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Memorandum of Understanding Between the Department of Transportation and the Environmental Protection Agency Regarding the Integration

Costle (EPA) and Adams (DOT)

June 14, 1978

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF TRANSPORTATION
AND
THE ENVIRONMENTAL PROTECTION AGENCY
REGARDING
THE INTEGRATION OF TRANSPORTATION AND AIR QUALITY PLANNING

I. Introduction

The Clean Air Act Amendments of 1977 were signed into law by the President on August 7, 1977. These Amendments require state and local governments to develop for all areas where national ambient air quality standards have not been attained, revisions to state implementation plans (SIPs). The revised SIPs must be submitted by the state to the Environmental Protection Agency (EPA) by January 1, 1979. These revised plans must provide for attainment of the national ambient air quality standards by 1982 or, in the case of areas with severe photochemical oxidant or carbon monoxide problems, not later than 1987. The revised plans must also provide for incremental reductions in emissions ("reasonable further progress") between the time the plans are submitted and the attainment deadline.

In many major urbanized areas of the country the revised SIPs will require transportation controls, i.e. strategies designed to reduce emissions from transportation-related sources by means of structural and operational changes in the transportation system. A mechanism is required that will enable state and local governments to: (1) develop a wide range of alternative transportation control strategies, (2) analyze the air quality and other impacts of the strategies, and (3) select among the alternatives in a timely and informed manner.

Federal transportation planning requirements in urbanized areas are implemented by the Department of Transportation (DOT) through a joint delegation of authority to the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA). The FHWA and UMTA provide funds to states and local governments to plan, develop, and improve transportation systems and services. In urbanized areas improvements are implemented according to a continuing, comprehensive, and cooperative transportation planning process carried out pursuant to FHWA/UMTA joint regulations. It is in this context that "DOT" is utilized in this document. In order to effectively achieve the objectives of the 1977 Clean Air Act

Amendments, the DOT and Environmental Protection Agency (EPA) agree that the transportation-related air quality planning requirements of EPA will be integrated with the transportation planning process administered by the DOT. Closer integration of the planning requirements of DOT and EPA will ensure the timely consideration of air quality concerns and will reduce potentially duplicative, overlapping, and inconsistent activities at the state and local level. DOT administers other planning programs through other administrations (e.g. FAA and FRA) which have lesser impact on air quality but may be subject to future discussion.

II. Purpose

This Memorandum of Understanding, developed pursuant to the President's request, is designed (1) to establish certain principles which DOT and EPA agree to follow in the preparation of more detailed regulations and administrative procedures required to achieve the objective of integrating the air quality and transportation planning processes; (2) to identify specific areas of agreement with regard to the joint administration of the air quality aspects of the planning process.

III. Principles that Will Guide the Integration of the Air Quality and Transportation Planning Processes

- A. The reduction of air pollution is an important national goal and must be among the highest priorities of the transportation planning process in areas not meeting primary Air Quality Standards. However, the transportation planning process must also consider other national and local objectives such as mobility, safety, energy conservation, urban economic development, full employment and orderly metropolitan growth.
- B. It is the affirmative responsibility of federal, state and local agencies involved in funding or conducting transportation planning and implementation to ensure that evaluation of an adequate range of alternative transportation control strategies is conducted in order to furnish local, state and federal officials with an adequate basis on which to reach informed decisions.
- C. Any transportation planning activities conducted pursuant to this agreement must continue to provide for an adequate process of consultations with and involvement of the general purpose local government, responsible state agencies and the public as called for in the joint UMTA/FHWA Urban Transportation Planning regulations.
- D. It is the objective of the activities undertaken pursuant to this agreement to contribute to the maximum extent feasible, in combination, with other emission reduction measures, to a reduction of emissions necessary to meet the prescribed air quality standards.

IV. Joint Administration of the Air Quality Aspects of the Urban Transportation Planning Process

The Department of Transportation and Environmental Protection Agency agree to modify existing procedures concerning the administration of the urban transportation and air quality planning processes in nonattainment areas as follows:

1. DOT and EPA regional/division offices will have the opportunity for joint review of and concurrence in the Unified Work Program (UWP) required pursuant to paragraph 450.114 of the Joint Planning Regulations (23 CFR 450), to ensure that adequate air quality planning tasks are included in the planning programs. Any disagreements at the regional level shall be referred to the DOT Secretary for resolution. Before making his final decision on the UWP, the Secretary will consult with the EPA Administrator and will notify EPA of the disposition of its comments, with appropriate supporting materials. In addition, where an MPO has failed, without adequate reason to carry out the analysis or other activities committed in its Unified Work Program, DOT will prescribe conditions which will require specified remedial actions to be taken in order to correct the identified failure in the Unified Work Program. DOT and EPA will develop in the near future a document identifying appropriate categories of remedial actions.

2. DOT and EPA regional/division offices will have the opportunity for joint review of transportation plans (including TSM elements) in nonattainment areas required pursuant to paragraph 450.116 of the Joint Planning Regulations, to ensure that air quality considerations are adequately addressed. DOT and EPA will consult with the planning agency on how air quality related planning deficiencies will be corrected. DOT will also explicitly consider EPA comments in taking subsequent actions on program approvals and will notify EPA of the disposition of its comments, with appropriate supporting materials.

3. DOT and EPA regional/division offices will have the opportunity for joint review in connection with the annual planning certification required pursuant to paragraph 450.122 of the Joint Planning Regulations, on the adequacy of the planning process to address air quality considerations. DOT and EPA will consult with the planning agency on how air quality related planning deficiencies will be corrected. DOT will also explicitly consider EPA comments in making any certification decisions and will notify EPA of the disposition of its comments, with appropriate supporting material.

4. DOT and EPA regional/division offices will have the opportunity for joint review of the Transportation Improvement Program (TIP) and its annual element required pursuant to paragraph 450.118 of the Joint Planning Regulations for consistency with the air quality elements of the transportation plan and/or the SIP. DOT will explicitly consider EPA's comments in program approvals, and will notify EPA of its disposition of the comments. If EPA disagrees with the disposition of its comments, the procedures for resolution set forth in Addendum 1 to this memorandum will be followed.

5. DOT and EPA regional/division offices will have the opportunity for joint review of the revised SIPs, for compliance with the objectives of

statutes administered by DOT (e.g., Title 23 USC and the Urban Mass Transportation Act) to provide for mobility and for safe and efficient transportation. EPA will explicitly consider DOT comments in approving or disapproving SIP revisions, and will notify DOT of its disposition of the comments, with appropriate supporting materials. If DOT disagrees with the disposition of its comments, the procedures for resolution set forth in Addendum 2 to this memorandum will be followed.

6. DOT and EPA agree to work toward greater coordination in the administration of their respective grants for local planning activities by including these grants in the UWP, to ensure that such grants support effectively the related objectives of both agencies while avoiding duplication and overlapping planning activities.

DOT and EPA will take appropriate steps to alter their existing internal procedures and to issue a joint appendix to the existing transportation planning regulations to implement the above understandings.

DOT and EPA agree to consult one another in the development of criteria and procedures required by Section 176 of the Clean Air Act, including insuring that all major capital improvement projects are consistent with the SIP.

Signed in Washington, D.C. this 14th day of June, 1978.

Department of Transformation

Environmental Protection Agency

ADDENDUM 1

If the EPA Regional Administrator disagrees with the disposition of his comments by DOT, he will so notify the DOT Regional/Division Administrator within seven days. In such a case, the DOT Regional/Division Administrator will not approve the element or elements of the TIP in disagreement until so advised by headquarters.

Within 30 days after the EPA Regional Administrator notifies DOT of his disagreement, the EPA Administrator will notify the Secretary of Transportation if the EPA Administrator disagrees with the DOT field staff disposition of EPA comments, and the reason for the EPA Administrator's disagreement.

If such notification is received within 30 days, the Secretary of Transportation will carefully consider the EPA Administrator's views and in the event of disagreement will notify the EPA Administrator of the disposition of his comments, with appropriate supporting materials before making his decision.

ADDENDUM 2

If the DOT Regional/Division Administrator disagrees with the disposition of his comments by EPA, he will so notify the EPA Regional Administrator within seven days. In such a case, the EPA Regional Administrator will not approve the SIP until so advised by headquarters.

Within 30 days after the DOT Regional/Division Administrator notifies EPA of his disagreement, the Secretary of Transportation will notify the EPA Administrator if the Secretary of Transportation disagrees with the EPA field staff disposition of DOT comments, and the reason for the DOT Secretary's disagreement.

If such notification is received within 30 days, the EPA Administrator will carefully consider the Secretary of Transportation's views and in the event of disagreement will notify the Secretary of the disposition of his comments, with appropriate supporting materials before making his decision.