THE BERTH 136-147 [TRAPAC] CONTAINER TERMINAL PROJECT (PORT OF LOS ANGELES):

ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT STATEMENT (EIS)

NOVEMBER 2008

U.S. ARMY CORPS OF ENGINEERS,

LOS ANGELES DISTRICT

3.2

AIR QUALITY AND METEOROLOGY

3.2.3 Applicable Regulations

3.2.3.1 Federal Regulations

Emission Standards for On-Road Trucks

To reduce emissions from on-road, heavy-duty diesel trucks, USEPA established a series of cleaner emission standards for new engines, starting in 1988. The USEPA promulgated the final and cleanest standards with the 2007 Heavy-Duty Highway Rule (USEPA 2000b). The PM emission standard of 0.01 G/Hp-Hr is required for new vehicles beginning with model year 2007. Also, the NOx and NMHC standards of 0.20 G/Hp-Hr and 0.14 G/Hp-Hr would be phased in together between 2007 and 2010 on a percent of-sales basis: 50 percent from 2007 to 2009 and 100 percent in 2010.

General Conformity Rule

Section 176(c) of the CAA states that a federal agency cannot issue a permit for or support an activity unless the agency determines it would conform to the most recent USEPA-approved SIP. This means that projects using Federal funds or requiring Federal approval must not (1) cause or contribute to any new violation of a NAAQS, (2) increase the frequency or severity of any existing violation, or (3) delay the timely attainment of any standard, interim emission reduction, or other milestone.

On November 30, 1993, USEPA promulgated final general conformity regulations at 40 C.F.R. Part 93 Subpart B for all Federal activities except those covered under transportation conformity. On September 14, 1994, SCAQMD adopted these regulations by reference as part of Rule 1901. The general conformity regulations apply to a Federal action in a nonattainment or maintenance area if the total of direct and indirect emissions of the relevant criteria pollutants and precursor pollutants caused by the Federal action equal or exceed certain de minimis rates, thus requiring the Federal agency to make a determination of general conformity. Even if a Federal action's emissions would be below de minimis rates, if this total represents ten percent or more of the nonattainment or maintenance area's total emissions of that pollutant, the Federal action is considered regionally significant and the Federal agency must make a determination of general conformity. By requiring an analysis of

direct and indirect emissions, USEPA intended the regulating Federal agency to make sure that only those emissions that are reasonably foreseeable and that the Federal agency can practicably control subject to that agency's continuing program responsibility will be addressed.

The general conformity regulations incorporate a stepwise process, beginning with an applicability analysis. According to USEPA guidance (EPA 1994), before any approval is given for a Federal action to go forward, the regulating Federal agency must apply the applicability requirements found at 40 C.F.R. § 93.153(b) to the Federal action and/or determine the regional significance of the Federal action to evaluate whether, on a pollutant-by-pollutant basis, a determination of general conformity is required. The guidance states that the applicability analysis can be (but is not required to be) completed concurrently with any analysis required under the National Environmental Policy Act (NEPA). If the regulating Federal agency determines that the general conformity regulations do not apply to the Federal action, no further analysis or documentation is required. If the general conformity regulations do apply to the Federal action, the regulating Federal agency must next conduct a conformity evaluation in accordance with the criteria and procedures in the implementing regulations, publish a draft determination of general conformity for public review, and then publish the final determination of general conformity.

The currently approved SIPs for the SCAB are summarized below.

- O_3: SIP approved by USEPA on April 10, 2000 (65 FR 18903), based on the 1997 AQMP and a 1999 amendment to the 1997 AQMP.
- CO: SIP approved by USEPA on May 11, 2007 (72 FR 26718), based on 2005 redesignation request and maintenance plan. In this SIP approval, USEPA also redesignated the SCAB from nonattainment to attainment/maintenance for CO.
- PM_{10}: SIP approved by USEPA on April 18, 2003 (68 FR 19315), based on the 1997 AQMP, amendments to the 1997 AQMP submitted in 1998 and 1999, and further modifications to the 1997 AQMP submitted in a status report to USEPA in 2002.
- $PM_{2.5}$: No USEPA-approved SIP.
- NO_2: SIP approved by USEPA on July 24, 1998 (63 FR 39747), based on the 1997 AQMP. In this SIP approval USEPA also redesignated the SCAB from nonattainment to attainment/maintenance for NO_2.

Based on the present attainment status of the South Coast Air Basin (SCAB), a Federal action would conform to the SIP if its annual emissions remain below 100 tons of CO or $PM_{2.5}$, 70 tons of PM_{10}, or 25 tons of NO_x or VOCs. The United States Court of Appeals ruled in December 2006 that areas in nonattainment of the 1-hour O_3 NAAQS that were superseded by the 8-hour nonattainment classifications must also consider the 1-hour requirements in conformity analyses (*South Coast Air Quality*

Management District v. EPA, *et al.*, 472 F.3d 882) (D.C. Cir. 2006). Hence, to conform to the SIP in the SCAB, a Federal action also would have to comply with annual de minimis thresholds of 10 tons of NO_x or VOCs, as the SCAB was in extreme nonattainment of the 1-hour O_3 NAAQS. ~~These de minimis thresholds apply to both proposed construction and operational activities. (For proposed Project operations, the thresholds are compared to the net change in emissions relative to the No Federal Cation/NEPA Baseline.) If the proposed action exceeds on or more of the de minimis thresholds, a more rigorous conformity determination is the next step in the conformity evaluation process. SCAQMD Rule 1901 adopts the guidelines of the General Conformity Rule~~.

For purposes of the general conformity determination, the applicable SIP will be the most recent USEPA-approved SIP at the time of the release of the final general conformity determination.

Conformity Statement

~~The Port of Los Angeles regularly provides SCAG with its Portwide cargo forecasts for development of the AQMPs. Cargo projections from Port activities have been included in the Regional Transportation Plan (RTP) of the Municipal Planning Organization (MPO) and thus were included in the most recently EPA approved 1997/1999 SIP and the 2003 SIP, should USEPA approve this. These same projections have also been included in the more recent 2007 RTP and SIP, which would be also be submitted for USEPA approval. This has been acknowledged by the SCAG, which is the region's MPO. Additionally an analysis has been done pursuant to 40CFR 93 S153 which determined that the proposed Project criteria emissions are de minimis, as they are less than 10 percent of both the 1997 and 2006 TRP. As such, a General Conformity Determination is not required for the proposed Project.~~

As part of the environmental review of the Federal action, the USACE conducted a general conformity evaluation pursuant to 40 C.F.R. Part 93 Subpart B (Appendix O to the EIS). The Federal action, which is only a portion of the overall Berths 136-147 Terminal Container Project, includes approval of all in water and over water work and structures; temporary access, staging, and storage activities within 100 feet of the water needed to complete the in and over water work and structures; all in-water dredging and disposal of dredged material; and the removal and installation of cranes along the shoreline (hereinafter the "Federal Action"). Therefore, all direct and indirect emissions from these activities were included in the draft general conformity analysis and determination. Consistent with the General Conformity Rule and guidance, including USACE guidance dated April 20, 1994, the USACE determined that other construction and operational activities and emissions associated with the Berths 136-147 [TraPac] Terminal Container Project are not within the USACE's continuing program responsibility and control, and they were therefore, not included. The general conformity regulations apply at this time to any actions at POLA requiring USACE approval because the SCAB where POLA is situated is a nonattainment area for O_3, PM_{10}, and $PM_{2.5}$; and a maintenance area for NO_2 and CO. The USACE conducted the general conformity evaluation following all regulatory criteria and procedures and in coordination with EPA and SCAG. The USACE

proposes that the Federal Action, as designed, will conform to the approved SIP, based on the findings below:

- The Federal Action is not subject to a general conformity determination for CO, VOC (as an O_3 and $PM_{2.5}$ precursor), PM_{10}, $PM_{2.5}$, or SO_x (as a $PM_{2.5}$ precursor) because the net emissions associated with the Federal Action are less than the general conformity de minimis thresholds and they are not regionally significant.

- The Federal Action conforms to the SIP for NO_x (as an O_3 precursor) because the net emissions associated with the Federal Action, taken together with all other NO_x emissions in the SCAB, would not exceed the emissions budgets in the approved SIP for the years subject to the general conformity evaluation.

Appendix O

Berth 136-147 [TraPac] Container Terminal Project

Draft General Conformity Determination

The Port of Los Angeles, California

October 2008

Prepared for:

US Army Corps of Engineers
Los Angeles District
P.O. Box 532711
Los Angeles, California 90053-2325

Prepared by:

CDM
111 Academy, Suite 150
Irvine, California 92617

Project No. 59998-67056

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Section 1
Introduction

Section 176 (c) of the Clean Air Act (42 U.S.C. § 7506(c)) requires any entity of the Federal government that engages in, supports, or in any way provides financial support for, licenses or permits, or approves any activity to demonstrate that the action conforms to the applicable State Implementation Plan (SIP) required under Section 110 (a) of the Clean Air Act (42 U.S.C. § 7410(a)) before the action is otherwise approved. In this context, conformity means that such Federal actions must be consistent with a SIP's purpose of eliminating or reducing the severity and number of violations of national ambient air quality standards (NAAQS) and achieving expeditious attainment of those standards. Each Federal agency (including the U.S. Army Corps of Engineers [USACE]) must determine that any action that is proposed by the agency and that is subject to the regulations implementing the conformity requirements will, in fact, conform to the applicable SIP before the action is taken.

At issue for the Port of Los Angeles (POLA) Berths 136-147 [TraPac] Container Terminal Project (hereinafter the Project) is the issuance of a USACE permit, pursuant to Section 404 of the Clean Water Act, Section 10 of the River and Harbor Act, and Section 103 of the Marine Protection, Research, and Sanctuaries Act, for several improvements in and over the water at the TraPac berths, including near-water areas affected by temporary access, storage, and staging necessary to complete the in and over water activities, and the transport and disposal of dredged material at designated ocean sites. This draft general conformity determination documents the evaluation of the Federal action with Section 176 (c) requirements of the Clean Air Act. The remainder of Section 1 discusses the background of the regulatory requirements. Section 2 discusses the USACE's Federal action. Section 3 describes how applicability of the conformity requirements to the Federal action was analyzed. Section 4 discusses the regulatory procedures for the conformity evaluation. Section 5 presents the methods and criteria that were used to evaluate the conformity of the Federal action. Section 6 discusses the concepts of mitigation required under conformity regulations. Section 7 presents the reporting process to be followed to formalize the conformity determination. Section 8 offers the USACE's findings and conclusions. Section 9 provides references for the evaluation. Attachment A provides a discussion and results of the emission calculation methods applied in the general conformity evaluation. Attachment B provides correspondence received from the Southern California Association of Governments (SCAG) regarding the Project. Attachment C presents the USACE general conformity guidance document.

1.1 Transportation Conformity Requirements

The U.S. Environmental Protection Agency (EPA) promulgated two regulations to address the conformity requirements of the Clean Air Act. On November 24, 1993, EPA promulgated final transportation conformity regulations at 40 C.F.R. Part 93 Subpart A to address Federally-assisted transportation plans, programs, and projects. These regulations have been revised several times since they were first issued to clarify and

simplify them. On September 14, 1994, the South Coast Air Quality Management District (SCAQMD), which oversees air quality management in the South Coast Air Basin (SCAB) of California, adopted these regulations by reference as part of Rule 1902. The SCAQMD rule has also been amended since its original issuance. Although, in general, a seaport development project may require or rely on improvements in roadway or transit infrastructure, a determination of transportation conformity related to such improvements would typically be addressed by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) as part of a regional transportation plan or regional transportation improvement program and not as a stand-alone project. SCAG, the regional metropolitan planning organization (MPO), has indicated that the project is not regionally significant (SCAG 2007a), and also indicated that POLA growth in truck and automobile traffic is accounted for in the 2008 Regional Transportation Plan (RTP) (SCAG 2007b) for which a transportation conformity determination has been issued (see Section 3.1); therefore, it would not be necessary to include on-road emissions associated with construction material deliveries and on-road debris hauling in the general conformity evaluation since this portion of the Federal action is considered to conform to the SIP (40 C.F.R. § 93.158(a)(5)(ii)). Attachment B includes the SCAG statements.

1.2 General Conformity Requirements

On November 30, 1993, EPA promulgated final general conformity regulations at 40 C.F.R. Part 93 Subpart B for all Federal activities except those covered under transportation conformity. On September 14, 1994, SCAQMD adopted these regulations by reference as part of Rule 1901. The general conformity regulations apply to a Federal action in a nonattainment or maintenance area if the total of direct and indirect emissions of the relevant criteria pollutants and precursor pollutants caused by the Federal action equal or exceed certain de minimis rates, thus requiring the Federal agency to make a determination of general conformity. Even if the total direct and indirect emissions of any pollutant from a Federal action does not equal or exceed the de minimis rates, but represents ten percent or more of a nonattainment or maintenance area's total emissions of that pollutant, the action is considered regionally significant and the Federal agency must make a determination of general conformity. By requiring an analysis of direct and indirect emissions, EPA intended the regulating Federal agency to make sure that only those emissions that are reasonably foreseeable and that the Federal agency can practicably control subject to that agency's continuing program responsibility will be addressed.

The general conformity regulations incorporate a stepwise process, beginning with an applicability analysis. According to EPA guidance (EPA 1994), before any approval is given for a Federal action to go forward, the regulating Federal agency must apply the applicability requirements found at 40 C.F.R. § 93.153(b) to the Federal action and/or determine the regional significance of the Federal action to evaluate whether, on a pollutant-by-pollutant basis, a determination of general conformity is required. The guidance states that the applicability analysis can be (but is not required to be) completed concurrently with any analysis required under the National Environmental Policy Act (NEPA). If the regulating Federal agency determines that the general

conformity regulations do not apply to the Federal action, no further analysis or documentation is required. If the general conformity regulations do apply to the Federal action, the regulating Federal agency must next conduct a conformity evaluation in accord with the criteria and procedures in the implementing regulations, publish a draft determination of general conformity for public review, and then publish the final determination of general conformity.

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Section 2
Description of the Federal Action

In accordance with applicable general conformity regulations and guidance, including USACE guidance dated April 20, 1994 (see Attachment C), when a general conformity determination is necessary, the USACE is only required to conduct a general conformity evaluation for a specific Federal action associated with the selected alternative for a project or program (EPA 1994), and the USACE must issue a positive conformity determination before the Federal action is approved. Each Federal agency is responsible for determining conformity of those proposed actions over which it has jurisdiction. This draft general conformity determination is related only to those activities included in the USACE's Federal action pertaining to the Project selected by the Los Angeles Harbor Department (LAHD). The Project is more fully described in Section 2.1.

The general conformity requirements only apply to Federal actions proposed in nonattainment areas (i.e., areas where one or more NAAQS are not being achieved at the time of the proposed action and requiring SIP provisions to demonstrate how attainment will be achieved) and in maintenance areas (i.e., areas recently reclassified from nonattainment to attainment and requiring SIP provisions to demonstrate how attainment will be maintained). The attainment status in the vicinity of POLA is discussed in Section 3.

2.1 Berth 136-147 Container Terminal Project

The City of Los Angeles (City) is undertaking the Project to implement numerous improvements at POLA, only some of which are included in the Federal action being addressed herein. The Project includes an expanded container terminal, deeper berths, longer and improved wharves, replacement of existing cranes, new terminal buildings and facilities, a new on-dock intermodal rail yard, a relocated Pier A rail yard, an improved Harry Bridges Boulevard, and a 30-acre buffer area adjacent to Harry Bridges Boulevard. Most of the improvements would occur on the 176 acres currently operated by TraPac. Other proposed Project components would occur in the area between "C" Street and Harry Bridges Boulevard, and the area adjacent to Berths 200C – 200H in the Port of Los Angeles.

The Federal action is defined by the new permit application submitted to the USACE by the LAHD in April 2008. The portions of the Project requiring a USACE permit are dredging in the west basin of POLA, transport and ocean disposal of dredged material, rehabilitation of the existing wharves and creation of a new 705-foot wharf at Berth 147, and landside construction activities within 100 feet of the shoreline required to complete the in and over-water structures and work (herein referred to as the Federal Action). The latter includes the crane removal and installation activities. Although included as part of

the Project selected by the LAHD, the USACE permit application does not include the 10-acre fill,[1] and is therefore not part of the Federal Action being analyzed herein.

As part of the environmental review of the Project, the USACE, in coordination with the City, has prepared this draft general conformity determination to demonstrate compliance with the general conformity requirements in support of the USACE's Federal Action associated with the Project.

The seaport layout for the Project is presented in **Figure 2-1**. **Table 2-1** presents the list of major construction activities included in the Federal Action.

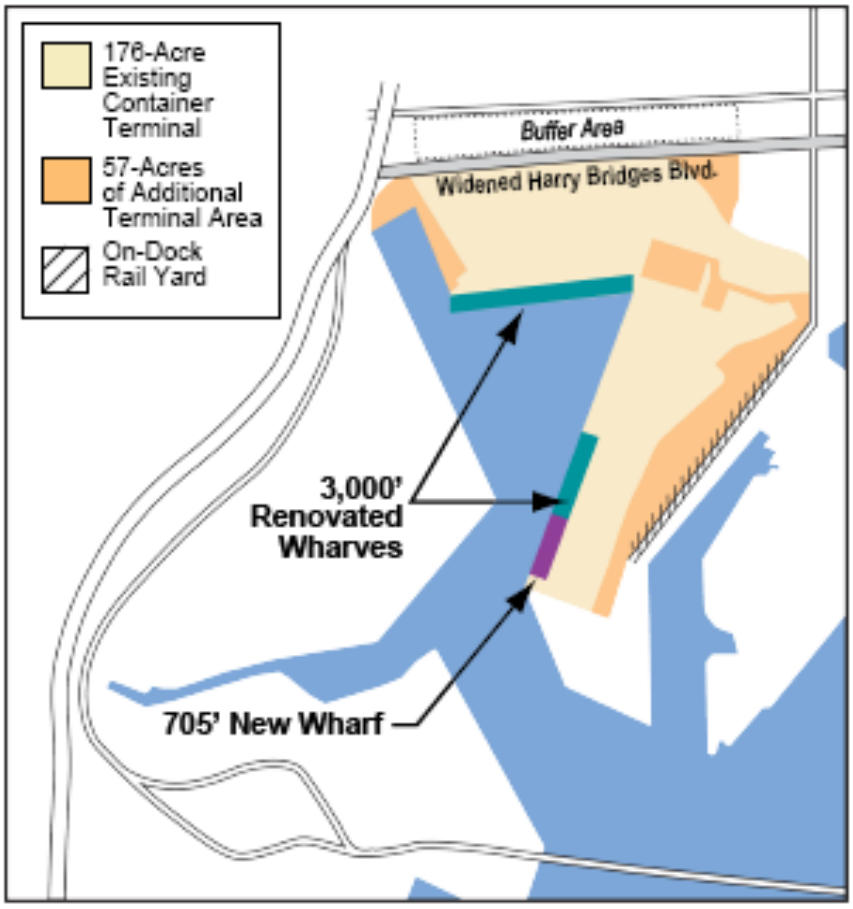

Figure 2-1 Project Without 10-Acre Fill

[1] The 10-acre fill project component included in the Final EIS/EIR (USACE/LAHD 2007b) is no longer expected to be built. Therefore, LAHD did not include this project component in the permit application submitted to the USACE in April 2008.

Table 2-1
List of Construction Activities in the Federal Action

Construction Projects	Project Description
B145-147 Wharf Construction	Phase 1 - Wharf demolition - Remove 2 existing cranes - Pile driving – Row A / retrofit - Sheet pile wall - Electric dredging and ocean disposal [a.] - Rip-rap placement - Pile driving (including landside) - Wharf deck Phase 2 - Wharf demolition - Waterside crane girder - Pile driving / landside - Install 3 new cranes
B136-139 Wharf Construction	- Wharf demolition - Sheet pile wall - Electric dredging and ocean disposal [a.] - Rip-rap placement - Pile driving (including landside) - Wharf deck

Source: Camp Dresser & McKee Inc., 2008.
a. The Federal action includes ocean disposal of dredged material. However, the emission calculations completed for this analysis included both ocean disposal and transportation to a nearby potential land disposal location (roughly 50 percent of the dredged material is transported to each).

LAHD has prepared an extensive list of both construction and operational mitigation measures that it proposes to implement as part of the Project to satisfy requirements of the California Environmental Quality Act (CEQA), and for the general conformity evaluation, the construction measures are considered part of project construction as designed. These mitigation measures were developed from reviews of mitigation measures and plans used at other seaports, extensions of ongoing LAHD environmental policies (including implementation of the Sustainable Construction Guidelines (POLA 2007) and the San Pedro Bay Ports Clean Air Action Plan (POLA/POLB 2006)), and public comments received on the Draft and Final EIS/EIR. These mitigation measures include the following general approaches to reduce air quality impacts:

- MM AQ-1: Expanded VSR Program. All cargo ships used for terminal crane deliveries shall comply with the expanded vessel speed reduction program of 12 knots for 40 nautical miles from Point Fermin to the Precautionary Area.

- MM AQ-2: Fleet Modernization for On-Road Trucks. All on-road heavy-duty diesel trucks with gross vehicle weight rating of at least 33,000 pounds used on site or to transport materials to and from the site shall comply with Year 2007 emission standards.

- MM AQ-3: Fleet Modernization for construction Equipment. All off-road diesel-powered construction equipment greater than 50 horsepower, except derrick barges and marine vessels, shall achieve the EPA Tier 2 emission standards in Phase 1 construction and the EPA Tier 4 emission standards in Phase 2 construction.

- MM AQ-4: Best Management Practices. LAHD shall implement a process by which to select additional best management practices to further reduce air emissions during construction if it is determined that the proposed construction equipment exceed any SCAQMD significant thresholds. Such practices would include use of diesel oxidation catalysts and diesel particulate traps, maintenance of equipment according to manufacturers' specifications, restriction of idling of construction equipment to a maximum of ten minutes when not in use, and installation of high-pressure fuel injectors on construction equipment vehicles.

- MM AQ-5: Additional Fugitive Dust Controls. The construction contractor shall further reduce fugitive dust emissions to 90 percent from uncontrolled levels. Measures will include, but not be limited to: additional watering beyond that required by SCAQMD Rule 403, use of non-toxic soil stabilizer, use of temporary wind fencing, covering of haul trucks, use of wheel washers for vehicles leaving the construction site, and suspension of soil disturbance when wind speed exceeds 25 miles per hour.

- MM AQ-18A: General Mitigation Measures. If a California Air Resources Board (CARB)-certified technology becomes available and is shown to be as good as or better in terms of emission performance compared to those proposed in MM AQ-1 through MM AQ-5, the new technology could replace the existing measure pending approval by LAHD.

All of the mitigation measures that the USACE has relied upon in this draft general conformity determination are CEQA-related mitigation measures that have been expressly adopted by LAHD and the City in approving the overall project and certifying the EIR. As such, those mitigation measures are fully enforceable under Cal. Pub. Res. Code § 21081.6. California regulations also require compliance with mitigation requirements as stated in a mitigation monitoring and reporting program (MMRP); see 14 C.C.R. §§ 15091(d) and 15097(c)(3). The Project MMRP (LAHD 2007), which incorporates all of the mitigation measures that the USACE has relied upon in this draft general conformity determination, describes LAHD's lead responsibility for

administering the program, the timing of implementation, monitoring frequency, and actions indicating compliance. These provisions ensure that the measures will be properly implemented through incorporating mitigation measures into all construction bid specifications for the Project.

2.2 Relationship to Other Environmental Analyses

A joint Draft EIS/EIR was published for public review and comment in June 2007 (USACE/LAHD 2007a) providing an analysis of five build alternatives (the original proposed project and Alternatives 2, 3, 4, and 5). A joint Final EIS/EIR was published in December 2007 (USACE/LAHD 2007b) documenting the integrated analysis of all alternatives considered. The USACE is the lead agency for the NEPA analysis documented in an Environmental Impact Statement (EIS). The City is the lead agency for the CEQA analysis documented in an Environmental Impact Report (EIR).

Both NEPA and CEQA require that the air quality impacts of the Project implementation be analyzed and disclosed. Regulatory guidance implementing these statutes requires that the air quality impacts from the project and its alternatives be determined by identifying the associated project incremental emissions and air pollutant concentrations and comparing them respectively to emissions thresholds and state and national ambient air quality standards. For CEQA purposes, the air quality impacts of the build alternatives were compared to the impacts of the environmental baseline to determine environmental significance and develop appropriate mitigation measures. The air quality impacts of the build alternatives were also compared to the NEPA Baseline for NEPA purposes. This draft general conformity determination is being published with an Addendum to the Final EIS that clarifies the Federal Action, and revises the construction emissions associated with the Federal Action.

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Section 3
Regulatory Procedures

The general conformity regulations establish certain procedural requirements that must be followed when preparing a general conformity evaluation. This section addresses the major procedural issues and specifies how these requirements are met for the evaluation of the Federal Action. The procedures required for the general conformity evaluation are similar but not identical to those for conducting an air quality impact analysis under NEPA regulations.

3.1 Use of Latest Planning Assumptions

The general conformity regulations require the use of the latest planning assumptions for the area encompassing the Federal action, derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO (40 C.F.R. § 93.159(a)). It should be noted that the latest planning assumptions available from the MPO at the time of this evaluation may differ from the planning assumptions used in establishing the applicable SIP emissions budgets. The approved 1997/1999 AQMP was developed with data similar to that used in the 1998 RTP, which was contemporaneous with the 1997/1999 AQMP. The approved 2008 RTP, which supersedes earlier RTPs, predicts an increase of goods movement in the SCAG region out to at least 2035, which partly reflects activities at POLA.

As noted previously, SCAG is the MPO for the region encompassing POLA. The SCAG region covers an area of over 38,000 square miles and includes the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura. SCAG adopted the 2008 RTP on May 8, 2008 (SCAG 2008). On June 5, 2008, the Federal Highway Administration issued a finding that the 2008 RTP conforms to the applicable state implementation plan (i.e., transportation conformity determination). The growth forecast for the 2008 RTP estimated a region-wide population growth of approximately 30 percent between 2005 and 2035 and a nearly equivalent region-wide employment growth for the same period. The growth rates for population and employment in Los Angeles County are among the lowest for counties in the SCAG region.

The 2008 RTP indicates that container volume processed by the San Pedro Bay ports (Port of Los Angeles and Port of Long Beach) grew by almost 60 percent between 2000 and 2006, and it is expected to nearly triple by 2035. While the 2008 RTP focuses on the land transport aspects of goods movement (e.g., freight rail, high-speed regional transport, and highway), it recognizes the huge contribution and potential to goods movement from maritime transport and other marine activities in the ports.

3.2 Use of Latest Emission Estimation Techniques

The general conformity regulations require the use of the latest and most accurate emission estimation techniques available, unless such techniques are inappropriate (40 C.F.R. § 93.159(b)). Prior written approval from SCAQMD or EPA is required to modify

or substitute emission estimation techniques. It should be noted that the latest and most accurate emission estimation techniques available at the time of this evaluation may differ from the emission estimation techniques used in establishing the applicable SIP emissions budgets. The details of emissions estimating are described in Attachment A. The emission estimation techniques used in this evaluation are generally consistent with those used in preparing the Final EIS/EIR (USACE/LAHD 2007b).

3.3 Emission Scenarios

The general conformity regulations require that the evaluation must reflect certain emission scenarios (40 C.F.R. §93.159(d)). Specifically, these scenarios must include emissions from the Federal Action for the following years: (1) for nonattainment areas, the year mandated in the Clean Air Act for attainment and for maintenance areas, the farthest year for which emissions are projected in the approved maintenance plan; (2) the year during which the total of direct and indirect emissions for the Federal Action are projected to be the greatest on an annual basis; and (3) any year for which the applicable SIP specifies an emissions budget. These emission scenarios will be described in more detail in Section 5. **Table 3-1** specifies the years for which the general conformity evaluation was performed for comparison to the approved SIP. **Table 3-2** specifies the years for which the general conformity evaluation was performed for comparison to the proposed SIP revisions.

Table 3-1
Emission Scenario Years for General Conformity Evaluation based on 1997/99 SIP

Pollutant	Attainment/ Maintenance	Greatest Emission Year	Emissions Budget Years
Ozone (VOC or NO_x)	2010	2009	2008,2010,2020[a.]

Source: Camp Dresser & McKee Inc., 2008.

a. Federal Action construction does not extend to 2020; therefore, no comparisons to 2020 budgets are included.

Table 3-2
Emission Scenario Years for General Conformity Evaluation based on 2007 AQMP

Pollutant	Attainment/ Maintenance	Greatest Emission Year	Emissions Budget Years
Ozone (VOC or NO_X)	2023[a,b]	2009	2008,2010,2011[c.], 2014,2017[a.],2020 [a.], 2023[a.],2030 [a.].

Source: Camp Dresser & McKee Inc., 2008.

a Federal Action construction does not extend beyond 2016; therefore, no comparisons to budgets for years beyond 2014 are included.

b. The current designation of the region is Severe-17, which indicates an attainment year of 2021. However, the 2007 AQMP requests a re-designation to Extreme non-attainment, which has an attainment date in June 2024. Since the ozone season extends into the Autumn, attainment must be demonstrated by the end of the ozone season in 2023.

c. No project construction estimated to occur in 2011; therefore, no comparisons to 2011 budgets are necessary.

Section 4
Applicability Analysis

As stated previously, the first step in a general conformity evaluation is an analysis of whether the requirements apply to a Federal action proposed to be taken in a nonattainment or a maintenance area. Unless exempted by the regulations or otherwise presumed to conform, a Federal action requires a general conformity determination for each pollutant where the total of direct and indirect emissions caused by the Federal action would equal or exceed an annual de minimis emission rate. Notwithstanding the de minimis emission rate, if a Federal action is identified to be regionally significant, the Federal agency must make a general conformity determination.

4.1 Attainment Status of South Coast Air Basin

POLA is located within Los Angeles County in the SCAB of southern California. The regulatory agencies with primary responsibility for air quality management in the SCAB include SCAQMD and CARB, with oversight by EPA. Pursuant to the Clean Air Act, EPA established primary NAAQS to protect the public health with an adequate margin of safety and secondary NAAQS to protect the public welfare for seven air pollutants. These pollutants are known as criteria pollutants: particulate matter with an equivalent aerodynamic diameter less than or equal to ten micrometers (µm) in diameter (PM_{10}), particulate matter with an equivalent aerodynamic diameter less than or equal to 2.5 µm in diameter ($PM_{2.5}$), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), nitrogen dioxide (NO_2), and lead (Pb). EPA has delegated authority to SCAQMD to implement and enforce the NAAQS in the SCAB.

That portion of the SCAB encompassing POLA is in an area that is designated as being in nonattainment of the NAAQS for O_3 (eight-hour average), PM_{10}, and $PM_{2.5}$. In addition, the severity of the nonattainment status for this area has been classified as "severe" for O_3 and "serious" for PM_{10}, and it is unclassified for $PM_{2.5}$. On July 24, 1998, this area was redesignated from nonattainment to attainment/maintenance status for NO_2 by EPA (63 FR 39747). More recently, the area was redesignated by EPA from nonattainment to attainment/maintenance for CO (72 FR 26718), effective June 11, 2007. The area is in attainment of the NAAQS for SO_2 and Pb. Thus, for purposes of the general conformity requirements, this evaluation addresses NO_2, O_3 (eight-hour average), CO, PM_{10}, and $PM_{2.5}$.

4.2 Exemptions from General Conformity Requirements

As noted previously, the general conformity requirements apply to a Federal action if the net project emissions equal or exceed certain de minimis emission rates. The only exceptions to this applicability criterion are the topical exemptions summarized below. However, the emissions caused by the Federal Action do not meet any of these exempt categories.

- Actions which would result in no emissions increase or an increase in emissions that is clearly below the de minimis levels (40 C.F.R. § 93.153(c)(2)). Examples include administrative actions and routine maintenance and repair.
- Actions where the emissions are not reasonably foreseeable (40 C.F.R. § 93.153(c)(3)).
- Actions which implement a decision to conduct or carry out a conforming program (40 C.F.R. § 93.153 (c)(4)).
- Actions which include major new or modified sources requiring a permit under the New Source Review (NSR) program (40 C.F.R. § 93.153(d)(1)).
- Actions in response to emergencies or natural disasters (40 C.F.R. § 93.153(d)(2)).
- Actions which include air quality research not harming the environment (40 C.F.R. § 93.153(d)(3)).
- Actions which include modifications to existing sources to enable compliance with applicable environmental requirements (40 C.F.R. § 93.153(d)(4)).
- Actions which include emissions from remedial measures carried out under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) that comply with other applicable requirements (40 C.F.R. § 93.153(d)(5)).

In addition to these topical exemptions, the general conformity regulations allow each Federal agency to establish a list of activities that are presumed to conform (40 C.F.R. § 93.153(f)). The USACE has not established a presumed-to-conform list of activities at the time of this evaluation.

4.3 De Minimis Emission Rates

The general conformity requirements will apply to the Federal Action for each pollutant for which the total of direct and indirect emissions caused by the Federal Action equal or exceed the de minimis emission rates shown in **Table 4-1**. These emission rates are expressed in units of tons per year (tpy) and are compared to the total of direct and indirect emissions caused by Federal Action for the calendar year during which the net emissions are expected to be the greatest. It should be noted that, because O_3 is a secondary pollutant (i.e., it is not emitted directly into the atmosphere but is formed in the atmosphere from the photochemical reactions of volatile organic compounds, VOC,

and oxides of nitrogen, NO_x, in the presence of sunlight), its de minimis emission rate is based on primary emissions of its precursor pollutants - VOC and NO_x. If the net emissions of either VOC or NO_x exceed the de minimis emission rate for O_3 (EPA 1994), then the Federal Action is subject to a general conformity evaluation for O_3.

The region in which the project is located has been designated as a "severe" non-attainment area for the 8-hour O_3 NAAQS, which carries a 25 tpy de minimis emission rate for NO_x and VOC. However, the currently approved SIP (1997 AQMP, as amended in 1999) was developed to demonstrate attainment of the revoked 1-hour O_3 NAAQS by 2010. At that time the region had been designated as an "extreme" non-attainment area for O_3, which carries a 10 tpy de minimis emission rate for NO_x and VOC. In addition, SCAQMD has requested re-designation (bump up) to "extreme" nonattainment for the 8-hour O_3 NAAQS in the 2007 AQMP. Therefore, the applicability analysis will use 10 tpy as the most stringent de minimis emission rate that might be applied to the Federal Action for NO_x and VOC emissions.

Further, the pollutant $PM_{2.5}$ consists of primary particulate matter (directly emitted) and secondary particulate matter (formed in the atmosphere from precursor compounds) and may ultimately be composed of many separate chemical compounds. Generally, the main precursors of secondary $PM_{2.5}$ include oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and ammonia, although organic carbon compounds (VOC) also contribute to the formation of $PM_{2.5}$. Dynamic reactions between these precursor compounds emitted into the atmosphere by the sources of interest will affect the amount of $PM_{2.5}$ attributable to the Federal Action. Based on studies conducted by SCAQMD in the SCAB, in general, the total mass of $PM_{2.5}$ is more associated with combustion-related sources and secondary particles formed therefrom, and primary particles represent a relative small proportion of total $PM_{2.5}$ mass. In fact, ammonium nitrates and ammonium sulfates represent a dominant fraction of $PM_{2.5}$ components in the SCAB. If the net emissions of any of these precursor compounds exceed the de minimis emission rate for $PM_{2.5}$, then the Federal Action is subject to a general conformity evaluation for $PM_{2.5}$.

Table 4-1
De Minimis Emission Rates for Determining Applicability of General Conformity Requirements to the Federal Action

Pollutant	SCAB Attainment Status Designations	De Minimis Emission Rate (tpy)
Nitrogen Dioxide	Attainment/Maintenance	100
Ozone (VOC or NO_x)	Nonattainment/Extreme [a]	10 [a]
Carbon Monoxide	Attainment/Maintenance	100
Particulate Matter PM_{10}	Nonattainment/Serious	70
Particulate Matter $PM_{2.5}$ (and each precursor) [b]	Nonattainment	100

a. The region in which POLA resides has been designated as a "severe" non-attainment area for the 8-hour O_3 NAAQS, which carries a 25 tpy de minimis emission rate for NO_x and VOC. However, the currently approved SIP (1997 AQMP, as amended in 1999) was developed to demonstrate attainment of the revoked 1-hour O_3 NAAQS by 2010. At that time the region had been designated as an "extreme" non-attainment area for O_3, which carries a 10 tpy de minimis emission rate for NO_x and VOC. In addition, SCAQMD has requested re-designation to "extreme" nonattainment for the 8-hour O_3 NAAQS in the 2007 AQMP. Therefore, the applicability analysis will use 10 tpy as the de minimis emission rate for Federal Action NO_x and VOC emissions.

b. The $PM_{2.5}$ precursors in the region include SO_x, NO_x, VOC, and ammonia.

4.4 Regional Significance

Even if a Federal action is less than the applicable de minimis emission rate for a given pollutant, the general conformity requirements state that a regionally significant action must undergo a conformity evaluation. A regionally significant action is one for which the total of direct and indirect emissions represent ten percent or more of the nonattainment or maintenance area's emissions inventories for all sources (as identified in the applicable SIP for stationary point, mobile, and area sources) for that pollutant. EPA guidance also indicates that any milestone emissions inventory in the applicable SIP should also be considered when evaluating regional significance (EPA 1994).

4.5 Applicability for Federal Action

The applicability of the general conformity requirements to the Federal Action was evaluated by comparing the total of direct and indirect emissions (calculated as discussed in Attachment A) for the calendar year of greatest emissions to the de minimis emission rates specified in Table 4-1. Where the total of direct and indirect emissions attributable to the Federal Action were found to be excluded from the general conformity requirements because they are below the de minimis emission rates for a pollutant, the total of direct and indirect emissions for that pollutant were compared to the nonattainment or maintenance area's emission inventory for that pollutant to determine whether it is regionally significant. Those pollutants that could not be excluded from applicability by both of these mechanisms underwent a complete general conformity evaluation consistent with the procedures in Section 3 above using the methods in Attachment A and the criteria in Section 5 below.

4.5.1 Methodology

Attachment A contains a discussion of the approach used for estimating emissions for this general conformity evaluation and the resulting emission inventories for the Federal Action. In general, the equipment parameters and wharf construction activities were originally described in the Draft EIS/EIR (USACE/LAHD 2007a), and were not modified in the Final EIS/EIR (USACE/LAHD2007b). Since completion of the Final EIS/EIR, additional detail regarding overall schedule, equipment sizes and anticipated work days has been developed. This updated information has been incorporated into the emission calculations presented in Attachment A, and summarized below.

4.5.2 Estimated Emissions and Comparison to De Minimis

Emissions were calculated for VOC, CO, NO_x, PM_{10}, and $PM_{2.5}$ (including precursors) for construction activities associated with the Federal Action. For purposes of this evaluation, emissions of NO_2 are assumed to equal emissions of NO_x. These emissions are associated with mobile and area sources expected to be used for on-site construction-related purposes. Off-site construction-related emission sources (e.g., construction worker commute trips, material delivery hauling trips, debris/spoils disposal hauling trips) are assumed to be accounted for in the conforming 2008 RTP (due to the extensive discussions of, and plans for growth in, goods movement in the SCAG region presented in that document, and the SCAG statements included in Attachment B), and they are therefore excluded from consideration of general conformity herein (40 C.F.R. § 93.158(a)(5)(ii)). Emissions related to other construction and operations at Berths 136-147 at POLA subsequent to the completion of the Federal Action addressed herein are not included in the total of direct and indirect emissions associated with the Federal Action because the USACE has determined that it has no legal authority to control those emissions-generating construction and operational activities (i.e., USACE lacks continuing program responsibility over the project once the construction activities in and over navigable waters of the U.S./waters of the U.S. are completed) (USACE 1994).

The Federal Action emissions are summarized in **Table 4-2** for the entire construction period regardless of the individual year or years that each construction activity occurs. The specific construction activities are listed by both the name used in the Final EIS/EIR, and the name provided by LAHD in the updated schedule included in Attachment A. The resulting calculations indicate that only emissions of NO_x could potentially exceed the general conformity de minimis emission rates presented in Table 4-1. Therefore, only NO_x emissions are analyzed to determine the peak annual emission rate. The Federal Action emissions of CO, SO_x, VOC, PM_{10}, or $PM_{2.5}$ are compared to the regional emissions in Section 4.5.3 to verify that project emissions do not represent ten percent or more of the regional budgets.

The Federal Action annual NO_x emission rates for each year during the construction period is summarized in **Table 4-3**. The peak year of NO_x emissions is estimated to be 2009, and the peak annual emissions are 20.9 tpy. This emission rate exceeds the de minimis emission rates, as does the emission rate estimated for 2015 (15.1 tpy). Therefore, a complete conformity evaluation is included for NO_x emissions in the general conformity determination. Note that the region is currently designated as a

"severe" O_3 nonattainment area. If the severe O_3 nonattainment area de minimis emission rate (25 tpy each for NO_x or VOC) were used, then even the peak annual NO_x emissions would be less than the de minimis threshold for general conformity applicability.

Table 4-2
Federal Action Emission Rates and Comparison to De Minimis Emission Rates

	Emission Rates, tons [a.]					
Construction Phase & Activity (New Schedule/EIS)[b.]	**VOC**	**CO**	**NO_x**	**SO_x**	**PM_{10}**	**$PM_{2.5}$**
B145-147 Phase 1						
Wharf Demolition / Wharf Demolition	0.1	0.5	2.5	0.0	0.1	0.1
Remove 2 Existing Cranes at Berth 144/"	0.0	0.0	0.0	0.0	0.0	0.0
Pile Driving - Row A/retrofit / Piledriving - Waterside Piles	0.0	0.0	0.3	0.0	0.0	0.0
Sheet Pile Wall / Piledriving - sheet piles	0.0	0.1	0.9	0.0	0.0	0.0
Electric Dredging / Dredge and disposal	0.2	0.7	4.8	0.0	0.2	0.2
Rock / Rip-Rap Placement	0.5	1.7	10.6	0.0	0.5	0.5
Pile Driving - Including Landside / Piledriving – Landside	0.1	0.4	1.9	0.0	0.1	0.1
Wharf Deck / Replace Existing Wharf	0.2	1.1	3.3	0.0	0.1	0.1
B145-147 Phase 2						
Wharf Demolition / Wharf Demolition	0.1	0.2	1.0	0.0	0.0	0.0
Waterside Crane Girder [c.] / Upgrade Existing Wharf	0.0	0.2	0.7	0.0	0.0	0.0
Pile Driving/Landside / Piledriving – Landside	0.0	0.1	0.5	0.0	0.0	0.0
Install 3 Cranes at Berth 144/"	0.0	0.1	1.2	0.7	0.1	0.1
B136-139						
Wharf Demolition / Wharf Demolition	0.1	0.5	2.5	0.0	0.1	0.1
Sheet Pile Wall / Piledriving - Sheet piles	0.0	0.2	1.1	0.0	0.0	0.0
Electric Dredging / Dredge and disposal	0.2	0.6	4.5	0.0	0.2	0.2
Rock / Rip-Rap Placement	0.5	1.7	10.6	0.0	0.5	0.5
Pile Driving - Including Landside / Piledriving – Landside	0.1	0.4	1.9	0.0	0.1	0.1
Wharf Deck / Replace Existing Wharf	0.2	1.1	3.3	0.0	0.1	0.1
PROJECT CUMULATIVE POLLUTANT EMISSIONS [a.]	**2.6**	**9.8**	**51.7**	**0.7**	**2.2**	**2.1**
General Conformity de minimis emission rate (tpy) [d.]	**10**	**100**	**10**	**100**	**70**	**100**
Were the de minimis emission rates exceeded?	**No**	**No**	**Yes[e]**	**No**	**No**	**No**

a. Emissions shown are for entire construction duration, not peak annual.

b. The New Schedule name refers to the construction activity name provided by LAHD for the updated schedule of Federal Action activities. The EIS name refers to the construction activity name used in the Draft and Final EIS/EIR (USACE/LAHD 2007a,b).

c. The crane girder is the part of the wharf that supports the crane.

d. The de minimis rates are meant to be compared to peak annual emissions. If total Federal Action emissions exceed the de minimis emission rates, then annual emissions will be determined.

e. Federal Action NOx emissions exceeded the threshold; peak annual NO_x emissions will be calculated(see Table 4-3).

Table 4-3
Federal Action Annual NO_x Emission Rates and Comparison to De Minimis Emission Rates

	NO_x Emission Rates by year, tpy						
Construction Phase & Activity (New Schedule/EIS)[a.]	**2008**	**2009**	**2010**	**2013[b.]**	**2014**	**2015**	**2016**
B145-147 Phase 1							
Wharf Demolition / Wharf Demolition	0.5	2.0	-	-	-	-	-
Remove 2 Existing Cranes at Berth 144/"	-	0.0	-	-	-	-	-
Pile Driving - Row A/retrofit / Piledriving - Waterside Piles	-	0.3	-	-	-	-	-
Sheet Pile Wall / Piledriving - sheet piles	-	0.9	-	-	-	-	-
Electric Dredging / Dredge and disposal	-	4.1	0.7	-	-	-	-
Rock / Rip-Rap Placement	-	10.6	-	-	-	-	-
Pile Driving - Including Landside / Piledriving – Landside	-	1.5	0.4	-	-	-	-
Wharf Deck / Replace Existing Wharf	-	1.4	2.0	-	-	-	-
B145-147 Phase 2							
Wharf Demolition / Wharf Demolition	-	-	1.0	-	-	-	-
Waterside Crane Girder d. / Upgrade Existing Wharf	-	-	0.7	-	-	-	-
Pile Driving/Landside / Piledriving – Landside	-	-	0.5	-	-	-	-
Install 3 Cranes at Berth 144/"	-	-	1.2	-	-	-	-
B136-139							
Wharf Demolition / Wharf Demolition	-	-	-	1.5	1.0	-	-
Sheet Pile Wall / Piledriving - Sheet piles	-	-	-	-	1.1	-	-
Electric Dredging / Dredge and disposal	-	-	-	-	3.0	1.5	-
Rock / Rip-Rap Placement	-	-	-	-	-	10.6	-
Pile Driving - Including Landside / Piledriving – Landside	-	-	-	-	-	1.9	-
Wharf Deck / Replace Existing Wharf	-	-	-	-	-	1.1	2.2
ANNUAL POLLUTANT EMISSIONS (tpy)	**0.5**	**20.9**	**6.4**	**1.5**	**5.1**	**15.1**	**2.2**
General Conformity de minimis emission rate (tpy)	**10**	**10**	**10**	**10**	**10**	**10**	**10**
Was the de minimis emission rate exceeded?	**No**	**Yes**	**No**	**No**	**No**	**Yes**	**No**

a.The New Schedule name refers to the construction activity name provided by LAHD for the updated schedule of Federal Action activities. The EIS name refers to the construction activity name used in the Draft and Fianl EIS/EIR (USACE/LAHD 2007a,b).

b. No construction emissions are estimated to occur in 2011 and 2012.

c. The crane girder is the part of the wharf that supports the crane.

4.5.3 Regional Significance

The totals of direct and indirect emissions of VOC, CO, SO_x, PM_{10}, and $PM_{2.5}$ for the Federal Action are compared to the regional emissions inventories of these pollutants prepared by SCAQMD for the SCAB. Two comparisons are presented, using data taken from the 1997 Air Quality Management Plan (AQMP) (SCAQMD 1996), which contains the currently approved SIP budgets, and from the 2007 AQMP (SCAQMD 2007). The lowest annual emissions from each of these documents between 2008 and 2016 are used for this calculation. The results of this comparison are summarized in **Table 4-4**. As one can see, the project totals are much less than ten percent of the SCAB emissions inventories; therefore, the Federal Action is not regionally significant for VOC, CO, SO_x, PM_{10}, or $PM_{2.5}$.

Table 4-4
Comparison of Federal Action Emissions for Regional Significance

Pollutant	Total Federal Action Emissions (tons)[a.]	Approved SIP Emissions (tpy)[b.]	Percent of Approved SIP	2007 AQMP Emissions (tpy)[c.]	Percent of 2007 AQMP
VOC	2.5	150,955	0.0016%	153,300	0.0016%
CO	9.6	885,301	0.0011%	744,235	0.0013%
SO_x	0.7	25,769	0.0027%	6,935	0.01%
PM_{10}	2.1	120,687	0.0017%	[d.]	[d.]
$PM_{2.5}$	1.9	[d.]	[d.]	31,755	0.0060%

Source: Camp Dresser & McKee Inc., 2008.

a. Total emissions caused by the Federal Action include all construction emissions regardless of the year or years over which these emissions occurred. Therefore, the Federal Action emissions are the most conservative (high) that could be used for this comparison.

b. Based on data in 1997 AQMP Appendix V.(controlled inventories in 2010).

c. Based on data in 2007 AQMP Appendix V (carrying capacities in 2015 for $PM_{2.5}$ and SO_x, and in 2023 for VOC and CO).

d. No budgets were developed in the currently approved SIP for $PM_{2.5}$ or in the 2007 AQMP for controlled PM_{10}.

4.5.4 Applicability Determination

The total of direct and indirect emissions of VOC, CO, SO_x, PM_{10}, and $PM_{2.5}$ are less than the general conformity de minimis threshold emission rates and the Federal Action is not regionally significant for any of these pollutants. Therefore, the general conformity requirements do not apply to these pollutants, and there will be no further evaluation of these pollutants herein.

Because the total of direct and indirect emissions of NO_x exceeds the "extreme" O_3 non-attainment area general conformity de minimis emission rate identified in Section 4.3, the general conformity requirements do apply to NO_x. Subsequent sections of this document will address the general conformity evaluation of NO_x as applicable to the Federal Action.

Section 5
General Conformity Evaluation

For Federal actions subject to a general conformity evaluation, the regulations delineate several criteria that can be used to demonstrate conformity (40 C.F.R. § 93.158). In fact, a combination of these criteria may be used to support a positive general conformity determination (EPA 1994). The approach to be taken to evaluate the Federal Action relies on a combination of these available criteria, and the remainder of this section summarizes the findings to make the determination.

5.1 Designation of Applicable SIP

Section 110(a) of the Clean Air Act (42 U.S.C. § 7410(a)) requires each state to adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each NAAQS. This plan is known as the SIP. Over time, states have made and continue to make many such submittals to EPA to address issues as they arise related to the various NAAQS. As EPA reviews these submittals, it can either approve or disapprove them in whole or in part. The compilation of a state's approved submittals constitutes that state's applicable SIP. In California, the state agency responsible for preparing and maintaining the SIP is CARB.

5.1.1 SIP Process in the South Coast Air Basin

CARB designates both air quality management districts and air pollution control districts within California for the purpose of implementing and enforcing ambient air quality standards on a regional or airshed basis. These district agencies must prepare regional plans (Air Quality Management Plans [AQMPs]) to support the broader SIP, as well as to meet the goals of the California Clean Air Act.

Every three years, SCAQMD must prepare and submit to CARB an AQMP to demonstrate how the SCAB will attain and maintain the NAAQS and the California ambient air quality standards. The AQMP contains extensive emissions inventories of all emission sources in the SCAB as well as various control measures applicable to most of these sources. Once CARB approves the AQMP, it is submitted to EPA for approval into the SIP. The approved SIP for the SCAB is based on the AQMP which SCAQMD submitted to CARB in 1997 (SCAQMD 1996) and supplemental information as discussed in Section 5.1.2. In August 2003, SCAQMD submitted to CARB the final 2003 AQMP (SCAQMD 2003), and this formed the basis of a proposed SIP revision submitted by CARB to EPA on January 9, 2004; EPA has not yet acted on that proposed SIP revision. In June 2007, SCAQMD submitted to CARB the final 2007 AQMP (SCAQMD 2007), and this formed the basis of a proposed SIP revision submitted by CARB to EPA on November 16, 2007.

5.1.2 Status of Applicable SIP and Emissions Budgets by Pollutant

The Clean Air Act requires attainment of the NAAQS as expeditiously as practicable, but no later than the statutory dates for those criteria pollutants for which the SCAB is designated nonattainment and for which a finding of general conformity must be determined for the Federal action. Upon redesignation of an area from nonattainment to attainment for each standard, the area will be considered to be a maintenance area for that standard, and as such, must meet all applicable requirements to maintain the standard.

To support the general conformity determination, the USACE demonstrates herein that the emissions of NO_x (as an O_3 precursor) caused by the Federal Action either will result in a level of emissions which, together with all other emissions in the nonattainment area, will not exceed the emissions budgets specified in the approved SIP (criterion at 40 C.F.R. § 93.158(a)(5)(i)(A)) or, in the alternative, will not exceed the emissions budgets specified in the 2007 AQMP, see Section 5.2 below. The currently approved SIPs for the SCAB are summarized below.

- O_3: SIP approved by EPA on April 10, 2000 (65 FR 18903), based on the 1997 AQMP and a 1999 amendment to the 1997 AQMP.

- CO: SIP approved by EPA on May 11, 2007 (72 FR 26718), based on 2005 redesignation request and maintenance plan. In this SIP approval, EPA also redesignated the SCAB from nonattainment to attainment/maintenance for CO

- PM_{10}: SIP approved by EPA on April 18, 2003 (68 FR 19315), based on the 1997 AQMP, amendments to the 1997 AQMP submitted in 1998 and 1999, and further modifications to the 1997 AQMP submitted in a status report to EPA in 2002.

- $PM_{2.5}$: No EPA-approved SIP.

- NO_2: SIP approved by EPA on July 24, 1998 (63 FR 39747), based on the 1997 AQMP. In this SIP approval, EPA also redesignated the SCAB from nonattainment to attainment/maintenance for NO_2.

SCAQMD released the Final 2007 AQMP on June 1, 2007, and as noted above that AQMP formed the basis of a proposed SIP revision submitted to EPA. This evaluation will make comparisons both to applicable emissions inventories in the current EPA-approved SIP and to applicable emissions inventories contained in the 2007 AQMP. For purposes of the general conformity determination, the applicable SIP will be the most recent EPA-approved SIP at the time of the release of the final general conformity determination.

5.2 Comparison to SIP Emissions Inventories

As noted in the preceding section, the most recent EPA-approved SIP at the time of the release of the final general conformity determination must be used for emission budget analyses. The 1997 AQMP together with supplemental information form the basis for the current, EPA-approved O_3 SIP. However, the EPA may approve all or part of the 2007 AQMP for O_3 (or other pollutants) before the final general conformity determination is published. Therefore, to avoid revisions to and/or recirculation of the draft and final general conformity determination, emissions for the Federal Action presented in this section are compared to both the currently approved SIP emissions budgets and to the 2007 AQMP emissions budgets.

The emissions inventories developed by SCAQMD and fully documented in the AQMPs are delineated by source types. **Table 5-1** provides a concordance between the emission source categories that characterize the Federal Action and the emission source types in the AQMPs. In the following discussion, the term "NO_x" should be understood to represent both NO_x and NO_2 (see discussion in Section 4.3).

Table 5-1
Relationship of Federal Action Source Categories and AQMP Source Types

Federal Action Source Category	1997 AQMP Source Type	2007 AQMP Source Type
Construction	Heavy Duty Diesel Trucks	Heavy-Heavy Duty Diesel Truck
	Mobile Equipment	Off-Road Equipment
	Commercial Boats	Ships and Commercial Boats

Source: Camp Dresser & McKee Inc., 2008.

The source type "Commercial Boats/Ships" in the 1997 AQMP represents two separate subcategories of off-road equipment in the inventory, whereas the source type "Ships and Commercial Boats" in the 2007 AQMP represents a single combined subcategory of off-road equipment in the inventory. “Ships” are considered ocean-going marine vessels (e.g., container ships), and “commercial boats” are considered commercial harbor craft (e.g., tugboats).

5.2.1 NO_x Emissions from Construction Sources Under the Federal Action

At the time that SCAQMD prepared the 1997 AQMP, LAHD not yet announced its intention to undertake the Project. For this reason, it is evident that the 1997 AQMP does not contain specific estimates of emissions for construction activities under any of the build alternatives, including the Federal Action. While the Draft EIS/EIR was released in June 2007 after approval of the final 2007 AQMP, the USACE had issued a Notice of Intent to prepare the EIS in October 2003, so SCAQMD would have been aware of the Federal Action. For that reason, as well as the rapid growth in goods movement -particularly at the ports—in the SCAB, it would be reasonable to assume that SCAQMD allowed for an accommodation for such a major construction program within the 2007 AQMP.

The general conformity regulations require evaluating the total of direct and indirect emissions for the Federal Action for the mandated attainment year (2021), the year of maximum emissions (2009), and any years for which the SIP identifies an emissions budget (40 C.F.R. § 93.159(d)). Because the construction will be complete well before 2021, there is no analysis of emissions for that year in this evaluation. For the years of construction planned under the Federal Action, the approved SIP includes emissions budgets for 2008 and 2010, while the 2007 AQMP includes emissions budgets for 2008, 2010, 2011, and 2014. There are not expected to be any construction-related emissions for the Federal Action in 2011, so the following evaluation provides no comparison for that year. For those years requiring a quantitative evaluation but for which an emissions budget does not exist in either the approved SIP or the 2007 AQMP, a budget was estimated by performing a linear interpolation using the two years of emissions budget data most closely bracketing the year of interest.

Tables 5-2 and **Table 5-3** summarize a comparison of estimated NO_x emissions from construction activities under the Federal Action to the applicable source types under both the approved SIP and the 2007 AQMP, respectively, for the years noted in Tables 3-1 and 3-2 above. It should be noted that the emissions for those source types taken from the approved SIP and the 2007 AQMP may represent more than construction-related emissions since these source types are not exclusive to construction equipment and activities. Because the SIP for the SCAB has to accommodate many planned and some unplanned construction projects, the construction-related emissions inventories included in the AQMPs are very substantial. Despite the fact that the Federal Action would require a substantial program of construction, one can note that the construction emissions from the Federal Action would be very small compared to the emissions inventories in the AQMPs (i.e., less than 0.1% relative contributions). For that reason, it is reasonable to assume that the emissions from construction activities under the Federal Action can be accommodated in future emissions growth from the construction sector within the approved SIP or alternatively within the 2007 AQMP. Therefore, it can be inferred that the construction NO_x emissions for the Federal Action, taken together with NO_x emissions for all other construction sources in the SCAB, would not exceed the NO_x emissions budgets for construction-related source types specified in the approved SIP, or alternatively in the 2007 AQMP (SCAQMD 2007, included in Appendix III).

Table 5-2
Comparison of the Federal Action NO_x Emissions for Construction to Approved SIP Emission Budgets for Construction-Related Source Types

Year and Source Type	Federal Action Emission (tpy)	Approved SIP Emissions (tpy)	Relative Contribution to SIP Budgets
2008			
Heavy-Duty Diesel Trucks	0.003	54,316	0.000006%
Mobile Equipment	0.4	44,599	0.0009%
Commercial Boats/Ships	0.1	18,400	0.0005%
2009 [a.]			
Heavy-Duty Diesel Trucks	0.1	55,097	0.0002%
Mobile Equipment	9.3	44,048	0.02%
Commercial Boats/Ships	11.5	18,703	0.06%
2010			
Heavy-Duty Diesel Trucks	0.3	55,874	0.0005%
Mobile Equipment	4.2	43,493	0.01%
Commercial Boats/Ships	1.9	19,002	0.01%

Sources: Camp Dresser & McKee Inc., 2008, SCAQMD 1996.

a. SIP emissions in 2009 interpolated from the 1997 AQMP Appendix III, Attachment A, Tables A-12 and A-13.

Table 5-3
Comparison of the Federal Action NO_x Emissions for Construction to 2007 AQMP Emission Budgets for Construction-Related Source Types

Year and Source Type	Federal Action Emission (tpy)	2007 AQMP Emissions (tpy)	Relative Contribution to 2007 AQMP Budgets
2008			
Heavy-Heavy Duty Diesel Trucks	0.003	55,761	0.000005%
Off-Road Equipment	0.4	69,602	0.0006%
Ships and Commercial Boats	0.1	28,087	0.0004%
2009 [a.]			
Heavy-Heavy Duty Diesel Trucks	0.1	52,571	0.002%
Off-Road Equipment	9.3	65,806	0.01%
Ships and Commercial Boats	11.5	28,813	0.04%
2010			
Heavy-Heavy Duty Diesel Trucks	0.3	49,381	0.0006%
Off-Road Equipment	4.2	62,736	0.007%
Ships and Commercial Boats	1.9	29,536	0.006%
2014			
Heavy-Heavy Duty Diesel Trucks	0.1	37,226	0.0003%
Off-Road Equipment	2.5	50,089	0.005%
Ships and Commercial Boats	2.6	31,919	0.008%

Source: Camp Dresser & McKee Inc., 2008; SCAQMD 2007 (Appendix III Attachment A: Tables A-3, A-4, and A-6).
a. AQMP emissions for 2009 interpolated from 2007 AQMP Appendix III, Attachment A, Tables A-3 and A-4.

5.2.2 NO_x Emissions from Other Sources at POLA

Notwithstanding the emissions attributable to the Federal Action, NO_x emissions (whether operations- or other construction-related) at POLA following completion of the construction of the Federal Action may be similar to those that would have occurred in the absence of the Project, due to ongoing operations at the existing container terminal in the project area. However, it is the determination of the USACE that any change in future emissions at POLA following the implementation of the Federal Action are not subject to the continuing program responsibility of the USACE and therefore are not required to be addressed in this evaluation. Once construction activities in and over the water are completed, the USACE will retain little or no authority over the project's other construction and operational activities, particularly those occurring in the upland portions of the project area. However, these future emissions will remain subject to the continuing program responsibility of LAHD, as the local agency with lease and development control over projects in the Port of Los Angeles, and numerous CEQA-related mitigation measures, including many focused on limiting air emissions, will have to be implemented, maintained, and monitored pursuant to the MMRP included in the certified Final EIR.

5.3 Consistency with Requirements and Milestones in Applicable SIP

The general conformity regulations state that notwithstanding the other requirements of the rule, a Federal action may not be determined to conform unless the total of direct and indirect emissions from the Federal action is in compliance or consistent with all relevant requirements and milestones in the applicable SIP (40 C.F.R. § 93.158(c)). This includes but is not limited to such issues as reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice standards. This section briefly addresses how the Federal Action was assessed for SIP consistency for this evaluation.

5.3.1 Applicable Requirements from EPA

EPA has already promulgated, and will continue to promulgate, numerous requirements to support the goals of the Clean Air Act with respect to the NAAQS. Typically, these requirements take the form of rules regulating emissions from significant new sources, including emission standards for major stationary point sources and classes of mobile sources as well as permitting requirements for new major stationary point sources. Since states have the primary responsibility for implementation and enforcement of requirements under the Clean Air Act and can impose stricter limitations than EPA, the EPA requirements often serve as guidance to the states in formulating their air quality management strategies.

5.3.2 Applicable Requirements from CARB

In California, to support the attainment and maintenance of the NAAQS, CARB is primarily responsible for regulating emissions from mobile sources. In fact, EPA has delegated authority to CARB to establish emission standards for on-road and some non-road vehicles separate from the EPA vehicle emission standards, although CARB is preempted by the Clean Air Act from regulating emissions from many non-road mobile sources, including marine craft. Emission standards for preempted equipment can only be set by EPA.

5.3.3 Applicable Requirements from SCAQMD

To support the attainment and maintenance of the NAAQS in the SCAB, SCAQMD is primarily responsible for regulating emissions from stationary sources. As noted above, SCAQMD develops and updates its AQMP regularly to support the California SIP. While the AQMP contains rules and regulations geared to attain and maintain the NAAQS, these rules and regulations also have the much more difficult goal of attaining and maintaining the California ambient air quality standards.

5.3.4 Consistency with Applicable Requirements

In operating POLA, LAHD already complies with, and will continue to comply with, a myriad of rules and regulations implemented and enforced by Federal, state, regional, and local agencies to protect and enhance ambient air quality in the SCAB. In particular, due to the long persistence of challenges to attain the ambient air quality standards in the SCAB, the rules and regulations promulgated by CARB and SCAQMD are among the most stringent in the U.S. LAHD will continue to comply with all existing applicable air quality regulatory requirements for activities over which it has direct control and will meet in a timely manner all regulatory requirements that become applicable in the future. Likewise, LAHD actively encourages all tenants and users of its facilities to comply with applicable air quality requirements.

The nature and extent of the requirements with which LAHD complies and will continue to comply include, but are not limited to, the following.

- EPA Rule 40 C.F.R. Part 89, Control of Emissions from New and In-Use Non-road Compression-Ignition Engines: requires stringent emission standards for mobile non-road diesel engines of almost all types using a tiered phase in of standards.

- CARB Rule 13 C.C.R. § 1956.8, California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles: requires significant reductions in emissions of NO_x, particulate matter, and non-methane organic compounds using exhaust treatment on heavy-duty diesel engines manufactured in model year 2007 and later years.

- SCAQMD Rule 403, Fugitive Dust: identifies the minimum particulate controls for construction-related fugitive dust. For example, Rule 403 requires twice daily watering of all active grading or construction sites. Haul trucks leaving the facility

must be covered and maintain at least two feet of freeboard (C.V.C. § 23114). Low emission street sweepers must be used at the end of each construction day if visible soil is carried onto adjacent public paved roads, as required by SCAQMD Rule 1186.1, Less-Polluting-Sweepers. Wheel washers must be used to clean off the trucks, particularly the tires, prior to them entering the public roadways.

- SCAQMD Rule 431.2, Sulfur Content of Liquid Fuels: requires that, after January 1, 2005, only low sulfur diesel fuel (containing 15 parts per million by weight sulfur) will be permitted for sale in the SCAB for any stationary- or mobile-source application.

- SCAQMD Rule 2202, On-Road Motor Vehicle Mitigation Options: requires employers in the SCAB with more than 250 employees to implement an approved rideshare program and attain an average vehicle ridership of at least 1.5.

- City Council directive on diesel engine particulate traps, approved by the Mayor on December 2, 2002: requires that all existing City-owned and City-contracted diesel-fueled vehicles be retrofitted with particulate traps, which engines would henceforth be required to use ultra low sulfur diesel fuel (15 parts per million by weight or less); some exceptions include emergency vehicles and off-road vehicles.

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Section 6
Mitigation

As part of a conformity evaluation, it may be necessary for the Federal agency to identify mitigation measures and mechanisms for their implementation and enforcement. For example, if a Federal action does not initially conform to the applicable SIP, mitigation measures could be pursued. If mitigation measures are used to support a positive conformity determination, the Federal agency must obtain a written commitment from the entity required to implement these measures and the Federal agency must include the mitigation measures as conditions in any permit or license granted for the Federal action (40 C.F.R. § 93.160). Mitigation measures may be used in combination with other criteria to demonstrate conformity. The Federal Action as evaluated herein assumes various air quality mitigation measures as described in the Final EIS/EIR (USACE/LAHD 2007b) to meet CEQA requirements are part of the Project. Based on CEQA provisions that mitigation measures be required in, or incorporated into, the project (14 C.C.R. § 15091(a)(1)), the City will implement, maintain, monitor, and enforce these CEQA-related air quality mitigation measures pursuant to the MMRP included in the certified Final EIR; see Section 2.1 for more information on the CEQA-related mitigation measures. The USACE recognizes the LAHD, as the local responsible agency, will implement, maintain, monitor, and enforce numerous mitigation measures, including many focused on limiting air emissions, as required by the certified Final EIR; however, the USACE lacks continuing program responsibility, control, and enforcement capability over mitigation measures not related to project construction activities in or over water as well as those continuing after construction activities in and over water are completed. As such, no mitigation, as defined under the general conformity regulations (40 C.F.R. § 93.160) or guidance (EPA 1994), are required to support a positive general conformity determination.

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Section 7
Reporting

To support a decision concerning the Federal Action, the USACE is issuing this draft general conformity determination for public review and comment. The USACE will also make public its final general conformity determination for this action.

7.1 Draft General Conformity Determination

At a minimum, the USACE is providing copies of this draft general conformity determination to the appropriate regional offices of EPA, any affected Federal land manager, as well as to CARB, SCAQMD, and SCAG, providing opportunity for a 30-day review. The USACE is also placing a notice in a daily newspaper of general circulation in the SCAB announcing the availability of this draft general conformity determination and requesting written public comments for a 30-day period. For any member of the public requesting a copy of this draft general conformity determination, the USACE will provide such party a copy.

7.2 Final General Conformity Determination

At a minimum, the USACE will provide copies of its final general conformity determination to the appropriate regional offices of EPA, any affected Federal land manager, as well as to CARB, SCAQMD, and SCAG, within 30 days of its promulgation. The USACE will also place a notice in a daily newspaper of general circulation in the SCAB announcing the availability of its final general conformity determination within 30 days of its promulgation. As part of the general conformity evaluation, the USACE will document its responses to all comments received on the draft general conformity determination and will make both the comments and responses available upon request by any person within 30 days of the promulgation of the final general conformity determination.

7.3 Frequency of General Conformity

The general conformity regulations state that the status of a specific conformity determination lapses five years after the date of public notification for the final general conformity determination, unless the action has been completed or a continuous program has been commenced to implement the action (40 C.F.R. § 93.157(a)). Because the Federal Action envisions a development program extending beyond five years, it is important to note that the final general conformity determination will remain active only under this "continuous program to implement."

As part of a phased program, the implementation of each element of the development of the Federal Action does not require separate conformity determinations, even if they are begun more than five years after the final determination, as long as those elements are consistent with the original program which was determined to conform (EPA 2002). However, if this original conforming program is changed such that there is an increase in the total of direct and indirect emissions above the de minimis threshold levels, the USACE will conduct a new general conformity evaluation.

Section 8
Findings and Conclusions

As part of the environmental review of the Federal Action, the USACE conducted a general conformity evaluation pursuant to 40 C.F.R. Part 93 Subpart B. The general conformity regulations apply at this time to any actions at POLA requiring USACE approval because the SCAB where POLA is situated is a nonattainment area for O_3, PM_{10}, and $PM_{2.5}$; and a maintenance area for NO_2 and CO. The USACE conducted the general conformity evaluation following all regulatory criteria and procedures and in coordination with EPA and SCAG. The USACE proposes that the Federal Action as designed will conform to the approved SIP, based on the findings below:

- The Federal Action is not subject to a general conformity determination for CO, VOC (as an O_3 and $PM_{2.5}$ precursor), PM_{10}, $PM_{2.5}$, or SO_x (as a $PM_{2.5}$ precursor) because the net emissions associated with the Federal Action are less than the general conformity de minimis thresholds and they are not regionally significant.

- The Federal Action conforms to the SIP for NO_x (as an O_3 precursor) because the net emissions associated with the Federal Action, taken together with all other NO_x emissions in the SCAB, would not exceed the emissions budgets in the approved SIP for the years subject to the general conformity evaluation.

Therefore, USACE herewith concludes that the Federal Action as designed conforms to the purpose of the approved SIP and is consistent with all applicable requirements.

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Section 9
References

40 C.F.R. Part 93 Subpart A. *Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws.*

40 C.F.R. Part 93 Subpart B. *Determining Conformity of General Federal Actions to State or Federal Implementation Plans.*

63 FR 39747. *Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide.* July 24.

65 FR 18903. *Approval and Promulgation of State Implementation Plans; California – South Coast.* April 10.

68 FR 19315. *Approval and Promulgation of State Implementation Plans; California – South Coast.* April 18.

72 FR 26718. *Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: California.* May 11.

Los Angeles Harbor Department (LAHD). 2007. Mitigation Monitoring and Reporting Program - Berths 136-147 [TraPac] Container Terminal Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR). December. Web site: http://www.portoflosangeles.org/EIR/TraPac/FEIR/feir_trapac.asp .

Port of Los Angeles. (POLA). 2007. Sustainable Construction Guidelines.

Port of Los Angeles. (POLA) / Port of Long Beach (POLB). 2006. San Pedro Bay Ports Clean Air Action Plan. Web site: http://www.portoflosangeles.org/CAAP/CAAP_Tech_Report_Final.pdf .

South Coast Air Quality Management District (SCAQMD). 2007. Final 2007 Air Quality Management Plan. June. Website: http://www.aqmd.gov/aqmp/07aqmp/index.html .

South Coast Air Quality Management District (SCAQMD). 1996. Final 1997 Air Quality Management Plan. November. Web site: http://www.aqmd.gov/aqmp/97aqmp/index.html .

Southern California Association of Governments (SCAG). 2008. 2008 Regional Transportation Plan. Web site: http://www.scag.ca.gov/rtp2008/pdfs/finalrtp/f2008RTP_Complete.pdf .

Southern California Association of Governments (SCAG). 2007a. Letter from SCAG (S. Del Rosario) to USACE (S. MacNeil) and POLA (R. Appy), re: *SCAG Clearinghouse No. I 20070405 Berths 136-147 Container Terminal.* July 24.

Southern California Association of Governments (SCAG). 2007b. Letter from SCAG (J. Nadler) to USACE (S. MacNeil), re: *EIS for Berths 136-147 [TraPacl Container Terminal Project.* November 5.

U.S. Army Corps of Engineers/Los Angeles Harbor Department (USACE/LAHD). 2007a. *Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Berths 136-147 [TraPac] Container Terminal Project.* June.

U.S. Army Corps of Engineers/Los Angeles Harbor Department (USACE/LAHD). 2007b. Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Berths 136-147 [TraPac] Container Terminal Project. November. Web site: http://www.portoflosangeles.org/EIR/TraPac/FEIR/feir_trapac.asp .

U.S. Army Corps of Engineers (USACE). 1994. Memorandum For All Major Subordinate Commanders, and District Commanders, Subject: EPA's Clean Air Act (CAA) General Conformity Rule, from Lester Edelman, Chief Counsel, USACE (CECC-E). April 20.

U.S. Environmental Protection Agency (EPA). 2002. General Conformity Guidance for Airports: Questions and Answers. September 25. Web site: http://www.epa.gov/ttn/oarpg/conform/airport_qa.pdf .

U.S. Environmental Protection Agency (EPA). 1994. General Conformity Guidance: Questions and Answers. July 13. Web site: http://www.epa.gov/ttn/oarpg/conform/gcgqa_71394.pdf .

Attachment A
Port of Los Angeles TraPac Federal Action General Conformity Calculation Methodology and Results

CDM

Memorandum

To: *John Pehrson*

From: *Katie Travis*

Date: *10/24/08*

Subject: *Port of Los Angeles TraPac Federal Action General Conformity Calculation Methodology*

The Federal action associated the Port of Los Angeles (POLA) Berths 136-147 (TraPac) Container Terminal Project requires a general conformity determination for submittal to the U.S. Environmental Protection Agency (USEPA) in order to comply with the requirements of the general conformity regulations and to obtain a permit from the U.S. Army Corps of Engineers (USACE). This memo documents the methods and results used to calculate pollutant emissions from the Federal action for use in this general conformity determination. The determination will be published with an Addendum to the Final EIS that clarifies the Federal action and updates the construction emissions associated with the Federal action.

- Analysis began with information presented in the Berths 136-137 Container Terminal Draft and Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR).
- Information in the Final EIS/EIR was updated by POLA based on updated construction scope and project schedule information.

General Conformity Process

The first step in the general conformity process is to determine if emissions of the pollutants of concern are above the de minimis emission rates defined in the general conformity regulations. This step is referred to as the Applicability Analysis. The pollutants of concern in the South Coast Air Basin (SCAB) are ozone (and its precursors), NO_2 (and its precursor), CO, PM_{10} and $PM_{2.5}$ (and its precursors). The precursors of ozone include NOx and ROG; the precursor of NO_2 is NOx; and the precursors of $PM_{2.5}$ include NOx, SOx, ROG, and ammonia, along with directly emitted $PM_{2.5}$. Due to the severity of the ozone nonattainment designation, the de minimis emission rates for NOx and ROG as ozone precursors (10 tpy) are much more stringent than the de minimis emission rates for NOx and ROG as PM2.5 precursors (100 tpy) or NO_2 precursors (100 tpy NOx). Therefore, the de minimis emission rates for NOx and ROG will be 10 tpy of each as ozone precursors.

Revisions to Final EIR/EIS Project Scope and Activities

Project Scope

The project activity names, durations, and types were updated for this conformity determination by POLA, and these updates are incorporated in the construction schedule in **Exhibit A**. This table shows the original activity names and the corresponding names in the new schedule. The construction is performed over a period of eight years beginning in 2008, with no activity occurring in 2011 and 2012.

Project Activities

Exhibit B.1 shows the original equipment list from the Final EIS/EIR, with marked revisions and **Exhibit B.2** shows these revisions incorporated into a final equipment list. Major revisions were made to *Replace Existing Wharf.*

Calculation Method

The equipment list from the Final EIS/EIR included the following information for each piece of equipment:

- Equipment by activity
- HP rating
- Load factor (LF)
- Number Active (No. Units) *
- Hours/Day*
- Work Days
- Hourly HP-Hours
- Daily HP-Hours*
- Total HP-Hours*

**For haul trucks, material trucks, and concrete trucks, different information was presented in the table. (Number Active = miles/roundtrip, Hours/Day = daily truck trips, Daily Hp-Hrs = daily miles, and Total Hp-Hrs = total miles)*

Hourly, daily, and total HP-hours are calculated from HP rating, LF, No. Units, Hours/Day, and Work Days. Therefore, although HP-hours were originally given in the Final EIS/EIR, when the other pieces of information changed, these HP-hours had to be recalculated.

Mitigated emission factors (EF) for off-road equipment in g/hp-hr, on-road equipment in g/mile, and boats in g/hp-hr can be found in the Final EIS/EIR in Table D1.1.73 - *Mitigated Air Emission Factors for the Berths 136-147 Terminal Project Alternatives Construction Activities*. From this information, the following calculations can be made to reach total emissions for each pollutant caused by the Federal action.

1. Calculate hourly HP-hrs for each piece of equipment.

   $$hourlyHP-hrs = NoUnits \times HP \times LF$$

2. Calculate emission rates for each pollutant in lbs/hr and lbs/day.

   $$emissions(lbs/hr) = hourlyHP-hrs \times EF$$

   $$emissions(lbs/day) = emissions(lbs/hr) * hours/day$$

3. On-road trucks do not have specified HP ratings. Therefore they require a different calculation method to reach emissions in lbs/day.

   $$emissions(lbs/day) = dailymiles * EF$$

4. Calculate days of operation for each piece of equipment.
   a. This was done by finding the ratio between the scheduled days for each construction activity in the original EIS/EIR and the new schedule in **Exhibit A**, and multiplying the days of operation for each piece of equipment by this ratio.
5. Calculate total project emission rates for each pollutant in tons.

   $$emissions(tons) = emissions(lbs/day) * days/2000$$

Resulting Total and Yearly Emissions Caused by the Federal Action

The total emission rates caused by the Federal action are summarized in **Table 1** below. The step-by-step calculation spreadsheet tables are presented in **Exhibit C**. Total emissions for each pollutant caused by the Federal action are compared to the general conformity de minimis emission rates to determine if total Federal action emissions are significant. The total Federal action emissions for NO_x exceeded this threshold. Because the de minimis emission rates are in tons of pollutant per year (tpy), annual NO_x emissions were calculated for each year of the Federal action according to the project schedule in **Exhibit A**. Emissions for each year were then compared to the de minimis emission rates. **Table 2** shows that the de minimis emission rates are exceeded in 2009 and 2015, with the peak year of construction emissions occurring in 2009. Finally, **Table 3** presents the emissions sorted by the equipment categories found in the USEPA-approved SIP, and the CARB-approved 2007 Air Quality Management Plan.

Exhibits

Exhibit A: Federal Action Construction Schedule
Exhibit B.1: Original Equipment List for the Federal Action with Markup
Exhibit B.2: Equipment List for the Federal Action
Exhibit C.1: Hourly Federal Action Construction Emissions (Based on CEQA Mitigation)
Exhibit C.2: Daily Federal Action Construction Emissions (Based on CEQA Mitigation)
Exhibit C.3: Total Federal Action Construction Emissions (Based on CEQA Mitigation)
Exhibit C.4: Yearly Federal Action NOx Construction Emissions (Based on CEQA Mitigation)

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Table 1: Federal Action Construction Total Criteria Pollutant Emissions (tons)

Construction Phase & Activity (New Schedule / EIS) [b.]	ROG	CO	NOx	SOx	PM10	PM2.5
B145-147 Phase 1						
Wharf Demolition / Wharf Demolition	0.1	0.5	2.5	0.0	0.1	0.1
Remove 2 Existing Cranes at Berth 144 / Remove 2 Existing Cranes at Berth 144	0.0	0.0	0.0	0.0	0.0	0.0
Pile Driving - Row A/retrofit / Piledriving - Waterside Piles	0.0	0.0	0.3	0.0	0.0	0.0
Sheet Pile Wall / Piledriving - sheet piles	0.0	0.1	0.9	0.0	0.0	0.0
Electric Dredging / Dredge and disposal	0.2	0.7	4.8	0.0	0.2	0.2
Rock / Rip-Rap Placement	0.5	1.7	10.6	0.0	0.5	0.5
Pile Driving - Including Landside / Piledriving - Landside	0.1	0.4	1.9	0.0	0.1	0.1
Wharf Deck / Replace Existing Wharf	0.2	1.1	3.3	0.0	0.1	0.1
B145-147 Phase 2						
Wharf Demolition / Wharf Demolition	0.1	0.2	1.0	0.0	0.0	0.0
Waterside Crane Girder[c.] / Upgrade Existing Wharf	0.0	0.2	0.7	0.0	0.0	0.0
Pile Driving/Landside / Piledriving - Landside	0.0	0.1	0.5	0.0	0.0	0.0
Install 3 Cranes at Berth 144 / Install 3 Cranes at Berth 144	0.0	0.1	1.2	0.7	0.1	0.1
B136-139						
Wharf Demolition / Wharf Demolition	0.1	0.5	2.5	0.0	0.1	0.1
Sheet Pile Wall / Piledriving - Sheet piles	0.1	0.2	1.1	0.0	0.0	0.0
Electric Dredging / Dredge and disposal	0.2	0.6	4.5	0.0	0.2	0.2
Rock / Rip-Rap Placement	0.5	1.7	10.6	0.0	0.5	0.5
Pile Driving - Including Landside / Piledriving - Landside	0.1	0.4	1.9	0.0	0.1	0.1
Wharf Deck / Replace Existing Wharf	0.2	1.1	3.3	0.0	0.1	0.1
PROJECT CUMULATIVE POLLUTANT EMISSIONS (tons)[a.]	**2.6**	**9.8**	**51.7**	**0.7**	**2.2**	**2.1**
General Conformity de minimis Threshold (tpy)[d.]	**10**	**100**	**10**	**100**	**70**	**100**
				(as PM2.5)		
Were the General Conformity de minimis thresholds exceeded?	**No**	**No**	**Yes[e.]**	**No**	**No**	**No**

a. Emissions shown are for entire construction duration, not peak annual.

b. The New Schedule name refers to the construction activity name provided by LAHD for the updated schedule of Federal action activities. The EIS name refers to the construction activity name used in the Draft and Final EIS/EIR (USACE/LAHD 2007a, b).

c. The crane girder is the part of the wharf that supports the crane.

d. The de minimis rates are meant to be compared to peak annual emissions. If total project emissions exceed the de minimis emission rates, then annual emissions will be determined.

e. Federal action NOx emissions exceeded the threshold; peak annual NO_x emissions will be calculated (see Table 2).

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Table 2: Federal Action Construction NOx Emissions (tons/year)

Construction Phase & Activity (New Schedule / EIS)[a.,b.]	2008	2009	2010	2013	2014	2015	2016
B145-147 Phase 1							
Wharf Demolition / Wharf Demolition	0.5	2.0	-	-	-	-	-
Remove 2 Existing Cranes at Berth 144 / Remove 2 Existing Cranes at Berth 144	-	0.0	-	-	-	-	-
Pile Driving - Row A/retrofit / Piledriving - Waterside Piles	-	0.3	-	-	-	-	-
Sheet Pile Wall / Piledriving - sheet piles	-	0.9	-	-	-	-	-
Electric Dredging / Dredge and disposal	-	4.1	0.7	-	-	-	-
Rock / Rip-Rap Placement	-	10.6	-	-	-	-	-
Pile Driving - Including Landside / Piledriving - Landside	-	1.5	0.4	-	-	-	-
Wharf Deck / Replace Existing Wharf	-	1.4	2.0	-	-	-	-
B145-147 Phase 2							
Wharf Demolition / Wharf Demolition	-	-	1.0	-	-	-	-
Waterside Crane Girder / Upgrade Existing Wharf	-	-	0.7	-	-	-	-
Pile Driving/Landside / Piledriving - Landside	-	-	0.5	-	-	-	-
Install 3 Cranes at Berth 144 / Install 3 Cranes at Berth 144	-	-	1.2	-	-	-	-
B136-139							
Wharf Demolition / Wharf Demolition	-	-	-	1.5	1.0	-	-
Sheet Pile Wall / Piledriving - Sheet piles	-	-	-	-	1.1	-	-
Electric Dredging / Dredge and disposal	-	-	-	-	3.0	1.5	-
Rock / Rip-Rap Placement	-	-	-	-	-	10.6	-
Pile Driving - Including Landside / Piledriving - Landside	-	-	-	-	-	1.9	-
Wharf Deck / Replace Existing Wharf	-	-	-	-	-	1.1	2.2
ANNUAL NOx EMISSIONS (tpy)	**0.5**	**20.9**	**6.4**	**1.5**	**5.1**	**15.1**	**2.2**
Was the General Conformity de minimis emission rate (10 tpy) exceeded?	**No**	**Yes**	**No**	**No**	**No**	**Yes**	**No**

a. The New Schedule name refers to the construction activity name provided by LAHD for the updated schedule of Federal action activities. The EIS name refers to the construction activity name used in the Draft and Final EIS/EIR (USACE/LAHD 2007a,b).
b. No construction occurs in 2011 or 2012.
Values may not add to exact totals due to rounding.

Table 3: Federal Action Construction Emissions by Source Category in SIP or 2007 AQMP (tons/year)

Source Category	2008	2009	2010	2011	2012	2013	2014	2015	2016
Heavy-Duty Diesel Trucks (SIP) or Heavy-Heavy Duty Diesel Trucks (2007 AQMP)	0.0	0.1	0.3	-	-	0.0	0.1	0.1	0.1
Mobile Equipment (SIP) or Off-Road Equipment (2007 AQMP)	0.4	9.3	4.2	-	-	1.2	2.5	5.9	2.1
Commercial Boats (SIP) or Ships and Commercial Boats (2007 AQMP)	0.1	11.5	1.9	-	-	0.3	2.6	9.1	0.0
ANNUAL NOx EMISSIONS (tpy)[a.]	**0.5**	**20.9**	**6.4**	**-**	**-**	**1.5**	**5.1**	**15.1**	**2.2**

a. No construction occurs in 2011 or 2012.
Values may not add to exact totals due to rounding.

Exhibit A: Federal Action Construction Schedule

Activity		Duration	Start	End
EIR Definition	*POLA Revised Definition*	(days)	(mm-yy)	(mm-yy)
B145-147 Construction - Phase 1 (Not related to EIR Phase 1)				
Wharf Demolition 1	Wharf Demolition	150	Dec-08	Apr-09
Remove 2 Existing Cranes at Berth 144	Remove 2 Existing Cranes at Berth 144	4	Jan-09	Jan-09
Piledriving - Waterside Piles	Pile Driving - Row A/retrofit	21	Jan-09	Feb-09
Piledriving - Sheet Piles 1	Sheet Pile Wall	150	Feb-09	Jul-09
Dredge and Disposal 1	Elec Dredging	180	Jul-09	Jan-10
Rip-Rap Placement 1	Rock	120	Aug-09	Dec-09
Pile Driving Landside 1	Pile Driving (incl landside)	120	Sep-09	Jan-10
Replace Existing Wharf 1	Wharf Deck	180	Oct-09	Apr-10
B145-147 Construction - Phase 2 (Not related to EIR Phase 2)				
Wharf Demolition 2	Wharf Demolition	60	Jun-10	Aug-10
Upgrade Existing Wharf	Waterside Crane Girder	60	Aug-10	Oct-10
Pile Driving Landside 2	Pile Driving/landside	30	Oct-10	Nov-10
Install 3 Cranes at Berth 144	Install 3 Cranes at Berth 144	4	Dec-10	Dec-10
B136-139 Construction				
Wharf Demolition 3	Wharf Demolition	150	Oct-13	Feb-14
Piledriving - Sheet Piles 2	Sheet Pile Wall	180	Mar-14	Aug-14
Dredge and Disposal 2	Elec Dredging	180	Sep-14	Mar-15
Rip-Rap Placement 2	Rock	120	Mar-15	Jul-15
Pile Driving Landside 3	Pile Driving (incl landside)	120	Jul-15	Oct-15
Replace Existing Wharf 2	Wharf Deck	180	Nov-15	May-16

Exhibit B.1: Original Equipment List for Federal Action with Markup

Work days based on revised schedule, except as noted below.

Table D1.1.1. Emission Source Data for Wharf Improvements at Berths 144-147 - Berths 136-1[illegible] Project Phase 1 (2007-2010) (Pg 1 of 3).

Construction Activity/Equipment Type	Hp Rating	Ave. Daily Load Factor	Number Active	Hourly Hp-Hrs	Hours/ Day	Daily Hp-Hrs	Work Days	Total Hp-Hrs
Wharf Demolition								
Air Compressor	50	0.60	2	30	8	240	10	2,400
Crane - 220-Ton Manitowoc 888	330	0.50	1	165	8	1,320	38	50,160
Derrick Barge	195	0.50	1	98	8	780	28	21,840
Excavator - Cat 345B	290	0.50	1	145	8	1,160	10	11,600
Forklift	105	0.50	1	53	6	315	10	3,150
Generator	45	0.75	1	34	8	270	10	2,700
Haul Truck - Demolished Materials (1) (2)	NA	NA	6	NA	8	48	9	443
Loader - Cat 966E	220	0.50	1	110	8	880	38	33,440
Tugboat	1,200	0.25	1	300	2	2,400	28	67,200
Vibratory Hammer	45	0.60	1	27	4	216	28	6,048
Remove 2 Existing Cranes at Berth 144								
Crane - 50 ton	330	0.30	2	198	8	1,584	4	6,336
Winch	305	0.50	1	153	4	610	4	2,440
Tugboat	1,200	0.25	1	300	8	2,400	2	4,800
Tugboat	1,200	0.68	1	816	1	816	1	816
Piledriving - Sheet Piles								
Derrick Barge Crane Hoist	564	0.25	1	141	4	564	87	49,068
Generator - Pile Hammer	190	0.60	1	114	8	912	87	79,344
Tugboat	1,200	0.25	1	300	1	300	87	26,100
~~Cargo Ship - Transit - Sheetpile Delivery (3)~~	~~NA~~	~~NA~~	~~1~~	~~NA~~	~~NA~~	~~NA~~	~~2~~	~~NA~~
~~Tugboat - Cargo Vessel Assist~~	~~4,106~~	~~0.31~~	~~1~~	~~1,273~~	~~1~~	~~1,273~~	~~2~~	~~2,546~~
~~Cargo Ship - Hotelling (3)~~	~~NA~~	~~NA~~	~~1~~	~~NA~~	~~24~~	~~NA~~	~~1~~	~~NA~~
Rip-Rap Placement (4)								
Barge - Generator	90	0.60	1	54	10	540	40.5	21,870
Barge - Generator	229	0.60	1	137	10	1,374	40.5	55,647
Barge - Deck Winch	120	0.50	1	60	10	600	40.5	24,300
Barge - Main Hoist	335	0.50	1	168	10	1,675	40.5	67,838
Tracked Loader - Cat 973	210	0.50	1	105	10	1,050	40.5	42,525
Tugboat - Generator	89	0.43	2	77	18	1,378	40.5	55,798
Tugboat - Main Engines (5)	850	0.68	2	2,176	7	26,112	40.5	1,057,536
Dredge and Disposal (6)								
~~Derrick Barge - Crane~~ Electric clamshell bucket	564	0.50	1	282	24	6,768	88.3	597,840
~~Derrick Barge - Deck Winch~~ Electric	238	0.50	2	238	6	1,428	88.3	126,140
~~Derrick Barge - Generator~~	432	0.60	1	259	24	6,221	88.3	549,504
Derrick Barge - Generator	135	0.60	1	81	6	486	88.3	42,930
Haul Trucks - Berth 205 ~~to Anch. Rd.~~ (1) (7)	NA	NA	0.5	NA	200	200	32.5 days	17,700
Loader - 962G ~~- Anchorage Rd.~~	200	0.50	1	100	16	1,600	88.3	141,333
Tug Boat - Transport Barge to Berth 205 (8)	1,350	0.68	2	1,836	0.8	1,469	88.3	129,744

Replace with haul trucks: 8 daily trips, 4 miles per roundtrip.

Notes: (1) Equipment usage obtained from West Basin TIP FEIR Appendix E Table E.2-11 (LAHD 1997), but work days multiplied by 739/2000, as this ratio is the proposed/West Basin TIP wharf demolition lenghts.

(2) Number Active = miles/roundtrip, Hours/Day = daily truck trips, Daily Hp-Hrs = daily miles, and Total Hp-Hrs = total miles.

(3) See Table C1-XX for a summary of the associated activity data. Arrival/departure would not occur on the same day.

(4) Equipment usage obtained from West Basin TIP FEIR 2nd Addendum Appendix Table AQ-1 (LAHD 2002), but work days multiplied by 739/1200, as this ratio is the proposed/West Basin TIP 2nd Addendum new wharf construction lenghts.

(5) Hours/Day = round trip duration between Berth 144 and Catalina Island (60 nautical miles [nm]) @ 5 knots (kts). Barge capacity = 2000 tons.

(6) Equipment usage obtained from West Basin TIP FEIR 2nd Addendum Appendix Table AQ-1 (LAHD 2002) and based upon a daily dredging rate of 3,000 cubic yards (cy).

(7) Assumes a truck capacity of 20 cy and a water-bulked daily disposal volume of 3,600 cy. Total days based on 130,000 cy going to land disposal.

(8) Daily/total dredging volumes = 3,000/265,000 cy. With a water bulking factor of 1.2, daily/total dispoal volumes = 3,600/318,000 cy. Use of a 1,800 cy barge will require two round trips/day. Roundtrip barging activity = 2 nm @ 5 kts.

New Tugboat – Transport Barge to ocean disposal site LA-2 (9a).
(9a) Two round trips/day with 1,800 cy barges; round trip distance = 2 x 8.4 nm = 16.8 nm @ 5 kts.
Total days = 130,000 cy / (2 x 1,800 cy) = 36 days.

Exhibit B.1: Original Equipment List for Federal Action with Markup (continued)

Work days based on revised schedule, except as noted below.

Table D1.1.2. Emission Source Data for Wharf Improvements at Berths 144-147 - Berths 136-147 Project Phase 1 (2007-2010) (Pg 2 of 3).

Construction Activity/Equipment Type	Hp Rating	Ave. Daily Load Factor	Number Active	Hourly Hp-Hrs	Hours/ Day	Daily Hp-Hrs	Work Days	Total Hp-Hrs
Piledriving - Waterside Piles								
Derrick Barge Crane Hoist	564	0.25	1	141	4	564	33	18,612
Generator - Pile Hammer	190	0.60	1	114	8	912	33	30,096
Haul Trucks - Pile Deliveries (1)	NA	NA	4	NA	8	2,080	11	22,880
Jet Pump	290	0.60	1	174	8	1,392	33	45,936
Tugboat	1,200	0.25	1	300	1	300	33	9,900
Piledriving - Landside Piles								
Crane - 220-Ton Manitowoc 888	330	0.50	1	165	8	1,320	54	71,280
Forklift	105	0.50	1	53	8	420	54	22,680
Generator - Pile Hammer	190	0.60	1	114	8	912	54	49,248
Jet Pump	290	0.60	1	174	8	1,392	54	75,168
Haul Trucks - Pile Deliveries (1)	NA	NA	4	NA	8	2,164	17	36,790
Replace Existing Wharf (9)								
Air Compressor - 185 CFM	70	0.60	2	42	8	336	160	53,760
Air Compressor - 750 CFM	300	0.60	1	180	8	1,440	160	230,400
~~Air Compressor - 825 CFM~~	~~335~~	~~0.60~~	~~1~~	~~201~~	~~8~~	~~1,608~~	~~160~~	~~257,280~~
~~Air Compressor - 900 CFM~~	~~350~~	~~0.60~~	~~1~~	~~210~~	~~8~~	~~1,680~~	~~160~~	~~268,800~~
~~Bulldozer - D6~~	~~165~~	~~0.50~~	~~1~~	~~83~~	~~8~~	~~660~~	~~13~~	~~8,580~~
~~Bulldozer - D8~~	~~305~~	~~0.50~~	~~1~~	~~153~~	~~8~~	~~1,220~~	~~6~~	~~7,320~~
Concrete Boom Pump	57	0.50	1	29	2	228	15	1,368
Concrete Trucks (2)	NA	NA	15	NA	182	2,725	6	16,350
Crane - 220-Ton Manitowoc 888	330	0.50	1	165	8	1,320	80	105,600
~~Crane - 275-Ton Manitowoc 999~~	~~431~~	~~0.50~~	~~6~~	~~1,293~~	~~8~~	~~10,344~~	~~80~~	~~827,520~~
Crane - Manitowoc 4000	350	0.50	1	175	8	1,400	53	74,200
Crew Boat	240	0.25	1	60	4	240	3	720
~~Excavator - Cat 345B~~	~~290~~	~~0.50~~	~~1~~	~~145~~	~~8~~	~~1,160~~	~~80~~	~~92,800~~
~~Excavator w/ Ram -Komatso PC 220 LC5~~	~~157~~	~~0.60~~	~~1~~	~~94~~	~~8~~	~~754~~	~~53~~	~~39,941~~
~~Flat Bed~~	~~180~~	~~0.20~~	~~1~~	~~36~~	~~4~~	~~144~~	~~27~~	~~3,888~~
Forklift - Cat 200	125	0.50	3	188	6	1,125	160	180,000
Generator	45	0.75	1	34	8	270	13	3,510
Haul Trucks - Material Deliveries (1)	NA	NA	15	NA	5	75	120	9,000
Loader - Cat 966E	220	0.50	1	110	6	660	9	5,940

Notes: (9) Equipment usage based upon replacement of ~~739 feet of wharf at Berth 144~~ 705 feet of wharf at Berth 146.

Exhibit B.1: Original Equipment List for Federal Action with Markup (continued)

Table D1.1.3. Emission Source Data for Wharf Improvements at Berths 144-147 - Berths 136-147 Project Phase 1 (2007-2010) (Pg 3 of 3).

Work days based on revised schedule, except as noted below.

Construction Activity/Equipment Type	*Hp Rating*	*Ave. Daily Load Factor*	*Number Active*	*Hourly Hp-Hrs*	*Hours/ Day*	*Daily Hp-Hrs*	*Work Days*	*Total Hp-Hrs*
Upgrade Existing Wharf (10)								
Crane - 220-Ton Manitowoc 888	330	0.50	1	165	8	1,320	46	60,720
Compressor	50	0.60	1	30	8	240	4	960
Concrete Boom Pump	57	0.50	1	29	2	228	4	912
Concrete Trucks (2)	NA	NA	15	NA	143	2,138	4	8,550
Excavator w/ Ram -Komatso PC 220 LC5	157	0.60	1	94	8	754	30	22,608
Forklift - Cat 200	125	0.50	1	63	4	250	46	11,500
Generator	45	0.75	1	34	8	270	8	2,160
Loader - Cat 966E	220	0.50	1	110	8	880	5	4,400
Material Truck	NA	NA	15	NA	4	60	46	2,760
Install 3 Cranes at Berth 144								
Crane - 50 ton	330	0.30	2	198	8	1,584	4	6,336
Winch	305	0.50	1	153	4	610	3	1,830
Cargo Ship - Transit - Crane Delivery (3)	NA	NA	1	NA	NA	NA	2	NA
Tugboat - Cargo Vessel Assist	4,106	0.31	1	1,273	1	1,273	2	2,546
Cargo Ship - Hotelling (3)	NA	NA	1	NA	24	NA	4	NA

(10) Equipment usage based upon upgrades to 1,109 feet of wharf at Berths 145-147.

Exhibit B.2: Equipment List for the Federal Action

Construction Activity/Equipment Type	HP Rating	Load Factor	No. Active	Hourly HP-Hrs	Hrs/ Day	Daily HP-Hrs
Wharf Demolition						
AirCompressor	50	0.60	2	60	8	480
Crane-250-TonManitowoc888	330	0.50	1	165	8	1,320
DerrickBarge	195	0.50	1	98	8	780
Excavator-Cat345B	290	0.50	1	145	8	1,160
Forklift	105	0.50	1	53	6	315
Generator	45	0.75	1	34	8	270
HaulTruck-DemolishedMaterials	NA	NA	6	NA	8	48
Loader-Cat966E	220	0.50	1	110	8	880
Tugboat	1,200	0.25	1	300	2	600
VibratoryHammer	45	0.60	1	27	4	108
Remove 2 Existing Cranes at Berth 144						
Crane-50ton	330	0.30	2	198.00	8	1584.00
Winch	305	0.50	1	153.00	4	610.00
Tugboat1	1200	0.25	1	300	8	2400
Tugboat2	1200	0.68	1	816.00	1	816.00
Piledriving - Sheet Piles						
DerrickBargeCraneHoist	564	0.25	1	141	4	564
Generator-PileHammer	190	0.6	1	114	4	456
Tugboat	1,200	0.25	1	300	1	300
HaulTrucks-PileDeliveries	NA	NA	4	NA	8	32
Rip-Rap Placement						
Barge-Generator1	90	0.60	1	54	10	540
Barge-Generator2	229	0.60	1	137	10	1,374
Barge-DeckWinch	120	0.50	1	60	10	600
Barge-MainHoist	335	0.50	1	168	10	1,675
TrackedLoader-Cat973	210	0.50	1	105	10	1,050
Tugboat-Generator	89	0.43	2	77	18	1,378
Tugboat-MainEngines	850	0.68	2	1,156	7	8,092
Dredge and Disposal						
ElectricClamshellBucket	564	0.50	1	282	24	6,768
DerrickBarge-Electric	432	0.60	1	259	24	6,221
DerrickBarge-Generator 2	135	0.60	1	81	6	486
HaulTrucks	NA	NA	0.5	NA	200	100
Loader-962G	200	0.50	1	100	16	1,600
TugBoat-TransportBargetoBerth205	1,350	0.68	2	1,836	0.8	1,469
TugBoat-TransportBargetoOceanSite	1,350	0.68	2	1,836	3.36	6,169
Piledriving - Waterside Piles						
DerrickBarge-CraneHoist	564	0.25	1	141	4	564
Generator-PileHammer	190	0.60	1	114	8	912
HaulTrucks-PileDeliveries	NA	NA	4	NA	8	32
JetPump	290	0.60	1	174	8	1,392
Tugboat	1,200	0.25	1	300	1	300
Piledriving - LandsidePiles						
Crane-250-TonManitowoc888	330	0.50	1	165	8	1,320
Forklift	105	0.50	1	53	8	420
Generator-PileHammer	190	0.60	1	114	8	912
JetPump	290	0.60	1	174	8	1,392
HaulTrucks-PileDeliveries	NA	NA	4	NA	8	32
Replace Existing Wharf						
AirCompressor-185CFM	70	0.60	2	84	8	672
AirCompressor-750CFM	300	0.60	1	180	8	1,440
ConcreteBoomPump	57	0.50	1	29	8	228
Concrete Trucks	NA	NA	15	NA	182	2,730
Crane-250-TonManitowoc888	330	0.50	1	165	8	1,320
Crane-Manitowoc5300	350	0.50	1	175	8	1,400
Crew Boat	240	0.25	1	60	4	240
Forklift-Cat200	125	0.50	3	188	6	1,125
Generator	45	0.75	1	34	8	270
HaulTrucks-MaterialDeliveries	NA	NA	15	NA	5	75

Exhibit B.2: Equipment List for the Federal Action

Construction Activity/Equipment Type	HP Rating	Load Factor	No. Active	Hourly HP-Hrs	Hrs/ Day	Daily HP-Hrs
Loader-Cat966E	220	0.50	1	110	6	660
Upgrade Existing Wharf						
Crane-220-TonManitowoc888	330	0.50	1	165	8	1,320
Compressor	50	0.60	1	30	8	240
ConcreteBoomPump	57	0.50	1	29	2	57
Concrete Trucks	NA	NA	15	NA	143	2138
Excavator/Ram-KomatsoPC220LC5	157	0.60	1	94	8	754
Forklift-Cat200	125	0.50	1	63	4	250
Generator	45	0.75	1	34	8	270
Loader-Cat966E	220	0.50	1	110	8	880
MaterialTruck	NA	NA	15	NA	4	60
Install 3 Cranes at Berth 144						
Crane-50ton	330	0.30	2	198	8	1,584
Winch	305	0.50	1	153	4	610
CargoShip-Transit-CraneDelivery	NA	NA	1	NA	NA	NA
Tugboat-CargoVesselAssist	4,106	0.31	1	1273	1	1273
CargoShip-Hotelling	NA	NA	1	NA	24	NA

**Equipment parameters obtained from Berths 136-137 Container Terminal Draft Environmental Impact Statement (EIS)/ Environmental Impact Report (EIR), except as noted in Exhibit B1*

Exhibit C.1: Hourly Federal Action Construction Emissions (Based on CEQA Mitigation)

			Equipment Emissions (lbs/hr)					
Construction Activity/Equipment Type	**No. Units**	**HP**	**ROG**	**CO**	**NOx**	**SOx**	**PM10**	**PM2.5**
Wharf Demolition								
AirCompressor	2	50	0.07	0.31	0.60	0.00	0.05	0.05
Crane-250-TonManitowoc888	1	330	0.09	0.33	1.80	0.00	0.04	0.04
DerrickBarge	1	195	0.05	0.20	1.07	0.00	0.03	0.02
Excavator-Cat345B	1	290	0.08	0.29	1.58	0.00	0.04	0.04
Forklift	1	105	0.07	0.37	0.65	0.00	0.05	0.04
Generator	1	45	0.04	0.17	0.34	0.00	0.03	0.03
HaulTruck-DemolishedMaterials	6	NA						
Loader-Cat966E	1	220	0.06	0.22	1.21	0.00	0.03	0.03
Tugboat	1	1200	0.24	0.54	6.51	0.01	0.34	0.32
VibratoryHammer	1	45	0.03	0.14	0.27	0.00	0.02	0.02
Remove 2 Existing Cranes at Berth 144								
Crane-50ton	2	330	0.10	0.40	2.16	0.00	0.05	0.05
Winch	1	305	0.08	0.31	1.67	0.00	0.04	0.04
Tugboat1	1	1200	0.24	0.54	6.51	0.01	0.34	0.32
Tugboat2	1	1200	0.67	1.48	17.72	0.02	0.92	0.86
Piledriving - Sheet Piles								
DerrickBargeCraneHoist	1	564	0.07	0.29	1.54	0.00	0.04	0.03
Generator-PileHammer	1	190	0.06	0.23	1.26	0.00	0.03	0.03
Tugboat	1	1200	0.24	0.54	6.51	0.01	0.34	0.32
HaulTrucks-PileDeliveries	4	NA						
Rip-Rap Placement								
Barge-Generator1	1	90	0.07	0.38	0.67	0.00	0.05	0.04
Barge-Generator2	1	229	0.07	0.28	1.51	0.00	0.04	0.03
Barge-DeckWinch	1	120	0.08	0.43	0.75	0.00	0.05	0.05
Barge-MainHoist	1	335	0.09	0.34	1.83	0.00	0.04	0.04
TrackedLoader-Cat973	1	210	0.06	0.21	1.16	0.00	0.03	0.03
Tugboat-Generator	2	89	0.10	0.55	0.95	0.00	0.07	0.06
Tugboat-MainEngines	2	850	0.94	2.09	25.10	0.03	1.30	1.22
Dredge and Disposal								
ElectricClamshellBucket	1	564						
DerrickBarge-Electric	1	432						
DerrickBarge-Generator 2	1	135	0.08	0.48	0.94	0.00	0.04	0.04
HaulTrucks	0.5	NA						
Loader-962G	1	200	0.05	0.20	1.10	0.00	0.03	0.02
TugBoat-TransportBargetoBerth205	2	1350	1.50	3.32	39.87	0.04	2.06	1.94
TugBoat-TransportBargetoOceanSite	2	1350	1.50	3.32	39.87	0.04	2.06	1.94
Piledriving - Waterside Piles								
DerrickBarge-CraneHoist	1	564	0.07	0.29	1.54	0.00	0.04	0.03
Generator-PileHammer	1	190	0.06	0.23	1.26	0.00	0.03	0.03
HaulTrucks-PileDeliveries	4	NA						
JetPump	1	290	0.09	0.35	1.90	0.00	0.05	0.04
Tugboat	1	1200	0.24	0.54	6.51	0.01	0.34	0.32
Piledriving - LandsidePiles								
Crane-250-TonManitowoc888	1	330	0.09	0.33	1.80	0.00	0.04	0.04
Forklift	1	105	0.07	0.37	0.65	0.00	0.05	0.04
Generator-PileHammer	1	190	0.06	0.23	1.26	0.00	0.03	0.03
JetPump	1	290	0.09	0.35	1.90	0.00	0.05	0.04
HaulTrucks-PileDeliveries	4	NA						
Replace Existing Wharf								
AirCompressor-185CFM	2	70	0.11	0.60	1.04	0.00	0.07	0.07
AirCompressor-750CFM	1	300	0.10	0.37	1.96	0.00	0.05	0.04
ConcreteBoomPump	1	57	0.04	0.20	0.35	0.00	0.02	0.02
Concrete Trucks	15	NA						
Crane-250-TonManitowoc888	1	330	0.09	0.33	1.80	0.00	0.04	0.04
Crane-Manitowoc5300	1	350	0.09	0.35	1.91	0.00	0.05	0.04
Crew Boat	1	240	0.03	0.12	0.66	0.00	0.02	0.01
Forklift-Cat200	3	125	0.17	1.12	2.17	0.00	0.10	0.09
Generator	1	45	0.04	0.17	0.34	0.00	0.03	0.03
HaulTrucks-MaterialDeliveries	15	NA						
Loader-Cat966E	1	220	0.06	0.22	1.21	0.00	0.03	0.03

Exhibit C.1: Hourly Federal Action Construction Emissions (Based on CEQA Mitigation)

			Equipment Emissions (lbs/hr)					
Construction Activity/Equipment Type	**No. Units**	**HP**	**ROG**	**CO**	**NOx**	**SOx**	**PM10**	**PM2.5**
Upgrade Existing Wharf								
Crane-220-TonManitowoc888	1	330	0.09	0.33	1.80	0.00	0.04	0.04
Compressor	1	50	0.04	0.15	0.30	0.00	0.03	0.02
ConcreteBoomPump	1	57	0.04	0.20	0.35	0.00	0.02	0.02
Concrete Trucks	15	NA						
Excavator/Ram-KomatsoPC220LC5	1	157	0.09	0.56	1.09	0.00	0.05	0.05
Forklift-Cat200	1	125	0.06	0.37	0.72	0.00	0.03	0.03
Generator	1	45	0.04	0.17	0.34	0.00	0.03	0.03
Loader-Cat966E	1	220	0.06	0.22	1.21	0.00	0.03	0.03
MaterialTruck	15	NA						
Install 3 Cranes at Berth 144								
Crane-50ton	2	330	0.10	0.40	2.16	0.00	0.05	0.05
Winch	1	305	0.08	0.31	1.67	0.00	0.04	0.04
CargoShip-Transit-CraneDelivery	1	NA						
Tugboat-CargoVesselAssist	1	4106	1.04	2.30	27.64	0.03	1.43	1.35
CargoShip-Hotelling	1	NA						

**Material Trucks and Haul Trucks do not require a lbs/hr calculation*

***CargoShip emissions taken from orginal POLA Berths 136-137 Container Terminal Draft Environmental Impact Statement (EIS)/ Environmental Impact Report (EIR)*

Exhibit C.2: Daily Federal Action Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Daily Emissions (lbs/day)					
	ROG	CO	NOx	SOx	PM10	PM2.5
B145-147						
Phase 1						
Wharf Demolition						
AirCompressor	0.6	2.5	4.8	0.0	0.4	0.4
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
DerrickBarge	0.4	1.6	8.6	0.0	0.2	0.2
Excavator-Cat345B	0.6	2.4	12.7	0.0	0.3	0.3
Forklift	0.4	2.2	3.9	0.0	0.3	0.3
Generator	0.3	1.4	2.7	0.0	0.2	0.2
HaulTruck-DemolishedMaterials	0.1	0.3	1.3	0.0	0.0	0.0
Loader-Cat966E	0.5	1.8	9.7	0.0	0.2	0.2
Tugboat	0.5	1.1	13.0	0.0	0.7	0.6
VibratoryHammer	0.1	0.6	1.1	0.0	0.1	0.1
Remove 2 Existing Cranes at Berth 144						
Crane-50ton	0.1	0.4	2.2	0.0	0.1	0.0
Winch	0.1	0.3	1.7	0.0	0.0	0.0
Tugboat1	0.2	0.5	6.5	0.0	0.3	0.3
Tugboat2	0.7	1.5	17.7	0.0	0.9	0.9
Pile Driving - Row A/retrofit (101)						
DerrickBarge-CraneHoist	0.3	1.1	6.2	0.0	0.1	0.1
Generator-PileHammer	0.5	1.8	10.1	0.0	0.2	0.2
HaulTrucks-PileDeliveries	0.1	0.2	0.9	0.0	0.0	0.0
JetPump	0.7	2.8	15.2	0.0	0.4	0.3
Tugboat	0.2	0.5	6.5	0.0	0.3	0.3
Sheet Pile Wall						
DerrickBargeCraneHoist	0.3	1.1	6.2	0.0	0.1	0.1
Generator-PileHammer	0.2	0.9	5.0	0.0	0.1	0.1
Tugboat	0.2	0.5	6.5	0.0	0.3	0.3
HaulTrucks-PileDeliveries	0.1	0.2	0.9	0.0	0.0	0.0
Electric Dredging						
ElectricClamshellBucket	-	-	-	-	-	-
DerrickBarge-Electric	-	-	-	-	-	-
DerrickBarge-Generator	0.5	2.9	5.6	0.0	0.3	0.2
HaulTrucks	0.2	0.6	2.8	0.0	0.1	0.1
Loader-962G	0.8	3.2	17.6	0.0	0.4	0.4
TugBoat-TransportBargetoBerth205	1.2	2.7	31.9	0.0	1.7	1.6
TugBoat-TransportBargetoOceanSite	5.0	11.2	134.0	0.1	6.9	6.5
Rock						
Barge-Generator1	0.7	3.8	6.7	0.0	0.5	0.4
Barge-Generator2	0.7	2.8	15.1	0.0	0.4	0.3
Barge-DeckWinch	0.8	4.3	7.5	0.0	0.5	0.5
Barge-MainHoist	0.9	3.4	18.3	0.0	0.4	0.4
TrackedLoader-Cat973	0.6	2.1	11.6	0.0	0.3	0.3
Tugboat-Generator	1.8	9.8	17.1	0.0	1.2	1.1
Tugboat-MainEngines	6.6	14.6	175.7	0.2	9.1	8.6
Pile Driving - Including Landside						
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
Forklift	0.5	3.0	5.2	0.0	0.4	0.3
Generator-PileHammer	0.5	1.8	10.1	0.0	0.2	0.2
JetPump	0.7	2.8	15.2	0.0	0.4	0.3
HaulTrucks-PileDeliveries	0.1	0.2	0.9	0.0	0.0	0.0

Exhibit C.2: Daily Federal Action Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Daily Emissions (lbs/day)					
	ROG	CO	NOx	SOx	PM10	PM2.5
Wharf Deck						
AirCompressor-185CFM	0.9	4.8	8.4	0.0	0.6	0.5
AirCompressor-750CFM	0.8	2.9	15.7	0.0	0.4	0.3
ConcreteBoomPump	0.3	1.6	2.8	0.0	0.2	0.2
Concrete Trucks	0.5	1.6	7.2	0.0	0.3	0.2
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
Crane-Manitowoc4000	0.7	2.8	15.3	0.0	0.4	0.3
Crew Boat	0.1	0.5	2.6	0.0	0.1	0.1
Forklift-Cat200	1.0	6.7	13.0	0.0	0.6	0.5
Generator	0.3	1.4	2.7	0.0	0.2	0.2
HaulTrucks-MaterialDeliveries	0.1	0.5	2.1	0.0	0.1	0.1
Loader-Cat966E	0.3	1.3	7.3	0.0	0.2	0.2
Phase 2						
Wharf Demolition						
AirCompressor	0.6	2.5	4.8	0.0	0.4	0.4
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
DerrickBarge	0.4	1.6	8.6	0.0	0.2	0.2
Excavator-Cat345B	0.6	2.4	12.7	0.0	0.3	0.3
Forklift	0.4	2.2	3.9	0.0	0.3	0.3
Generator	0.3	1.4	2.7	0.0	0.2	0.2
HaulTruck-DemolishedMaterials	0.1	0.3	1.3	0.0	0.0	0.0
Loader-Cat966E	0.5	1.8	9.7	0.0	0.2	0.2
Tugboat	0.5	1.1	13.0	0.0	0.7	0.6
VibratoryHammer	0.1	0.6	1.1	0.0	0.1	0.1
Waterside Crane Girder						
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
Compressor	0.3	1.2	2.4	0.0	0.2	0.2
ConcreteBoomPump	0.1	0.4	0.7	0.0	0.0	0.0
Concrete Trucks	4.0	13.3	59.0	0.1	2.2	2.0
Excavator/Ram-KomatsoPC220LC5	0.7	4.5	8.7	0.0	0.4	0.4
Forklift-Cat200	0.2	1.5	2.9	0.0	0.1	0.1
Generator	0.3	1.4	2.7	0.0	0.2	0.2
Loader-Cat966E	0.5	1.8	9.7	0.0	0.2	0.2
MaterialTruck	0.1	0.4	1.7	0.0	0.1	0.1
Pile Driving/Landside						
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
Forklift	0.5	3.0	5.2	0.0	0.4	0.3
Generator-PileHammer	0.5	1.8	10.1	0.0	0.2	0.2
JetPump	0.7	2.8	15.2	0.0	0.4	0.3
HaulTrucks-PileDeliveries	0.1	0.2	0.9	0.0	0.0	0.0
Install 3 Cranes at Berth 144						
Crane-50ton	0.8	3.2	17.3	0.0	0.4	0.4
Winch	0.3	1.2	6.7	0.0	0.2	0.1
CargoShip-Transit-CraneDelivery	28.0	62.4	751.2	408.7	60.8	57.0
Tugboat-CargoVesselAssist	1.0	2.3	27.6	0.0	1.4	1.3
CargoShip-Hotelling	5.7	19.1	200.3	131.1	11.4	10.6

Exhibit C.2: Daily Federal Action Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Daily Emissions (lbs/day)					
	ROG	CO	NOx	SOx	PM10	PM2.5
B136-139						
Wharf Demolition						
AirCompressor	0.6	2.5	4.8	0.0	0.4	0.4
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
DerrickBarge	0.4	1.6	8.6	0.0	0.2	0.2
Excavator-Cat345B	0.6	2.4	12.7	0.0	0.3	0.3
Forklift	0.4	2.2	3.9	0.0	0.3	0.3
Generator	0.3	1.4	2.7	0.0	0.2	0.2
HaulTruck-DemolishedMaterials	0.1	0.3	1.3	0.0	0.0	0.0
Loader-Cat966E	0.5	1.8	9.7	0.0	0.2	0.2
Tugboat	0.5	1.1	13.0	0.0	0.7	0.6
VibratoryHammer	0.1	0.6	1.1	0.0	0.1	0.1
Sheet Pile Wall						
DerrickBargeCraneHoist	0.3	1.1	6.2	0.0	0.1	0.1
Generator-PileHammer	0.2	0.9	5.0	0.0	0.1	0.1
Tugboat	0.2	0.5	6.5	0.0	0.3	0.3
HaulTrucks-PileDeliveries	0.1	0.2	0.9	0.0	0.0	0.0
Electric Dredging						
ElectricClamshellBucket	-	-	-	-	-	-
DerrickBarge-Electric	-	-	-	-	-	-
DerrickBarge-Generator	0.5	2.9	5.6	0.0	0.3	0.2
HaulTrucks	0.2	0.6	2.8	0.0	0.1	0.1
Loader-962G	0.8	3.2	17.6	0.0	0.4	0.4
TugBoat-TransportBargetoBerth205	1.2	2.7	31.9	0.0	1.7	1.6
TugBoat-TransportBargetoOceanSite	5.0	11.2	134.0	0.1	6.9	6.5
Rock						
Barge-Generator1	0.7	3.8	6.7	0.0	0.5	0.4
Barge-Generator2	0.7	2.8	15.1	0.0	0.4	0.3
Barge-DeckWinch	0.8	4.3	7.5	0.0	0.5	0.5
Barge-MainHoist	0.9	3.4	18.3	0.0	0.4	0.4
TrackedLoader-Cat973	0.6	2.1	11.6	0.0	0.3	0.3
Tugboat-Generator	1.8	9.8	17.1	0.0	1.2	1.1
Tugboat-MainEngines	6.6	14.6	175.7	0.2	9.1	8.6
Pile Driving - Including Landside						
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
Forklift	0.5	3.0	5.2	0.0	0.4	0.3
Generator-PileHammer	0.5	1.8	10.1	0.0	0.2	0.2
JetPump	0.7	2.8	15.2	0.0	0.4	0.3
HaulTrucks-PileDeliveries	0.1	0.2	0.9	0.0	0.0	0.0
Wharf Deck						
AirCompressor-185CFM	0.9	4.8	8.4	0.0	0.6	0.5
AirCompressor-750CFM	0.8	2.9	15.7	0.0	0.4	0.3
ConcreteBoomPump	0.3	1.6	2.8	0.0	0.2	0.2
Concrete Trucks	0.5	1.6	7.2	0.0	0.3	0.2
Crane-220-TonManitowoc888	0.7	2.7	14.4	0.0	0.3	0.3
Crane-Manitowoc4000	0.7	2.8	15.3	0.0	0.4	0.3
Crew Boat	0.1	0.5	2.6	0.0	0.1	0.1
Forklift-Cat200	1.0	6.7	13.0	0.0	0.6	0.5
Generator	0.3	1.4	2.7	0.0	0.2	0.2
HaulTrucks-MaterialDeliveries	0.1	0.5	2.1	0.0	0.1	0.1
Loader-Cat966E	0.3	1.3	7.3	0.0	0.2	0.2

Holidays are assumed to be 5 days per year.
Electric dredging operates 6 days per week, all other activities operate 5 days per week.

Exhibit C.3: Total Federal Action Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Days	Project Total Emissions (tons)					
		ROG	CO	NOx	SOx	PM10	PM2.5
B145-147	*Revised*						
Phase 1							
Wharf Demolition							
AirCompressor	28	0.008	0.035	0.068	0.000	0.006	0.005
Crane-220-TonManitowoc888	105	0.037	0.141	0.756	0.001	0.018	0.017
DerrickBarge	77	0.016	0.061	0.331	0.000	0.008	0.007
Excavator-Cat345B	28	0.009	0.033	0.177	0.000	0.004	0.004
Forklift	28	0.006	0.031	0.055	0.000	0.004	0.004
Generator	28	0.005	0.020	0.038	0.000	0.003	0.003
HaulTruck-DemolishedMaterials	26	0.001	0.004	0.017	0.000	0.001	0.001
Loader-Cat966E	105	0.024	0.094	0.509	0.001	0.012	0.011
Tugboat	77	0.019	0.042	0.502	0.001	0.026	0.024
VibratoryHammer	77	0.005	0.021	0.042	0.000	0.003	0.003
Remove 2 Existing Cranes at Berth 144	4						
Crane-50ton	4	0.000	0.001	0.004	0.000	0.000	0.000
Winch	4	0.000	0.001	0.003	0.000	0.000	0.000
Tugboat1	2	0.000	0.001	0.007	0.000	0.000	0.000
Tugboat2	1	0.000	0.001	0.009	0.000	0.000	0.000
Pile Driving - Row A/retrofit (101)	15						
DerrickBarge-CraneHoist	15	0.002	0.009	0.046	0.000	0.001	0.001
Generator-PileHammer	15	0.004	0.014	0.075	0.000	0.002	0.002
HaulTrucks-PileDeliveries	5	0.000	0.000	0.002	0.000	0.000	0.000
JetPump	15	0.006	0.021	0.114	0.000	0.003	0.003
Tugboat	15	0.002	0.004	0.049	0.000	0.003	0.002
Sheet Pile Wall	105						
DerrickBargeCraneHoist	105	0.016	0.060	0.323	0.000	0.008	0.007
Generator-PileHammer	105	0.013	0.049	0.264	0.000	0.006	0.006
Tugboat	105	0.013	0.028	0.342	0.000	0.018	0.017
HaulTrucks-PileDeliveries	35	0.001	0.003	0.015	0.000	0.001	0.001
Electric Dredging	152						
ElectricClamshellBucket	152	-	-	-	-	-	-
DerrickBarge-Electric	152	-	-	-	-	-	-
DerrickBarge-Generator	152	0.034	0.220	0.428	0.000	0.020	0.018
HaulTrucks	33	0.003	0.010	0.046	0.000	0.002	0.002
Loader-962G	152	0.064	0.247	1.340	0.002	0.032	0.029
TugBoat-TransportBargetoBerth205	36	0.022	0.048	0.574	0.001	0.030	0.028
TugBoat-TransportBargetoOceanSite	36	0.091	0.201	2.411	0.002	0.125	0.118
Rock	84						
Barge-Generator1	84	0.029	0.162	0.282	0.000	0.020	0.018
Barge-Generator2	84	0.031	0.117	0.636	0.001	0.015	0.014
Barge-DeckWinch	84	0.032	0.179	0.313	0.000	0.022	0.020
Barge-MainHoist	84	0.037	0.143	0.768	0.001	0.019	0.017
TrackedLoader-Cat973	84	0.023	0.089	0.486	0.001	0.012	0.011
Tugboat-Generator	84	0.074	0.412	0.719	0.001	0.050	0.046
Tugboat-MainEngines	84	0.277	0.614	7.380	0.007	0.382	0.360
Pile Driving - Including Landside	84						
Crane-220-TonManitowoc888	84	0.029	0.112	0.605	0.001	0.015	0.013
Forklift	84	0.023	0.126	0.219	0.000	0.015	0.014
Generator-PileHammer	84	0.020	0.078	0.422	0.001	0.010	0.009
JetPump	84	0.031	0.119	0.638	0.001	0.015	0.014
HaulTrucks-PileDeliveries	26	0.001	0.003	0.011	0.000	0.000	0.000

Exhibit C.3: Total Federal Action Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Days	Project Total Emissions (tons)					
		ROG	CO	NOx	SOx	PM10	PM2.5
Wharf Deck	126						
AirCompressor-185CFM	126	0.054	0.301	0.526	0.001	0.036	0.034
AirCompressor-750CFM	126	0.048	0.184	0.990	0.001	0.024	0.022
ConcreteBoomPump	15	0.002	0.012	0.021	0.000	0.001	0.001
Concrete Trucks	15	0.004	0.012	0.054	0.000	0.002	0.002
Crane-220-TonManitowoc888	63	0.022	0.084	0.454	0.000	0.011	0.010
Crane-Manitowoc4000	42	0.016	0.060	0.321	0.000	0.008	0.007
Crew Boat	2	0.000	0.000	0.003	0.000	0.000	0.000
Forklift-Cat200	126	0.066	0.422	0.822	0.001	0.038	0.034
Generator	10	0.002	0.007	0.014	0.000	0.001	0.001
HaulTrucks-MaterialDeliveries	95	0.007	0.022	0.098	0.000	0.004	0.003
Loader-Cat966E	7	0.001	0.005	0.025	0.000	0.001	0.001
Phase 2							
Wharf Demolition	42						
AirCompressor	11	0.003	0.014	0.027	0.000	0.002	0.002
Crane-220-TonManitowoc888	42	0.015	0.056	0.303	0.000	0.007	0.007
DerrickBarge	31	0.006	0.025	0.133	0.000	0.003	0.003
Excavator-Cat345B	11	0.003	0.013	0.070	0.000	0.002	0.002
Forklift	11	0.002	0.012	0.022	0.000	0.001	0.001
Generator	11	0.002	0.008	0.015	0.000	0.001	0.001
HaulTruck-DemolishedMaterials	10	0.000	0.001	0.007	0.000	0.000	0.000
Loader-Cat966E	42	0.010	0.037	0.204	0.000	0.005	0.004
Tugboat	31	0.008	0.017	0.202	0.000	0.010	0.010
VibratoryHammer	31	0.002	0.009	0.017	0.000	0.001	0.001
Waterside Crane Girder	42						
Crane-220-TonManitowoc888	42	0.015	0.056	0.303	0.000	0.007	0.007
Compressor	4	0.001	0.002	0.005	0.000	0.000	0.000
ConcreteBoomPump	4	0.000	0.001	0.001	0.000	0.000	0.000
Concrete Trucks	4	0.008	0.027	0.118	0.000	0.004	0.004
Excavator/Ram-KomatsoPC220LC5	27	0.009	0.061	0.118	0.000	0.005	0.005
Forklift-Cat200	42	0.005	0.031	0.061	0.000	0.003	0.003
Generator	7	0.001	0.005	0.010	0.000	0.001	0.001
Loader-Cat966E	5	0.001	0.004	0.024	0.000	0.001	0.001
MaterialTruck	42	0.002	0.008	0.035	0.000	0.001	0.001
Pile Driving/Landside	21						
Crane-220-TonManitowoc888	21	0.007	0.028	0.151	0.000	0.004	0.003
Forklift	21	0.006	0.031	0.055	0.000	0.004	0.004
Generator-PileHammer	21	0.005	0.019	0.106	0.000	0.003	0.002
JetPump	21	0.008	0.030	0.160	0.000	0.004	0.004
HaulTrucks-PileDeliveries	7	0.000	0.001	0.003	0.000	0.000	0.000
Install 3 Cranes at Berth 144	4						
Crane-50ton	4	0.002	0.006	0.035	0.000	0.001	0.001
Winch	3	0.000	0.002	0.010	0.000	0.000	0.000
CargoShip-Transit-CraneDelivery	2	0.028	0.062	0.751	0.409	0.061	0.057
Tugboat-CargoVesselAssist	2	0.001	0.002	0.028	0.000	0.001	0.001
CargoShip-Hotelling	4	0.011	0.038	0.401	0.262	0.023	0.021

Exhibit C.3: Total Federal Action Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Days	Project Total Emissions (tons)					
		ROG	CO	NOx	SOx	PM10	PM2.5
B136-139							
Wharf Demolition	105						
AirCompressor	28	0.008	0.035	0.068	0.000	0.006	0.005
Crane-220-TonManitowoc888	105	0.037	0.141	0.756	0.001	0.018	0.017
DerrickBarge	77	0.016	0.061	0.331	0.000	0.008	0.007
Excavator-Cat345B	28	0.009	0.033	0.177	0.000	0.004	0.004
Forklift	28	0.006	0.031	0.055	0.000	0.004	0.004
Generator	28	0.005	0.020	0.038	0.000	0.003	0.003
HaulTruck-DemolishedMaterials	26	0.001	0.004	0.017	0.000	0.001	0.001
Loader-Cat966E	105	0.024	0.094	0.509	0.001	0.012	0.011
Tugboat	77	0.019	0.042	0.502	0.001	0.026	0.024
VibratoryHammer	77	0.005	0.021	0.042	0.000	0.003	0.003
Sheet Pile Wall	126						
DerrickBargeCraneHoist	126	0.019	0.072	0.388	0.000	0.009	0.009
Generator-PileHammer	126	0.015	0.058	0.317	0.000	0.008	0.007
Tugboat	126	0.015	0.034	0.410	0.000	0.021	0.020
HaulTrucks-PileDeliveries	42	0.001	0.004	0.019	0.000	0.001	0.001
Electric Dredging	126						
ElectricClamshellBucket	126	-	-	-	-	-	-
DerrickBarge-Electric	126	-	-	-	-	-	-
DerrickBarge-Generator	126	0.028	0.182	0.355	0.000	0.016	0.015
HaulTrucks	33	0.003	0.010	0.046	0.000	0.002	0.002
Loader-962G	126	0.053	0.204	1.111	0.001	0.027	0.024
TugBoat-TransportBargetoBerth205	36	0.022	0.048	0.574	0.001	0.030	0.028
TugBoat-TransportBargetoOceanSite	36	0.091	0.201	2.411	0.002	0.125	0.118
Rock	84						
Barge-Generator1	84	0.029	0.162	0.282	0.000	0.020	0.018
Barge-Generator2	84	0.031	0.117	0.636	0.001	0.015	0.014
Barge-DeckWinch	84	0.032	0.179	0.313	0.000	0.022	0.020
Barge-MainHoist	84	0.037	0.143	0.768	0.001	0.019	0.017
TrackedLoader-Cat973	84	0.023	0.089	0.486	0.001	0.012	0.011
Tugboat-Generator	84	0.074	0.412	0.719	0.001	0.050	0.046
Tugboat-MainEngines	84	0.277	0.614	7.380	0.007	0.382	0.360
Pile Driving - Including Landside	84						
Crane-220-TonManitowoc888	84	0.029	0.112	0.605	0.001	0.015	0.013
Forklift	84	0.023	0.126	0.219	0.000	0.015	0.014
Generator-PileHammer	84	0.020	0.078	0.422	0.001	0.010	0.009
JetPump	84	0.031	0.119	0.638	0.001	0.015	0.014
HaulTrucks-PileDeliveries	26	0.001	0.003	0.011	0.000	0.000	0.000
Wharf Deck	126						
AirCompressor-185CFM	126	0.054	0.301	0.526	0.001	0.036	0.034
AirCompressor-750CFM	126	0.048	0.184	0.990	0.001	0.024	0.022
ConcreteBoomPump	15	0.002	0.012	0.021	0.000	0.001	0.001
Concrete Trucks	15	0.004	0.012	0.054	0.000	0.002	0.002
Crane-220-TonManitowoc888	63	0.022	0.084	0.454	0.000	0.011	0.010
Crane-Manitowoc4000	42	0.016	0.060	0.321	0.000	0.008	0.007
Crew Boat	2	0.000	0.000	0.003	0.000	0.000	0.000
Forklift-Cat200	126	0.066	0.422	0.822	0.001	0.038	0.034
Generator	10	0.002	0.007	0.014	0.000	0.001	0.001
HaulTrucks-MaterialDeliveries	95	0.007	0.022	0.098	0.000	0.004	0.003
Loader-Cat966E	7	0.001	0.005	0.025	0.000	0.001	0.001
Total Project Emissions (tons)		**2.60**	**9.83**	**51.66**	**0.72**	**2.22**	**2.06**

Exhibit C.4: Yearly Federal Action NOx Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Yearly NOx Emissions (tons/year) by Activity & Equipment								
	2008	2009	2010	2011	2012	2013	2014	2015	2016
B145-147									
Phase 1									
Wharf Demolition									
AirCompressor	0.014	0.054							
Crane-220-TonManitowoc888	0.151	0.605							
DerrickBarge	0.066	0.265							
Excavator-Cat345B	0.035	0.142							
Forklift	0.011	0.044							
Generator	0.008	0.030							
HaulTruck-DemolishedMaterials	0.003	0.014							
Loader-Cat966E	0.102	0.407							
Tugboat	0.100	0.401							
VibratoryHammer	0.008	0.033							
Remove 2 Existing Cranes at Berth 144									
Crane-50ton		0.004							
Winch		0.003							
Tugboat1		0.006							
Tugboat2		0.008							
Pile Driving - Row A/retrofit (101)									
DerrickBarge-CraneHoist		0.047							
Generator-PileHammer		0.077							
HaulTrucks-PileDeliveries		0.002							
JetPump		0.116							
Tugboat		0.050							
Sheet Pile Wall									
DerrickBargeCraneHoist		0.323							
Generator-PileHammer		0.264							
Tugboat		0.342							
HaulTrucks-PileDeliveries		0.015							
Electric Dredging									
ElectricClamshellBucket		-	-						
DerrickBarge-Electric		-	-						
DerrickBarge-Generator		0.370	0.059						
HaulTrucks		0.039	0.006						
Loader-962G		1.157	0.185						
TugBoat-TransportBargetoBerth205		0.495	0.079						
TugBoat-TransportBargetoOceanSite		2.081	0.334						
Rock									
Barge-Generator1		0.282							
Barge-Generator2		0.636							
Barge-DeckWinch		0.313							
Barge-MainHoist		0.768							
TrackedLoader-Cat973		0.486							
Tugboat-Generator		0.719							
Tugboat-MainEngines		7.380							
Pile Driving - Including Landside									
Crane-220-TonManitowoc888		0.482	0.130						
Forklift		0.175	0.047						
Generator-PileHammer		0.336	0.090						
JetPump		0.508	0.137						
HaulTrucks-PileDeliveries		0.009	0.002						

Exhibit C.4: Yearly Federal Action NOx Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Yearly NOx Emissions (tons/year) by Activity & Equipment								
	2008	2009	2010	2011	2012	2013	2014	2015	2016
Wharf Deck									
AirCompressor-185CFM		0.221	0.309						
AirCompressor-750CFM		0.416	0.581						
ConcreteBoomPump		0.009	0.012						
Concrete Trucks		0.023	0.032						
Crane-220-TonManitowoc888		0.191	0.266						
Crane-Manitowoc4000		0.135	0.188						
Crew Boat		0.001	0.002						
Forklift-Cat200		0.345	0.482						
Generator		0.006	0.008						
HaulTrucks-MaterialDeliveries		0.041	0.058						
Loader-Cat966E		0.011	0.015						
Phase 2									
Wharf Demolition									
AirCompressor			0.027						
Crane-220-TonManitowoc888			0.303						
DerrickBarge			0.133						
Excavator-Cat345B			0.070						
Forklift			0.022						
Generator			0.015						
HaulTruck-DemolishedMaterials			0.007						
Loader-Cat966E			0.204						
Tugboat			0.202						
VibratoryHammer			0.017						
Waterside Crane Girder									
Crane-220-TonManitowoc888			0.303						
Compressor			0.005						
ConcreteBoomPump			0.001						
Concrete Trucks			0.118						
Excavator/Ram-KomatsoPC220LC5			0.118						
Forklift-Cat200			0.061						
Generator			0.010						
Loader-Cat966E			0.024						
MaterialTruck			0.035						
Pile Driving/Landside									
Crane-220-TonManitowoc888			0.151						
Forklift			0.055						
Generator-PileHammer			0.106						
JetPump			0.160						
HaulTrucks-PileDeliveries			0.003						
Install 3 Cranes at Berth 144									
Crane-50ton			0.035						
Winch			0.010						
CargoShip-Transit-CraneDelivery			0.751						
Tugboat-CargoVesselAssist			0.028						
CargoShip-Hotelling			0.401						

Exhibit C.4: Yearly Federal Action NOx Construction Emissions (Based on CEQA Mitigation)

Construction Activity/Equipment Type	Yearly NOx Emissions (tons/year) by Activity & Equipment								
	2008	2009	2010	2011	2012	2013	2014	2015	2016
B136-139									
Wharf Demolition									
AirCompressor						0.041	0.027		
Crane-220-TonManitowoc888						0.453	0.302		
DerrickBarge						0.198	0.132		
Excavator-Cat345B						0.106	0.071		
Forklift						0.033	0.022		
Generator						0.023	0.015		
HaulTruck-DemolishedMaterials						0.010	0.007		
Loader-Cat966E						0.305	0.204		
Tugboat						0.301	0.200		
VibratoryHammer						0.025	0.017		
Sheet Pile Wall									
DerrickBargeCraneHoist							0.387		
Generator-PileHammer							0.316		
Tugboat							0.410		
HaulTrucks-PileDeliveries							0.019		
Electric Dredging									
ElectricClamshellBucket							-	-	
DerrickBarge-Electric							-	-	
DerrickBarge-Generator							0.237	0.118	
HaulTrucks							0.030	0.015	
Loader-962G							0.740	0.370	
TugBoat-TransportBargetoBerth205							0.382	0.191	
TugBoat-TransportBargetoOceanSite							1.606	0.803	
Rock									
Barge-Generator1								0.282	
Barge-Generator2								0.636	
Barge-DeckWinch								0.313	
Barge-MainHoist								0.767	
TrackedLoader-Cat973								0.486	
Tugboat-Generator								0.719	
Tugboat-MainEngines								7.374	
Pile Driving - Including Landside									
Crane-220-TonManitowoc888								0.605	
Forklift								0.219	
Generator-PileHammer								0.422	
JetPump								0.637	
HaulTrucks-PileDeliveries								0.011	
Wharf Deck									
AirCompressor-185CFM								0.175	0.351
AirCompressor-750CFM								0.330	0.659
ConcreteBoomPump								0.007	0.014
Concrete Trucks								0.018	0.036
Crane-220-TonManitowoc888								0.151	0.302
Crane-Manitowoc4000								0.107	0.214
Crew Boat								0.001	0.002
Forklift-Cat200								0.274	0.547
Generator								0.005	0.009
HaulTrucks-MaterialDeliveries								0.033	0.065
Loader-Cat966E								0.008	0.017
Yearly NOx Emissions (tpy)	**0.50**	**20.89**	**6.39**	**-**	**-**	**1.50**	**5.13**	**15.08**	**2.22**

Attachment B
Southern California Association of Governments Correspondence

SOUTHERN CALIFORNIA

ASSOCIATION of GOVERNMENTS

Main Office

818 West Seventh Street

12th Floor

Los Angeles, California

90017-3435

t (213) 236-1800

f (213) 236-1825

www.scag.ca.gov

July 24, 2007

Commander
U.S. Army Corp of Engineers
Los Angeles District,
c/o Dr. Spencer D. Macneil
P. O. Box 53271
Los Angeles, CA 90053-2325

Dr. Ralph Appy
Director of Environmental Management Div.
425 S. Palos Verdes Street
San Pedro, CA 90731

RE: SCAG Clearinghouse No. I 20070405 Berths 136-147 Container Terminal

Dear Dr. Macneil and Dr. Appy:

Thank you for submitting the **Berths 136-147 Container Terminal** for review and comment. As areawide clearinghouse for regionally significant projects, SCAG reviews the consistency of local plans, projects and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

SCAG-1

We have reviewed the **Berths 136-147 Container Terminal**, and have determined that the proposed Project is not regionally significant per SCAG Intergovernmental Review (IGR) Criteria and California Environmental Quality Act (CEQA) Guidelines (Section 15206). Therefore, the proposed Project does not warrant comments at this time. Should there be a change in the scope of the proposed Project, we would appreciate the opportunity to review and comment at that time.

A description of the proposed Project was published in SCAG's **July 1-15, 2007** Intergovernmental Review Clearinghouse Report for public review and comment.

The project title and SCAG Clearinghouse number should be used in all correspondence with SCAG concerning this Project. Correspondence should be sent to the attention of the Clearinghouse Coordinator. If you have any questions, please contact me at (213) 236-1856. Thank you.

SCAG-2

Sincerely,

SHERYLL DEL ROSARIO
Associate Planner
Intergovernmental Review

Doc #138239

ADP NO. 070321-052

SOUTHERN CALIFORNIA

ASSOCIATION of GOVERNMENTS

Main Office

818 West Seventh Street

12th Floor

Los Angeles, California

90017-3435

t (213) 236-1800

f (213) 236-1825

www.scag.ca.gov

November 5, 2007

Dr. Spencer D. MacNeil, Senior Project Manager
U.S. Army Corps of Engineers, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

EIS for Berths 136-147 [TraPac] Container Terminal Project

Dear Dr. MacNeil,

The following is intended to confirm the use of port transportation data in regional transportation and air quality management plans.

The Ports of Los Angeles/Long Beach (POLA/POLB) submit transportation data to the Southern California Association of Governments (SCAG) to account for current and projected port activity. In particular, the POLA/POLB cargo growth is accounted for in the Regional Transportation Plan (RTP) via traffic (truck and auto) volumes provided to SCAG.

The port activity data have been provided to the South Coast Air Quality Management District and incorporated into the recently approved 2007 South Coast Air Quality Management Plan (AQMP), and will also be included in the upcoming 2008 RTP. The Ports' data have been previously incorporated into the 1994, 1998, 2001, and 2004 RTPs and into the corresponding AQMPs.

If you have any questions in regard to this information, please feel free to contact me at (213) 236-1884.

Sincerely,

Jonathan Nadler
Program Manager, Air Quality & Conformity

c: Deng Bang Lee, SCAG
Janna Sidley, POLA
Kerry Cartwright, POLA

Attachment C

USACE Guidance Concerning Implementation of EPA's Clean Air Act General Conformity Rule

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

20 APR 1994

CECC-E

MEMORANDUM FOR ALL MAJOR SUBORDINATE COMMANDERS, AND DISTRICT COMMANDERS

SUBJECT: EPA's Clean Air Act (CAA) General Conformity Rule

1. In the Federal Register of November 30, 1993, the U.S. Environmental Protection Agency (EPA) published its final General Conformity Rule to implement Section 176(c) of the Clean Air Act (CAA) for geographic areas designated as "nonattainment" and "maintenance" areas under the CAA. EPA's final rule addresses how Federal agencies are to demonstrate that activities in which they engage conform with applicable, Federally-approved CAA state implementation plans. Because these agency conformity determinations can sometimes take considerable time and cost thousands of dollars to produce, and because failure to produce and sign an adequate conformity determination where one is required can create a serious legal vulnerability for a Corps project or permit, the Corps must ensure full and careful compliance with the new EPA Final Rule.

2. The enclosed guidance document has been prepared to assist Corps Divisions and Districts in understanding and complying with the subject rule. This guidance document is introductory in nature, and cannot be considered a substitute for careful reading of and compliance with the rule itself. (See 58 Fed.Reg. 63214 et seq.)

3. One of the primary subjects discussed in the enclosed guidance document is how the General Conformity Rule relates to the Corps regulatory program under Sections 9 and 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Ocean Dumping Act. As soon as practicable I intend to promulgate another guidance document providing more detailed instructions on how Corps personnel should deal with CAA conformity considerations regarding Corps Civil Works projects during the planning process, including preparation of CAA conformity determinations where that is necessary.

4. Although the attached document is rather "legalistic" in nature, it should be broadly distributed within the Corps family (e.g., counsel, regulatory, planning, operations, etc.). This guidance also contains important policy considerations, and thus has been fully coordinated with the Office of the Assistant Secretary of the Army (Civil Works) and with the Director of Civil Works.

5. My points of contact for this guidance are Lance Wood and Bill Sapp, CECC-E; their telephone number is (202) 272-0035.

FOR THE COMMANDER:

Lester Edelman

Encl

LESTER EDELMAN
Chief Counsel

CECC-E

EPA'S FINAL CLEAN AIR ACT GENERAL CONFORMITY RULE

I. INTRODUCTION.

In the Federal Register of November 30, 1993, the U.S. Environmental Protection Agency (EPA) published its final General Conformity Rule[1] to implement section 176(c) of the Clean Air Act (CAA)[2] for geographic areas designated as "nonattainment" and "maintenance" areas under the CAA. EPA's final rule addresses how Federal agencies are to demonstrate that activities in which they engage conform with applicable, Federally approved CAA state implementation plans.[3] Because these agency conformity determinations can sometimes take considerable time and cost thousands of dollars to produce[4], and because failure to produce and sign an adequate conformity determination where one is required can create a serious legal vulnerability for a Corps project or permit, the Corps must ensure full and careful compliance with the new EPA final rule.

EPA's final rule was promulgated to implement CAA section 176(c), which was added to the Clean Air Act in 1977[5] to require that Federal agencies assure that activities they engage in are in conformance with Federally-approved CAA state implementation plans.[6] This requirement is clearly triggered whenever a Federal

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[1] 58 Fed. Reg. 63214 (November 30, 1993).

[2] Clean Air Act § 176(c), 42 U.S.C. § 7506 (1993).

[3] 58 Fed. Reg. 63214 (November 30, 1993). Section 110 of the Clean Air Act requires that all states and the District of Columbia develop state implementation plans for EPA approval that provide detailed accounts of how the state will attain the National Ambient Air Quality Standards throughout the state. 42 U.S.C. § 7410 (1993).

[4] The EPA estimated in its proposed rule that a conformity determination would cost approximately $5,000, whereas an extensive conformity determination would cost $50,000. 58 Fed. Reg. 13848 (March 15, 1993). Department of Defense estimates double the figures supplied by the EPA.

[5] Pub. L. 95-95, § 176(c) (1977).

[6] Section 176(c)(1) provides in relevant part that:

> No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve,

(continued...)

agency engages in a Federal project, but it is also triggered whenever a Federal agency permits, licenses, funds, or approves a non-Federal undertaking. The Corps' Clean Water Act (CWA) section 404 permits, Rivers and Harbors Act of 1899 Section 10 permits, and Ocean Dumping Act Section 103 permits fall under this latter category.

II. APPLICABILITY.

A. EXEMPTIONS AND PRESUMPTIONS. As you study the final rule and its preamble, the first general subject to consider is the "applicability" of the rule. The new rule applies generally to Federal actions except for those covered by EPA's transportation conformity rule[7], actions with associated emissions below the de minimis levels specified at 40 CFR 91.853, certain classes of actions designated at 40 CFR 91.853 as exempted or presumed to conform, and actions that the new rule "grandfathers" at 40 CFR 91.850. A number of Corps activities may fit within the long list of "exempted" or "presumed to conform" activities. For example, note the specific exemption provided for maintenance dredging and debris disposal actions.

B. GRANDFATHER CLAUSE. As you consider the "grandfather provision", remember that it describes the specific circumstances where a Federal action need not comply with the new general conformity rule, but the Corps might nevertheless have to create and sign a CAA conformity determination to show compliance with the statutory mandate of CAA Section 176(c). However, that conformity determination would not have to comply with the specific procedural requirements of the new EPA regulation. Also note that the second basis provided in the rule for grandfathering, i.e., the three-part requirement of 40 CFR 93.150(c)(2), requires that an environmental analysis had to be commenced prior to January 31, 1994, or that a contract to develop a specific environmental analysis was awarded prior to January 31, 1994. The reference in that section to the date of December 30, 1993, was an error. The EPA has since corrected that date to January 31, 1994, by publishing the correction in the Federal Register, i.e., January 31, 1994. Moreover, that same section requires that a CAA conformity

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[6](...continued)
any activity which does not conform to an implementation plan after it has been approved or promulgated under section 110. . . . The assurance of conformity to such an implementation plan shall be an affirmative responsibility of the head of such department, agency or instrumentality.

C.A.A. § 176(c)(1), 42 U.S.C. § 7506 (1993).

[7]See 40 CFR Part 51, subpart T.

determination demonstrating compliance with the statutory mandate of CAA Section 176(c) be signed by March 15, 1994.

C. ATTAINMENT VERSUS NON-ATTAINMENT AREAS. Also regarding applicability, note that the new CAA General Conformity Rule applies only to Federal actions in CAA non-attainment areas and in those attainment areas subject to maintenance plans required by CAA Section 175A (i.e., "maintenance areas"; see 58 Fed. Reg. 13841) . EPA has announced its intentions to do another rulemaking at a later date describing how CAA Section 176(c) will be applied to CAA attainment areas, in general.

III. REQUIREMENTS OF THE NEW RULE.

To fully understand the requirements of the rule, you must carefully study both the rule itself and the explanatory guidance provided in the preamble. In the near future, the Office of the Chief Counsel expects to provide additional guidance that will assist Corps personnel who must prepare CAA conformity determinations, especially for Corps planning studies, feasibility reports, and the like. In this guidance, I only wish to emphasize a few important aspects of the rule, to ensure understanding of those matters throughout the Corps, for both our projects and our regulatory responsibilities.

A. CONFORMITY DETERMINATIONS. The basic requirement of the General Conformity Rule is stated at 40 CFR 93.150(b): "A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this subpart before the action is taken." (emphasis added). Obviously, to implement that mandate we must turn to the definition of "Federal action" provided at 40 CFR 93.152:

> **Federal action** means any activity engaged in by a[n] ... agency ... of the Federal Government, or any activity that a[n] ... agency ... supports in any way, provides financial assistance for, licenses, permits, or approves.... Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of the non-Federal undertaking that requires the Federal permit, license, or approval."

B. DIRECT EMISSIONS. Regarding what air emissions must be considered in a CAA conformity determination, the rule defines two classes: direct emissions, and indirect emissions. The definition of "direct emissions" is straightforward: "Direct emissions" means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action." (40 CFR 93.152)

C. INDIRECT EMISSIONS. In contrast, the definition of "indirect emissions" needs careful study: "indirect emissions"

means those emissions of a criteria pollutant or its precursors that: (1) Are caused by the Federal action but may occur later in time and/or may be further removed in distance from the action itself but are still reasonably foreseeable; and (2) The Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency." (40 CFR 93.152; emphasis added.) Note that the second, limiting part of that definition is crucial, since the underlined words provide essential restrictions on how far the Corps' responsibilities extend regarding documenting and controlling indirect emissions. Those restrictions from the rule's definition of "indirect emissions" are especially important, given the General Conformity Rule's broad, "but for" definition of the term "caused by": "Caused by, as used in the terms 'direct emissions' and 'indirect emissions,' means emissions that would not otherwise occur in the absence of the Federal action."[8] This definition of the term "caused by" can be characterized as a "but for" approach to the concept of causation, because, standing alone, it would require the Corps to take responsibility for all indirect emissions that would not occur without (i.e., "but for") the Corps permit or project. If the General Conformity Rule did not contain the various limiting provisions discussed herein, that "but for" approach to defining "caused by" would have made the Corps responsible for dealing with potential emissions that might not occur "but for" the Corps project or permit, but which might be substantially removed in time and/or distance from the Corps action; those emissions would be almost impossible for the Corps to predict, document, or control through mitigation measures.

Consequently, it is of considerable importance to the Corps Civil Works program that everyone understand and make proper use of the restrictions noted above in the definition of "indirect emissions" when deciding whether or how we need to prepare a CAA conformity determination. Of course, the Corps must consider the "direct emissions" caused by our proposed project or activity, or by the specific activity requiring a Corps permit. However, the final General Conformity Rule does not require the Corps to document or analyze any "indirect emissions" unless we determine that it would be practicable for the Corps to control them, and that the Corps would maintain control over them due to a continuing Corps program responsibility. As we shall discuss later, we expect that the Corps will not be legally required under the General Conformity Rule to analyze, document, and seek mitigation measures for indirect emissions for many Corps project-related actions, and for the vast majority of actions requiring Corps permit authorization, since often it will not be practicable for the Corps to control such emissions, and frequently the Corps will not have a continuing program responsibility to maintain control over them.

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[8] 40 CFR 913.152 (1994).

The logic behind the limitation on what "indirect emissions" the Corps must analyze, document, and seek mitigation measures to reduce, is explained in the preamble to EPA's rule, as follows:

> The EPA does not believe that it is reasonable to conclude that a Federal agency "supports" an activity by third persons over whom the agency has no practicable control--or "supports" emissions over which the agency has no practicable control, based on the mere fact that, if one inspects the "causal" chain of events, the activity or emissions can be described as being a "reasonably foreseeable" result of the agency's actions.
>
> In fact, achievement of the clean air goals is not primarily the responsibility of the Federal government. Instead, Congress assigned that responsibility to the State and local agencies.... Where the Federal control over the resultant emissions is relatively minor, the problem is likely caused by multiple pollution sources and a solution may be impossible unless it is directed at all the contributing sources. This role is given to the State and local agencies by Congress and should not be interpreted as the Federal agencies' role under section 176(c).[9]

IV. CORPS IMPLEMENTATION OF THE EPA GENERAL CONFORMITY RULE.

A. CORPS PROJECTS VERSUS NON-FEDERAL ACTIVITIES NEEDING CORPS PERMIT AUTHORIZATION.

From a legal point of view, many of the limitations on Corps responsibilities for documenting and mitigating for indirect emissions (as discussed above) apply to both Corps Civil Works projects and to Corps regulatory program actions regulating non-Federal activities. Nevertheless, there are some significant distinctions that must be made, as a practical matter, regarding how often and in what circumstances the Corps will voluntarily choose to go beyond our strict legal obligations under the General Conformity Rule regarding CAA analyses of indirect emissions. As we explain at some length hereinafter, for practical reasons, policy reasons, and legal reasons, we are not required to, and thus we will not, prepare CAA conformity determinations for the vast majority of the approximately 100,000 activities that we must authorize yearly through the Corps regulatory program. We intend to assert and make full use of the various exemptions and limitations written into the General Conformity Rule that apply to our regulatory program, which exemptions and limitations will usually lead us to conclude that the emissions we are responsible for fall below the de mimimis exemption level. Among the many reasons why this approach is necessary and appropriate is the fact

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[9] 58 Fed. Reg. 63220 (November 30, 1993)

that we must provide relatively expeditious decisions for non-Federal activities that require Corps permit authorization, and because all of the non-Federal activities that require Corps permits are fully subject to the CAA authorities of the U.S. EPA and of the state and local governments.

In contrast, some Corps water resource development projects go through lengthy planning processes, with full-scale NEPA Environmental Impact Statements, coordination with numerous state and Federal agencies, etc. Moreover, many of our water resource development projects are subject to litigation brought by project opponents. Consequently, wherever it is practicable and appropriate, the Corps will go beyond our strict legal obligations under the General Conformity Rule, and we will prepare CAA conformity determinations that consider indirect emissions that would follow from our project, even where it is debatable whether we could "practicably" control those indirect emissions, and even where it is debatable whether the Corps has a continuing program responsibility to control those indirect emissions. In other words, we should err on the side of caution in writing CAA conformity determinations for large-scale Corps projects, and in coordinating those determinations with the U.S. EPA and with state and local clean air agencies. However, whenever the Corps does voluntarily choose to go beyond our obligations under the General Conformity Rule while preparing a CAA conformity determination, the fact that we are voluntarily going beyond our understanding of our legal obligations must be clearly stated in our public documentation.

When the Corps prepares a CAA conformity determination for a Corps project in the planning stage, and in that conformity determination we voluntatily address all indirect emissions that would be "caused by" our project, that will provide us the valuable opportunity to demonstrate that any short-term increase in emissions from project construction will be entirely or partially offset by decreases in long-term, "without project condition" emissions, due to increased efficiencies (for example, through more efficient port operations from a port improvement project). Also, when we prepare a CAA conformity determination that deals with all indirect emissions that can reasonably be said to be "caused by" our project, our project can be presented to the state CAA authority and specifically approved as part of the state implementation plan, along with any necessary state revisions to that SIP necessary to accommodate the Federal project and all associated indirect emissions. Development and coordination of our CAA conformity determination should be undertaken as early as possible in the planning stage for a large-scale or litigation-prone Corps project. The resulting documentation will be extremely useful to help defend our project from potential litigation challenging compliance with the CAA. On the other hand, for small-scale Corps projects, covered only by environmental assessments and findings of no significant impact, and where no CAA-related litigation can be anticipated, we can probably rely only on the

exemptions found in the General Conformity Rule, and need not necessarily prepare a full-blown CAA conformity determination voluntarily addressing various indirect emissions. Please feel free to consult the points of contact provided in this guidance if you are in doubt about whether a particular Civil Works activity should be covered by a CAA conformity determination voluntarily covering indirect emissions.

B. THE CORPS REGULATORY PROGRAM.

One crucial aspect of this guidance involves how we expect all Corps offices to implement the CAA General Conformity Rule regarding non-Federal activities requiring authorization under the Corps regulatory program. Of course, if another Federal agency requires a Corps permit for one of its activities or projects, that Federal agency is fully responsible for ensuring compliance with CAA Section 176(c), and the Corps can adopt and rely upon that agency's conformity determination, or upon whatever waiver or presumption under the CAA General Conformity Rule that agency believes will satisfy CAA Section 176(c). However, for non-Federal activities, the Corps must take responsibility for whatever CAA conformity determination may be necessary. Nevertheless, for the reasons explained hereinafter, the new rule and its preamble clearly indicate that the vast majority of activities needing Corps permit authorization will not require a CAA conformity determination, because practically all of those activities will fall below the de minimis threshold levels for emissions specified at 40 CFR 93.153.

C. SCOPE OF ANALYSIS. One feature of EPA's final General Conformity Rule that clearly demonstrates that the Corps will not have to perform many conformity determinations is the rule's definition of the term "Federal action". The final rule's definition clearly distinguishes between large Federal projects, such as a Federally funded and Federally controlled military base, versus non-Federal undertakings that simply require a Federal permit. Oftentimes in the latter case, the Federal agency only has to permit a minor part, portion, or phase of a much larger non-Federal undertaking. To reflect the limited Federal responsibility under the CAA derived from such Federal permits, the EPA definition of "Federal action" indicates that, in complying with section 176(c), Federal regulatory agencies are only responsible for analyzing the emissions resulting from the "part, portion, or phase" of the non-Federal undertaking that they permit. To deal with this important point, the EPA added the following sentence to the final rule's definition of "Federal action":

> Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of

the non-Federal undertaking that requires the Federal permit, license, or approval.[10]

As you can see, the legal principle behind the quoted sentence is the same principle that supports the "narrow scope of analysis" approach for our NEPA documents reflected at Appendix B of 33 CFR Part 325, paragraph 7.b. and the "permit area" approach used to limit Corps responsibilities in Appendix C, implementing the National Historic Preservation Act.[11] The rule of administrative law and practice created by the sentence just quoted from EPA's definition of "Federal action" is that, for the limited and particular purposes of the CAA Conformity Rule and for every Corps CAA conformity determination for a Corps regulatory action under this rule, the Corps will always use a narrow "scope of analysis" for purposes of CAA Section 176(c), even if we choose to use a broader scope of analysis for purposes of NEPA, the public interest review, or the 404(b)(1) analysis for that same permit case.

This narrow scope of analysis for purposes of the CAA conformity analysis is always appropriate, for several reasons. For example, the Corps regulators have no expertise or authority allowing them to evaluate or control air emissions from the larger, overall projects, such as a shopping center, that may require a Corps permit for one phase or portion of that larger project (e.g., placement of fill material on which part of the shopping center will later be constructed and operated). In contrast, the state and EPA clean air authorities have broad, general authority, expertise, and responsibility to evaluate and control air emissions from the larger, overall projects, such as shopping centers, regardless of whether part of all of such a shopping center happens to be constructed on fill material permitted by the Corps of Engineers.

D. CONFORMITY DETERMINATIONS FOR CORPS PERMITS CASES WILL BE NECESSARY VERY RARELY. The sentence quoted above from EPA's definition of "Federal action" may well be the most important provision of the General Conformity Rule relating to the Corps regulatory program, because this provision, in conjunction with the restrictive language discussed above from the definition of "indirect emissions", means that very rarely will the Corps have to prepare a CAA conformity determination document for a Corps regulatory action. The reasons for this conclusion are reflected in the following case example, provided by EPA in the preamble of the final General Conformity Rule. In this example, the EPA shows the close relationship between the sentence quoted above from the definition of "Federal action" and the restrictive language from the definition of "indirect emissions", as follows:

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[10] 58 Fed. Reg. 63248 (November 30, 1993).

[11]. 55 Fed. Reg. 27000 (June 29, 1990)

> [In the final rule] the definition of "Federal action" is revised by adding the following sentence to the end of the definition in the [proposed rule]: Where the Federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase of the nonfederal undertaking that requires the Federal permit, license or approval. The following examples illustrate the meaning of the revised definition.
>
> Assume, for example, that the [Corps] issues a permit and that permitted fill activity represents one phase of a larger nonfederal undertaking; i.e., the construction of an office building by a nonfederal entity. Under the conformity rule, the [Corps] would be responsible for addressing all emissions from that one phase of the overall office development undertaking that the [Corps] permits; i.e., the fill activity at the wetland site. However, the [Corps] is not responsible for evaluating all emissions from later phases of the overall office development (the construction, operation, and use of the office building itself), because later phases generally are not within the [Corps'] continuing program responsibility and generally cannot be practicably controlled by the [Corps].[12]

The conclusion to be drawn regarding the preamble's case example is that the Corps almost certainly would not have to prepare a CAA conformity determination for that permit action described in the preamble, because the direct emissions from the fill activity would be relatively minor, and thus in all probability they would fall below the de minimis levels exempted by 40 CFR 93.153. Moreover, in this example one cannot identify any indirect emissions for which the Corps would be responsible.

E. "PART, PORTION, OR PHASE" OF A LARGER UNDERTAKING. The preamble for the final rule provides several other important explanatory passages that accurately describe the limited nature of the responsibilities the Corps must fulfill as we operate our regulatory program in compliance with EPA's General Conformity Rule. As the EPA states in the preamble, the "inclusive definition" that EPA had published for public comment in the proposed rule to define the term "indirect emissions" would have been overly burdensome and inappropriate for regulatory programs that might have to "document the air quality affects from tens of thousands of public and private business activities each year, even where the associated Federal action in extremely minor."[13] The EPA

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[12] 58 Fed. Reg. 63227 (November 30, 1993).

[13] 58 Fed. Reg. 63219 (November 30, 1993).

goes on to use the Corps in an illustration of this point by explaining that:

> [T]he Army Corps of Engineers estimates that 65,000 of their regulatory actions would have required a conformity review in 1992 under the inclusive definition. The [Corps] permits are often limited to a small portion of a much larger project and, thus, may not be the best mechanism to review the larger project: e.g., one river crossing for a 500 mile gas pipeline or a half-acre wetland fill for a twenty acre shopping mall.[14]

As the EPA explains here, it would be impractical to force a Federal regulatory agency like the Corps to do potentially time-consuming and costly air quality analyses when the activity that agency permits may be a very minor aspect of a much larger non-Federal undertaking, and when that specific activity needing a Corps permit may have little or no effect on air quality.

F. CONTINUING PROGRAM RESPONSIBILITY. The EPA also used the Corps in an illustration to explain the phrase "continuing program responsibility" in the definition of the term "indirect emissions". In their example the EPA explains that only if the Corps were to impose conditions on a permit as part of its responsibilities under its regulatory program and these permit conditions, in and of themselves, would lead to an increase in the air emissions caused by the activity, would the Corps be required to include the air emissions caused by its permit conditions in our CAA conformity analysis.[15] However, the preamble to EPA's rule makes clear that normally the Corps is not responsible for indirect emissions related to activities needing Corps permits:

> j. Exclusive definition [for the term "indirect emissions"]--types of Federal actions not covered. The following types of Federal actions, among others, are not covered by the conformity rule under the exclusive definition approach [i.e., the approach adopted in the final rule]....(3) Certain indirect emissions related to a [Corps of Engineers] permit for the discharge of dredged or fill material. The indirect emissions from development activities related to [Corps] permit actions are not subject to the continuing program responsibility of the [Corps], or cannot be practicably controlled by the [Corps].[16]

The EPA preamble also recognizes that the Corps has an explicit exemption from the conformity rule where:

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[14] 58 Fed. Reg. 63219 (November 30, 1993).

[15] 58 Fed. Reg. 63220 (November 30, 1993).

[16] 58 Fed. Reg. 63224 (November 30, 1993).

> The indirect emissions from development activities related to [Corps] permit actions are not covered where such emissions are not subject to the continuing program responsibility of the [Corps], or cannot be practicably controlled by the [Corps].[17]

The EPA then goes on in the preamble to explain the changes in the definition for the term "indirect emissions" that EPA adopted in its final General Conformity Rule (i.e., the "exclusive" definition). Again it uses the Corps in an illustration. The EPA points out that conformity analyses are not required when Federal actions are incidental to later development by private parties. As the EPA states:

> ...this approach would not require a conformity analysis for certain Federal actions that are necessary for, but incidental to, subsequent development by private parties. For example, the exclusive definition does not generally require that a [Corps] fill permit needed for a relatively minor part, portion, or phase of a twenty acre development on private land would somehow require the [Corps] to evaluate all emissions from the construction, operation, and use of that larger development.[18] (emphasis added)

Here the EPA explains that the "activity" contemplated under section 176(c) in many cases is properly limited to the particular "part, portion, or phase" of a non-Federal action that is actually permitted by the regulatory agency (i.e., the Corps). As the EPA goes on to explain:

> The person's [i.e., permit applicant's] activities that fall outside the Federal agency's continuing program responsibility to control are subject to control by state and local agencies.[19]

As indicated above, generally speaking the Corps does not have a continuing program responsibility to measure, monitor, control, or mitigate for air emissions that may result from the construction or operation of a non-Corps facility (such as a shopping center, factory, or non-Federal port), even though some part, portion, or phase of that facility requires a permit from the Corps. Under the CAA, the state and local clean air authorities have full responsibility and authority to deal with those emissions, and to prevent or condition the construction of the non-Federal facility as necessary to deal with those air emissions. Under the General

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[17] 58 Fed. Reg. 63224 (November 30, 1993).

[18] 58 Fed. Reg. 63222 (November 30, 1993).

[19] 58 Fed. Reg. 63222 (November 30, 1993)

Conformity Rule the Corps (1) must consider direct emissions from only the particular part, portion, or phase of the larger, non-Federal facility that we permit; and (2) we must consider indirect emissions from that same part, portion, or phase, and then only to the extent that we can practicably control them, and have a continuing program responsibility to control them.

G. CORPS DOCUMENTATION OF COMPLIANCE WITH CAA SECTION 176(C)

For any permit case where the Corps reasonably determines that the emissions from the particular "part, portion, or phase" of a larger, non-Federal undertaking, needing a Corps permit, would fall below the de minimis threshold levels of 40 CFR 93.153, the Corps will not have to conduct a technical analysis to document that the emissions from the proposed undertaking would not exceed the de minimis thresholds. This conclusion is supported by the following example taken from EPA's preamble to the General Conformity Rule:

> Example 4: Where a [Corps of Engineers] permit is needed to fill a wetland so that a shopping center can be built on the fill, generally speaking, the [Corps] could not practicably maintain control over and would not have a continuing program responsibility to control indirect emissions from subsequent construction, operation, or use of that shopping center. Therefore, only those emissions from the equipment and motor vehicles used in the filling operation, support equipment, and emissions from movement of the fill material itself would be included in the analysis. If such emissions are below the de minimis levels described below for applicability purposes (section 51.858), no conformity determination ... would be required for the issuance of the ... permit.[20]

The same point is made elsewhere in the preamble to the General Conformity Rule, as follows:

> Most Federal actions result in little or no direct or indirect air emissions. The EPA intends such actions to be exempted under the de minimis levels specified in the rule and, thus, no further analysis by the Federal agency is required to demonstrate that such actions conform.... Further, the EPA believes that Federal actions which are de minimis should not be required by this rule to make an applicability analysis. A different interpretation could result in an extremely wasteful process which generates vast numbers of useless conformity statements. Paragraphs (c)(1) and (2) of Section 51.853 are added to the final rule to provide that de minimis actions are exempt from the requirements of this rule. Therefore, it is

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[20] 58 Fed. Reg. 63223 (November 30, 1993).

not necessary for a Federal agency to document emissions levels for a de minimis action.[21]

Although we expect that the vast majority of activities needing Corps permits will not need CAA conformity determinations for the reasons explained above, nevertheless, for any permit case where litigation can be anticipated if the Corps issues the permit, the permit administrative record should explain our limited CAA responsibilities under the CAA General Conformity Rule, and the basis for our conclusion that the relevant emissions would be de minimis. That explanation often may need to include a discussion of why it would not be "practicable" for the Corps to control certain specified indirect emissions, and why the Corps does not have a continuing program responsibility to control such indirect emissions, and why our CAA responsibilities are limited to the particular "part, portion, or phase" of a larger undertaking requiring Corps permit authorization.

V. CONCLUSION.

Because of the various provisions discussed above, we expect that very few Corps permit actions will require CAA conformity analyses, and that our CAA conformity determinations will normally conclude that the air emissions relevant to our permit action are safely below the final rule's de minimis levels. It seems that the only time that the Corps will have to do a full-scale CAA conformity determination in a permit case is when the emissions associated with the particular activity needing the Corps permit, or the particular activity required by Corps permit conditions (e.g., the placement of the fill, or the construction of the structure in the water, or the actual dredging and disposal operation, or implementation of the required mitigation plan) are so substantial that those emissions would exceed the de minimis thresholds by themselves. This conclusion flows logically from the provisions discussed above from EPA's final rule and preamble, based in part on the principle of limited Corps responsibilities under the CAA.

Nevertheless, the practical necessity that the Corps will use a "narrow scope of analysis" to limit our requirements under the CAA conformity rule must not lead the Corps necessarily to use such a narrow scope of analysis for purposes of the Corps' other responsibilities under other aspects of the public interest review or the 404(b)(1) Guidelines. Because the Corps has ample discretion to adopt and use a broader scope of analysis for purposes of NEPA, the Endangered Species Act, etc., we will not use the CAA conformity determination as an excuse or occasion to reduce our more wide-ranging reviews and responsibilities under those other statutes and regulations.

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[21] 58 Fed. Reg. 63228-63229 (November 30, 1993).

The Corps' very limited expertise, authority, and continuing program responsibilities regarding air emissions fully justifies our using a narrow scope of analysis for purposes of compliance with CAA Section 176(c). In contrast, our broader, traditional responsibility, authority, and expertise to regulate activities affecting aquatic resources will often justify our using a broader scope of analysis to consider effects of a proposed undertaking on aquatic resources, endangered species, etc. Thus, for any particular permit case, the Corps will implement the CAA General Conformity Rule by focusing on only the specific part, portion, or phase of the larger undertaking that requires our permit authorization. Nevertheless, we often will consider all direct and indirect effects of the larger undertaking when evaluating effects on the aquatic environment.

Corps Headquarters points of contact for this guidance are Lance Wood and Bill Sapp of the Office of the Chief Counsel (CECC-E); their telephone number is (202) 272-0035. However, non-counsel Corps employees should only contact them in conjunction with district/division counsel to ensure proper coordination.

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