



METROPOLITAN  
TRANSPORTATION  
COMMISSION

**Agenda Item 4c**

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San Francisco, CA 94105  
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## *Memorandum*

TO: Planning Committee

DATE: July 6, 2018

FR: Executive Director

W. I. 1412

RE: MTC Resolution No. 2611, Revised: MTC/ Sacramento Area Council of Governments (SACOG) Memorandum of Understanding (MOU) for Air Quality Planning in Eastern Solano County

For federal transportation planning and fund programming purposes, the San Francisco Bay Area is defined as the entire nine California counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma. All but the eastern half of Solano County and the northern half of Sonoma County lie within the San Francisco Bay Area federal 8-hour ozone and PM<sub>2.5</sub> nonattainment areas. The eastern half of Solano County is also designated nonattainment for the ozone national ambient air quality standards but is included in the Sacramento Metropolitan air quality planning area. The northern half of Sonoma County is designated unclassifiable/attainment for 8-hour ozone and PM<sub>2.5</sub>. As a result, transportation-air quality conformity procedures in the eastern half of Solano County are the responsibility of the SACOG, while MTC has the transportation planning and fund programming responsibilities for both the eastern and western portions of Solano County.

### **Background**

In May 1994, MTC and SACOG entered into a MOU in response to federal planning and consultation requirements for states and MPOs to coordinate plans and programs. Specifically, the original MTC/SACOG MOU (1994) satisfied requirements regarding the programming of Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds in the eastern Solano County air quality/transportation planning overlap area. The original MTC/SACOG MOU was revised in July 2004 to clarify MTC and SACOG's roles and responsibilities to program CMAQ funds in the event of a non-conforming Regional Transportation Plan or Transportation Improvement Program or a conformity lapse in the respective regions.

MTC staff has consulted with the Bay Area's interagency Air Quality Conformity Task Force<sup>1</sup> and SACOG staff to prepare revisions to the MTC/SACOG MOU (2004). The proposed revisions account for additional federal transportation-air quality requirements and provide clarity on MTC and SACOG's roles and responsibilities on these new requirements. The proposed MTC/SACOG MOU revisions have been reviewed and approved by the Air Quality Conformity Task Force and SACOG staff. The key revisions are summarized below:

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<sup>1</sup> The Bay Area's Air Quality Conformity Task Force consists of members of the U.S. Environmental Protection Agency (EPA), California Air Resources Board (CARB), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Caltrans, California Air Resources Board (CARB), Bay Area Air Quality Management District (BAAQMD), and MTC/ABAG.

- Coordination between MTC and SACOG when exchanging travel data for emission inventories in eastern Solano County; and,
- Coordination between MTC and SACOG when conducting project-level conformity in eastern Solano County.

**Recommendation**

MTC staff requests the Planning Committee refer MTC Resolution No. 2611, Revised, to the Commission for approval and authorize MTC's Executive Director or his designee to execute the MTC/SACOG MOU.



Steve Heminger

**Attachment:**

- Attachment A: MTC Resolution No. 2611, Revised

SH:hb

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Date: September 23, 1993  
W.I.: 902.90.01  
Referred by: WPC  
Revised: 07/28/04-C  
07/25/18-C

## ABSTRACT

### MTC Resolution No. 2611, Revised

This resolution approves and adopts a Memorandum of Understanding (MOU) between MTC and the Sacramento Area Council of Government (SACOG) related to the programming of federal Congestion Mitigation and Air Quality funds and federal air quality conformity procedures in a portion of Solano County.

This resolution was previously revised on July 28, 2004, to clarify the responsibilities of MTC and SACOG for the overlapped area during a conformity lapse.

This resolution was revised again on July 25, 2018, to update and clarify the responsibilities of MTC and SACOG for the overlapped area for conducting the project-level conformity process and coordinating the exchange of travel data.

Further discussion of this action is contained in the Executive Director's memos dated July 2, 2004 and July 13, 2018.

Date: September 23, 1993  
W.I.: 902.90.01  
Referred by: WPC

Re: Approval of Memorandum of Understanding with Sacramento Area Council of Governments coordinating Planning and Programming in a portion of Solano County.

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 2611

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 et seq. and is the region's Metropolitan Planning Organization (MPO); and

WHEREAS, the Intermodal Surface Transportation Efficiency Act (ISTEA) (Public Law 102-240, 105 Stat.1914, December 19, 1991) created the Congestion Mitigation and Air Quality Program (23 U.S.C. Section 149) to fund programs and projects which contribute to the attainment of national air quality standards in nonattainment areas; and

WHEREAS, the federal Clean Air Act Amendments of 1990 (42 U.S.C. Section 7401 et seq.) require an air quality conformity analysis to be conducted on the region's Transportation Improvement Program (TIP); and

WHEREAS, ISTEA prescribes a specified formula for the distribution of CMAQ funds and state law requires funds to be distributed by this same formula to MPOs; and

WHEREAS, MTC is responsible for conforming the region's TIP to federal air quality requirements and with the programming and allocation of CMAQ funds; and

WHEREAS, a portion of Solano County which is in MTC's metropolitan planning area is in the Sacramento air basin, for which the MPO is Sacramento Area Council of Governments (SACOG); and

WHEREAS, ISTEPA requires that if more than one MPO has authority in an area which is designated as nonattainment, the MPOs must consult with each other and the state in the coordination of plans and programs; and

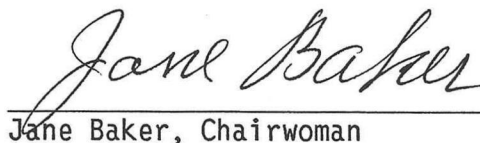
WHEREAS, MTC and SACOG have developed, in consultation with the State Department of Transportation (Caltrans), the State Air Resources Board, and the Governor's Office, a process set forth in Attachment A to this Resolution for determining conformity with the federal Clean Air Act of projects in the TIP located in the part of Solano County located in the Sacramento air basin and for distributing CMAQ funds in this overlapping area within Solano County; now, therefore, be it

RESOLVED, that the Memorandum of Understanding (MOU) between MTC and SACOG attached hereto as Attachment A to this Resolution and incorporated herein as though set forth in full is hereby approved; and, be it further

RESOLVED, that the Executive Director or his designee has the authority to negotiate minor revisions to the MOU; and, be it further

RESOLVED, that MTC's responsibilities in allocating federal CMAQ funds and determining air quality conformity in the overlapping area of Solano County shall be carried out pursuant to the procedures in Attachment A.

METROPOLITAN TRANSPORTATION COMMISSION



Jane Baker, Chairwoman

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California, on September 22, 1993

Date: September 23, 1993  
W.I.: 902.90.01  
Referred by: WPC  
Revised: 07/28/04-C  
07/25/18-C

Attachment A  
Resolution No. 2611, Revised  
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Amended and Restated  
Memorandum of Understanding  
Between  
The Metropolitan Transportation Commission  
And  
The Sacramento Area Council of Governments

THIS AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING (the “Agreement”), is made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Metropolitan Transportation Commission (“MTC”) and the Sacramento Area Council of Governments (“SACOG”).

Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish agreement among the undersigned parties regarding the programming of federal Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds in Solano County and on federal conformity procedures consistent with federal regulations.

Background

The CMAQ Program was established by the Intermodal Surface Transportation Efficiency Act (ISTEA) (Public Law # 102-240), and continued by the Fixing America’s Surface Transportation Act (FAST Act) (Public Law #114-94), to fund programs and projects that contribute to the attainment of national air quality standards in nonattainment areas. Pursuant to the FAST Act, CMAQ funds are distributed to the state by a formula based on relative nonattainment area population and a pollution severity factor. State law (Streets and Highway Code Section 182) requires CMAQ funds to be apportioned by the State Department of Transportation to metropolitan planning organizations (MPOs) and transportation planning agencies in accordance with this same formula.

Metropolitan boundaries define the area in which a metropolitan planning process must be carried out. The boundaries are determined by agreement between the MPO and the Governor and must encompass the current urbanized areas and the area expected to be urbanized during a 20-year forecast period. In nonattainment areas for ozone and/or carbon monoxide, the boundaries must encompass the entire nonattainment area, unless the MPO and the Governor decide to exclude a portion of the nonattainment area (23 USC 13 ( c )).

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As result of these boundary requirements, a portion of Solano County is in the Sacramento air basin, which is governed by the Sacramento Area Council of Governments (SACOG). The entirety of Solano County, however, remains part of the MTC region and MTC has responsibility for the planning and programming process in the County. Due to this overlapping boundary situation, MTC and SACOG wish to establish a cooperative procedure for developing a programming and conformity process for this area.

The U.S. Environmental Protection Agency's (EPA's) "Guidance for Transportation Conformity Implementation in Multi-Jurisdictional Nonattainment and Maintenance Areas" states that there must be a regional emissions analysis for the entire nonattainment area, whether the nonattainment area includes one MPO or more than one MPO, a donut area, portions of more than one state, or any combination of these jurisdictions. In addition, the federal transportation conformity rules maintain that MPO(s) must complete their transportation plan/TIP conformity determinations for the entire nonattainment area and coordinate their conformity determinations, pursuant to 40 CFR 93.124(d). Specifically, 40 CFR 93.124(d) states:

"If a nonattainment area includes more than one MPO, the implementation plan may establish motor vehicle emissions budgets for each MPO, or else the MPOs must collectively make a conformity determination for the entire nonattainment area."

Fine particle pollution, or PM<sub>2.5</sub>, describes particulate matter that is 2.5 micrometers in diameter and smaller. On December 14, 2009, the Environmental Protection Agency (EPA) designated the nine-county San Francisco Bay Area as nonattainment for the national 24-hour PM<sub>2.5</sub> standards established in 2006. This does not include the eastern portion of Solano County (i.e., the Overlap Area, as defined in Section 2, below), nor the northern portion of Sonoma County, which is designated as an unclassifiable/attainment area. On June 28, 2013, EPA took final action to determine that the Sacramento nonattainment area, including the Overlap Area, had attained and continued to attain the national 24-hour PM<sub>2.5</sub> standards established in 2006.

Effective May 12, 1994, the parties hereto entered into a Memorandum of Understanding (as amended on December 30, 2004, the "Original MOU") in order to satisfy all requirements with regard to the programming of CMAQ funds in the Overlap Area (defined in Section 2, below). The parties now desire to amend and restate the Original MOU to incorporate updated air quality standards and planning responsibilities. The parties intend that this Agreement shall supersede and replace the Original MOU in its entirety.

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## TERMS AND CONDITIONS

### 1. CONSULTATION

MTC and SACOG will establish a consultation process to guide discussion on issues in the CMAQ programming process in an effort to provide effective coordination of decisions by both MPOs.

### 2. RESPONSIBILITIES:

In the overlapping boundary area (in non-shaded portion of eastern Solano County) shown on the map attached hereto as Attachment A (the “Overlap Area”), responsibilities are as follows:

#### a. State Implementation Plan (SIP):

SACOG will include the Overlap Area in its SIP for the Sacramento air basin and will develop transportation control measures (TCMs) for its SIP in consultation with MTC.

Within 90 days after a request by SACOG, MTC will provide SACOG with vehicle emission estimates (or base travel figures), inclusive of draft vehicle emissions estimates, for the Overlap Area in the development of the SIP for the Sacramento air basin purposes.

#### b. Regional Transportation Plan (RTP):

MTC will include the Overlap Area when it develops its RTP and will consult with SACOG regarding projects in the Overlap Area. Projects in the Overlap Area included in MTC’s RTP will be subject to the TCMs resulting from “2a” above.

#### c. Transportation Improvement Program (TIP):

MTC will program federal and state projects in the Overlap Area in MTC’s TIP with the exception of CMAQ projects, which will be programmed as described in “2d” below.

#### d. Congestion Mitigation and Air Quality Improvement Program (CMAQ):

CMAQ funds available for projects in the Overlap Area will be prioritized to TCMs resulting from “2a” above. Caltrans estimates and distributes the CMAQ funds for the Overlap Area to MTC. MTC will work with the Solano Transportation Authority to select CMAQ projects consistent with SACOG’s SIP objectives and include CMAQ funded projects in MTC’s TIP.



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e. Conformity

*For Regional Transportation Conformity*

SACOG will include the Overlap Area when it conducts its regional transportation conformity analysis and makes its conformity determination of the Sacramento air basin consistent with the requirements of the United States Environmental Protection Agency and Department of Transportation regulations.

Should the TIP or Plan for Sacramento be found nonconforming and a regional transportation conformity lapse occur in the SACOG region, MTC will approve funding only for TCMs in an approved SIP and exempt projects in the Overlap Area, provided the metropolitan transportation planning requirements have been met. Projects in the portion of the Solano County in the San Francisco Bay Area air basin would not be impacted.

Should the TIP or Plan for the San Francisco Bay Area be found nonconforming and a regional transportation conformity lapse occur in the MTC region, MTC will approve funding only for TCMs in approved SIPs and exempt projects in the portion of Solano County in the San Francisco Bay Area air basin. Projects in the Overlap Area would not be affected.

In no event will either of the parties to this MOU approve funding for any phase of a non-exempt project in the Overlap Area unless regional transportation conformity requirements for SACOG's planning process have been met. This regional transportation conformity finding would include the projects from MTC's TIP or Plan that lie in the Overlap Area.

Within 90 days after a request by SACOG, MTC will provide SACOG with vehicle emission estimates (or base travel figures) and corresponding individual project listings for the Overlap Area for SACOG's RTP and TIP regional transportation conformity purposes.

*For Project-Level Conformity Determinations*

Beginning December 14, 2010, sponsors of certain projects that involve significant levels of diesel vehicle traffic are required to complete a PM<sub>2.5</sub> hot-spot analysis for project-level conformity determinations made by the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA).

The PM<sub>2.5</sub> project-level conformity process is conducted while a NEPA environmental document is being prepared. A project-level conformity determination must be completed before the NEPA document is approved. A full-scale project-level conformity analysis is normally required only for projects that (i) are not exempt from conformity (40 CFR 93.126, 128, and in ozone-only areas 127), (ii) are considered to be a "project of air quality concern (POAQC)" by the Air

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Quality Conformity Task Force, and (iii) are regionally significant (see definition at 40 CFR 93.101). The project-level conformity determinations are made by the FHWA or FTA with input from EPA and Caltrans.

Solano County projects in the Overlap Area appear only in MTC's TIP and Plan; however, they are accounted for in SACOG's regional conformity determinations. Project-level conformity determinations in the Overlap Area will be made by MTC's interagency consultation body, the Air Quality Conformity Task Force, and MTC will inform the SACOG interagency consultation body, the Regional Planning Partnership (RPP) of any such determinations. SACOG and MTC will use a mutually agreed upon process to outline how the RPP will be informed of determinations made for projects in the Overlap Area.

3. AMENDMENTS/TERMINATION:

This Agreement may, consistent with federal regulations governing metropolitan planning, be amended only by a written instrument signed by both SACOG and MTC. This Agreement may be terminated by either SACOG or MTC, upon sixty days written notice to the other party.

IN WITNESS WHEREOF the parties hereto have executed the foregoing Agreement effective as of the date first above written.

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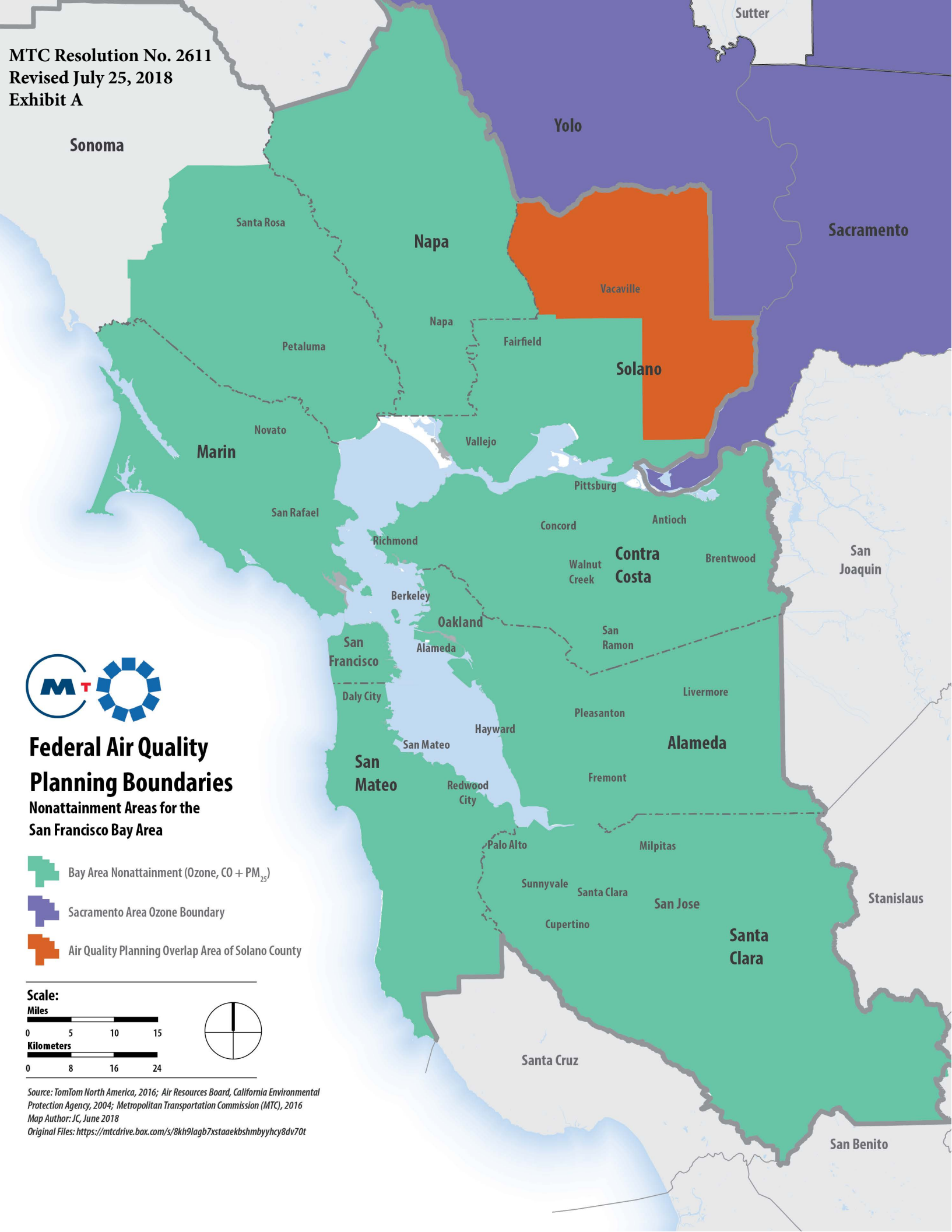
James Corless, Chief Executive Officer  
Sacramento Area Council of Governments

Date




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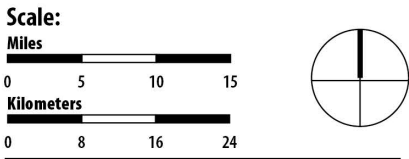
Steve Heminger, Executive Director  
Metropolitan Transportation Commission

Date



**Federal Air Quality  
 Planning Boundaries  
 Nonattainment Areas for the  
 San Francisco Bay Area**

-  Bay Area Nonattainment (Ozone, CO + PM<sub>2.5</sub>)
-  Sacramento Area Ozone Boundary
-  Air Quality Planning Overlap Area of Solano County



Source: TomTom North America, 2016; Air Resources Board, California Environmental Protection Agency, 2004; Metropolitan Transportation Commission (MTC), 2016  
 Map Author: JC, June 2018  
 Original Files: <https://mtcdrive.box.com/s/8kh9lagb7xstaekbshmyhcy8dv70t>