

- On Board Diagnostics II (OBD II) Testing;⁹
- Lower I/M Program Cutpoints; and
- On Road Remote Sensing.

From 1997 through 2000, when the Las Vegas serious area plan was being developed, the implementation deadline for mandatory OBD testing in I/M programs had not yet passed, and the plan identified OBD II testing as a contingency measure that would be triggered by the occurrence of either unanticipated growth in VMT or a CO exceedance. However, the deadline for mandatory OBD testing is now expired. See 66 FR 18156 (April 5, 2001). Normally, a required measure does not qualify as contingency measure; however, a measure that represents a requirement but that is designed to allow for implementation prior to its implementation deadline may qualify as a short-term contingency measure. In this instance, because the implementation deadline for mandatory OBD testing had not passed at the time of plan development and adoption and the emissions benefits from mandatory OBD testing were not included in the attainment demonstration, and because of Clark County's commitment to provide documentation and additional measures if necessary, as explained below, we propose to approve OBD testing as a contingency measure of the 2000 CO plan for the purposes of section 187(a)(3) of the Act. As noted previously, in today's action, we are proposing to approve (under our parallel processing procedure) revisions to the I/M program to implement OBD II testing based on draft revisions to the implementing regulations (specifically, revision to NAC 445B.580) submitted by NDEP under a letter dated January 30, 2002. Thus, as a practical matter, this contingency measure will not actually be contingent upon occurrence of any particular event but will be implemented fully by the end of 2002.

The 2000 CO plan did not provide emission reduction estimates for implementation of OBD II testing because of the limitations of the vehicle emissions model (MOBILE5b) available at the time of plan preparation. However, in adopting the 2000 CO plan

(resolution dated August 1, 2000), Clark County committed to preparing and submitting a plan revision to EPA that quantifies the actual benefits of the contingency measures contained in the plan, within one year of the release date of pending applicable guidance protocols and models. The County also committed to monitoring the emission reductions associated with the plan's control measures and remedying in a timely fashion any shortfall for the purpose of complying with SIP control measure requirements of the Act.

In January 2002, EPA approved and announced the availability of the MOBILE6 motor vehicle emission factor model for official use outside of California. See 67 FR 4254 (January 29, 2002). Unlike MOBILE5b, MOBILE6 has the capability of quantifying the emissions reductions associated with implementation of OBD. Based on Clark County's commitment cited above, we anticipate that the County will develop and, via NDEP, submit emissions estimates by the end of January 2003 showing the emissions reductions associated with OBD testing in Clark County and identifying additional contingency measures, if necessary, to provide needed emissions reductions if VMT growth exceeds projections or if the CO NAAQS is exceeded.

In addition, the Nevada State Environmental Commission adopted a resolution dated April 9, 1999 that directs NDEP, DMV, the Department of Agriculture, and Clark County to work together to identify and propose to the appropriate adopting body the most cost-effective and reasonably available control strategies necessary to achieve and maintain the NAAQS and to ensure conformity between the transportation improvement program and the SIP. Through this resolution, the Nevada State Environmental Commission further committed itself to adopting appropriate emission reduction measures as necessary to ensure that the NAAQS can be achieved and maintained in Las Vegas Valley.

We agree that MOBILE6 is the appropriate tool to use in estimating emissions reductions from OBD testing, and we agree that implementing OBD testing will provide substantial emissions reductions beyond those already accounted for in the 2000 CO plan. We expect that OBD testing will ultimately be shown by Clark County to provide emissions reductions beyond the minimum we believe contingency measures must provide. Taken together with the County's commitments to provide emissions documentation and remedial contingency measures, if

necessary, and the Nevada State Environmental Commission's April 9, 1999 resolution, we propose to approve OBD II testing as meeting section 187(a)(3) requirements.

We are proposing to disapprove the other contingency measures in the 2000 CO plan, lower I/M program cutpoints and on-road remote sensing. With respect to lower I/M program cutpoints, we are proposing disapproval because the measure has not been developed to allow for implementation (upon the occurrence of triggering events) without further action by the State. With respect to on-road remote sensing, in proposing disapproval, we note that a minimum level of on-road testing is required for all enhanced I/M programs (see 40 CFR 51.51.351(b), and to the extent that this particular measure provides for that minimum level of testing, it does not qualify as a contingency measure.

An on-road testing program designed to obtain measurable emission reductions over and above those already predicted to be achieved by other aspects of the I/M program can serve as a contingency measure, but the description and documentation of the on-road remote sensing contingency measure as included in the 2000 CO plan does not provide us with the basis to conclude that it would provide emissions reductions beyond those already predicted to be achieved by other aspects of the I/M program. Nonetheless, we have concluded that these two measures are not necessary for plan approval, and we propose to find that OBD II testing and related commitments are sufficient in themselves to comply with section 187(a)(3) of the Act. Therefore, our disapproval of these contingency measures, if finalized, would not trigger sanctions clocks under section 179(a) of the Act.

K. Are the Emissions Budgets Approvable?

Section 176(c)(1) of the Act prohibits federal agencies from permitting, approving, or funding any activity in nonattainment or maintenance areas that does not conform to a SIP once the SIP has been approved by EPA under section 110 of the Act. Section 176(c)(1) also prohibits metropolitan planning organizations (MPOs), such as the Clark County RTC, from approving any project, program, or plan that does not conform to a SIP once the SIP has been approved by EPA under section 110 of the Act. With regards to regional transportation plans and program, MPOs must demonstrate consistency between motor vehicle emissions estimates under those plans and

⁹ Some variety of OBD system has been an option on certain vehicle models since the early 1980's, standardized OBD systems (also known as OBD II) were not introduced until MY 1994, and such systems did not appear on all new light-duty vehicles sold in this country until MY 1996. Therefore, for I/M purposes, EPA does not require or recommend that pre-1996 MY vehicles be subject to OBD inspections. Additionally, EPA's MOBILE6 emission factor model will not provide emission reduction on pre-1996 MY vehicles. (Nevada DMV intends to submit final adopted regulations that are consistent with EPA's definition for OBD systems.)