

### **15A NCAC 02D .1603 GENERAL CONFORMITY DETERMINATION**

(a) The appropriate federal agency shall make a determination that a federal action conforms with the maintenance plans for the areas identified in Rule .1601 of this Section in accordance with the requirements of this Section before the action is taken with the exceptions specified in 40 CFR 51.850(c). A conformity determination is required for each pollutant where the total of direct and indirect emissions caused by a federal action would equal or exceed 100 tons per year of carbon monoxide, nitrogen oxides, or volatile organic compounds, with the exceptions specified in 40 CFR 51.853(c), (d), or (e). The Division shall provide technical assistance for the analysis necessary to determine the conformity of the federal action.

(b) Notwithstanding any other requirements of this Section, actions specified by individual federal agencies that have met the requirements of 40 CFR 51.853(g) and (h) are presumed to conform, except as provided in 40 CFR 51.853(j). Where 40 CFR 51.853(j) is applicable, the requirements of 40 CFR 51.853(j) shall apply.

(c) Any federal department, agency, or instrumentality of the federal government taking an action subject to this Section shall comply with the requirements of 40 CFR 51.854 through 51.859. Any measures that are intended to mitigate air quality impacts shall comply with the requirements of 40 CFR 51.860.

(d) Notwithstanding any other requirement of this Section, when the total direct and indirect emissions of any pollutant from a federal action does not equal or exceed the rates specified in 40 CFR 51.853(b), but represents ten percent or more of the maintenance area's total emissions of that pollutant, the action is defined as a regionally significant action and the requirements of 40 CFR 51.850 and 51.855 through 51.860 shall apply for the federal action.

(e) Notwithstanding any provision of this Section, a determination that an action is in conformance with the applicable maintenance plan does not exempt the action from any other requirement of the applicable maintenance plan, the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), or the federal Clean Air Act.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);  
Eff. April 1, 1995;  
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