

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

The U.S. Environmental Protection Agency (EPA) is proposing 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, the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU).

Key Elements of the Proposed Rule

The proposed rule would update the regulation as follows:

- Change the required frequency of conformity determinations for transportation plans and transportation improvement programs from at least every three years to every four years.
- Give areas two years, increased from 18 months, to make a conformity determination in response to a new air quality budget in a state air quality implementation plan.
- Provide 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 would be able to make conformity determinations for projects.
- Give areas the flexibility to shorten the timeframe covered by a conformity determination, if the local transportation planning agency elects to do so. The proposed rule specifies criteria and procedures that would apply when shortening the timeframe of a conformity determination, including what must occur before an area makes an election, what period of time must be covered under a shortened timeframe, and what years must be analyzed under a shortened timeframe.

- Streamline the requirements for state conformity implementation plans (“conformity SIPs”).
- Address the statute’s provision that allows areas to substitute or add transportation control measures without a SIP revision.

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

- Allow the U.S. Department of Transportation (DOT) to make categorical hot-spot findings for projects in carbon monoxide areas. DOT can currently make categorical hot-spot findings for projects in particulate matter (both PM2.5 and PM10) areas.
- Remove the provision that allowed 8-hour ozone areas to use other tests for conformity instead of their 1-hour 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 October 20, 2006.
- Update 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 air quality 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 authorizes funding of the nation’s transportation infrastructure. This legislation made several changes to the conformity portion of the Clean Air Act.

Health and Environmental Benefits

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

Public Participation Opportunities

We welcome your comments on this proposed rule. Comments will be accepted for 30 days beginning when this proposal is published in the Federal Register. All comments should be identified by Docket ID No. EPA-HQ-OAR-2006-0612 and submitted by one of the following methods:

Internet: www.regulations.gov

E-mail: A-and-R-Docket@epa.gov

Mail:

Environmental Protection Agency
Air and Radiation Docket and Information Center (6102T)
1200 Pennsylvania Avenue NW
Washington, DC 20460

Hand Delivery:

EPA West Building
EPA Docket Center (Room 3340)
1301 Constitution Avenue NW
Washington, DC

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/index.htm

For further information on this proposed rule, please contact

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