

March 1999

Re: NEPA Call-In Technical Inquiry 0471 - Conformity Determinations

This letter is in response to your March 1, 1999 request for information on "conformity determinations" as they relate to the environmental impact analysis (EIA) process under the National Environmental Policy Act (NEPA). Specifically, you were asked for a regulatory citation for a conformity determination.

#### SUMMARY OF FINDINGS

Conformity determinations are required under the Clean Air Act (CAA). Federal proposed actions must conform to any State Implementation Plan (SIP) that could be impacted by the action. Our detailed findings are presented below.

#### DETAILED FINDINGS

NEPA Call-In first searched the Environmental Protection Agency (EPA) Office of Federal Activities world wide web site for references to "conformity determination." Our search resulted in several documents that recorded EPA's comments on various documents prepared under NEPA. In a document titled, "Summary of EPA Comments," August 8, 1997, EPA provided comments on a Draft Environmental Impact Statement (DEIS), stressing the potential need for an air quality conformity determination for carbon monoxide.

With information obtained above, we then searched the CAA on the U.S. Code library on the world wide web maintained by Cornell University's School of Law. Specifically, we searched the CAA for references to "conformity determination," which yielded Title 42 USC Section 7506, "Limitations on certain Federal assistance" (enclosed). In summary, this citation from the CAA sets limitations on Federal assistance to programs or actions that do not conform to State Implementation Plans approved under the CAA, 42 USC 7410.

In regards to how CAA conformity determinations relate to the EIA process under NEPA, a Federal agency should include a conformity determination as a component of any NEPA analysis conducted on proposed actions where there is potential for impacts to air quality.

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Sincerely,

(original signed)

NEPA Call-In Researcher