''(iii) survey current practices of local units of government, as appropriate.

''(C) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

''(i) State departments of transportation;

''(ii) county engineers and public works professionals;

''(iii) appropriate local officials; and

''(iv) appropriate private sector experts in the field of roadway safety infrastructure.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

''(B) CONTENTS.—The report shall include—

''(i) a summary of cost-effective roadway safety infrastructure improvements;

''(ii) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

''(iii) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

''(3) MANUAL.—

''(A) DEVELOPMENT.—Based on the results of the study under paragraph (2), the Secretary, in consultation with the individuals and entities described in paragraph (1)(C), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

''(B) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under paragraph (2).

''(C) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

''(D) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.''

TRANSITION

Pub. L. 109–59, title I, § 1401(d), formerly § 1401(e), Aug. 10, 2005, 119 Stat. 1227, renumbered § 1401(d) by Pub. L. 110–244, title I, § 101(s)(1), June 6, 2008, 122 Stat. 1577, provided for different methods of obligating funds to States for highway safety improvement programs both before and after the second fiscal year beginning Aug. 10, 2005.

§ 149. Congestion mitigation and air quality improvement program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—Except as provided in subsection (d), a State may obligate funds apportioned to it under section 104(b)(4) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

(I) the attainment of a national ambient air quality standard; or

(II) the maintenance of a national ambient air quality standard in a maintenance area; and

(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or,

(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits;

(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors;

(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems, if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard;

(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of this paragraph, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment;

(7) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, alternative work hours, and pricing; or

(8) if the project or program is for—

(A) the purchase of diesel retrofits that are—

(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

(ii) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(II) funded, in whole or in part, under this title; or

(B) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits.

(c) SPECIAL RULES.—

(1) PROJECTS FOR PM–10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(4) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

(2) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(4) for a project or program to establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery powered or natural gas fueled trucks or other motor vehicles at any location in the State except that such stations may not be established or supported where commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

(3) HOV FACILITIES.—No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

(d) STATES FLEXIBILITY.—

(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(4) for any project in the State that—

(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

(B) is eligible under the surface transportation program under section 133.

(2) STATES WITH A NONATTAINMENT AREA.—

(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21, the State may use for any project that is eligible under the surface transportation program under section 133 an amount of funds apportioned to such State under section 104(b)(4) that is equal to the product obtained by multiplying—

(i) the amount apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under paragraph (1)); by

(ii) the ratio calculated under subparagraph (B).

(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as the proportion that—

(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21t;[1] bears to

(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21.

(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

(e) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

(f) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agree-

[1] So in original. Probably should be ''MAP–21;''.

ment with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

(B) cost sharing of any project expense;

(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

(g) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(B) DIESEL RETROFIT.—The term ''diesel retrofit'' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—

(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later that 18 months of the date of enactment of this subsection;

(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

(3) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM2.5 under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) to projects that are proven to reduce PM2.5, including diesel retrofits.

(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).

(h) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

(i) EVALUATION AND ASSESSMENT OF PROJECTS.—

(1) DATABASE.—

(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

(B) AVAILABILITY.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

(2) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

(B) CONTENTS.—The table described in subparagraph (A) shall show measures of cost-effectiveness, such as dollars per ton of

emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (*l*).

(j) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

(1) IN GENERAL.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.

(k) PRIORITY FOR USE OF FUNDS IN PM2.5 AREAS.—

(1) IN GENERAL.—For any State that has a nonattainment or maintenance area for fine particulate matter, an amount equal to 25 percent of the funds apportioned to each State under section 104(b)(4) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particulate matter emissions in such area, including diesel retrofits.

(2) CONSTRUCTION EQUIPMENT AND VEHICLES.—In order to meet the requirements of paragraph (1), a State or metropolitan planning organization may elect to obligate funds to install diesel emission control technology on nonroad diesel equipment or on-road diesel equipment that is operated on a highway construction project within a PM2.5 nonattainment or maintenance area.

(*l*) PERFORMANCE PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization serving a transportation management area (as defined in section 134) with a population over 1,000,000 people representing a nonattainment or maintenance area shall develop a performance plan that—

(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

(B) describes progress made in achieving the performance targets described in section 150(d); and

(C) includes a description of projects identified for funding under this section and how such projects will contribute to achieving emission and traffic congestion reduction targets.

(2) UPDATED PLANS.—Performance plans shall be updated biennially and include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

(m) OPERATING ASSISTANCE.—A State may obligate funds apportioned under section 104(b)(2) in an area of such State that is otherwise eligible for obligations of such funds for operating costs under chapter 53 of title 49 or on a system that was previously eligible under this section.

(Added Pub. L. 93–87, title I, §142(a), Aug. 13, 1973, 87 Stat. 272; amended Pub. L. 102–240, title I, §1008(a), Dec. 18, 1991, 105 Stat. 1932; Pub. L. 102–388, title III, §380, Oct. 6, 1992, 106 Stat. 1562; Pub. L. 104–59, title III, §319(a)(1), (b), Nov. 28, 1995, 109 Stat. 588, 589; Pub. L. 104–88, title IV, §405(a)(2), (b), Dec. 29, 1995, 109 Stat. 956, 957; Pub. L. 105–178, title I, §1110(a)–(d)(1), June 9, 1998, 112 Stat. 142, 143; Pub. L. 109–59, title I, §1808(a)–(f), Aug. 10, 2005, 119 Stat. 1461–1463; Pub. L. 112–141, div. A, title I, §1113(a), (b), July 6, 2012, 126 Stat. 460.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b), (d)(1), (3), (f)(5), and (g)(3), (4), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. Section 108(f)(1)(A) of the Act is classified to section 7408(f)(1)(A) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this paragraph, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

Sections 104(b)(2), 133, and 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, referred to in subsec. (d)(2), mean section 104(b)(2) of this title, section 133 of this title, and subsec. (c)(2) of this section, respectively, as in effect on the day before the date of enactment of Pub. L. 112–141, which amended section 104 generally, made numerous amendments to section 133, and redesignated subsec. (c) of this section as (d) and struck it out. The date of enactment of the MAP–21 is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The date of enactment of this subsection, referred to in subsec. (g)(2)(B), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–141, §1113(a)(1), (5), in introductory provisions, substituted ''in subsection (d)'' for ''in subsection (c)'' and ''section 104(b)(4)'' for ''section 104(b)(2)'' and struck out concluding provisions which read as follows: ''No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times. In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.''

Subsec. (b)(5). Pub. L. 112–141, §1113(a)(2), inserted ''add turning lanes,'' after ''improve intersections,'' and substituted ''paragraph, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;'' for ''paragraph;''.

Subsec. (b)(7). Pub. L. 112–141, §1113(a)(3), (7), added par. (7). Former par. (7) redesignated (8).

Subsec. (b)(7)(A)(ii). Pub. L. 112–141, § 1113(a)(4), substituted ''verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131))'' for ''published in the list under subsection (f)(2)'' in introductory provisions.

Subsec. (b)(8). Pub. L. 112–141, § 1113(a)(6), redesignated par. (7) as (8).

Subsec. (c). Pub. L. 112–141, § 1113(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 112–141, § 1113(b)(3), added subsec. (d) and struck out former subsec. (d) which related to states receiving minimum apportionment.

Pub. L. 112–141, § 1113(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 112–141, § 1113(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 112–141, § 1113(b)(1), (4), redesignated subsec. (e) as (f) and substituted ''104(b)(4)'' for ''104(b)(2)'' in par. (3). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 112–141, § 1113(b)(1), (5), redesignated subsec. (f) as (g), added par. (3), and struck out former par. (3) which related to priority. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 112–141, § 1113(b)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 112–141, § 1113(b)(6), added subsec. (i) and struck out former subsec. (i) which related to evaluation and assessment of projects.

Pub. L. 112–141, § 1113(b)(1), redesignated subsec. (h) as (i).

Subsecs. (j) to (m). Pub. L. 112–141, § 1113(b)(6), added subsecs. (j) to (m).

2005—Subsec. (b). Pub. L. 109–59, § 1808(a), inserted ''or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.)'' after ''1997,'' in introductory provisions.

Subsec. (b)(1). Pub. L. 109–59, § 1808(b)(1), added par. (1) and struck out former par. (1) which read as follows:

''(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi) of such section), that the project or program is likely to contribute to—

''(i) the attainment of a national ambient air quality standard; or

''(ii) the maintenance of a national ambient air quality standard in a maintenance area; or

''(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;''.

Subsec. (b)(4). Pub. L. 109–59, § 1808(b)(2)(A), inserted '', including advanced truck stop electrification systems,'' after ''control facility or program''.

Subsec. (b)(5). Pub. L. 109–59, § 1808(b)(3)(A), inserted ''improve transportation systems management and operations that mitigate congestion and improve air quality,'' after ''intersections,''.

Subsec. (b)(6), (7). Pub. L. 109–59, § 1808(b)(2)(B), (3)(B), (4), which directed addition of pars. (6) and (7) at end of subsec. (b), was executed by adding pars. (6) and (7) after par. (5) to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 109–59, § 1808(c)(1), substituted ''for any project in the State that—'' and subpars. (A) and (B) for ''for any project eligible under the surface transportation program under section 133.''

Subsec. (c)(2). Pub. L. 109–59, § 1808(c)(2), substituted ''for any project in the State that—'' and subpars. (A) and (B) for ''for any project in the State eligible under section 133.''

Subsecs. (f) to (h). Pub. L. 109–59, § 1808(d)–(f), added subsecs. (f) to (h).

1998—Subsec. (a). Pub. L. 105–178, § 1110(a), substituted ''shall establish and implement'' for ''shall establish''.

Subsec. (b). Pub. L. 105–178, § 1110(b)(1), in introductory provisions, substituted ''that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997,'' for ''that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994''.

Subsec. (b)(1)(A). Pub. L. 105–178, § 1110(b)(2), substituted ''clause (xvi) of such section'' for ''clauses (xii) and (xvi) of such section''.

Subsec. (b)(1)(A)(ii). Pub. L. 105–178, § 1110(b)(3), substituted ''a maintenance area'' for ''an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))''.

Subsec. (b)(5). Pub. L. 105–178, § 1110(b)(4)–(6), added par. (5).

Subsec. (c). Pub. L. 105–178, § 1110(c), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program.''

Subsec. (e). Pub. L. 105–178, § 1110(d)(1), added subsec. (e).

1995—Subsec. (b). Pub. L. 104–59, § 319(a)(1)(A), in introductory provisions, inserted ''if the project or program is for an area in the State that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994 and'' after ''project or program''.

Subsec. (b)(1)(A). Pub. L. 104–59, § 319(a)(1)(B), substituted ''contribute to—'' and cls. (i) and (ii) for ''contribute to the attainment of a national ambient air quality standard; or''.

Subsec. (b)(2). Pub. L. 104–59, § 319(b)(1), struck out ''or'' at end.

Subsec. (b)(3). Pub. L. 104–88, § 405(b)(1), inserted ''or'' after semicolon at end.

Pub. L. 104–59, § 319(b)(2), substituted a semicolon for period at end.

Subsec. (b)(4). Pub. L. 104–88, § 405(b)(2), substituted a period for ''; or'' at end.

Pub. L. 104–59, § 319(b)(3), as amended by Pub. L. 104–88, § 405(a)(2), added par. (4).

1992—Subsec. (b). Pub. L. 102–388 inserted at end ''In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.''

1991—Pub. L. 102–240 substituted section catchline for one which read: ''Truck lanes'' and amended text generally. Prior to amendment, text read as follows: ''The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes.''

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 405(b) of Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

Pub. L. 104–88, title IV, § 405(a), Dec. 29, 1995, 109 Stat. 956, provided that the amendment made by section 405(a)(2) is effective Nov. 28, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

DETERMINATION BY SECRETARY; WATER-PHASED HYDROCARBON FUEL EMULSION TECHNOLOGIES

Pub. L. 105–178, title I, §1110(d)(2), June 9, 1998, 112 Stat. 144, as amended by Pub. L. 105–206, title IX, §9002(g), July 22, 1998, 112 Stat. 836, provided that: ''For the purposes of section 149(e) [now 149(f)] of title 23, United States Code, the Secretary shall determine in accordance with the procedures specified in section 149(b) of such title whether water-phased hydrocarbon fuel emulsion technologies that consist of a hydrocarbon base and water in an amount not less than 20 percent by volume reduce emissions of hydrocarbon, particulate matter, carbon monoxide, or nitrogen oxide from motor vehicles.''

STUDY OF CMAQ PROGRAM

Pub. L. 105–178, title I, §1110(e), June 9, 1998, 112 Stat. 144, provided that:

''(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall enter into arrangements with the National Academy of Sciences to complete, by not later than January 1, 2001, a study of the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code. The study shall, at a minimum—

''(A) evaluate the air quality impacts of emissions from motor vehicles;

''(B) evaluate the negative effects of traffic congestion, including the economic effects of time lost due to congestion;

''(C) determine the amount of funds obligated under the program and make a comprehensive analysis of the types of projects funded under the program;

''(D) evaluate the emissions reductions attributable to projects of various types that have been funded under the program;

''(E) assess the effectiveness, including the quantitative and nonquantitative benefits, of projects funded under the program and include, in the assessment, an estimate of the cost per ton of pollution reduction;

''(F) assess the cost effectiveness of projects funded under the program with respect to congestion mitigation;

''(G) compare—

''(i) the costs of achieving the air pollutant emissions reductions achieved under the program; to

''(ii) the costs that would be incurred if similar reductions were achieved by other measures, including pollution controls on stationary sources;

''(H) include recommendations on improvements, including other types of projects, that will increase the overall effectiveness of the program;

''(I) include recommendations on expanding the scope of the program to address traffic-related pollutants that, as of the date of the study, are not addressed by the program.

''(2) REPORT.—Not later than January 1, 2000, the National Academy of Sciences shall transmit to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on the results of the study with recommendations for modifications to the congestion mitigation and air quality improvement program in light of the results of the study.

''(3) FUNDING.—Before making the apportionment of funds under [former] section 104(b)(2) of title 23, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall deduct from the amount to be apportioned under such section for such fiscal year, and make available, $500,000 for such fiscal year to carry out this subsection.''

EFFECT OF LIMITATION ON APPORTIONMENT

Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, amendment by section 319(a)(1) of Pub. L. 104–59 not to affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102–240, see section 319(c) of Pub. L. 104–59, set out as a note under section 104 of this title.

VALUE PRICING PILOT PROGRAM

Pub. L. 102–240, title I, §1012(b), Dec. 18, 1991, 105 Stat. 1938, as amended by Pub. L. 104–59, title III, §325(e), Nov. 28, 1995, 109 Stat. 592; Pub. L. 105–178, title I, §1216(a), June 9, 1998, 112 Stat. 211; Pub. L. 105–206, title IX, §9006(b), July 22, 1998, 112 Stat. 848; Pub. L. 109–59, title I, §1604(a), Aug. 10, 2005, 119 Stat. 1249, provided that:

''(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more value pricing pilot programs. The Secretary may enter into cooperative agreements with as many as 15 such State or local governments or public authorities to establish, maintain, and monitor value pricing programs.

''(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all preimplementation costs and project design, and all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund the preimplementation or implementation costs of any project for more than 3 years.

''(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

''(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of any value pricing pilot program under this subsection.

''(5) The Secretary shall monitor the effect of such programs for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

''(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 102(a) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.

''(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low-income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

''(8) FUNDING.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

''(i) for fiscal year 2005, $11,000,000; and

''(ii) for each of fiscal years 2006 through 2009, $12,000,000.

''(B) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry

out this subsection, $3,000,000 for each of fiscal years 2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.

''(C) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(D) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund to carry out this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

''(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with [former] section 104(b)(3) of title 23, United States Code;

''(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

''(iii) shall be available for any purpose eligible for funding under section 133 of such title.

''(C) [probably should be (E)] CONTRACT AUTHORITY.—Funds authorized to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized to carry out this subsection shall be determined in accordance with this subsection.''

§ 150. National goals and performance management measures

(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

(3) CONGESTION REDUCTION.—To achieve a significant reduction in congestion on the National Highway System.

(4) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

(5) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

(6) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

(7) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.

(c) ESTABLISHMENT OF PERFORMANCE MEASURES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary, in consultation with State departments of transportation, metropolitan planning organizations, and other stakeholders, shall promulgate a rulemaking that establishes performance measures and standards.

(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall—

(A) provide States, metropolitan planning organizations, and other stakeholders not less than 90 days to comment on any regulation proposed by the Secretary under that paragraph;

(B) take into consideration any comments relating to a proposed regulation received during that comment period; and

(C) limit performance measures only to those described in this subsection.

(3) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out section 119, the Secretary shall establish—

(i) minimum standards for States to use in developing and operating bridge and pavement management systems;

(ii) measures for States to use to assess—

(I) the condition of pavements on the Interstate system;

(II) the condition of pavements on the National Highway System (excluding the Interstate);

(III) the condition of bridges on the National Highway System;

(IV) the performance of the Interstate System; and

(V) the performance of the National Highway System (excluding the Interstate System);

(iii) minimum levels for the condition of pavement on the Interstate System, only for the purposes of carrying out section 119(f)(1); and

(iv) the data elements that are necessary to collect and maintain standardized data to carry out a performance-based approach.

(B) REGIONS.—In establishing minimum condition levels under subparagraph (A)(iii), if the Secretary determines that various geographic regions of the United States experience disparate factors contributing to the condition of pavement on the Interstate System in those regions, the Secretary may establish different minimum levels for each region;

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the purpose of carrying out section 148, the Secretary shall establish measures for States to use to assess—

(A) serious injuries and fatalities per vehicle mile traveled; and