

Final Rule: Transportation Conformity Rule Amendments to Implement Provisions Contained in SAFETEA-LU

The U.S. Environmental Protection Agency is finalizing changes to the transportation conformity rule to make the rule consistent with the Clean Air Act as amended by the most recent transportation funding legislation known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Key Elements of the Final Rule

The final rule updates the conformity regulation as follows:

- Changes the required frequency of conformity determinations for transportation plans and transportation improvement programs from at least every three years to at least every four years.
- Gives areas two years (increased from 18 months) to make a conformity determination in response to a new “motor vehicle emissions budget” in a State Implementation Plan.
- Provides a one-year grace period before the consequences of a conformity lapse apply when an area misses certain conformity deadlines. During the lapse grace period, an area can make conformity determinations for certain projects.
- Gives areas the flexibility to shorten the timeframe covered by a conformity determination, if the local transportation planning agency elects to do so.
- Streamlines the requirements for state conformity procedures (“conformity SIPs”).
- Addresses the statute’s provision that allows areas to substitute or add transportation control measures without a SIP revision.

In addition, this final rule includes other changes not related to SAFETEA-LU. This final rule:

- Allows the U.S. Department of Transportation, in consultation with EPA, to make categorical hot-spot findings for projects in areas that are in nonattainment

or maintenance for carbon monoxide. Such findings could streamline hot-spot analyses for certain projects.

- Removes the provision that allowed 8-hour ozone areas to use other tests for conformity instead of their 1-hour ozone SIP budgets where the other tests were more appropriate. This provision no longer applies because it was vacated by the U.S. Court of Appeals for the District of Columbia Circuit on Oct. 20, 2006.
- Updates terms and make other minor changes for clarification or to ensure the rule is consistent with other EPA and DOT regulations.

Background

Transportation conformity is a Clean Air Act requirement that ensures that federally supported highway and transit projects are consistent with (“conform to”) the purpose of a State Implementation Plan. Conformity ensures that public health is protected by early consideration of the air-quality impacts of transportation decisions in places where air quality does not currently meet national standards or has not met them in the past.

Enacted in August 2005, SAFETEA-LU primarily authorized funding of the nation’s transportation infrastructure. This legislation also made several changes to the conformity portion of the Clean Air Act, which are addressed by the final rule.

Health and Environmental Benefits

Though the final rule makes the conformity program more flexible, health and air quality continue to be protected. As always, transportation activities – transportation plans, transportation improvement programs, and individual transportation projects -- must be found to conform before they may be adopted. In addition, conformity must still be determined on a regular basis.

For More Information

You can access documents on transportation conformity on EPA’s Office of Transportation and Air Quality Web site at:

www.epa.gov/otaq/stateresources/transconf

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