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To: All CA District and Field Managers
From: Acting State Director
Subject: Clean Air Act Conformity Requirements

Program Area: Soil, Water and Air

Purpose: This Information Bulletin (IB) is to inform all CA District and Field Managers of the April 5, 2010, Federal Register Notice of the Final Rule for Revisions to the General Conformity Regulations Relating to the Clean Air Act, effective July 6, 2010. This rule revises regulations originally promulgated and put into place in 1993. This IB serves as a reminder to ensure federal actions conform to the regulatory and statutory requirements of the Clean Air Act.

Background: The Clean Air Act (CAA) (1990 revisions) requires Federal actions to conform to State, Tribal, or Federal implementation plans (SIP, TIP, or FIP) for attaining clean air. This section of the CAA has been referenced as the conformity provision. The Environmental Protection Agency (EPA) published its original regulations implementing this provision under the title of General Conformity in 1993. Conformity requirements apply to EPA designated planning areas that have been determined to be in nonattainment of certain levels of identified pollutants (criteria pollutants) and for which an Implementation Plan has been written (generally a State Implementation Plan or SIP). A SIP is approved by the EPA, which identifies and quantifies sources of emissions and presents a comprehensive strategy to control and reduce locally generated emissions. It also includes an attainment demonstration, which shows that the proposed combination of existing sources and proposed actions will result in meeting air quality attainment by prescribed deadlines. If a federal action causes emissions and occurs within a nonattainment area or maintenance area, it is subject to the General Conformity regulations and must be determined by the action agency to conform to the applicable SIP before the action can be authorized. The EPA has issued a revision to the General Conformity Rules that address implementation issues experienced since 1993. It provides for update of SIPs for specific pollutants, provides a mechanism for a federal agency to identify actions that are "presumed to conform" with SIPs, and facilitates federal compliance with SIPs; thus preventing violations of National Ambient Air Quality Standards (NAAQS).

Air quality concerns are increasing across the state and BLM authorized actions may be affecting air quality. There is tremendous uncertainty in many field offices on how to proceed. Third parties who may contest a BLM decision can use the CAA and implementing regulations to challenge administrative process. Failure to include analysis of air quality impacts in NEPA and, where necessary, conformity analyses and/or determinations, increases litigation risk for BLM decisions. Based on mapping of NAAQS, almost every BLM field office has lands in a planning area that is nonattainment or maintenance for some criteria pollutant, and is hence subject to the Conformity Regulations.

To facilitate understanding and compliance with these revised regulations, several attachments are included with this IB that can be used by field offices to develop defensible administrative records. Attachment 1 is an information white paper that describes the key elements of the final rule, provides the outline of an applicability analysis, and identifies air basins that are in nonattainment or maintenance categories for criteria pollutants. Attachment 2 is a table that shows by county, those that are in nonattainment or maintenance categories. Attachment 3 provides an example of a Conformity Analysis Certificate. In addition to these references, the California State Office is planning a Workshop in the fall of 2010 to provide hands-on instruction to field office staff in the procedures required by the Conformity Rule.

Policy/Action: BLM policy in 7300 requires all BLM activities, programs, and projects to comply with applicable provisions of the Clean Air Act, FLPMA, NEPA, and other applicable air regulations, implementation plans, laws, standards, and directives.

Contact: Karl Stein, California State Office Soil, Water, Air, Riparian and Fisheries Program Leader, (530) 224-2156; or Glenn Harris, Air Quality Specialist, Ridgecrest Field Office, (760) 384-5431.

Signed by:
A Este Stifel
Acting Acting State Director

Authenticated by:
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- Attachment 1 - Information Brief - 4/20/10 (5 pp)
- Attachment 2 - Table of CA Counties (2 pp)
- Attachment 3 - Conformity Analysis Certificate (9 pp)