

San Joaquin Valley Air Pollution Control District

APR - 2035

General Conformity under the National Environmental Policy Act

Approved By:



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I. PURPOSE

The purpose of this policy is to establish air quality mitigation guidance for public agencies on the federal General Conformity Regulation (General Conformity) under the National Environmental Policy Act (NEPA).

II. APPLICABILITY

This policy applies to projects subject to NEPA.

III. BACKGROUND

Pursuant to Section 176 of the federal Clean Air Act, the Environmental Protection Agency (EPA) promulgated the General Conformity rule to ensure that the actions taken by federal agencies do not interfere with a state's plans to attain and maintain the National Ambient Air Quality Standards (NAAQS). Under General Conformity, federal agencies must work with state, tribal, and local governments in a nonattainment or maintenance area to ensure that federal actions conform to the air quality plans established in the applicable state or tribal implementation plan.

Under NEPA, the federal agency or public agency with the broadest authority for approving or carrying out a development project (Project) serves as the Lead Agency. Often times, the Lead Agency develops a joint document for evaluating potential environmental impacts and General Conformity when a project is subject to both NEPA and the California Environmental Quality Act (CEQA).

The District takes an active role in the intergovernmental review process of such projects by serving as a Trustee (or commenting) agency and provides technical expertise in characterizing project related impacts on air quality. The District may provide the Lead Agency with comments on the adequacy of the air quality analysis and General Conformity, identify District rules, which apply to the project, and recommend potential mitigation measures, such as a Voluntary Emission Reduction Agreement (VERA).

IV. GENERAL CONFORMITY REGULATION

General Conformity is a federal Clean Air Act requirement under Section 176(c) established to ensure that actions by the federal government will not cause or contribute to a violation of National Ambient Air Quality Standards (NAAQS) and will not delay timely attainment of the NAAQS.

Title 40, Code of Federal Regulations (CFR), Title 40, Chapter I, Subchapter C, Part 93 (*Determining Conformity of Federal Actions to State or Federal Implementation Plans*), Subparts A and B apply in NAAQS nonattainment and maintenance areas, and requires that emissions from federal actions subject to General Conformity requirements are consistent with the air quality goals established in the state implementation plan (SIP). Internet link Part 93: https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr93_main_02.tpl

V. GENERAL CONFORMITY THRESHOLDS

A General Conformity determination is required when emissions from a project are expected to equal or exceed the de minimis emissions thresholds established in 40 CFR §93.153. There is a set of thresholds for areas designated as Federal Nonattainment and a set of thresholds for areas designated as Federal Maintenance (see Attachment A).

Currently, the San Joaquin Valley air basin is designated as a Federal Nonattainment area for Ozone and PM_{2.5}, and a Federal Maintenance area for CO and PM₁₀. The applicability thresholds for the San Joaquin Valley air basin under 40 CFR Part 93, are 10 tons per year for VOC, 10 tons per year for NO_x, and 100 tons per year for PM₁₀ and CO, and 70 tons per year for PM_{2.5} (see Attachment A).

VI. GENERAL CONFORMITY REQUIREMENTS

The General Conformity regulations contain information, for example, on its applicability to federal projects, reporting requirements, conformity evaluation and determination, and timing of mitigation measures. This policy focuses on three specific General Conformity requirements:

1. Pollutants to be mitigated

When a pollutant exceeds its General Conformity threshold, General Conformity requires mitigation of that pollutant only. Per §93.158(a), “...for each pollutant that exceeds the rates in §93.153(b)...”

2. Number of years for mitigation

The General Conformity regulations do not specifically limit the mitigation of a pollutant to only the year it exceeds its General Conformity threshold. Therefore, when a pollutant exceeds its General Conformity threshold for one year, General Conformity requires mitigation of that pollutant for all project years.

3. Level of mitigation

When a pollutant exceeds its General Conformity threshold, General Conformity requires full mitigation down to zero per §93.158(a)(2) “...so that there is no net increase in emissions of that pollutant;...”

VII. GUIDANCE TO LEAD AGENCIES

When assisting Lead agencies with their projects for General Conformity, the following guidance shall be provided:

Emissions of any pollutant exceeding a threshold shall be fully mitigated such that there is no net increase in emissions of that pollutant as a result of the Project.

ATTACHMENT A General Conformity Thresholds

Table 1: Thresholds for Federal Nonattainment Areas

	Tons/year
Ozone (VOC's or NO _x):	
Serious NAA's	50
Severe NAA's	25
Extreme NAA's	10
Other ozone NAA's outside an ozone transport region	100
Other ozone NAA's inside an ozone transport region:	
VOC	50
NO _x	100
Carbon Monoxide: All maintenance areas	100
SO ₂ or NO ₂ : All NAA's	100
PM ₁₀ :	
Moderate NAA's	100
Serious NAA's	70
PM _{2.5} (direct emissions, SO ₂ , NO _x , VOC, and Ammonia):	
Moderate NAA's	100
Serious NAA's	70
Pb: All NAA's	25

Table 2: Thresholds for Federal Maintenance Areas

	Tons/year
Ozone (NO _x), SO ₂ or NO ₂ :	
All maintenance areas	100
Ozone (VOC's)	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon monoxide: All maintenance areas	100
PM ₁₀ : All maintenance areas	100
PM _{2.5} (direct emissions, SO ₂ , NO _x , VOC, and Ammonia)	100
All maintenance areas	100
Pb: All maintenance areas	25

Source: https://www.ecfr.gov/cgi-bin/text-idx?SID=11f0b765409963314576c5971bc96752&mc=true&node=sp40.22.93.b&rqn=div6#se40.22.93_1153