

comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*i. EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. OAR-2003-0063. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

*ii. E-mail.* Comments may be sent by electronic mail (e-mail) to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov), Attention Air Docket ID No. OAR-2003-0063. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

*iii. Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

*2. By Mail.* Send two copies of your comments to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460, Attention Docket ID No. OAR-2003-0063.

*3. By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC., Attention Air Docket ID No. OAR-2003-0063. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.B.1.

*4. By Facsimile.* Fax your comments to: (202) 566-1741, Attention Docket ID No. OAR-2003-0063.

#### *D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Attention: Angela Spickard, U.S. EPA, National Vehicle and Fuel Emissions Laboratory, Transportation and Regional Programs Division, 2000 Traverwood Drive, Ann Arbor, MI 48105, Docket ID No. OAR-2003-0063. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### *E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line

on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

## **II. Background on the Transportation Conformity Rule**

Transportation conformity is required under section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) to ensure that federally supported highway and transit project activities are consistent with ("conform to") the purpose of a state air quality implementation plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. EPA's transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the state air quality plan.

EPA first published the transportation conformity rule on November 24, 1993 (58 FR 62188). Minor revisions were made to the rule in 1995 (60 FR 40098, August 7, 1995, and 60 FR 57179, November 14, 1995), and more recently in the spring of 2000 (65 FR 18911, April 10, 2000) and on August 6, 2002 (67 FR 50808).

On August 15, 1997, EPA published a comprehensive set of amendments that clarified and streamlined language from the 1993 transportation conformity rule (62 FR 43780) and subsequent 1995 amendments. However, a decision made on March 2, 1999, by the U.S. Court of Appeals for the District of Columbia Circuit affected several provisions of the 1997 rulemaking (*Environmental Defense Fund v. EPA, et al.*, 167 F. 3d 641, DC Cir. 1999; hereinafter referred to as the "court decision"). Specifically, the court's ruling affected provisions that pertain to five aspects of the conformity rule, including:

(1) Federal approval and funding of transportation projects in areas without a currently conforming transportation plan and transportation improvement program (TIP);

(2) Provisions allowing motor vehicle emissions budgets from submitted SIPs to be used in transportation conformity determinations before the SIP has been approved;

(3) the adoption and approval of non-federal transportation projects in areas without a currently conforming transportation plan and TIP;

(4) the timing of conformity consequences following an EPA disapproval of a control strategy SIP (e.g., reasonable further progress SIPs