

May 25, 2007

To: Air Docket (Electronic Submittal)
U.S. Environmental Protection Agency
Docket ID No. EPA-HQ-OAR-2006-0612

From: Arthur N. Marin
Executive Director, NESCAUM

Re: Transportation Conformity Rule Amendments to Implement Provisions Contained in the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); Proposed Rule (Federal Register, May 2, 2007)

The Northeast States for Coordinated Air Use Management (NESCAUM) submit the following comments on EPA's proposed amendments to the Transportation Conformity Rule (40 CFR Parts 51 and 93). NESCAUM is an association of state air pollution control agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont.

Transportation related emissions contribute significantly to air quality problems in the NESCAUM states. As such, NESCAUM supports regulatory processes, consistent with Section 176 of the Clean Air Act, which are designed to ensure that transportation plans, programs, and projects conform to state implementation plans.

NESCAUM recognizes that EPA crafted the majority of the proposed amendments to the Transportation Conformity Rule to ensure consistency with the amendments to the Clean Air Act, accomplished by the SAFETEA-LU legislation in 2005. As such, we have chosen not to comment extensively on the proposed rule amendments. Instead, we are confining our comments to a single issue, involving the process for shortening the conformity timeframe in isolated rural nonattainment and maintenance areas (40 CFR 93.109).

NESCAUM supports the amendment that designates a state's Department of Transportation (DOT) as the responsible entity for making the election to shorten the conformity timeframe in areas that do not have Metropolitan Planning Organizations (MPOs) and are not required to prepare transportation plans or transportation improvement programs (TIPs). As stated in the Federal Register notice, the state DOT essentially serves a similar function as an MPO in isolated rural areas by virtue of the fact that the DOT is responsible for preparing the statewide transportation plan and the TIP.

NESCAUM does not support the "project sponsor option," which would enable the project sponsor (typically a small municipal or county government) to shorten the conformity timeframe. Because there is no definition in the proposal for "project sponsor" and there may be multiple small-entity project sponsors depending on circumstances, implementing this option will create

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confusion and inconsistency in how conformity horizons are determined within a state. The State DOT has the resources, expertise, and certain legal responsibilities relative to the transportation system, and therefore is better poised to oversee a process whereby conformity timeframes are adjusted. We therefore request EPA to promulgate the state DOT option, as proposed.

If you have any questions, please contact Eric Skelton of my staff at (617) 259-2028.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur N. Marin".

Arthur N. Marin
Executive Director

Cc: NESCAUM Directors