

3745-102-04 **Conformity analysis, reporting requirements, public participation and consultation.**

[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) Any federal department, agency, or instrumentality of the federal government taking an action subject to 40 CFR Part 51, Subpart W and this chapter shall make its own conformity determination consistent with the requirements of this chapter. In making its conformity determination, a federal agency shall consider comments from any interested parties. Where multiple federal agencies have jurisdiction for various aspects of a project, a federal agency may choose to adopt the analysis of another federal agency, to the extent that the proposed action and impacts analyzed are the same as the project for which a conformity determination is required, or to develop its own analysis in order to make its conformity determination.
- (B) A federal agency making a conformity determination under paragraph (B) of rule 3745-102-05 of the Administrative Code shall:
 - (1) Provide to the appropriate USEPA regional office(s), to Ohio EPA and local air agencies and, where applicable, to affected federal land managers, to the agency designated under Section 174 of the CAA, and to the MPO, a thirty-day notice which describes the proposed action and the federal agency's draft conformity determination on the action.
 - (2) Notify the appropriate USEPA regional office(s), Ohio EPA and local air agencies and, where applicable, affected federal land managers, the agency designated under Section 174 of the CAA, and the MPO, within thirty days after making a final conformity determination under paragraph (B) of rule 3745-102-05 of the Administrative Code.
- (C) Upon request by any person regarding a specific federal action, a federal agency shall make available for review its draft conformity determination under paragraph (B) of rule 3745-102-05 of the Administrative Code with supporting materials which describe the analytical methods, assumptions, and conclusions relied upon in making the applicability analysis and draft conformity determination. In addition, a federal agency shall:
 - (1) Make public its draft conformity determination under paragraph (B) of rule 3745-102-05 of the Administrative Code by placing a notice by prominent advertisement in a daily newspaper of general circulation in the areas affected by the action, and by providing thirty days for written public comment prior to taking any formal action on the draft determination. This comment period may

be concurrent with any other public involvement, such as occurs in the NEPA process.

- (2) Document its response to all the comments received on its draft conformity determination under paragraph (B) of rule 3745-102-05 of the Administrative Code and make the comments and responses available, upon request by any person regarding a specific federal action, within thirty days of the final conformity determination.
- (3) Make public its final conformity determination under paragraph (B) of rule 3745-102-05 of the Administrative Code for a federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within thirty days of the final conformity determination.

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Certification

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