-- Section 134(f) of such title is amended to read as follows:

"(f) SCOPE OF PLANNING PROCESS.--

"(1) IN GENERAL.-- The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will-

"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

"(C) increase the accessibility and mobility options available to people and for freight;

"(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

"(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

"(F) promote efficient system management and operation; and

"(G) emphasize the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.-- The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process."

(g) LONG-RANGE TRANSPORTATION PLAN.-- Section 134(g) of such title is amended--

(1) in paragraph (2) by striking ", at a minimum" and inserting "contain, at a minimum, the following";

(2) in paragraph (2)(A) by striking "Identify" and inserting "An identification of"; and

(3) by striking paragraph (2)(B) and inserting the following:

"(B) A financial plan that demonstrates how the adopted long-range transportation plan 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 additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the metropolitan planning organization and State shall cooperatively develop estimates of funds that will be available to support plan implementation.";

(4) in paragraph (4)--

(A) by inserting after "employees," the following: "freight shippers, providers of freight transportation services," and

(B) by inserting after "private providers of transportation," the following: "representatives of users of public transit,";

(5) by adding at the end of the following:

"(6) SELECTION OF PROJECTS FROM THE ILLUSTRATIVE LIST.-- Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).";

(6) in the subsection heading by striking "Long Range Plan" and inserting "Long-Range Transportation Plan";

(7) in the headings for paragraphs (2) and (5) by striking "long range plan" and inserting "long-range transportation plan"; and

(8) by striking "long range plan" each place it appears and inserting "long-range transportation plan".

(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.-- Section 134(h) of such title is amended to read as follows:

"(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.--

"(1) DEVELOPMENT.--

"(A) IN GENERAL.-- In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.-- In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.-- For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.-- The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.-- The transportation improvement program shall include-

"(A) a priority list of proposed federally supported projects and strategies to be carried out within each 3-year period after the initial adoption of the transportation improvement program; and

"(B) A FINANCIAL PLAN THAT-

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.

"(3) INCLUDED PROJECTS.--

"(A) PROJECTS UNDER THIS CHAPTER AND CHAPTER 53 OF TITLE 49.-- A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under this chapter and chapter 53 of title 49.

"(B) PROJECTS UNDER CHAPTER 2.--

"(i) REGIONALLY SIGNIFICANT PROJECTS.-- Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.-- Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.- Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.-- 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.

"(4) NOTICE AND COMMENT.-- Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.--

"(A) IN GENERAL.-- Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program-

"(i) by-

"(I) in the case of projects under this chapter, that State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.-- Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

"(6) SELECTION OF PROJECT FROM ILLUSTRATIVE LIST.--

"(A) NO REQUIRED SELECTION.-- Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan

under paragraph (2)(B)(iv).

"(B) REQUIRED ACTION BY THE SECRETARY.-- Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved transportation improvement program.

"(7) PUBLICATION.--

"(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAMS.-- A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

"(B) PUBLICATION OF ANNUAL LISTING OF PROJECTS.-- An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program."

(i) TRANSPORTATION MANAGEMENT AREAS.--

(1) REQUIRED DESIGNATIONS.-- Section 134(i)(1) of such title is amended to read as follows:

"(1) DESIGNATION.--

"(A) REQUIRED DESIGNATIONS.-- The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.-- The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area."

(2) SELECTION OF PROJECTS.-- Section 134(i)(4) of such title is amended to read as follows:

"(4) SELECTION OF PROJECTS.--

"(A) IN GENERAL.-- All federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System and project carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.-- Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area."

(3) CERTIFICATION.-- Section 134(i)(5) of such title is amended to read

as follows:

"(5) CERTIFICATION.--

"(A) IN GENERAL.-- The Secretary shall-

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.-- The Secretary may make the certification under subparagraph (A) if-

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.--

"(i) WITHHOLDING OF FUNDS.-- If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.-- The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.-- The Secretary shall not withhold certification under this paragraph based on 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 5306(a) of title 49.

"(D) REVIEW OF CERTIFICATION.-- In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review."

(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.-- Section 134(j) of such title is amended to read as follows:

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.--

"(1) IN GENERAL.-- Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated long-range transportation plan and transportation improvement program for the metropolitan area that the Secretary determines is appropriate to achieve the purposes of this section, taking in account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.-- The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.)."

(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.-- Section 134(l) of such title is amended--

(1) by striking "Notwithstanding" and inserting the following:

"(1) IN GENERAL.-- Notwithstanding"; and

(2) by adding at the end of the following:

"(2) APPLICABILITY.-- This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c)."

(l) FUNDING.-- Section 134(n) of such title is amended to read as follows:

"(n) FUNDING.--

"(1) IN GENERAL.-- Funds set aside under section 104(f) of this title to carry out sections 5303 through 5305 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.-- Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135."

(m) CONTINUATION OF CURRENT REVIEW PRACTICE.-- Section 134 of such title is amended by adding at the end of the following:

"(o) CONTINUATION OF CURRENT REVIEW PRACTICE.-- Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

(n) TECHNICAL AMENDMENT.-- The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. METROPOLITAN PLANNING."

SEC. 1204. STATEWIDE PLANNING.

(a) GENERAL REQUIREMENTS.--Section 135(a) of title 23, United States Code, is amended to read as follows:

``(a) GENERAL REQUIREMENTS.--

``(1) FINDINGS.--It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

``(2) DEVELOPMENT OF PLANS AND PROGRAMS.--Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

``(3) CONTENTS.--The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

``(4) PROCESS OF DEVELOPMENT.--The process for developing the 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 to be addressed.''.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.--Section 135(b) of such title is amended by inserting after ``of this title'' the following: ``and sections 5303 through 5305 of title 49''.

(c) SCOPE OF PLANNING PROCESS.--Section 135(c) of such title is amended to read as follows:

``(c) SCOPE OF PLANNING PROCESS.--

``(1) IN GENERAL.--Each State shall carry out a transportation planning process that provides for consideration of projects and strategies that will--

``(A) support the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

``(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

``(C) increase the accessibility and mobility options available to people and for freight;

``(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

``(E) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

``(F) promote efficient system management and operation;  
and

``(G) emphasize the preservation of the existing  
transportation system.

``(2) FAILURE TO CONSIDER FACTORS.--The failure to consider  
any factor specified in paragraph (1) shall not be reviewable  
by any court under this title, subchapter II of chapter 5 of  
title 5, or chapter 7 of title 5 in any matter affecting a  
transportation plan, a transportation improvement plan, a  
project or strategy, or the certification of a planning  
process.''.  
''.

(d) ADDITIONAL REQUIREMENTS.--Section 135(d) of such title is  
amended to read as follows:

``(d) ADDITIONAL REQUIREMENTS.--In carrying out planning under  
this section, each State shall, at a minimum, consider--

``(1) with respect to nonmetropolitan areas, the concerns of  
local elected officials representing units of general purpose  
local government;

``(2) the concerns of Indian tribal governments and Federal  
land management agencies that have jurisdiction over land  
within the boundaries of the State; and

``(3) coordination of transportation plans, programs, and  
planning activities with related planning activities being  
carried out outside of metropolitan planning areas.''.  
''.

(e) LONG-RANGE TRANSPORTATION PLAN.--Section 135(e) of such title  
is amended to read as follows:

``(e) LONG-RANGE TRANSPORTATION PLAN.--

``(1) DEVELOPMENT.--Each State shall develop a long-range  
transportation plan, with a minimum 20-year forecast period,  
for all areas of the State, that provides for the development  
and implementation of the intermodal transportation system of  
the State.

``(2) CONSULTATION WITH GOVERNMENTS.--

``(A) METROPOLITAN AREAS.--With respect to each  
metropolitan area in the State, the long-range transportation  
plan shall be developed in cooperation with the metropolitan  
planning organization designated for the metropolitan area  
under section 134 of this title and section 5303 of title 49.

``(B) NONMETROPOLITAN AREAS.--With respect to each  
nonmetropolitan area, the long-range transportation plan  
shall be developed in consultation with affected local  
officials with responsibility for transportation.

``(C) INDIAN TRIBAL AREAS.--With respect to each area of  
the State under the jurisdiction of an Indian tribal  
government, the long-range transportation plan shall be  
developed in consultation with the tribal government and the  
Secretary of the Interior.

``(3) PARTICIPATION BY INTERESTED PARTIES.--In developing the  
long-range transportation plan, the State shall--

``(A) provide citizens, affected public agencies,

representatives of transportation agency employees, freight shippers, private providers of transportation, representatives of users of public transit, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

``(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

``(4) FINANCIAL PLAN.--The long-range transportation plan may include a financial plan that demonstrates how the adopted long-range transportation plan 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 additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

``(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.--Notwithstanding paragraph (4), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (4).''.

(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.--Section 135(f) of such title is amended to read as follows:

``(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.--

``(1) DEVELOPMENT.--

``(A) IN GENERAL.--Each State shall develop a transportation improvement program for all areas of the State.

``(B) CONSULTATION WITH GOVERNMENTS.--

``(i) METROPOLITAN AREAS.--With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5303 of title 49.

``(ii) NONMETROPOLITAN AREAS.--

``(I) IN GENERAL.--With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected local officials with responsibility for transportation.

``(II) REVIEW.--Not later than 1 year after the date of enactment of this subclause, the State shall submit to the Secretary the details of the consultative planning process developed by the State for nonmetropolitan areas under subclause (I). The Secretary shall not review or approve such process.

``(iii) INDIAN TRIBAL AREAS.--With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in

consultation with the tribal government and the Secretary of the Interior.

``(C) PARTICIPATION BY INTERESTED PARTIES.--In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

``(2) INCLUDED PROJECTS.--

``(A) IN GENERAL.--A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

``(B) CHAPTER 2 PROJECTS.--

``(i) REGIONALLY SIGNIFICANT PROJECTS.--Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

``(ii) OTHER PROJECTS.--Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

``(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.--Each project shall be--

``(i) consistent with the long-range transportation plan developed under this section for the State;

``(ii) identical to the project as described in an approved metropolitan transportation improvement program; and

``(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under such Act.

``(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.--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.

``(E) FINANCIAL PLAN.--The transportation improvement program may include a financial plan that demonstrates how the approved 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 additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation

plan if reasonable additional resources beyond those identified in the financial plan were available.

``(F) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.--

``(i) NO REQUIRED SELECTION.--Notwithstanding subparagraph (E), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E).

``(ii) REQUIRED ACTION BY THE SECRETARY.--Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E) for inclusion in an approved transportation improvement program.

``(G) PRIORITIES.--The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title.

``(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.--

``(A) IN GENERAL.--Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

``(B) NATIONAL HIGHWAY SYSTEM PROJECTS.--Projects carried out in areas described in subparagraph (A) on the National Highway System and projects carried out in such areas under the bridge program or the Interstate maintenance program shall be selected, from the approved statewide transportation improvement program, 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, on a finding that the planning process through which the program was developed is consistent with this section, section 134, and sections 5303 through 5305 of title 49, approved not less frequently than biennially by the Secretary.

``(5) MODIFICATIONS TO PROJECT PRIORITY.--Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project in the program.''.

(g) FUNDING.--Section 134(g) of such title is amended by striking ``section 307(c)(1)'' and inserting ``section 505(a)''.

(h) CONTINUATION OF CURRENT REVIEW PRACTICE.--Section 135 of such title is amended by adding at the end the following:

``(i) CONTINUATION OF CURRENT REVIEW PRACTICE.--Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''.

(i) PARTICIPATION OF LOCAL ELECTED OFFICIALS.--

(1) STUDY.--The Secretary shall conduct a study on the effectiveness of the participation of local elected officials in transportation planning and programming. In conducting the study, the Secretary shall consider the degree of cooperation between each State, local officials in rural areas in the State, and regional planning and development organizations in the State.

(2) REPORT.--Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study with any recommendations the Secretary determines appropriate as a result of the study.