

US EPA ARCHIVE DOCUMENT

General Conformity for New Nonattainment Areas

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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/