NCDENR
North Carolina Department of Environment and Natural Resources
Division of Air Quality

Michael F. Easley, Governor

William G. Ross, Jr., Secretary
B. Keith Overcash, P.E., Director

Dr. Jake A. Plante, Planning and Environmental Division
Federal Aviation Administration
800 Independence Avenue, APP-400, SW.
Room 616, Office of Airports
Washington, DC 20591

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Subject: Federal Presumed to Conform Actions under General Conformity

Dr. Plante:

The North Carolina Division of Air Quality (NCDAQ) appreciates the efforts of the Federal Aviation Administration (FAA) to simplify the application of the General Conformity regulation in relation to airports. NCDAQ offers the following comments concerning the Federal Aviation Administration's (FAA's) proposed General Conformity presumed to conform actions.

1) NCDAQ is concerned that setting applicability limits for General Conformity on a ton per year basis rather than a ton per day basis may not be sufficiently protective of the National Ambient Air Quality Standards although this approach is the result of the way the Environmental Protection Agency (EPA) wrote their General Conformity rule. The FAA thresholds are simply following the EPA's approach.

The 1990 Clean Air Act set pollutant thresholds that define major sources in nonattainment and maintenance areas that have been carried into the General Conformity regulation (40 CFR § 93.153(b)(1) and 40 CFR § 93.153(b)(2)). When these thresholds are applied to typical industrial sources, it is reasonable to expect that day to day emissions will be approximately equal each operating day. So, if the threshold is divided by 260 (5 days a week) and 365 (7 days a week) the probable range of daily emissions from industrial sources at the threshold limit is found. It is possible that Federal actions could cause emissions that are under annual thresholds but, on a daily basis, are much in excess of a typical threshold level for an industrial source. A short term but intense construction or maintenance project with total emissions below the proposed annual thresholds could very well have average daily emissions that would extrapolate to 200 or 300 tons per year. If high emissions occur on a day when conditions are favorable for high ambient pollutant concentrations, these emissions could make a significant contribution to an ambient air exceedance and could exceed airport emissions anticipated in the State Implementation Plan (SIP).

Planning Section
1641 Mail Service Center, Raleigh, North Carolina 27699-1641
2728 Capital Blvd., Raleigh, North Carolina 27604
Phone: 919-715-7670 / FAX 919-715-7476 / Internet: www.ncair.org

2) NCDAQ is concerned that there will be loss of State oversight of the General Conformity determination of applicability process.

Currently, the FAA must submit documentation to the State, because of North Carolina's General Conformity regulation, showing the level of expected emissions, direct and indirect, arising from planned Federal actions in nonattainment and maintenance areas. These emissions include those during any construction activities as well as changes in emissions from usage of the facility after the action. When NCDAQ agrees that the direct and indirect emissions are shown to fall below the applicable tons per year threshold, the FAA is free to proceed with the action. If the emissions are above the thresholds, the FAA must make a showing that the higher emissions conform to the SIP so that a nonattainment area can attain and maintain the National Ambient Air Quality Standards. There may be times when the FAA planned action will have to be modified in some way or the emissions offset in some way to conform to the SIP. This whole process exists to prevent Federal agencies defeating efforts to attain and maintain ambient air quality standards by actions which cause emissions changes contrary to those anticipated by the SIP.

The proposed regulation that creates a list of presumed to conform actions means that those actions are removed from reporting and review. There will then be no mechanism by which the State will be informed of the presumed to conform activities. The current proposed regulation may lead to FAA employees subdividing a rather large project into smaller components which individually fall below presumed to conform thresholds and then concluding that the actions are presumed to conform in all respects. A list of presumed to conform actions could be seen as suggesting such action unless there is language to the contrary in the regulation. This approach would make less work for the FAA and the states but potentially at the expense of air quality. The states would be given no opportunity to evaluate the Federal actions while the total emissions, if fairly evaluated, could be above applicable thresholds.

NCDAQ believes there should be some level of information provided to, and oversight provided by the states with presumed to conform actions that cause or result in emissions increases so that the states are aware of Federal actions and are satisfied that the action is properly categorized. Perhaps a letter could be sent by the FAA describing the presumed to conform action and giving the state a couple of weeks to request additional information. There should also be language in the regulation cautioning against subdividing large projects into smaller projects that are presumed to conform.

3) NCDAQ is concerned that the presumed to conform activity thresholds are set at the annual ton limits without a margin for the differences between the past projects evaluated for setting those thresholds and new projects.

There is no reason to expect that emission rates from past actions set a not-to-be-exceed rate. For example, values are given for square feet of commercial vehicle staging area that can be paved and be presumed to conform (Table III-1 in 72 Federal Register 6646). Suppose the past

activity-level-setting project was on flat ground. The proposed one, same size, is on very hilly terrain. The proposed one will require much more cutting and filling with earth moving equipment and will have considerably higher emissions. Annual thresholds could be exceeded using the simple area of paving criteria because the actual emissions per square foot will be higher than those assumed in the presumed to conform table.

Since the project evaluation criteria chosen by the FAA use a single criteria (for example, square feet or gallons) to determine presumed to conform actions, it would be reasonable to cut the activity levels to some fraction of those proposed to give some margin for the variables between past and future projects. Another approach is to set activity limits for project components such as no more than x_1 cubic yards of earth removal, plus no more than x_2 cubic yards of fill, plus no more than x_3 tons of gravel bed, plus no more than x_4 tons of asphalt placed, plus no more than x_5 gallons of marking paint applied, etc. equals a presumed to conform project.

4) NCDAQ is concerned that the analysis done to determine emissions did not consider all direct and indirect emissions.

On page 6647 of the Federal Register under *Non-Runway Pavement Work* it is stated, "Pollutant emissions due to airfield construction are solely from the use of construction equipment and are primarily comprised of NOx, a precursor of ozone development, and CO resulting from the trucks operated to haul the large amounts of stone and gravel that must be used to form the support layers of the paving material." On page 6648 under *Terminal and Concourse Upgrades* it is stated, "Construction vehicles and equipment are the only source of emissions when expanding or upgrading terminals." On pages 6652 and 6653 under *Airport Security* it is said that dedicated security projects (such as adding security fencing) will be below the *de minimus* levels and that moving parking from close to the terminal to more distant places will reduce vehicle miles traveled (VMT) on airport property.

Since all direct and indirect emissions are to be considered, phrases like ,"solely from the use of construction equipment," and, "vehicles and equipment are the only source of emissions" raise caution flags. Did the analysis referenced consider all emissions that may be generated on and off site (inside the nonattainment or maintenance area), direct and indirect? Did the analysis consider VOC from painting the new pavement or the upgraded terminal? Did the analysis consider the emissions from re-routing automotive and possibly aircraft movements when construction was underway? If parking spaces are moved to a more distant place they may still be on airport property with added VMT. Adding security fencing could be a truly small project or it could mean miles of fence placed with possibly land clearing and grading and the related emissions.

Please review your analysis and address these concerns when setting any presumed to conform activity limits. There should be stated size limits for all presumed to conform actions.

5) NCDAQ is concerned that the use of metric units in defining presumed to conform boiler projects will lead to errors and confusion. NCDAQ is also concerned that the proposed rule will

separate emissions related to heating and air conditioning projects from associated emissions due to such things as terminal and concourse upgrades.

Tables III-2 and III-4 use metric units which is at variance with common units of commerce and common units of regulation. Table III-2 does have a pound column but it is to state pounds of emissions per metric ton, or per kiloliter, or per1000 cubic meters of fuel.

What has been listed is likely to produce misunderstanding and errors in applying this proposed rule. Fuels are commonly sold in tons, gallons, and cubic feet depending on the fuel. Equivalent tables should be offered that completely harmonize with commercial practice. This will avoid errors and differences due to unit conversion errors. Boiler regulations are commonly written in terms of pounds of pollutant per million BTU input. Boiler emission regulations commonly consider heat input per hour in setting emission limits and rule applicability thresholds. Any list of presumed to conform boiler projects should harmonize with this regulatory practice.

If a boiler installation is being done to accommodate a terminal or concourse upgrade or any other project at an airport, the two actions should be evaluated as parts of the same project and the total direct and indirect emissions of the combined actions during construction and in use should be considered with respect to general conformity rules. The presumed to conform activity list should make it clear that it is not a separate action in such circumstance.

Thank you for the opportunity to comment on this proposed rule. If you have any questions please contact Robert Wooten of my staff at email bob.wooten@ncmail.net and phone (919) 733-1815.

Sincerely,

Sheila Holman
Section Chief

copy: Laura Boothe
Bob Wooten