

Excerpts related to conformity requirements

**Fact Sheets for Highway Provisions**

**in the**

**Safe, Accountable, Flexible, Efficient Transportation  
Equity Act: A Legacy for Users  
(SAFETEA-LU)**

**Federal Highway Administration  
Office of Legislation and Strategic Planning  
Program Analysis Team  
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## TRANSPORTATION CONFORMITY

### **Purpose**

Transportation conformity ("conformity") is a provision of the Clean Air Act that ensures that Federal funding and approval goes to those transportation activities that are consistent with air quality goals. Conformity applies to transportation plans and projects funded or approved by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) in areas that do not meet or previously have not met air quality standards for ozone, carbon monoxide, particulate matter, or nitrogen dioxide.

### **Statutory References**

SAFETEA-LU Section: 6011

Other: 42 USC §7506

### **Key Modifications**

- Requiring MPOs to redetermine conformity of plan and TIP not later than 2 years after motor vehicle emission budgets are found adequate, the budgets are approved (if they had not yet been found adequate), or a Federal Implementation Plan (FIP) approval that establishes/revises budgets. [6011(a)]
- Requiring the frequency of conformity for plans and TIPs to be every four years, except when the MPO elects to update the plan or TIP more frequently, or when SIP actions trigger a new conformity determination. [6011(b)]
- Requiring conformity determination must be made for the last year of the transportation plan, but allowing, at the election of the MPO, and after consultation with the applicable air agency and public comment, conformity to be demonstrated for the longer of: (1) the first ten-year period of the plan, (2) the latest year the SIP has a budget, or (3) the year after completion of a regionally significant project that is in the TIP or one that requires approval before the subsequent determination. Such conformity determinations would need to be accompanied by a regional emissions analysis for the last year of the transportation plan and any year shown to exceed budgets by a prior analysis. [6011(c)]
- Allowing at the election of the MPO, after consultation with the applicable air agency and public comment, conformity to be demonstrated only through the end of the maintenance period once budgets are found adequate or approved for the second ten-year maintenance plan. [6011(c)]
- Providing that substitute TCMs can replace or be added to existing TCMs in approved SIPs, if (1) the substitute achieves equal or greater emissions reductions; (2) the schedule is consistent with existing TCM, or if the implementation date has passed, as soon as practicable, but no later than date reductions are needed; (3) adequate personnel, funding, and enforcement are demonstrated; and (4) the substitute is developed through a collaborative process that includes public comment and concurrence by the MPO, the air agency, and EPA. No substitution mechanism in the SIP is needed, and substitution doesn't require a new conformity determination or SIP revision. [6011(d)]

- Defining lapse in Clean Air Act, and providing that a lapse will not occur until 12 months after an applicable deadline. [6011(e)]
- Providing that the Conformity SIP only needs to include consultation procedures, and enforcement and enforceability criteria and procedures to address 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c). [6011(f)]

#### Implementation

EPA is required to promulgate revised regulations, with DOT concurrence, to implement the changes in section 6011 not later than 2 years after the enactment of SAFETEA [6011(g)]