

# Issues & Overview

## Transportation Planning And Air Pollution: The Search For Common Ground

Most major metropolitan areas in this country are plagued by traffic congestion and air pollution. Finding a solution to the problem has, however, proved particularly vexing, despite the best efforts of officials at local, state and federal levels. That is because there is little consensus between environmental advocacy groups and government officials on many of the key issues, such as whether road construction hurts or helps the environment, and the need for economic growth. Recently, certain environmental groups have brought lawsuits in numerous urban areas nationwide, seeking to halt or delay approved transportation improvements in order to enforce their vision of "proper" land use. While perhaps well-intentioned, these lawsuits transform transportation planning from a public process into a private affair between selected litigants. This is not an appropriate way to address the problem. Courts cannot, and should not, make complicated political and scientific judgments about the merits of particular transportation planning measures. What is needed is a mature, open dialogue among all interested parties in the search for common ground. In the meantime, government officials whose decisions are under legal assault must fight for the key principles enshrined in the Clean Air Act and transportation planning laws.

### Background

Air quality planning and transportation planning are linked through the "conformity" process. On the air quality side, states must submit state implementation plans ("SIPs") to meet federal air quality standards. SIPs typically contain restrictions on air emissions from factories and numerous other sources of air pollution, including a motor vehicle "budget" capping emissions from transportation sources. On the transportation planning side, metropolitan planning organizations ("MPOs") for each urban area develop long term regional transportation plans and short term transportation improvement programs ("TIPs") that must be reviewed by the federal Department of Transportation.

The Clean Air Act harmonizes air quality planning and transportation planning by requiring that the TIP match or "conform" to the motor vehicle budget in the SIP, *i.e.*, the TIP must fit the SIP. While this may sound like a simple goal, it is in practice exceedingly difficult, involving many variables, including scientific analysis of the air pollution effects of an area's present and planned transportation network.

### Environmental Activist Lawsuits

The SIP, the TIP, the motor vehicle budget, and the conformity determination are the essential building blocks in the air quality/transportation planning process. Environmental groups are targeting these building blocks through lawsuits designed to disrupt the planning process and stop construction of projects they oppose. These lawsuits generally fall into two categories: (1) suits against EPA challenging either the motor vehicle budget or a state's alleged failure to meet its air quality goals ("SIP challenges"); or (2) suits against MPOs and state and federal governments challenging an area's TIP, the conformity determination, or individual project approvals ("TIP challenges"). Suits have now been filed in Atlanta, Baltimore, Houston/Galveston, Sacramento, Salt Lake City, San Francisco, St. Louis and Washington, D.C.

### Recommendations

Environmentalists have decided they can best enforce their private land use vision through coordinated lawsuits. EPA, MPOs, and other government officials should fight vigorously for the principles underlying their decisions about sound transportation planning. Business interests, which rely on approved projects, must also participate in the debate. Finally, because the courts are ill-equipped to resolve the many political and technical issues raised, and because these lawsuits can obstruct all needed transportation improvements (including mass transit), it behooves all parties to talk to each other about consensus solutions to our nation's transportation needs.

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