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Thank you, Mr. Chairman and Members of the Subcommittee, for the opportunity to appear here today to discuss the transportation conformity program in the context of reauthorization of the nation's surface transportation law, currently known as the Transportation Equity Act for the 21st Century (or TEA-21).

There has been considerable progress in achieving better air quality for Americans over the past 30 years. Building upon these air quality successes remains an important national priority. EPA sees the reauthorization of TEA-21 as an opportunity to employ available tools to improve air quality in ways that could help cities across the country make progress toward attaining the national air quality standards, including the recently implemented new ozone and particulate matter standards.

According to EPA's latest air quality trends report, air quality monitoring data show that from 1970-2003, concentrations of all six criteria pollutants have declined, including the four criteria pollutants that are most affected by the transportation sector: carbon monoxide, nitrogen dioxide, ozone (smog), and particulate matter soot.

These air quality data are good news, and are attributable to the transportation and air quality programs currently in place. However, there is still more work that needs to be done. Currently, there are approximately 160 million Americans living in 474 counties that are

designated nonattainment for the new 8-hour ozone air quality standard, and 95 million people living in 225 counties that are designated nonattainment for the new standard for fine particulate matter (or PM2.5). The criteria pollutant emissions have a significant impact on the health of Americans. Particulate matter is linked to aggravation of pre-existing respiratory ailments, reductions in lung capacity, and a significant number of premature deaths. Ozone can impair lung function, cause chest pain and coughing, and worsen respiratory diseases and asthma. Carbon monoxide can aggravate angina (heart pain).

Even though overall emissions have been reduced, on-road mobile sources continue to be a significant contributor to pollution problems. EPA estimates that in 2003, motor vehicles accounted for 55 percent of total U.S. carbon monoxide emissions, 28 percent of total volatile organic compounds (VOCs; an ozone precursor), 36 percent of total nitrogen oxides (NOx; an ozone precursor), and 5 percent of the traditionally inventoried direct emissions of particulate matter nationwide.

As these data suggest, the integration of transportation and air quality planning is imperative to achieving clean air. One of the most valuable tools that currently exists to ensure the integration of these two distinct and different planning processes is transportation conformity. Transportation conformity was established by Congress in the Clean Air Act Amendments of 1977 and strengthened in the 1990 amendments. The purpose of transportation conformity is to ensure that transportation activities within a region are compatible with the region's clean air goals. Transportation conformity applies only in areas that have air quality worse than the national standards (nonattainment areas) or that have violated the standards in the past (maintenance areas). In the simplest terms, conformity serves as an "accounting check" to ensure

that emissions from a nonattainment or maintenance area's future transportation network fit within the emissions budget included in the area's air pollution reduction plan.

A benefit of conformity accounting is that it requires state and local governments, and the public, to consider the air quality impacts of the planned transportation system as a whole, before transportation plans are adopted and projects are built. Billions of dollars every year are spent on developing and maintaining our transportation system. Conformity helps ensure that these dollars are not spent in a manner that would worsen air quality.

Prior to the 1990 Clean Air Act, transportation planners and air quality planners often did not consult with one another or even use consistent information regarding future estimates of growth. To address these problems, the 1990 Amendments explicitly linked the air quality planning and transportation planning processes in a manner that had not previously existed. Transportation conformity has compelled the two types of planning agencies to work together through an interagency consultation process to find creative and workable solutions to air quality issues. This increased consultation is an important benefit. A 1999 Harvard study on the program, which was jointly funded by DOT and EPA, confirmed that the program has improved consultation between transportation and air quality planners, and made that consultation more effective.

While conformity has proven to have certain benefits, some nonattainment and maintenance areas, particularly those that have been recently designated nonattainment for the new ozone and PM2.5 standards, may face challenges in meeting the program's requirements. The best way EPA can help areas meet conformity is through Federal programs to improve air

quality. We are currently implementing three Federal regulatory programs that will achieve dramatic emission reductions from cars, trucks and nonroad equipment across the country.

First, in 2004, car manufacturers began producing cars and light trucks that meet EPA's new, stringent tailpipe standards. These requirements are enabled by EPA's Tier 2 program with low sulfur gasoline standards that ensure the effectiveness of emission control technologies in all passenger vehicles. Together, these programs will make passenger vehicles 77 to 95% cleaner. In addition, Tier 2 requires for the first time that sport utility vehicles, pick-up trucks, and minivans meet the same standards as cars. Second, EPA's landmark Clean Air Highway Diesel Program will make heavy duty trucks and buses up to 95% cleaner than today's models. This rule also requires the production of low sulfur diesel fuel to enable the use of advanced after treatment technologies. Finally, EPA's Clean Air Nonroad Diesel Program will achieve reductions of a similar magnitude from non-road diesel engines used in construction, agricultural, and industrial operations. The program uses the same approach we relied on in the Highway Diesel program—tough exhaust standards paired with cleaner fuel requirements. When fully implemented, EPA estimates that these three programs will yield over $175 billion annual health benefits, preventing almost 25,000 premature deaths, hundreds of thousands of respiratory illnesses, and millions of lost work days.

Communities across the nation are counting on these federal programs to help them demonstrate conformity, and more importantly, attain the new ozone and PM2.5 standards. Successful implementation of these programs is one of the Administration's priorities. EPA is working closely with the automobile, trucking, engine manufacturers, and fuels industry to ensure the smooth and timely implementation of each rulemaking.

In addition to these regulatory programs, EPA has also developed a number of voluntary programs that are aimed at improving air quality. The Clean Diesel Initiative consists of efforts to reduce emissions from new diesel engines as well as existing diesel engines by 2014. EPA will work with owners of trucks, buses, and nonroad equipment to encourage the installation of innovative and cost-effective emission control technology on existing diesel engines. These technologies can result in reductions of particulate matter, NOx and VOCs.

Another non-regulatory approach to achieving emission reductions by providing travel choices is Best Workplaces for Commuters[SM]. Built around the tax-free commuter benefits in TEA-21 and modeled after the highly successful Energy Star partnership programs, Best Workplaces for Commuters[SM] is an EPA-DOT voluntary partnership program that recognizes employers offering outstanding commuter benefit packages that help reduce traffic and traffic-related emissions. To date, over 1,100 employers from 32 states and Washington, DC, are on the national list of Best Workplaces for Commuters[SM] covering over 2 million employees.

Finally, EPA has launched another innovative clean air program, the SmartWay[SM] Transport Partnership - a voluntary collaboration between U.S. EPA and the freight industry designed to increase energy efficiency while reducing greenhouse gases and air pollution. To meet these goals, the Partners adopt improved practices and energy saving technologies such as idling reduction equipment/policies, automatic tire-inflation systems, and speed management practices. More than 120 companies across the country have joined as SmartWay Transport Partners since the Partnership became operational in February 2004.

As states and localities move forward in implementing the new ozone and particulate matter standards, EPA has taken several steps to improve the overall implementation of the

transportation conformity program through regulatory and proposed legislative actions. Under the Clean Air Act, EPA is responsible for writing the conformity regulations with concurrence by the Department of Transportation (DOT), as DOT is our federal partner in the implementation of the program.

On July 1, 2004, EPA published amendments to the conformity rules that provide clear guidance and procedures for implementing conformity for both the new ozone and particulate matter air quality standards. For example, the final rule describes when conformity first applies in new nonattainment areas. The Clean Air Act and transportation conformity rule allow a one-year grace period before conformity applies for the new standards, and this grace period begins upon the effective date of EPA's nonattainment designation for each new standard. In addition, the rule describes the general requirements for ensuring conformity under the new standards, such as the conformity test(s) that would apply before a state develops its air quality implementation plan (or SIP).

EPA believes the timing of this final rule was critical for ensuring that new nonattainment areas receive the full benefit of the one-year conformity grace period. New 8-hour ozone nonattainment areas will be required to demonstrate conformity by June 15, 2005, while areas designated nonattainment for the PM2.5 standard will be subject to the conformity requirements on April 5, 2006. By finalizing the July 1, 2004 conformity rule, EPA provided new nonattainment areas sufficient time to prepare their conformity determinations and meet the one-year conformity requirement. EPA is working to ensure that additional PM 2.5 guidance will be available by April 5, 2005 or shortly thereafter.

The July 1, 2004 amendments also incorporate into the rule EPA and DOT's existing guidance implementing the March 2, 1999 conformity court decision, as well as other rule revisions and clarifications that we believe will ease implementation of the program in all nonattainment and maintenance areas. Of particular interest is a revision that streamlines the current requirements for re-determining conformity after certain SIP actions have occurred (e.g., after EPA's approval of a SIP). This revision ensures that a new conformity determination is required only for SIPs that have never been used in the conformity process. Another significant revision implements the Clean Air Act in a more reasonable and practicable manner by allowing transportation planners to base conformity analyses on planning data and information that is available at the beginning of the conformity process.

We are currently working quickly to finalize two smaller rule changes that will affect areas recently designated nonattainment for the new PM2.5 standard. The first of these rulemakings will add the precursors for PM2.5 (NOx, VOCs, sulfur oxides and ammonia) to the transportation conformity regulations and specify when each of these precursors must be considered in conformity determinations in PM2.5 nonattainment and maintenance areas. We plan to issue this final rule within the next few months. The second rulemaking will address the procedures for determining localized concentrations (or "hot-spots") of particulate matter that could be caused by transportation projects in certain areas subject to transportation conformity. EPA plans to finalize this rule later this summer.

In addition to these regulatory actions, the Administration's SAFETEA proposal for the reauthorization of TEA-21 also improves the transportation conformity program and continues to protect public health. We believe that such improvements will streamline the conformity program

to the benefit of state and local governments. I would like to mention two main parts of the Administration's bill that support the transportation conformity process and how they are addressed in the House bill H.R. 3.

First, the Administration supports modifying the timeframe of conformity analyses to provide consistency between the horizons evaluated for transportation conformity and air quality planning purposes. Under the current conformity rule, transportation planners are required to evaluate transportation-related emissions for at least 20 years into the future, even if the SIP covers a much shorter time period (e.g., 10 years into the future). Under the Administration's SAFETEA proposal, the time frame covered by the conformity analysis would be the longest of the following: 1) 10 years; 2) the latest SIP motor vehicle emissions budget year; or 3) a regionally significant transportation project's completion date. The Administration also supports the requirement for an informational analysis of the last year of an area's transportation plan. Such an analysis can provide state and local governments and the public with a critical "early warning" of future long-term air quality problems.

Second, the Administration objects to the 12-month "grace period" provided by section 1824 of the House bill, and instead supports lengthening the transportation and air quality update cycles to 5 years as the Administration proposed. EPA currently requires such determinations every 3 years. The Administration believes requiring conformity updates every 5 years is sufficient for meeting Clean Air Act goals to protect public health.

The Administration opposes inclusion of the provision in section 1824 of the House bill that would change the point at which a conformity lapse begins. Under current law, a conformity lapse begins on the date that an area misses a deadline for determining conformity. However, the

House bill would give areas that miss a required deadline for demonstrating conformity 12 additional months to correct the problems that caused them to miss the original deadline, such as changing the transportation plan or state air quality plan.

EPA opposes this provision because it may make it more difficult for areas to attain the health-based air quality standard by their attainment deadlines. For example, under this provision, if an area is unable to demonstrate conformity by a given deadline, it may continue to build transportation projects that could potentially be inconsistent with clean air goals for one additional year before a lapse is imposed. This provision could also delay the use of SIP air quality emissions budgets in conformity determinations and deprive areas the opportunity to verify whether their on-road emissions were consistent with the levels required by the state. The current conformity rule allows areas 18 months to determine conformity when a new SIP becomes available. The House bill already extends this period of time to 24 months. An additional 12 months would further delay the incorporation of new air quality information into the conformity process and undermine the current incentive for areas to resolve conformity issues and make determinations expeditiously.

In conclusion, EPA is committed to partnering with DOT to continue our progress in meeting both transportation and air quality goals. Based on our collective experience in implementing the transportation conformity program, we believe the Administration's proposal will build on the success of TEA-21 and will further assist areas in their efforts to achieve clean air now and in the future. Thank you again for this opportunity to testify today and discuss our programs with you. I would be pleased to respond to any questions that you may have.