



North Carolina Department of Environment and Natural Resources

Division of Air Quality

Sheila C. Holman
Director

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Governor

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Secretary

July 12, 2013

A. Stanley Meiburg
Acting Regional Administrator
USEPA, Region 4
Sam Nunn Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

Subject: North Carolina Transportation Conformity Memorandum of Agreements

Dear Mr. Meiburg:

I am pleased to submit the Transportation Conformity Memorandum of Agreements (MOAs). The thirteen MOAs represent the collective collaborative efforts between federal, state, local air program agencies and metropolitan planning organizations. In compliance with Section 176(c) of the Clean Air Act (CAA), the North Carolina Department of Environment and Natural Resources, Division of Air Quality (DAQ) chose, through rulemaking as referenced in 15A NCAC 02D .2005, to develop Conformity MOAs to ensure that interagency consultation procedures for transportation conformity are followed in each of the nonattainment or maintenance areas in the state. Enclosed is one hard copy of the complete package containing the thirteen MOAs and an exact duplicate electronic copy on a compact disk. The MOAs are also being distributed to the remaining partners.

The DAQ issued a public notice announcement on July 20, 2012, indicating that the MOAs were available for public comment until August 24, 2012. The DAQ posted the MOAs on its website, and provided access to the documents for review in person at DAQ's Central Office in Raleigh and seven regional offices throughout the state. The public notice announcement also indicated that the public could request a public hearing. No requests for a public hearing were received.

Comments were received from the U.S. Environmental Protection Agency (USEPA) on August 31, 2012. We welcome the USEPA's input into the state implementation planning process, but we were surprised and disappointed to learn of the agency's concerns regarding the MOA language so late in the public comment period despite being very much involved and prescriptive in the planning process since 2009 and accepting the draft language. To avoid further delays in modifying the MOAs and redistributing them for a second round of signatures, the DAQ has elected to address the USEPA comments through this letter. This approach has been accepted by the USEPA as evidenced by its signatures on the MOAs.

1. Section 11.0 "Termination of Agreement"
 - a. The USEPA requested a clarification of the word "termination" and stated that it does not appear to match the text in this section.

The term "termination" was inadvertently left from previous draft versions of the MOAs. The supporting language in Subsection 11.1 is accurate. The DAQ intends to keep the MOAs in effect until a new agreement is approved by all parties and

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formally adopted into the SIP in the event a party wishes to renegotiate a new agreement.

- b. The typographical error in the first paragraph, second sentence has been corrected as stated in USEPA's letter.
2. Section 12.4 under "Savings Provisions and Other"
- a. The USEPA requested clarification on how the state will notify and seek agreement from the USEPA on the state's interpretation of "final court action or decree, or by reason of preemptive legislation."

The DAQ would like to clarify the process by which changes will occur to the existing State Implementation Plan. If and when the DAQ determines that a final court action or decree, or by reason of preemptive legislation renders or declares section(s) of the MOA invalid, the DAQ will notify the USEPA of the state's interpretation of the impact of the change for the SIP-approved MOA and will request that USEPA respond within 30 days to the state's interpretation. The DAQ will provide the notification in writing to the Division Director of the Air, Pesticides and Toxics Management Division at USEPA Region 4. If the USEPA does not object in writing by the end of the 30 day period, the DAQ may implement and/or continue to implement compliance with the state's interpretation of the final court action or decree, or by reason of preemptive legislation.

The DAQ believes it has in good faith addressed the requirements of Section 176(c) of the CAA through the Transportation Conformity MOA submittals. If you have any questions regarding this submittal, please contact Victoria Chandler of my staff at (919) 707-8714 or vicki.chandler@ncdenr.gov.

Sincerely,



Sheila C. Holman

SCH/vsc

Enclosure

cc Michael Abraczinskas, NCDENR
Sushma Masemore, NCDENR
Scott R. Davis, USEPA
Lynorae Benjamin, USEPA
William Barnette, Forsyth County Office of Environmental Assistance and Protection
Leslie Rhodes, Mecklenburg County Air Quality
David Brigman, Western Regional Air Quality Agency