

the level of CO emissions reductions needed to maintain the CO NAAQS.

The NDEP has selected two verified 8-hour average concentrations in excess of 85% of the CO NAAQS at any one monitor site in the Lake Tahoe Basin in any CO season (November through February) as the pre-violation action level.

The procedures for addressing a pre-violation action level are bi-state and multi-jurisdictional in nature. If the pre-violation action level is reached at any one monitor in the entire Lake Tahoe Basin (*i.e.*, including monitors located in California as well as the monitor at Stateline, Nevada) during the CO season, NDEP will notify the Tahoe Regional Planning Area (TRPA) which will in turn activate the Conformity Task Force, which consists of all of the air quality planning agencies in the Basin, regional planning agencies, state Departments of Transportation (DOTs) and federal agencies.

Under the direction of this Task Force, NDEP will analyze historic and current monitoring data from the Stateline site and California's Sandy Way site in South Lake Tahoe and will conduct studies to determine whether the event is confined to a local hot spot or if it is an area wide phenomenon. The Task Force will review the most recent microscale modeling at known hot-spot locations and conduct field studies at hot spot locations most likely to have high CO concentrations. If it is determined that the event is confined to a local hot spot and local transportation system improvements at that location can be implemented promptly and will fully mitigate the problem, the Task Force will recommend that action to the appropriate jurisdiction. If the problem is area wide, the Task Force will examine, prioritize and recommend general control measures, such as cleaner burning fuel, employer-based trip reduction, non-work trip reduction, parking supply and pricing management, high occupancy vehicle system or transit improvements.

The implementation of the recommended contingency measures for the Lake Tahoe Nevada area will be the responsibility of the NDEP and/or the appropriate local jurisdiction. Both in the transmittal letter (dated October 27, 2003) and in the plan itself, the NDEP has committed to track CO concentrations and to adopt, submit as a SIP revision, and implement expeditiously any and all measures to achieve the level of CO emissions reductions needed to maintain the CO NAAQS in the event of an exceedance of the CO NAAQS. In addition, NDEP has committed to work with the

involved jurisdictions to ensure that sufficient measures are adopted and implemented in a timely fashion to cure the violation.

EPA finds that the contingency plan provided in the maintenance plan is adequate to ensure prompt correction of a violation and thereby complies with section 175A(d) of the Act.

IV. Conformity

A. How Is Transportation Conformity Demonstrated to a Limited Maintenance Plan?

Section 176(c) of the Act defines transportation conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. The Act further defines transportation conformity to mean that no Federal transportation activity will: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The Federal Transportation Conformity Rule, 40 CFR part 93 subpart A, sets forth the criteria and procedures for demonstrating and assuring conformity of transportation plans, programs and projects which are developed, funded or approved by the U.S. Department of Transportation, and by metropolitan planning organizations or other recipients of funds under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). The transportation conformity rule applies within all nonattainment and maintenance areas. As prescribed by the transportation conformity rule, once an area has an applicable state implementation plan with motor vehicle emissions budgets, the expected emissions from planned transportation activities must be consistent with ("conform to") such established budgets for that area.

In the case of the Lake Tahoe Nevada CO limited maintenance plan, however, the emissions budgets may be treated as essentially not constraining for the length of the initial maintenance period because there is no reason to expect that Lake Tahoe Nevada will experience so much growth in that period that a violation of the CO air quality standard would result. In other words, emissions from on-road transportation sources need not be capped for the maintenance period because it is unreasonable to believe that emissions from such

sources would increase to a level that would threaten the air quality in this area for the duration of this maintenance period. Therefore, for the Lake Tahoe Nevada CO maintenance area all federally funded and approved transportation actions that require conformity determinations under the transportation conformity rule can already be considered to satisfy the regional emissions analysis and "budget test" requirements in 40 CFR 93.118 of the rule.

However, since Lake Tahoe Nevada is still a maintenance area, transportation conformity determinations are still required for transportation plans, programs and projects. Specifically, for such determinations, transportation plans, transportation improvement programs, and projects must still demonstrate that they are fiscally constrained (40 CFR part 108) and must meet the criteria for consultation and Transportation Control Measure (TCM) implementation in the conformity rule (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects in Lake Tahoe Nevada area will still be required to meet the criteria for CO hot spot analyses (40 CFR 93.116 and 40 CFR 93.123) that must incorporate the latest planning assumptions and models that are available.

B. What Is the Adequacy Status of This Limited Maintenance Plan?

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on EPA's third set of transportation conformity revisions in response to a case brought by the Environmental Defense Fund. This decision stated that a conformity determination cannot be made using a submitted motor vehicle emission budget until EPA makes a positive determination that the submitted budget is adequate. In response to the court's decision, EPA issued guidance on our adequacy process on May 14, 1999.

In accordance with our guidance and the court decision, the Lake Tahoe Nevada maintenance plan was posted for adequacy review of the motor vehicle emissions budget on November 10, 2003 on EPA's conformity Web site: <http://www.epa.gov/otaq/traq>, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity"). As a general rule, however, limited maintenance plans, such as the Lake Tahoe Nevada maintenance plan, do not include budgets. Instead, for those areas that qualify under our limited maintenance plan policy for CO, we have concluded that the area will