



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 16 2015

Mr. Robert Cook
Charlotte Regional Transportation
Planning Organization
600 East Fourth Street
Charlotte, North Carolina 28202

Dear Mr. Cook:

The United States Environmental Protection Agency is providing this letter in its consultative role to document that the transportation conformity requirements, under the Clean Air Act (CAA) section 176(c), for Mecklenburg County located in the Charlotte, North Carolina carbon monoxide (CO) maintenance area, ended on September 18, 2015. This date marks 20 years from the effective date of the redesignation of this area to attainment for the CO National Ambient Air Quality Standard (NAAQS).

Under 40 CFR 93.102(b)(4) of the EPA's regulations, transportation conformity applies to maintenance areas for a 20-year planning period or unless the maintenance plan specifies that the conformity requirements apply for a longer period. Pursuant to CAA section 176(c)(5) and as explained in the preamble of the 1993 final rule, conformity applies to transportation related pollutants and their precursors for which an area is designated nonattainment or is subject to a maintenance plan approved under CAA section 175A for areas redesignated to attainment. The section 175A maintenance planning period is 20 years, unless the applicable implementation plan specifies a longer maintenance period, (see 58 FR 62188, 62206, November 24, 1993). The EPA further clarified this conformity provision in its January 24, 2008, final rule (73 FR 4434-5).

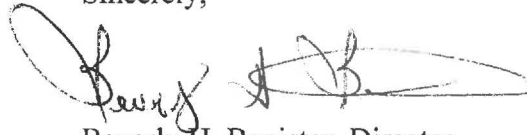
This letter documents that, because North Carolina's first 10-year maintenance plan for the Charlotte CO maintenance area was effective on September 18, 1995 (60 FR 39258), and North Carolina did not extend the maintenance period beyond 20 years from the effective date of redesignation, transportation conformity requirements for the CO NAAQS ceased to apply after September 18, 2015. As a result, the Charlotte Regional Transportation Planning Organization may reference this letter to indicate that the conformity requirements of 40 CFR Part 93 no longer apply for the CO NAAQS for Mecklenburg County in the Charlotte maintenance area. In addition, project sponsors can reference this letter to indicate that as of September 18, 2015, transportation conformity requirements also no longer apply for the CO NAAQS for Federal Highway Administration (FHWA)/Federal Transit Administration (FTA) projects as defined in 40 CFR 93.101.

Even though the conformity obligations for the CO NAAQS have ended, the terms of the limited maintenance plan remain in effect and all measures and requirements contained in the plan must be complied with until the state submits, and the EPA approves a revision to the state plan, (see *GM Corp. v. United States*, 496 U.S.530, June 14, 1990). Such a state implementation plan (SIP) revision would have

to comply with the anti-backsliding requirements of CAA Section 110(l), and if applicable, CAA section 193, if the intent is to remove a control measure or to reduce its stringency. Also, the EPA notes that the conformity requirements outlined in 40 CFR Part 93 continue to apply in the North Carolina portion of the Charlotte 2008 8-hour ozone maintenance area.

If you have questions about the transportation conformity and SIP requirements in the Charlotte area, please contact Scott Davis of my staff at (404) 562-9127.

Sincerely,

A handwritten signature in black ink, appearing to read "Beverly H. Banister". The signature is fluid and cursive, with a large initial "B" and "H".

Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

Robert Sullivan, FHWA-NC Division
Shelia Holman, NC DEQ
Yvette Taylor, FTA-Region 4
Heather Hildebrandt, NC DOT