

General Conformity for New Nonattainment Areas

Tom Coda

Environmental Protection Specialist

EPA Office of Air Quality Planning & Standards

Objectives

- What is general conformity?
- Where and when does general conformity apply?
- How are general conformity determinations performed?

Clean Air Act and General Conformity Rule

- Required by CAA Section 176(c)
- Requires evaluation of emissions from federal actions before they are funded or approved
- Ensures that Federally supported actions do not interfere with a state's air quality plans and goals for attaining and maintaining National Ambient Air Quality Standards (NAAQS).
- Required of all federal actions not covered by the requirements of transportation conformity

General Conformity

- The CAA requires federal actions to conform to the purpose of the SIP
- Purpose of the SIP:
 - Eliminates/reduces violations of the NAAQS
 - Expedient attainment of the NAAQS
- According to CAA section 176(c) federal activities must not:
 - produce new air quality violations
 - worsen existing violations
 - delay timely attainment of NAAQS, or any interim reductions or milestones

Where Does General Conformity Apply?

- Applies to federal actions by all agencies except FHWA and FTA (covered by transportation conformity)
- Designated nonattainment areas
- Maintenance areas (nonattainment areas redesignated to attainment)
- For ozone, CO, PM₁₀, PM_{2.5}, NO₂, SO₂ and Pb.

What Is Subject to General Conformity?

- Actions undertaken by a federal agency and federally supported actions where a federal agency:
 - Provides financial assistance;
 - Issues a license or permit; or
 - Approves an activity
- Occurs in a nonattainment or maintenance area
- Not exempt or presumed to conform

When Does General Conformity Apply?

- The CAA provide a one-year grace period before conformity applies for newly designated areas.
 - Within one year of the effective date of the initial nonattainment designation.
- After the one-year grace period grace period, a conformity determination is needed prior to commencing the federal action.

General Conformity Process

- 1) Applicability analysis
- 2) Conformity determination

Applicability Analysis

- First, the Federal agency determines if their action occurs in nonattainment or maintenance area.
- Next, the Federal agency determines if exemptions apply.
- Finally, the Federal agency determines if the emissions considered to be presumed to conform because they are below certain *de minimis* thresholds.
 - Determine whether the total direct and indirect emissions are below or above the *de minimis* levels.

Exempt Actions

All Federal actions, in nonattainment or maintenance areas, must demonstrate general conformity, except:

- 20+ listed categories (e.g., judicial/legislative proceedings, administrative actions, civil/criminal enforcement activities)
- Transfer of land ownership
- Rulemaking, policy development and issuance
- Transportation conformity projects
- Routine maintenance
- NSR for major sources
- CERCLA actions
- Emergency responses (6 months renewal exemption)
- On an agency's presumed to conform list

Conformity Determination

Ways to demonstrate conformity

- Emissions specifically identified and accounted for in the SIP; or
- State determines the emissions are not specifically identified but are included in general air emissions categories in the SIP; or
- State agrees to address the emissions in a SIP revision; or
- Mitigating or offsetting emission increases with emission reductions; or
- Air quality modeling demonstration (allowed in some circumstances) to show that there will not be violations of the standard.

Who Is Involved?

- The Federal agency(s) supporting or approving the action.
 - Determines if conformity is applicable
 - Determine conformity
 - If multiple agencies involved, each can perform its own analysis or adopt another agency's analysis **but each must make its own determination**
- State and local air agencies
 - Review, consultation and advise on conformity determinations
- EPA
 - Provide guidance, consultation, and comment letters on determinations
 - Promulgate conformity regulations and guidance documents
- Public
 - § Must follow formal public notice/comment procedures
 - § All comments must be responded to

For Further information and Training

- EPA's website:

<http://www.epa.gov/air/genconform>

- Finding Nonattainment/Maintenance areas:

- EPA's Greenbook:

www.epa.gov/oar/oaqps/greenbk/