

3745-102-01      **Purpose.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the last paragraph of rule 3745-102-02 of the Administrative Code titled "Incorporation by reference."]

- (A) The purpose of this chapter is to implement Section 176(c) of the CAA and regulations under 40 CFR Part 51, Subpart W, with respect to the conformity of general federal actions to the applicable implementation plan. Under those authorities, no department, agency or instrumentality of the federal government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan. This chapter sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable implementation plan.
- (B) Under Section 176(c) of the CAA and 40 CFR Part 51, Subpart W, a federal agency shall make a determination that a federal action conforms to the applicable implementation plan in accordance with the requirements of this chapter before the action is taken.
- (C) The preceding sentence does not include federal actions where either:
  - (1) A National Environmental Policy Act of 1969 analysis was completed as evidenced by a final environmental assessment, environmental impact statement, or finding of no significant impact that was prepared prior to January 31, 1994; or
  - (2)
    - (a) Prior to January 31, 1994, an environmental assessment was commenced or a contract was awarded to develop the specific environmental analysis;
    - (b) Sufficient environmental analysis is completed by March 15, 1994, so that a federal agency may determine that the federal action is in conformity with the specific requirements and the purposes of the applicable implementation plan pursuant to the agency's affirmative obligation under Section 176(c) of the CAA; and
    - (c) A written determination of conformity under Section 176(c) of the CAA has been made by the federal agency responsible for the federal action by March 15, 1994.
- (D) Notwithstanding any provision of this chapter, a determination that an action is in conformity with the applicable implementation plan does not exempt the action from

any other requirements of the applicable implementation plan, the National Environmental Policy Act of 1969, or the CAA.

Effective: 11/03/2006

R.C. 119.032 review dates: 08/16/2006 and 11/03/2011

CERTIFIED ELECTRONICALLY  
Certification

10/24/2006  
Date

Promulgated Under: 119.03  
Statutory Authority: ORC 3704.03(E)  
Rule Amplifies: ORC 3704.033, 3704.03(E)  
Prior Effective Dates: 8/21/95