the OTC LEV or LEV-equivalent program would achieve might still leave a substantial shortfall. Thus, there would be no showing that a LEV program would be unnecessary to fill that remaining shortfall. The "shortfall" SIP measures cannot be measures that are mandated by the Clean Air Act or are among the potentially broadly applicable measures identified by EPA in this notice or the SNPRM. For purposes of determining whether such a shortfall SIP revision is complete within the meaning of section 110(k)(1) (and hence is eligible at least for consideration to be approved as satisfying today's SIP call), such a SIP revision must contain other adopted emission-reduction measures that, together with the identified potentially broadly applicable measures, achieve at least the minimum 50% reduction in  $NO_X$  emissions throughout those portions of the state within the transport region, and at least the minimum 50% reduction in VOC emissions within those portions of the state in or near (and upwind of) the urbanized portions of the Northeast Corridor.

## B. State Requirements Under EPA SIP Call

To satisfy the requirement for an OTC LEV SIP revision under today's SIP call, unless EPA finds that an acceptable LEV-equivalent program is in effect, every state in the OTR is required to promulgate regulations that will mandate the OTC LEV program for new light-duty vehicles and trucks beginning in model year 1999. The regulations must be adopted no later than one year following the effective date of the SIP call and apply to 1999 and later model years. This will provide manufacturers with the two-year lead-time required under section 177.25 The OTC LEV program applies to all passenger cars and light-duty trucks (0–5750 pounds loaded vehicle weight (LVW)) in the

The OTC LEV program generally requires that no 1999 or later model year vehicle may be sold, imported, delivered, purchased, leased, rented, acquired, received, or registered in the OTR unless such vehicle has received a certification from the California Air

Resources Board.<sup>27</sup> Each state must allow for the sale of California's Tier I, TLEV, LEV, ULEV and ZEV vehicles in that state. The emission standards for such vehicle classes must be identical to those in California. In addition, all states must promulgate California's NMOG fleet average requirements. The fleet averages for passenger cars and light-duty trucks 0–3750 lbs. LVW shall be identical to California's NMOG fleet averages for such classes of vehicles, as stated in the OTC recommendation. The NMOG fleet averages for larger lightduty trucks (3751-5750 lbs. LVW) shall be identical to California's NMOG fleet averages for such class of vehicles for the applicable model years.<sup>28</sup> As discussed below, states have considerable flexibility in implementing these NMOG fleet averages during the appropriate model years.

States must adopt California's provisions pertaining to averaging, banking and trading, hybrid electric vehicles, extensions and exemptions for intermediate and small volume manufacturers (as defined by California), and Reactivity Adjustment Factors (RAFs) as necessary for certification in California. States also must adopt any other provisions of California's new motor vehicle regulations that are necessary to ensure compliance with section 177 of the Clean Air Act. EPA has not examined which other provisions are necessary to ensure compliance with section 177. The need for other provisions shall be addressed when individual states adopt or seek approval of the OTC LEV

program.

States are not required to adopt California's ZEV production mandate. As discussed earlier in section IV.B.3., EPA does not believe that adoption of the production mandate is necessary to ensure compliance with section 177. The OTC did not recommend that EPA require states to incorporate the ZEV production mandate unless it was required by section 177, and EPA declines to use its discretion to require

states to incorporate the mandate. However, states are free, at their own discretion, to incorporate the mandate into their motor vehicle emission programs.

States also have significant discretion in the manner in which they implement the OTC LEV program. Though states must adhere to the requirements of section 177, EPA is not mandating specific methods that states must use to implement the program. In particular, EPA believes that states have significant discretion in the manner in which they implement the NMOG fleet average.

Given the regional nature of the OTC LEV program and the possible hardships to state governments and manufacturers in having to administer and comply with separate programs in thirteen different jurisdictions, states should attempt to coordinate their programs as much as possible. In particular, EPA believes that states could choose to give manufacturers the option of meeting the NMOG average on a region-wide basis, rather than having to meet the requirement on a state-by-state basis.<sup>29</sup> This will allow for more flexibility in enforcement and compliance, but will require more coordination among jurisdictions.

EPA also believes that states have the discretion to account for automakers' inability to bank credits in those states prior to 1999. This might be accomplished by accounting for banked credits that manufacturers have amassed in California (or perhaps in New York or Massachusetts) in model years prior to 1999 under the averaging, banking and trading provisions of the LEV program. As discussed above in part IV.B.3, EPA does not believe that states have an obligation to account for credits that manufacturers have received in California for early banking. A state program that includes California's NMOG average and California's averaging, banking and trading provisions is consistent with section 177, whether or not the state accounts for credits that are banked in California prior to the state's implementation of the LEV program. However, EPA believes that, in implementing the program, states can, consistent with section 177, account for banked credits. Given that the averaging, banking and

<sup>25</sup> Given today's model year regulations, the effective date of this rule, and the information in the docket on auto manufacturers' production schedules, EPA realizes that a few 1999 model year engine families might not be subject to OTC LEV. EPA does not anticipate that this will reduce emission benefits significantly.

<sup>&</sup>lt;sup>26</sup> These requirements therefore apply to all 1999 and later model year vehicles in each state, except that these requirements only apply in the northern portion of Virginia that is a part of the OTR.

<sup>27</sup> The OTC recommendation contained several exceptions to this requirement. For example, vehicles sold directly from one dealer to another dealer are not subject to this requirement. EPA expects that these exemptions will be included in state programs. EPA is not today ruling whether these exemptions are required, permitted or prohibited under the Act, although EPA notes that it received no comments providing any substantive arguments that these exceptions violate section 177.

<sup>&</sup>lt;sup>28</sup> The NMOG fleet averages for passenger cars and light-duty trucks (0–3750 lbs. LVW) for the applicable model years, in grams per mile, are: 1999–0.113; 2000–0.073, 2001–0.070, 2002–0.068; 2003 and later years-0.062. The NMOG averages for light-duty trucks (3751–5750 lbs. LVW) are: 1999–0.150; 2000–0.099; 2001–0.098; 2002–0.095; 2003 and later-0.093.

<sup>&</sup>lt;sup>29</sup> For example, a state program could deem a manufacturer to be in compliance with a state's NMOG average if the manufacturer's sales in OTR states with identical requirements meet the NMOG average. There might be only small variations in vehicle mix from one state to another if the states have identical standards and are in the same region. If such variations have insignificant effects on a state's air quality, state-by-state compliance with NMOG averages might not be worth the administrative burden.