

CHAPTER 3
FORSYTH COUNTY AIR QUALITY CONTROL¹
SUBCHAPTER 3D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .2000 - TRANSPORTATION CONFORMITY

.2003 Transportation Conformity Determination

(a) Conformity analysis, determinations, and redeterminations for transportation plans, transportation improvement programs, FHWA/FTA projects, and State or local projects shall be made according to requirements of 40 CFR 51.400 and shall comply with the applicable requirements of 40 CFR 51.456 and 51.458. For the purposes of this Rule, State or local projects shall be subject to the same requirements under 40 CFR Part 51 as FHWA/FTA projects.

(b) Before making a conformity determination, the metropolitan planning organizations, local transportation departments, North Carolina Department of Transportation, United States Department of Transportation, Forsyth County Environmental Affairs Department and United States Environmental Protection Agency shall consult with each other on matters described in 40 CFR 51.402(c). Consultation shall begin as early as possible in the development of the emissions analysis used to support a conformity determination. The agency that performs the emissions analysis shall make the analysis available to the Forsyth County Environmental Affairs Department and the general public for comments; at least two weeks shall be allowed for review and comment on the emissions analysis. The agency that performs the emissions analysis shall address all comments received and these comments and responses thereto shall be included in the final document. In the event that the Forsyth County Environmental Affairs Department disagrees with the resolution of its comments, the conflict may be escalated to the Governor within 14 days and shall be resolved in accordance with 40 CFR 51.402(d). The 14-day appeal period shall begin when the North Carolina Department of Transportation or the metropolitan planning organization notifies the Director in writing of the resolution of the comments. Any consultation undertaken after the conformity determination is made shall include the Forsyth County Environmental Affairs Department.

(c) The agency that performs the conformity analysis shall notify the Forsyth County Environmental Affairs Department of:

- (1) any changes in planning or analysis assumptions (including land use and vehicle miles traveled (VMT) forecasts), and
- (2) any revisions to transportation plans or transportation improvement plans that add, delete, or change projects that require a new emissions analysis (including design scope and dates).

The agency that performs the conformity analysis shall allow the Forsyth County Environmental Affairs Department at least two weeks of review and comment on the proposed change.

Comments made by the Forsyth County Environmental Affairs Department and responses thereto made by the agency shall become part of the final planning document.

(d) Transportation plans shall satisfy the requirements of 40 CFR 93.106. Transportation plans and transportation improvement programs shall satisfy the fiscal constraints specified in 40 CFR 93.108.

(e) No recipient of federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall adopt or approve, nor any other person construct, a regionally significant highway or transit project, regardless of funding source, unless there is a currently conforming transportation plan

and transportation improvement program consistent with the requirements of 40 CFR 51.420 and the project conforms with the applicable implementation plan consistent with the requirements of 40 CFR 51.450.

(f) The degree of specificity required in a transportation plan and the specific travel network assumed for air quality modeling shall not preclude the consideration of alternatives in the National Environmental Policy Act of 1969 process, in accordance with 40 CFR 51.406.

(g) When assisting or approving any action with air quality-related consequence, the Federal Highway Administration and the Federal Transit Administration of the Department of Transportation shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the national ambient air quality standards. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions. (8-14-95, 5-24-99, 10-25-99)

THIS IS THE FEDERALLY APPROVED REGULATION AS OF OCTOBER 1, 2017

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