

Mitigation of air quality impacts.

- (A) Any measures that are intended to mitigate air quality impacts shall be identified in the conformity determination, including the identification and quantification of all emission reductions claimed, and the process for implementation, including any necessary funding of such measures and tracking of such emission reductions, and enforcement of such measures shall be described, including an implementation schedule containing explicit timelines for implementation.
- (B) Prior to determining that a federal action is in conformity, the federal agency making the conformity determination shall obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations. Such written commitment shall describe such mitigation measures and the nature of the commitment, in a manner consistent with paragraph (A) of this rule.
- (C) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations shall comply with the obligations of such commitments.
- (D) In instances where the federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, the federal agency shall condition its approval in the conformity determination on the other entity meeting the mitigation measures set forth in the conformity determination, as provided in paragraph (A) of this rule.
- (E) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination in accordance with this rule and with paragraphs (B) and (C) of rule 3745-102-05 of the Administrative Code. Any proposed change in the mitigation measures is subject to the reporting requirements of paragraph (B) of rule 3745-102-04 of the Administrative Code and the public participation requirements of paragraph (C) of rule 3745-102-04 of the Administrative Code.
- (F) The federal agency shall obtain written commitments that mitigation measures will be implemented before the federal agency makes a determination that the project conforms and that such commitments shall be fulfilled.
- (G) After this implementation plan revision is approved by USEPA, any agreements, including mitigation measures, necessary for a conformity determination will be both state and federally enforceable. Enforceability through the applicable implementation plan will apply to all persons who agree to mitigate direct and indirect emissions associated with a federal action for a conformity determination.

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