



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
RESEARCH TRIANGLE PARK, NC 27711

JUN 5 2006

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

**MEMORANDUM**

SUBJECT: Revision to General Conformity Applicability Questions and Answers

FROM: William T. Harnett *William T. Harnett*  
Director, Air Quality Policy Division (C504-01)

TO: Regional Air Division Directors

The purpose of this memorandum is to make you aware of a recent revision to our questions and answers (Q&A) document for the EPA's General conformity regulations. Some questions have arisen concerning whether emissions generated outside a nonattainment area should be accounted when making a General Conformity determination for a Federal action. We are revising our questions and answers document issued July 13, 1994, to clarify that only direct or indirect emissions originating in a nonattainment or maintenance area need to be analyzed for conformity with the applicable State implementation plan (SIP). The 1994 guidance document was issued prior to the 1995 statutory amendment to the Clean Air Act's conformity provisions which made conformity applicable only with respect to nonattainment and maintenance areas (42 U.S.C. § 7506(c)(5)) and which negated any need for EPA to issue attainment area conformity regulations. The new guidance states that EPA interprets this statutory amendment to mean that any direct and indirect emissions originating in an attainment or unclassifiable area do not need to be analyzed for general conformity purposes, even if such emissions may transport into a nonattainment or maintenance area.

The changes to the Q&A document are attached and posted on the General Conformity website, <http://www.epa.gov/air/genconform/background.htm>. Please ensure that the appropriate individuals responsible for preparing general conformity determinations for Federal actions in your Region are made aware of this clarification.

If you have questions about the applicability of the General Conformity regulations in nonattainment areas please contact Tom Coda at 919-541-3037.

Attachment

cc: Sara Schneeberg, OGC  
Robert Moyer, OGC  
Kimber Scavo, OAQPS  
Tom Coda, OAQPS  
Robert Hargrove, NEPA Compliance Division

Merrylin Zaw-Mon, OTAQ

## **General Conformity Guidance Questions and Answers (revised May 5, 2006)**

### **APPLICABILITY**

#### ***Area Classification***

Q&A # 20 is being deleted and replaced with new Q&A's 20(a) and 20(b) below  
**20.** Does the rule apply to activity that occurs in attainment areas that could impact nonattainment areas?

A: If an activity in an attainment area causes indirect emission increases within a nonattainment area, they may have to be analyzed. The current nonattainment rule does not indicate how this situation should be dealt with. Until EPA issues guidance on this, or addresses this instance in an attainment area rule on conformity, Federal agencies should make their own decisions as to how the rule applies to attainment areas with respect to this scenario.

#### New Q&As (May 5, 2006)

**20(a).** Does the rule apply to a Federal activity that occurs outside a nonattainment or maintenance area but may impact nonattainment areas through transport of direct or indirect emissions?

A: No. Consistent with the statutory provision of 42 U.S.C. §7506(c)(5) as enacted in 1995, general conformity applies only to federal actions undertaken in a nonattainment or maintenance area. Further, federal agencies are not required to undertake a general conformity analysis for a federal action which is undertaken in an attainment or unclassified area and which may cause emissions, whether direct or indirect, in an attainment or unclassified area which may be transported into a nonattainment or maintenance area.

**20(b).** Does the rule apply to a Federal action that occurs inside a nonattainment or maintenance area and has direct or indirect emissions both in and outside nonattainment areas?

A: In this case, only the emissions originating within the boundaries of the nonattainment or maintenance area where the action is taking place need to be analyzed under the general conformity requirements. In other words, emissions originating outside the nonattainment or maintenance area do not need to be considered in the applicability analysis or conformity analysis, consistent with EPA's interpretation of 42 U.S.C. § 7506(c)(5) as enacted in 1995.