

**Summary of EPA Guidance and Proposed Rulemaking
Transportation Conformity: SAFETEA-LU and 2006 PM NAAQS**

April 2007 Transportation Conformity Proposed Rule

The proposed rule would update the transportation conformity regulations 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 PM_{2.5} 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.

EPA Guidance

From EPA Memo, April 16, 2007, Transportation Conformity and the 2006 24-hour PM_{2.5} Standard

On October 17, 2006, EPA published a final rule that strengthened the 24-hour PM_{2.5} standard from the 1997 level of 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$, and retained the 1997 annual PM_{2.5} standard of 15.0 $\mu\text{g}/\text{m}^3$ (71 FR 61144). This final rule was effective on December 18, 2006. Because EPA's nonattainment designations for existing PM_{2.5} nonattainment areas were based on the 1997 PM_{2.5} standards¹, these 1997 standards apply for transportation conformity in current PM_{2.5} nonattainment areas.²

In PM_{2.5} nonattainment areas, a regional emissions analysis for a conformity determination would be based on any adequate or approved motor vehicle emissions budgets ("budgets") in a SIP for these 1997 standards, or the applicable interim emission test in the absence of such budget(s).

Likewise, any hot-spot analysis that is required for a project-level conformity determination would consider the 1997 PM_{2.5} standards, because these are the standards on which the existing PM_{2.5} nonattainment designations are based.

Transportation conformity for the 2006 24-hour PM_{2.5} standard of 35 $\mu\text{g}/\text{m}^3$ does not apply until one year after the effective date of nonattainment designations.

¹ EPA promulgated the 1997 PM_{2.5} standards in an October 23, 1997, final rule (62 FR 55201).

² The 1997 standards are the 24-hour standard of 65 $\mu\text{g}/\text{m}^3$ and the annual standard of 15.0 $\mu\text{g}/\text{m}^3$.