



ADMINISTRATIVE RULES OF MONTANA

17.8.1305 CONSULTATION REQUIREMENTS: APPLICABILITY

- (1) The consultation procedures set out in this subchapter must be utilized by the department and local air quality agencies in developing applicable air quality control plans, and by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), MDT, MPOs, and local transportation planning agencies in making conformity determinations or in deciding that a conformity determination is not necessary because a revision to a transportation plan or transportation improvement program merely adds or deletes an exempt project listed in 40 CFR Part 93, subpart A.
- (2) Tables A through E below identify the specific actions for which consultation is required under this subchapter, and specify the parties, timing, methods, and documentation required for consultations.

TABLE A

ACTION: Research and Data Collection.

RESPONSIBLE ENTITY: MDT, DEQ, MPO, local air quality and transportation planning agencies

Action Step	Consult with	When to Consult	Consultation Method	Consultation Documentation
1. Design/scheduling funding of research and data collection for transportation related air quality inventories, transportation modeling, or planning efforts	local air and transportation agencies, MPO, DEQ, MDT	before starting research or data collection	letter of notification (meet at consulted agency request)	not required
2. Completion of project	same as above	project completion	distribute summary of findings	not required

TABLE B

ACTION: Preparation or revision of emission inventory (involving transportation-related emission sources).

RESPONSIBLE ENTITY: Local air quality agency or DEQ.

Action Step	Consult with	When to Consult	Consultation Method	Consultation Documentation
1. Selection of methods, models, assumptions, data sources for determining transportation emissions	local transportation and air agencies, MPO, DEQ, MDT, EPA, FHWA, FTA	before starting analysis using these parameters	letter of notification (meet at consulted agency request)	describe consultation, response, and response use in draft inventory
2. Release of draft emission inventory	same as above	release of draft inventory	distribution of draft inventory	discuss in final inventory
3. Release of final emission inventory	same as above	release of final inventory	distribution of final inventory *	not required

* If consultation on draft does not result in any revisions, distribution of a separate final document is not required. In this case consulted agencies may simply be notified that the draft has been adopted as final.

TABLE C

ACTION: Preparation or revision of air quality control plan.

RESPONSIBLE ENTITY: Local air quality agency or DEQ.

Action Step	Consult with	When to Consult	Consultation Method	Consultation Documentation
1. Selection of methods, models, assumptions, data sources for determining transportation-related emissions*	local transportation and air agencies, MPO, DEQ, MDT, FTA, FHWA, EPA	before starting analysis using these parameters	letter of notification (meet at consulted agency request)	describe consultation, response, and response use in draft control plan

2. Selecting transportation-related control strategies, transportation control measures (TCMs), and proposed transportation emissions budget	same as above	Before strategy /TCM selection and budget allocation	letter of notification (meet at consulted agency request)	Discuss in draft control plan
3. Distribution of draft control plan	same as above	release of proposed control plan	Distribute proposed control plan	Written response to consulted agency comment
4. State conflict resolution appeal period, per ARM 17.8.1312	local transportation and air agencies, MPO, DEQ, MDT	initiated by responsible entity written response to comments on draft	appeals to governor by consulted agencies	discuss comments on draft, appeals (if any), and appeal resolution in final document
5. Adoption of final control plan (emission budget determination)	local transportation and air agencies, MPO, DEQ, MDT, FHWA, FTA, EPA	upon end of appeal period or resolution of any appeals	distribute final control plan**	not required

* Consultation at this step is not required if these factors are unchanged from those used in an emission inventory on which consultation requirements were fulfilled.

** If consultation on draft does not result in an appeal to the governor or in any revisions to the draft, distribution of a separate final document is not required. In this case consulted agencies may simply be notified that the draft has been adopted as final.

TABLE D

ACTION: Transportation Conformity Determination (for Transportation Plan, Transportation Improvement Program (TIP), Transportation Project, and Hot-Spot Analyses.

RESPONSIBLE ENTITY: MPO (MDT outside metropolitan areas and for issues covered in ARM 17.8.1310(1)(h) and (i)).

**** NOTE **** For guidance relating to the specific action steps required for plan, TIP, project, or hot-spot analysis (and directions for accomplishing those steps) refer to 40 CFR Part 93.

Action Step	Consult with	When to Consult	Consultation Method	Consultation Documentation
1. Selection of methods, models, assumptions, data sources, and routes (including any minor arterials and projects otherwise exempted) to be used in emissions analysis*	local transportation and air agencies, DEQ, MDT, FHWA, FTA, EPA	before starting analysis using these parameters	letter of notification (meet at consulted agency request)	discuss consultation, response, and response use in draft determination
2. Identify projects to be included in the analysis (include exempt projects treated as nonexempt)*	same as above	upon initial selection and any revisions during analysis	same as above	same as above
3. Determine TCM implementation status per 40 CFR 93.113*	same as above	before starting emission analysis	same as above	discuss in draft conformity determination
4. Draft conformity determination release	same as above	before or with draft plan, TIP, or project document release	distribute determination	written response to comment on draft determination

Action Step	Consult with	When to Consult	Consultation Method	Consultation Documentation
5. State conflict resolution appeal period, per ARM 17.8.1312	local air and transportation agencies, MPO, DEQ, MDT	initiated by responsible entity written response to comments on draft determination	appeals to governor by consulted agencies	discuss comments on draft, appeals (if any), and appeal resolution in final determination
6. Responsible entity final conformity determination	FHWA, FTA (notify local air and transportation agencies, MPO, DEQ, MDT)	upon conclusion of appeal period or resolution of any appeals	distribute and request concurrence from FHWA and FTA	not required

7. Conformity determination concurrence by FHWA and FTA	local air and transportation agencies, DEQ, MDT, FHWA, FTA, EPA	upon notice of FHWA and FTA concurrence	distribute final plan, TIP, or project document	summarize consultation process and conformity determination in final plan, TIP, or project document
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* Consultation on these steps will often be done concurrently.

TABLE E

ACTION: Determination that a transportation plan or TIP revision or amendment merely adds or deletes exempt projects listed in 40 CFR 93.126.

RESPONSIBLE ENTITY: MPO or MDT.

Action Step	Consult with	When to Consult	Consultation Method	Consultation Documentation
1. Identification of projects included in the revision or amendment and initial finding that all are exempt and do not hinder TCM implementation	local transportation and air agencies, DEQ, MDT, FHWA, FTA, EPA	upon preliminary determination that all projects are exempt	letter of notification (meet at consulted agency request)	describe consultation, response, and response use in notice of final determination
2. Determination that all included projects are exempt and do not interfere with TCM implementation	same as above	upon responsible entity determination	same as above	not required
OR 3. Determination that one or more included projects are not exempt or do interfere with TCM implementation	same as above	upon responsible entity determination	same as above	implement conformity determination process, per Table D

Authorizing statute(s): 75-2-111, MCA

Implementing statute(s): 75-2-202, MCA

History: NEW, 1996 MAR p. 2299, Eff. 8/23/96; AMD, 1999 MAR p. 1216, Eff. 6/4/99; AMD, 2005 MAR p. 959, Eff. 6/17/05.