Appendix B4

Draft General Conformity Determination

DRAFT GENERAL CONFORMITY DETERMINATION

BERTHS 226-236 [EVERPORT] CONTAINER TERMINAL IMPROVEMENT PROJECT

The Port of Los Angeles, California

April 2017

Prepared for:

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Section 1
Introduction

The U.S. Army Corps of Engineers (USACE) is considering the Los Angeles Harbor Department's (LAHD) application to implement the Berths 226-236 [Everport] Container Terminal Improvements Project (proposed project), which includes the dredging and potential transport and ocean disposal of dredged material; raising of up to five existing and installation of additional container loading apparatus (i.e., over-water gantry cranes); and structural wharf improvements within 100 feet of the waters' edge associated with improvements to the existing container terminal at Berths 226-236 (the Everport Container Terminal) located on Terminal Island within the Port of Los Angeles.

Section 176 (c) of the Clean Air Act (CAA) (42 United States Code [USC] § 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 CAA (42 USC § 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 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. The federal actions should be consistent with the objective of the Air Quality Management Plan (AQMP).

Pursuant to Section 176(c) of the CAA (40 USC 7506(c)), the proposed project would occur in a nonattainment area and pollutant emissions generated by the federal action associated with the proposed project would equal or exceed a specified annual *de minimis* emission rate (i.e., for nitrogen oxides [NOx] in this case), a General Conformity Determination must be performed by the lead federal agency to ensure that it conforms with the CAA before the federal action can be approved. The USACE is the lead federal agency under the National Environmental Policy Act (NEPA). This document includes a CAA General Conformity Determination (GCD) for the federal action associated with this project. The conformity analysis is done for activities that would require a federal action (associated with the proposed project). This GCD analyzed whether the emissions/impacts that would result from the federal action would conform to the most recent United States Environmental Protection Agency (EPA) approved SIP.

The EPA promulgated general conformity regulations under the CAA in 40 Code of Federal Regulations (CFR) Part 93, "Determining Conformity of Federal Actions to State or Federal Implementation Plans." Section 2 discusses the regulations (conformity requirements) that apply to this project. Section 3 describes the federal action. Section 4 discusses the regulatory procedures for the conformity evaluation. Section 5 describes how applicability of the conformity requirements to the federal action was analyzed. Section 6 presents the methods and criteria that were used to evaluate the conformity of the federal action. Section 7 discusses the concepts of

mitigation required under conformity regulations. Section 8 presents the reporting process to be followed to formalize the conformity determination. Section 9 offers the USACE's findings and conclusions. Section 10 provides references for this evaluation.

Section 2

Conformity Requirements

2.1 Transportation Conformity Requirements

The EPA promulgated two regulations to address conformity requirements of the CAA. On November 24, 1993, EPA promulgated final transportation conformity regulations at 40 CFR Part 93 Subpart A to address federally-assisted transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 USC or the Federal Transit Laws (40 USC Chapter 53). This subpart sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to Section 110 and Part D of the CAA. These regulations have been revised several times since they were first issued to clarify and simplify them. They were most recently amended on March 24, 2010. In 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 (RTP) or regional transportation improvement program and not as a stand-alone project.

To receive any FHWA/FTA approval or funding actions, including NEPA approvals, for a project phase subject to this subpart, a currently conforming transportation plan and transportation implementation program (TIP) must be in place at the time of project approval. However, because of reasons discussed above, this project is not subject to approval of FHWA/FTA. Therefore, transportation conformity requirements do not directly apply to this project and so, they are not discussed in the rest of the determination.

2.2 General Conformity Requirements

On November 30, 1993, EPA promulgated final general conformity guidance to the states at 40 CFR Part 51 Subpart W to develop general conformity regulations 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, and EPA approved this rule as part of the California SIP on April 23, 1999 (64 Federal Register [FR] 19916). Parallel general conformity regulations at 40 CFR Part 93 Subpart B apply in areas where EPA has not approved general conformity requirements to the state's implementation plan. On April 5, 2010, EPA promulgated revised general conformity requirements at 40 CFR Part 93 Subpart B (75 FR 17254). In the same action, EPA eliminated most of the general conformity requirements under 40 CFR Part 51 Subpart W, because they were mostly duplicative of the requirements at 40 CFR Part 93 Subpart B, and

revised 40 CFR § 51.851 to remove the obligation for states to include general conformity requirements in their implementation plans. The revised regulations took effect on July 6, 2010.

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. 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 CFR § 93.153(b) to 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 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.

Section 3
Description of Federal Action

In accordance with applicable general conformity regulations and guidance, including USACE guidance dated April 20, 1994 (USACE 1994; see Attachment A), 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 final general conformity determination is related only to those activities included in the USACE's federal action pertaining to the proposed project, which is more fully described in Section 3.1.

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 redesignated from nonattainment to attainment and requiring SIP provisions pursuant to Section 175A of the CAA to demonstrate how attainment will be maintained).

3.1 Proposed Project

The LAHD will require a permit (authorization) from USACE to complete several key elements of the proposed project. The project site is located at 389 Terminal Way on Terminal Island in the Port of Los Angeles, and within the Port's Community Plan area of the City and County of Los Angeles, California. As it relates to the federal action, the purpose of the proposed project is to:

- Optimize marine shipping and commerce by upgrading the container terminal's infrastructure in, over, and under water; and
- Increase and improve terminal backlands to accommodate the projected throughput and fleet mix of larger container ships (up to 16,000 twenty-foot equivalent units [TEU]) that are anticipated to call at the terminal through 2038.

Construction of only a portion of the proposed project would require USACE approval. That portion makes up the federal action and includes the following elements.

Dredging and Wharf Improvements

- The proposed improvements to Berths 226-229 are designed to accommodate larger ships and would include: 1) dredging to increase the depth from -45 to -53 feet MLLW plus two feet of over depth tolerance (for a total of -55 feet mean lower low water (MLLW)); and 2) the installation of king piles and approximately 1,400 linear feet of sheet piles to stabilize the wharf and accommodate the dredging activities and deeper design depth.

- The proposed improvements at Berths 230-232 are also designed to accommodate larger ships and would include: 1) dredging to increase the depth from -45 to -47 feet MLLW plus two feet of over depth tolerance (for a total of -49 feet MLLW); and 2) the installation of approximately 1,400 linear feet of sheet piles to stabilized the wharf.

- The LAHD has proposed to dispose of approximately 38,000 cubic yards of dredged materials (30,000 cubic yards from Berths 226-229 and 8,000 cubic yards from Berths 230-232) at an approved ocean disposal site (i.e., LA-2), an approved upland disposal facility, or a combination of the two. However, the Los Angeles Region Contaminated Sediments Task Force has evaluated the sediments and determined all the dredged material is suitable for ocean disposal at LA-2. Approval of ocean disposal by the USACE and USEPA is pending.

Crane Improvements

- Raising of up to five of the existing over-water gantry (wharf) cranes and addition of five new 100-foot gauge A-frame over-water wharf cranes. These additional cranes would be installed upon existing crane rails at Berths 226-229 to accommodate larger ships at the proposed deeper berths. Addition of the new cranes would require infrastructure improvements (such as cable and electrical upgrades).

Construction of the proposed project, including those elements not subject to USACE approval, would result in significant ambient air quality impacts under NEPA and the California Environment Quality Act (CEQA). Under CEQA, mitigation must be applied to significant impacts and a mitigation monitoring and reporting plan (MMRP) developed to demonstrate that the mitigation measures will be implemented. The construction mitigation measures MM AQ-1 through MM AQ-5, summarized below, were developed and will be implemented to reduce the construction-related air quality impacts.

MM AQ-1: Harbor Craft Used During Construction. Harbor craft used during construction must be equipped with EPA Tier 3 engine standards or cleaner at all times during construction.

MM AQ-2: On-road Trucks Used during Construction. On-road trucks shall comply with EPA 2010 on-road emission standards or better, unless contractor can reasonably demonstrate that such equipment is unavailable to the satisfaction of Los Angeles Harbor Department (LAHD).

MM AQ-3: Non-Road Construction Equipment (except vessels, harbor craft, on-road trucks, and dredging equipment). All non-road construction equipment greater than 50 horsepower must meet EPA Tier 4 emission standards, unless contractor can reasonably demonstrate that such equipment is unavailable to the satisfaction of LAHD.

MM AQ-4: Cargo Ships Used During Construction. All ships and barges used primarily to deliver construction-related materials or cranes shall comply with the expanded Vessel Speed Reduction Program (VSRP) of 12 knots between 40 nautical miles (nm) from Point Fermin and the Precautionary Area.

MM AQ-5: General Construction Mitigation Measure. For MM AQ-1 through MM AQ-4, if a California Air Resources Board (CARB)-certified technology becomes available that is as

good as or better than the existing measure in terms of emissions performance, the technology could replace the existing technology if approved by LAHD.

In addition, the following measure will reduce operational impacts associated with the delivery by cargo ship of the new wharf cranes:

MM AQ-6: Vessel Speed Reduction Program (VSRP). Starting January 1, 2019 and thereafter, 95 percent of Evergreen ships calling at the Everport Container Terminal shall be required to comply with the expanded VSRP at 12 knots between 40 nm from Point Fermin and the Precautionary Area. Starting January 1, 2026, 95 percent of all ships calling at the Everport Container Terminal will follow this requirement. Alternative Compliance Plans will be considered where a different speed that would result in fewer emissions compared to the current speed limits.

Any alternative compliance plan shall be submitted to LAHD at least 90 days in advance for approval and shall be supported by data that demonstrates the ability of the alternative compliance plan for the specific vessel and type to achieve emissions reductions comparable to or greater than those achievable by compliance with VSRP. The alternative compliance plan shall be implemented once written notice of approval is granted by the LAHD.

3.2 Relationship to Other Environmental Analysis

NEPA and CEQA require the determination as to whether the proposed project would have significant and unavoidable impacts on the environment. The difference between the proposed project or project alternative and the baseline is then compared to a threshold to determine if the difference between the two is significant. For the purposes of the EIS/EIR for the proposed project, the City of Los Angeles CEQA thresholds will be used for determining significance under both NEPA and CEQA, except as noted for certain key resource areas. NEPA and CEQA use different baseline conditions from which significance is determined. Because the baselines are different, review under NEPA and CEQA could reach different conclusions concerning the significance of project impacts.

The NEPA baseline, or No Federal Action Alternative, would not include any dredging, ocean disposal of dredged material, wharf improvements, crane modifications, or new cranes in, over, or under navigable waters of the United States related to the proposed project. However, under the NEPA baseline scenario, the backlands improvements, certain wharf efficiency improvements (those not associated with USACE jurisdiction) and lease amendment could occur in the absence of a USACE permit, and existing operations - including projected growth in goods movement using existing and previously approved infrastructure, and improved backlands – would continue up to the terminal's maximum physical capacity of approximately 1.8 million TEUs.

The CEQA baseline normally represents conditions existing prior to the start of environmental review for approval of the proposed project. For purposes of the EIS/EIR, the CEQA baseline includes the existing container terminal configuration and operational activities for the calendar year preceding the NOP date (i.e., calendar year 2013). For the 12-month period between January 1 and December 31, 2013, the Everport Container Terminal encompassed approximately 205

acres (181 acres under its long-term lease plus an additional 25 acres on month-to-month space assignment), supported eight (8) cranes and handled approximately 1.2 million TEUs.

Section 4
Regulatory Procedures

The procedural requirements established by the general conformity regulations must be followed when preparing the general conformity evaluation. This section describes how these requirements are met for the evaluation of the federal action.

4.1 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 CFR § 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 Southern California Association of Governments (SCAG) adopted the 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (2016 RTP/SCS) on April 7, 2016 (SCAG 2016). On June 1, 2016, FHWA and FTA issued a finding that the 2016 RTP/SCS conforms with the applicable SIP (i.e., the transportation conformity determination).

The 2016 RTP/SCS does predict continued growth in container volume through the Ports of Los Angeles and Long Beach through at least 2035. The overall growth in container throughput at the ports is expected to be over 2.5 times the 2010 volumes, and includes anticipated growth at the Port of Los Angeles container terminals.

The 2016 RTP/SCS (or Plan) includes significant investments in a regional freight corridor and other improvements to facilitate goods movement. It is estimated that the Plan would reduce heavy-duty truck delay on the highway and arterial systems. The Plan would result in an eight percent reduction in greenhouse gas emissions per capita by 2020, an 18 percent reduction by 2035 and a 21 percent reduction by 2040—compared with 2005 levels.

As noted previously, SCAG is the MPO for the region encompassing Port of Los Angeles. The SCAB region covers an area of over 38,000 square miles and includes the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura. The growth forecast for the 2016 RTP estimated a region-wide population growth of approximately 20 percent by 2040.

4.2 Use of Latest Emission Estimation Techniques

Emissions must be estimated by using the latest emission estimation techniques as per the general conformity requirements. The latest and most accurate emission estimation techniques available and used at the time of this evaluation may differ from the emissions estimation techniques used in establishing the applicable SIP emissions budgets. The appropriate air quality emission models were used to estimate emissions from construction activities in this project. The models include EMFAC (2014), and OFFROAD (2011, 2007). The emission estimating process is discussed in more detail in Berths 226-236 [Everport] Container Terminal Improvements Project

Draft EIS/EIR (see Section 3.2, Air Quality and Meteorology, and Appendix B of the Draft EIS/EIR – USACE/USHD 2017).

4.3 Emission Scenarios

According to the 40 CFR § 93.159(d), the conformity analysis must reflect certain emission scenarios that are expected to occur under the following cases.

- The attainment year specified in the SIP, or if the SIP does not specify an attainment year, the latest attainment year possible under the Act; or
- The last year for which emissions are projected in the maintenance plan;
- The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and
- Any year for which the applicable SIP specifies an emissions budget.

Table 4-1 specifies the years for which the general conformity evaluation was performed for comparison to the proposed SIP revisions (the 2012 AQMP). As the 2016 AQMP was under development during the creation of the Berths 226-236 [Everport] Container Terminal Improvements Project Draft EIS/EIR, the 2012 AQMP was considered the current AQMP and used for this analysis.

Table 4-1 Emission Scenario Years for General Conformity Evaluation Based on 2012 AQMP

Pollutant	Attainment/ Maintenance	Greatest Emission Year	Years Analyzed for General Conformity[1,2]
Ozone (VOC or NO_X)	2023	2018	2018

Notes:
VOC = volatile organic compounds
1. Federal action construction does not extend beyond 2019; therefore, no comparisons to budgets for milestone years beyond 2019 (2023 and 2030) are included.
2. No project construction occurred in 2008 or 2014, and very little is expected to occur in 2019; therefore, no comparisons to budgets for these years are necessary.

Section 5
Applicability Analysis

As mentioned earlier, the first step in the general conformity evaluation is an analysis to find if the requirements apply to the proposed federal action. If the total direct or indirect emissions caused by the federal action would equal or exceed an annual *de minimis* emission rate, a general conformity determination for each pollutant would be required.

5.1 Attainment Status of SCAB

The Port of Los Angeles is located within Los Angeles County in the SCAB of southern California. The SCAQMD and CARB are the primary two regulatory agencies for air quality management in the SCAB with oversight by the EPA. The pollutants for which standards are established are criteria pollutants. EPA listed particulate matter (PM_{10}, $PM_{2.5}$), carbon monoxide (CO), sulfur dioxide (SO_2), ozone, nitrogen dioxide (NO_2), and lead (Pb) as criteria pollutants. EPA established primary NAAQS to protect the public health and secondary NAAQS to protect the public welfare. **Table 5-1** shows the current attainment status of the pollutants in the SCAB.

Table 5-1 NAAQS Attainment Status SCAB

Criteria Pollutant	Averaging Time	Designation	Attainment Date
1979 1-Hour Ozone	1-Hour (0.12 ppm)	Nonattainment (Extreme)	11/15/2010 (not attained)
1997 8-Hour Ozone	8-Hour (0.08 ppm)	Nonattainment (Extreme)	6/15/2024
2008 8-Hour Ozone	8-Hour (0.075 ppm)	Nonattainment (Extreme)	12/31/2032
CO	1-Hour (35 ppm) 8-Hour (9 ppm)	Attainment (Maintenance)	6/11/2007 (attained)
NO_2	1-Hour (100 ppb)	Unclassifiable/Attainment	Attained
	Annual (0.053 ppm)	Attainment (Maintenance)	9/22/1998
SO_2	1-Hour (75 ppb)	Designations Pending	Pending
	3-Hour (0.5 ppm) 24-Hour (0.14 ppm) Annual (0.03 ppm)	Unclassifiable/Attainment	3/19/1979 (attained)
PM10	24-hour (150 µg/m3)	Attainment (Maintenance)	12/31/2006 (attained)
PM2.5	24-Hour (35 µg/m3)	Nonattainment (Serious)	12/31/2019
	Annual (12.0 µg/m3)	Nonattainment	4/5/2015
Lead	3-Months Rolling (0.15 µg/m3)	Nonattainment (Partial)	12/31/2015

Sources: SCAQMD AQMP 2012; 81 FR 1514 (2016); and 78 FR 38223.

5.2 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 that would be 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 CFR § 93.153(c)(2)). Examples include administrative actions and routine maintenance and repair.
- Actions where the emissions are not reasonably foreseeable (40 CFR § 93.153(c)(3)).
- Actions which implement a decision to conduct or carry out a conforming program (40 CFR § 93.153 (c)(4)).
- Actions which include major or minor new or modified sources requiring a permit under the New Source Review (NSR) program or the Prevention of Significant Deterioration (PSD) program (40 CFR § 93.153(d)(1)).
- Actions in response to emergencies which are typically commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of 40 CFR § 93.153(e) (40 CFR § 93.153(d)(2)).
- Actions which include air quality research not harming the environment (40 CFR § 93.153(d)(3)).
- Actions which include modifications to existing sources to enable compliance with applicable environmental requirements (40 CFR § 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 CFR § 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 CFR § 93.153(f)). However, none of the exemptions listed above apply to this project, and the USACE has not established a presumed-to-conform activities list. Therefore, exemptions are not discussed in the rest of the determination.

5.3 General Conformity *de minimis* Thresholds

If the total of the direct or indirect emissions caused by the proposed action exceed or equal the conformity *de minimis* thresholds shown in **Table 5-2**, conformity determination needs to be made. Only the pollutants which exceed these thresholds must undergo a full general conformity determination.

Table 5-2 General Conformity *de minimis* Thresholds for the South Coast Air Basin

Criteria Pollutant: and Quantified Precursors	SCAB Attainment Status Designations	*de minimis* Threshold tons per year (tpy)
Nitrogen Dioxide: **NOx**	Attainment/Maintenance	--- 100
Ozone: **NOx** **VOC**	Nonattainment/Extreme	--- 10 10
Carbon Monoxide	Attainment/Maintenance	100
Particulate Matter PM_{10}	Attainment/Maintenance	100
Particulate Matter $PM_{2.5}$: **Directly Emitted $PM_{2.5}$** **SOx** **NOx** **VOC**	Nonattainment/Serious	--- 70 70 70 70

Source: 40 CFR § 93.153(b)(1)

5.4 Applicability for Federal Action

The general conformity regulations applicability to the federal action was evaluated by comparing the emissions to the *de minimis* emission rates. The peak year of construction emissions was found to be 2018; therefore, the 2018 construction emissions were compared to the *de minimis* thresholds, as shown in **Table 5-3**. The total of direct and indirect emissions for that year were calculated and presented in Attachment B.

Table 5-3 Everport 2018 Federal Action Emission Rates

Pollutant	Federal Action Emission Rates, tpy	Most Stringent Conformity *de minimis* Threshold, tpy	Above Threshold?
NOx	14.30	10 (as an ozone precursor)	**Yes**
VOC	1.43	10 (as an ozone precursor)	No
CO	7.21	100 (maintenance)	No
SOx	0.03	70 (as a $PM_{2.5}$ precursor)	No
PM_{10}	0.59	100 (maintenance)	No
$PM_{2.5}$	0.42	70 (nonattainment/serious)	No

The total of direct and indirect emissions of VOC, CO, SO_x, PM_{10}, and $PM_{2.5}$ from the federal action are less than the general conformity *de minimis* threshold emission rates shown in **Table 5-2**. Therefore, the general conformity regulations do not apply to these pollutants, and no additional conformity evaluation need be made for these pollutants.

Because the total of direct and indirect emissions of NOx from the federal action exceeds the "extreme" ozone nonattainment area conformity *de minimis* threshold, the general conformity requirements apply to NOx emissions from the action. Subsequent sections of this document will address the general conformity evaluation of NOx as applicable to the federal action.

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Section 6
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 CFR § 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 final determination.

6.1 Designation of Applicable SIP

Section 110(a) of the CAA (42 USC § 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.

6.1.1 SIP Process in the South Coast Air Basin

California law provides for the establishment of air quality management districts and air pollution control districts within California for the purpose of implementing and enforcing ambient air quality standards on a county or regional (airshed) basis. State law also requires the districts in areas with poor air quality to prepare regional plans (AQMPs) to support the broader SIP, as well as to meet the goals of the California CAA. The SCAQMD is the local air district for the Port of Los Angeles/project site.

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 in the SIP.

The current approved SIP for the SCAB is based on the 2012 AQMP. The 2012 AQMP was prepared by SCAQMD in conjunction with the CARB, the SCAG and the EPA.

The 2012 AQMP was adopted by the SCAQMD Governing Board on December 7, 2012. It incorporates the latest scientific and technological information and planning assumptions, including the 2012 RTP Sustainable Communities Strategy and updated emission inventory methodologies for various source categories. The 2012 AQMP included the new and changing federal requirements, implementation of new technology measures, and the continued development of economically sound, flexible compliance approaches. Control measure IND-01 was approved for adoption and inclusion in the 2012 AQMP at the February 1, 2013 Governing

Board meeting. A Supplement to the 2012 AQMP was prepared to demonstrate attainment of the 24-hour $PM_{2.5}$ standard by 2015. The Governing Board approved the Supplement on February 5, 2015, and submitted to CARB / EPA for approval as part of the California SIP.

This GCD evaluates the proposed project on the basis of the currently approved SIP.

6.1.2 Status of Applicable SIP and Emissions Budgets for NOx

The CAA 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 actions. Upon re-designation of an area from nonattainment to attainment for each standard, the area will be considered to be a maintenance area for that standard (pursuant to Section 175A of the CAA), and as such, must meet all applicable requirements to maintain the standard.

To support the general conformity determination, this document demonstrates that the emissions of NOx (as an ozone precursor) caused by the federal action would result in a level of emissions which, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the most recent federally approved SIP. The currently approved general conformity budgets for ozone precursors are contained in the 2012 AQMP (page III-2-53), approved by EPA on April 14, 2016 (81 FR 22025).

6.2 Comparison to SIP Emissions Inventories

Under the general conformity regulations, a federal action can be determined to conform to the applicable SIP for ozone if the action is specifically identified and accounted for in the SIP's attainment demonstration or reasonable further progress milestone, or in a facility-wide emission budget included in the SIP; if the total of direct and indirect emissions from the action are fully offset within the same nonattainment area by a revision to the applicable SIP or a similarly federally enforceable measure; or if the state agency responsible for the SIP determines and documents that the total of direct and indirect emissions from the action can be accommodated within the SIP emissions budgets.

As an ozone precursor, the NOx federal action emissions have been identified by SCAQMD as contained in the SIP Conformity Emissions budget for the SCAB (SCAQMD 2016, see Attachment C). Therefore, the emissions from the federal action conform with the intent of the SIP.

6.3 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 CFR § 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 actions were assessed for SIP consistency for this evaluation.

6.3.1 Applicable Requirements from EPA

EPA has already promulgated, and will continue to promulgate, requirements to support the goals of the CAA 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 CAA and can impose stricter limitations than EPA, the EPA requirements often serve as guidance to the states in formulating their air quality management strategies.

6.3.2 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 CAA from regulating emissions from many non-road mobile sources, including marine craft. Emission standards for preempted equipment can only be set by EPA.

6.3.3 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.

6.3.4 Consistency with Applicable Requirements

In operating the Port of Los Angeles, 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 United States. 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 CFR 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 NOx, 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 ultra-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.

Section 7
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 prior to a positive conformity determination, and the federal agency must include the mitigation measures as conditions in any permit or license granted for the federal action (40 CFR § 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 Berths 226-236 [Everport] Container Terminal Improvements Project Draft EIS/EIR (USACE/LAHD 2017) to meet CEQA requirements are part of the proposed project. Based on CEQA provisions that mitigation measures be required in, or incorporated into, the project (14 C.C.R. § 15091(a)(1)), LAHD will implement, maintain, monitor, and enforce these CEQA-related air quality mitigation measures pursuant to the MMRP, which will be included in the certified Final EIR for the project; see Section 3.1 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 a 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. Because the USACE has determined that the federal action, which incorporates the abovementioned CEQA-related mitigation measures as design features of the proposed project, will conform to the CAA, no mitigation, as defined under the general conformity regulations (40 CFR § 93.160) or guidance (EPA 1994), are required to support a positive general conformity determination.

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Section 8
Reporting

To support a decision concerning the federal action, the USACE is issuing this draft GCD for public disclosure purposes.

8.1 Draft General Conformity Determination

The USACE is providing copies of the draft GCD to the appropriate regional offices of EPA, any affected federal land manager, as well as to CARB, SCAQMD, and SCAG for a 45-day review. The USACE is also placing a notice in a daily newspaper of general circulation in the SCAB announcing the availability of the draft GCD and requesting written public comments for a 45-day period, coincidental with the draft EIS/EIR review period.

8.2 Final General Conformity Determination

The USACE will provide copies of the final GCD 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 GCD 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 GCD and will make both the comments and responses available upon request by any person within 30 days of the promulgation of the final GCD.

8.3 Reevaluation of General Conformity

The general conformity regulations state that once a conformity determination is completed, that determination is not required to be reevaluated if the responsible federal agency has maintained a continuous program to implement the action, the determination has not lapsed, or any modification to the federal action does not result in an increase in emissions above the *de minimis* emission rates (40 CFR § 93.157(a)). The conformity status of a federal action automatically lapses five years from the date a final GCD is reported, unless the federal action has been completed or a continuous program to implement the federal action has commenced (40 CFR § 93.157(b)). Because the federal action envisions a development program that will not extend beyond five years, it is anticipated that the final GCD will remain active for the standard five year effectiveness portion of the regulation.

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, USACE will conduct a new general conformity evaluation.

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Section 9
Findings and Conclusions

As part of the environmental review of the federal action, the USACE conducted a general conformity evaluation pursuant to 40 CFR Part 93 Subpart B. The general conformity regulations apply at this time to any action at the Port of Los Angeles requiring USACE approval because the SCAB where the Port is situated is a nonattainment area for ozone, 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, CARB, SCAQMD, and SCAG. The USACE proposes that the federal action as designed will conform to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards, based on the findings below:

- The federal action is not subject to a general conformity determination for CO, VOC (as an ozone and $PM_{2.5}$ precursor), NOx (as a $PM_{2.5}$ and NO_2 precursor), PM_{10}, $PM_{2.5}$, or SOx (as a $PM_{2.5}$ precursor) because the net emissions associated with the federal action are less than the general conformity *de minimis* thresholds.
- The NOx emissions (as an ozone precursor) from the federal action will exceed the general conformity *de minimis* thresholds and were found by the SCAQMD to be included in the EPA-approved Conformity Budgets presented in the 2012 AQMP (i.e., the current SIP NOx budgets).

Therefore, USACE herewith concludes that the federal action as designed conforms to the purpose of the SIP, and it is consistent with all applicable requirements.

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Section 10
References

40 CFR Part 51 Subpart W. Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

40 CFR Part 93 Subpart A. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 USC or the Federal Transit Laws.

40 CFR. Part 93 Subpart B. Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

58 FR 63241. Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Final Rule. November 30, 1993.

64 FR 19916. Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules. April 23, 1999.

75 FR 17254. Revisions to the General Conformity Regulations; Final Rule. April 5, 2010.

75 FR 24409. Designations of Areas for Air Quality Planning Purposes; California; San Joaquin Valley, South Coast Air Basin, Coachella Valley, and Sacramento Metro 8-Hour Ozone Nonattainment Areas; Reclassification. May 5, 2010.

77 FR 12674. Approval of Air Quality Implementation Plans; California— South Coast. Final Rule. March 1. 2012.

78 FR 38223. Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Air Basin; Approval of PM10 Maintenance Plan and Redesignation to Attainment for the PM10 Standard. Final Rule. June 26, 2013.

81 FR 1514. Designation of Areas for Air Quality Planning Purposes; California; South Coast; Reclassification as Serious Nonattainment for the 2006 PM2.5 NAAQS. Final Rule. January 13, 2016.

81 FR 22025 - Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; California; South Coast; Moderate Area Plan For the 2006 $PM_{2.5}$

California Air Resources Board (CARB). 2009. Speciation Profiles Used in ARB Modeling: http://www.arb.ca.gov/ei/speciate/speciate.htm .

Southern California Association of Governments (SCAG). 2012. 2012 Regional Transportation Plan. Web site: http://scagrtpscs.net/Pages/2012RTPSCS.aspx

Southern California Association of Governments (SCAG). 2016. 2016 Regional Transportation Plan. Web site: http://scagrtpscs.net/Pages/FINAL2016RTPSCS.aspx

South Coast Air Quality Management District (SCAQMD). 2012. Final 2012 Air Quality Management Plan. June. Website: http://www.aqmd.gov/home/library/clean-air-plans/air-quality-mgt-plan/final-2012-air-quality-management-plan.

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. Army Corps of Engineers/Los Angeles Harbor Department (USACE/LAHD). 2017. Berths 226-236 [Everport] Container Terminal improvements Project Draft EIS/EIR. April

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

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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Attachment B

Port of Los Angeles
Berths 226-236 (Everport) Container Terminal Improvements Project
Federal Action General Conformity Determination

Construction Phase/Element		Federal Action Emissions, tpy						No. Days	No. Equip	Loads (cy)	Loads (veh)	One-way Distance (mi)	One-way Distance in SCAB (mi)	Hours	Usage	Notes
		CO	VOC	NOx	PM10	PM2.5	SOx									
Phase 1: Berths 230-232 Dredging - 2018																
Sheet Piling	Derrick Barge	-	-	-	-	-	-	70	1		-	-	-	8	100%	carries hammers
	Compressor	6.62E-02	2.21E-02	1.48E-01	5.19E-03	4.97E-03	3.28E-04	70	1		-	-	-	4	100%	
	Barge Crane	5.39E-02	1.16E-02	5.96E-02	1.80E-03	1.72E-03	3.00E-04	70	1		-	-	-	8	100%	
	Deck Door Engine	4.81E-02	1.04E-02	1.18E-01	3.15E-03	3.02E-03	3.02E-04	70	1		-	-	-	8	100%	
	Generator	2.45E-01	8.65E-02	5.46E-01	1.95E-02	1.86E-02	1.20E-03	70	1		-	-	-	8	100%	
	Hoist Swing Winch	8.20E-02	2.79E-02	1.83E-01	6.47E-03	6.19E-03	4.05E-04	70	1		-	-	-	8	100%	
	Hoist Swing Pump	2.41E-01	6.37E-02	5.56E-01	1.75E-02	1.67E-02	1.26E-03	70	1		-	-	-	8	100%	
	Vibratory Hammer	1.07E-01	2.97E-02	3.19E-01	1.15E-02	1.10E-02	5.62E-04	70	1		-	-	-	4.8	100%	drives piles first
	Pile Hammer	1.78E-02	4.96E-03	5.32E-02	1.91E-03	1.83E-03	9.37E-05	70	1		-	-	-	0.8	100%	hammers at end
	Supply Barge	-	-	-	-	-	-	70	1		-	-	-	8	100%	
	Tug Boat	2.55E-01	1.65E-02	3.02E-01	7.49E-03	6.67E-03	2.81E-04	70	1		-	-	-	2	100%	move barges
	Dive Boat	3.61E-01	2.34E-02	4.28E-01	1.06E-02	9.40E-03	3.98E-04	70	1		-	-	-	3	100%	inspections
exhaust	Delivery Trucks (offsite)	1.21E-03	5.14E-04	2.00E-02	8.49E-05	8.13E-05	4.88E-05	70	-		30	65	65	-	-	deliver sheet piles
brake wear	Delivery Trucks (offsite)	-	-	-	5.60E-04	2.40E-04	-	70	-		30	65	65	-	-	deliver sheet piles
tire wear	Delivery Trucks (offsite)	-	-	-	5.16E-05	1.29E-05	-	70	-		30	65	65	-	-	deliver sheet piles
entrained road dust	Delivery Trucks (offsite)	-	-	-	8.25E-04	1.24E-04	-	70	-		30	65	65	-	-	deliver sheet piles
exhaust	Delivery Trucks (onsite)	8.49E-05	2.80E-05	5.77E-04	1.20E-06	1.15E-06	1.08E-06	70	-		30	-	-	-	-	deliver sheet piles
brake wear	Delivery Trucks (onsite)	-	-	-	4.31E-06	1.85E-06	-	70	-		30	-	-	-	-	deliver sheet piles
tire wear	Delivery Trucks (onsite)	-	-	-	3.97E-07	9.92E-08	-	70	-		30	-	-	-	-	deliver sheet piles
entrained road dust	Delivery Trucks (onsite)	-	-	-	4.41E-04	6.62E-05	-	70	-		30	-	-	-	-	deliver sheet piles
Dredging - Ocean Disposal	Derrick Barge	-	-	-	-	-	-	6	1		-	-	-	22	100%	carries clam budget
	Barge Crane	1.27E-02	2.74E-03	1.41E-02	4.23E-04	4.05E-04	7.06E-05	6	1		-	-	-	22	100%	
	Deck Door Engine	1.13E-02	2.46E-03	2.79E-02	7.43E-04	7.11E-04	7.12E-05	6	1		-	-	-	22	100%	
	Dredger (Clam Shell)	4.47E-02	1.58E-02	1.02E-01	3.59E-03	3.44E-03	2.18E-04	6	1		-	-	-	22	100%	
	Generator	5.78E-02	2.04E-02	1.29E-01	4.59E-03	4.39E-03	2.82E-04	6	1		-	-	-	22	100%	
	Hoist Swing Winch	1.93E-02	6.59E-03	4.32E-02	1.52E-03	1.46E-03	9.54E-05	6	1		-	-	-	22	100%	
	Hoist Swing Pump	5.68E-02	1.50E-02	1.31E-01	4.12E-03	3.94E-03	2.98E-04	6	1		-	-	-	22	100%	
	Tug Boat	5.47E-02	3.53E-03	6.48E-02	1.61E-03	1.43E-03	6.01E-05	6	1		-	-	-	5	100%	move derrick barge
	Clam Bucket	-	-	-	-	-	-	6	1		-	-	-	8	100%	
	Dump Scows	-	-	-	-	-	-	6	2		-	-	-	8	100%	hold material & haul to ocean disposal
	Generator	5.26E-03	1.85E-03	1.17E-02	4.18E-04	3.99E-04	2.57E-05	6	2		-	-	-	1	100%	activates scow
	Tug Boat	4.82E-01	3.11E-02	5.70E-01	1.41E-02	1.26E-02	5.29E-04	6	2		-	-	-	22	100%	move dump scows
exhaust	Worker Commute (offsite)	1.69E-03	1.93E-04	1.51E-04	3.33E-06	3.07E-06	4.44E-06	6	-		45	12.7	12.7	-	-	
brake wear	Worker Commute (offsite)	-	-	-	4.61E-05	1.98E-05	-	6	-		45	12.7	12.7	-	-	
tire wear	Worker Commute (offsite)	-	-	-	1.00E-05	2.51E-06	-	6	-		45	12.7	12.7	-	-	
entrained road dust	Worker Commute (offsite)	-	-	-	2.41E-04	3.62E-05	-	6	-		45	12.7	12.7	-	-	

Port of Los Angeles
Berths 226-236 (Everport) Container Terminal Improvements Project
Federal Action General Conformity Determination

Construction Phase/Element		Federal Action Emissions, tpy						No. Days	No. Equip	Loads (cy)	Loads (veh)	One-way Distance (mi)	One-way Distance in SCAB (mi)	Hours	Usage	Notes
		CO	VOC	NOx	PM10	PM2.5	SOx									
Dredging - Upland Disposal	Derrick Barge	-	-	-	-	-	-	21	1		-	-	-	22	100%	carries clam budget
	Barge Crane	4.44E-02	9.58E-03	4.92E-02	1.48E-03	1.42E-03	2.47E-04	21	1		-	-	-	22	100%	
	Deck Door Engine	3.96E-02	8.61E-03	9.76E-02	2.60E-03	2.49E-03	2.49E-04	21	1		-	-	-	22	100%	
	Dredger (Clam Shell)	7.82E-02	2.77E-02	1.78E-01	6.28E-03	6.01E-03	3.82E-04	21	1		-	-	-	11	100%	
	Generator	2.02E-01	7.14E-02	4.50E-01	1.61E-02	1.54E-02	9.89E-04	21	1		-	-	-	22	100%	
	Hoist Swing Winch	6.77E-02	2.31E-02	1.51E-01	5.34E-03	5.11E-03	3.34E-04	21	1		-	-	-	22	100%	
	Hoist Swing Pump	1.99E-01	5.26E-02	4.59E-01	1.44E-02	1.38E-02	1.04E-03	21	1		-	-	-	22	100%	
	Tug Boat	1.92E-01	1.24E-02	2.27E-01	5.62E-03	5.00E-03	2.10E-04	21	1		-	-	-	5	100%	move derrick barge
	Clam Bucket	-	-	-	-	-	-	21	1		-	-	-	8	100%	
	Dump Scows	-	-	-	-	-	-	21	2		-	-	-	8	100%	hold material
	Tug Boat	1.92E-01	1.24E-02	2.27E-01	5.62E-03	5.00E-03	2.10E-04	21	1		-	-	-	5	100%	move dump scows
	Excavator	5.86E-02	9.74E-03	3.76E-02	3.32E-04	3.18E-04	1.42E-04	21	1		-	-	-	8	100%	transfer from scow to trucks
exhaust	Haul Trucks (offsite)	2.37E-02	1.00E-02	3.89E-01	1.66E-03	1.58E-03	9.51E-04	21	-	8000	400	200	95	-	-	no loading fugitive dust
brake wear	Haul Trucks (offsite)	-	-	-	1.09E-02	4.68E-03	-	21	-		400	200	95	-	-	
tire wear	Haul Trucks (offsite)	-	-	-	1.01E-03	2.51E-04	-	21	-		400	200	95	-	-	
entrained road dust	Haul Trucks (offsite)	-	-	-	1.61E-02	2.41E-03	-	21	-		400	200	95	-	-	
exhaust	Haul Trucks (onsite)	1.13E-03	3.74E-04	7.69E-03	1.61E-05	1.54E-05	1.43E-05	21	-	8000	400	-	-	-	-	no loading fugitive dust
brake wear	Haul Trucks (onsite)	-	-	-	5.75E-05	2.46E-05	-	21	-		400	-	-	-	-	
tire wear	Haul Trucks (onsite)	-	-	-	5.29E-06	1.32E-06	-	21	-		400	-	-	-	-	
entrained road dust	Haul Trucks (onsite)	-	-	-	5.88E-03	8.83E-04	-	21	-		400	-	-	-	-	
exhaust	Worker Commute (offsite)	5.82E-03	6.63E-04	5.20E-04	1.14E-05	1.05E-05	1.53E-05	21	-		154	12.7	12.7	-	-	
brake wear	Worker Commute (offsite)	-	-	-	1.58E-04	6.79E-05	-	21	-		154	12.7	12.7	-	-	
tire wear	Worker Commute (offsite)	-	-	-	3.45E-05	8.62E-06	-	21	-		154	12.7	12.7	-	-	
entrained road dust	Worker Commute (offsite)	-	-	-	8.28E-04	1.24E-04	-	21	-		154	12.7	12.7	-	-	
Berths 230-232 Dredging & Ocean Disposal Total Emissions, tpy		**2.22**	**0.40**	**3.83**	**0.12**	**0.11**	**0.01**									
Berths 230-232 Dredging & Upland Disposal Total Emissions, tpy		**2.58**	**0.54**	**5.01**	**0.18**	**0.15**	**0.01**									

Port of Los Angeles
Berths 226-236 (Everport) Container Terminal Improvements Project
Federal Action General Conformity Determination

Construction Phase/Element		Federal Action Emissions, tpy						No. Days	No. Equip	Loads (cy)	Loads (veh)	One-way Distance (mi)	One-way Distance in SCAB (mi)	Hours	Usage	Notes
		CO	VOC	NOx	PM10	PM2.5	SOx									
Phase 2: Berths 226-228 Dredging - 2018																
Sheet & King Pile Installation	Derrick Barge	-	-	-	-	-	-	100	1		-	-	-	8	100%	carries hammers
	Compressor	9.46E-02	3.15E-02	2.12E-01	7.42E-03	7.10E-03	4.69E-04	100	1		-	-	-	4	100%	
	Barge Crane	7.69E-02	1.66E-02	8.52E-02	2.57E-03	2.45E-03	4.28E-04	100	1		-	-	-	8	100%	
	Deck Door Engine	6.86E-02	1.49E-02	1.69E-01	4.51E-03	4.31E-03	4.32E-04	100	1		-	-	-	8	100%	
	Generator	3.50E-01	1.24E-01	7.80E-01	2.78E-02	2.66E-02	1.71E-03	100	1		-	-	-	8	100%	
	Hoist Swing Winch	1.17E-01	3.99E-02	2.62E-01	9.24E-03	8.84E-03	5.78E-04	100	1		-	-	-	8	100%	
	Hoist Swing Pump	3.44E-01	9.10E-02	7.95E-01	2.50E-02	2.39E-02	1.81E-03	100	1		-	-	-	8	100%	
	Vibratory Hammer	1.53E-01	4.25E-02	4.56E-01	1.64E-02	1.57E-02	8.03E-04	100	1		-	-	-	4.8	100%	drives piles first
	Pile Hammer	2.54E-02	7.08E-03	7.60E-02	2.73E-03	2.62E-03	1.34E-04	100	1		-	-	-	0.8	100%	hammers at end
	Jet Pump	1.33E-01	1.84E-02	2.01E-01	1.53E-02	1.46E-02	2.46E-04	100	1		-	-	-	8	50%	for pile hammer
	Supply Barge	-	-	-	-	-	-	100	1		-	-	-	8	100%	
	Tug Boat	3.65E-01	2.36E-02	4.32E-01	1.07E-02	9.52E-03	4.01E-04	100	1		-	-	-	2	100%	move barges
	Dive Boat	5.15E-01	3.34E-02	6.12E-01	1.51E-02	1.34E-02	5.69E-04	100	1		-	-	-	3	100%	inspections
exhaust	Delivery Trucks (offsite)	1.21E-03	5.14E-04	2.00E-02	8.49E-05	8.13E-05	4.88E-05	100	-		30	65	65	-	-	deliver sheet piles
brake wear	Delivery Trucks (offsite)	-	-	-	5.60E-04	2.40E-04	-	100	-		30	65	65	-	-	
tire wear	Delivery Trucks (offsite)	-	-	-	5.16E-05	1.29E-05	-	100	-		30	65	65	-	-	
entrained road dust	Delivery Trucks (offsite)	-	-	-	8.25E-04	1.24E-04	-	100	-		30	65	65	-	-	
exhaust	Delivery Trucks (onsite)	8.49E-05	2.80E-05	5.77E-04	1.20E-06	1.15E-06	1.08E-06	100	-		30	-	-	-	-	deliver sheet piles
brake wear	Delivery Trucks (onsite)	-	-	-	4.31E-06	1.85E-06	-	100	-		30	-	-	-	-	
tire wear	Delivery Trucks (onsite)	-	-	-	3.97E-07	9.92E-08	-	100	-		30	-	-	-	-	
entrained road dust	Delivery Trucks (onsite)	-	-	-	4.41E-04	6.62E-05	-	100	-		30	-	-	-	-	
exhaust	Delivery Trucks (offsite)	2.83E-03	1.20E-03	4.66E-02	1.98E-04	1.90E-04	1.14E-04	100	-		70	65	65	-	-	deliver king piles
brake wear	Delivery Trucks (offsite)	-	-	-	1.31E-03	5.60E-04	-	100	-		70	65	65	-	-	
tire wear	Delivery Trucks (offsite)	-	-	-	1.20E-04	3.01E-05	-	100	-		70	65	65	-	-	
entrained road dust	Delivery Trucks (offsite)	-	-	-	1.93E-03	2.89E-04	-	100	-		70	65	65	-	-	
exhaust	Delivery Trucks (onsite)	1.98E-04	6.54E-05	1.35E-03	2.81E-06	2.69E-06	2.51E-06	100	-		70	-	-	-	-	deliver king piles
brake wear	Delivery Trucks (onsite)	-	-	-	1.01E-05	4.31E-06	-	100	-		70	-	-	-	-	
tire wear	Delivery Trucks (onsite)	-	-	-	9.26E-07	2.31E-07	-	100	-		70	-	-	-	-	
entrained road dust	Delivery Trucks (onsite)	-	-	-	1.03E-03	1.54E-04	-	100	-		70	-	-	-	-	
Dredging - Ocean Disposal	Derrick Barge	-	-	-	-	-	-	22	1		-	-	-	22	100%	carries clam budget
	Barge Crane	4.66E-02	1.00E-02	5.16E-02	1.55E-03	1.49E-03	2.59E-04	22	1		-	-	-	22	100%	
	Deck Door Engine	4.15E-02	9.02E-03	1.02E-01	2.73E-03	2.61E-03	2.61E-04	22	1		-	-	-	22	100%	
	Dredger (Clam Shell)	1.64E-01	5.80E-02	3.74E-01	1.32E-02	1.26E-02	8.00E-04	22	1		-	-	-	22	100%	
	Generator	2.12E-01	7.48E-02	4.72E-01	1.68E-02	1.61E-02	1.04E-03	22	1		-	-	-	22	100%	
	Hoist Swing Winch	7.09E-02	2.42E-02	1.59E-01	5.59E-03	5.35E-03	3.50E-04	22	1		-	-	-	22	100%	
	Hoist Swing Pump	2.08E-01	5.51E-02	4.81E-01	1.51E-02	1.45E-02	1.09E-03	22	1		-	-	-	22	100%	
	Tug Boat	2.01E-01	1.30E-02	2.38E-01	5.89E-03	5.24E-03	2.21E-04	22	1		-	-	-	5	100%	move derrick barge
	Clam Bucket	-	-	-	-	-	-	22	1		-	-	-	8	100%	
	Dump Scows	-	-	-	-	-	-	22	2		-	-	-	8	100%	hold material & haul to ocean disposal
	Generator	1.93E-02	6.80E-03	4.29E-02	1.53E-03	1.46E-03	9.41E-05	22	2		-	-	-	1	100%	activates scow
	Tug Boat	1.77E+00	1.14E-01	2.09E+00	5.18E-02	4.61E-02	1.94E-03	22	2		-	-	-	22	100%	move dump scows
exhaust	Worker Commute (offsite)	6.90E-03	7.86E-04	6.17E-04	1.36E-05	1.25E-05	1.81E-05	22	-		183	12.7	12.7	-	-	
brake wear	Worker Commute (offsite)	-	-	-	1.88E-04	8.06E-05	-	22	-		183	12.7	12.7	-	-	
tire wear	Worker Commute (offsite)	-	-	-	4.09E-05	1.02E-05	-	22	-		183	12.7	12.7	-	-	
entrained road dust	Worker Commute (offsite)	-	-	-	9.82E-04	1.47E-04	-	22	-		183	12.7	12.7	-	-	

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		CO	VOC	NOx	PM10	PM2.5	SOx									
Dredging - Upland Disposal	Derrick Barge	-	-	-	-	-	-	37	1		-	-	-	22	1	carries clam budget
	Barge Crane	7.83E-02	1.69E-02	8.67E-02	2.61E-03	2.50E-03	4.35E-04	37	1		-	-	-	22	1	
	Deck Door Engine	6.98E-02	1.52E-02	1.72E-01	4.58E-03	4.39E-03	4.39E-04	37	1		-	-	-	22	1	
	Dredger (Clam Shell)	1.38E-01	4.88E-02	3.14E-01	1.11E-02	1.06E-02	6.73E-04	37	1		-	-	-	11	1	
	Generator	3.57E-01	1.26E-01	7.94E-01	2.83E-02	2.71E-02	1.74E-03	37	1		-	-	-	22	1	
	Hoist Swing Winch	1.19E-01	4.06E-02	2.67E-01	9.40E-03	9.00E-03	5.88E-04	37	1		-	-	-	22	1	
	Hoist Swing Pump	3.50E-01	9.26E-02	8.09E-01	2.54E-02	2.43E-02	1.84E-03	37	1		-	-	-	22	1	
	Tug Boat	3.37E-01	2.18E-02	4.00E-01	9.90E-03	8.81E-03	3.71E-04	37	1		-	-	-	5	1	move derrick barge
	Clam Bucket	-	-	-	-	-	-	37	1		-	-	-	8	1	
	Dump Scows	-	-	-	-	-	-	37	2		-	-	-	8	1	hold material
	Tug Boat	3.37E-01	2.18E-02	4.00E-01	9.90E-03	8.81E-03	3.71E-04	37	1		-	-	-	5	1	move dump scows
	Excavator	1.03E-01	1.72E-02	6.63E-02	5.85E-04	5.60E-04	2.51E-04	37	1		-	-	-	8	1	transfer from scow to trucks
exhaust	Haul Trucks (offsite)	1.09E-01	4.63E-02	1.80E+00	7.66E-03	7.33E-03	4.40E-03	37	-	37000	1850	200	95	-	-	no loading fugitive dust
brake wear	Haul Trucks (offsite)	-	-	-	5.05E-02	2.16E-02	-	37	-		1850	200	95	-	-	
tire wear	Haul Trucks (offsite)	-	-	-	4.65E-03	1.16E-03	-	37	-		1850	200	95	-	-	
entrained road dust	Haul Trucks (offsite)	-	-	-	7.44E-02	1.12E-02	-	37	-		1850	200	95	-	-	
exhaust	Haul Trucks (onsite)	5.23E-03	1.73E-03	3.56E-02	7.43E-05	7.11E-05	6.63E-05	37	-	37000	1850	-	-	-	-	no loading fugitive dust
brake wear	Haul Trucks (onsite)	-	-	-	2.66E-04	1.14E-04	-	37	-		1850	-	-	-	-	
tire wear	Haul Trucks (onsite)	-	-	-	2.45E-05	6.12E-06	-	37	-		1850	-	-	-	-	
entrained road dust	Haul Trucks (onsite)	-	-	-	2.72E-02	4.08E-03	-	37	-		1850	-	-	-	-	
exhaust	Worker Commute (offsite)	1.12E-02	1.28E-03	1.00E-03	2.21E-05	2.03E-05	2.95E-05	37	-		297	12.7	12.7	-	-	
brake wear	Worker Commute (offsite)	-	-	-	3.06E-04	1.31E-04	-	37	-		297	12.7	12.7	-	-	
tire wear	Worker Commute (offsite)	-	-	-	6.66E-05	1.67E-05	-	37	-		297	12.7	12.7	-	-	
entrained road dust	Worker Commute (offsite)	-	-	-	1.60E-03	2.40E-04	-	37	-		297	12.7	12.7	-	-	
Berths 226-228 Dredging & Ocean Disposal Total Emissions, tpy		**4.98**	**0.81**	**8.16**	**0.26**	**0.24**	**0.01**									
Berths 226-228 Dredging & Upland Disposal Total Emissions, tpy		**4.26**	**0.89**	**9.29**	**0.41**	**0.27**	**0.02**									

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		CO	VOC	NOx	PM10	PM2.5	SOx									
Phase 3: Install Electrical Substation and Feeder Cable Conduit - 2019																
Electrical substation, feeder cable conduits, cable horn boxes								120								
	Sawcutter	3.17E-02	5.27E-03	2.04E-02	1.80E-04	1.72E-04	8.04E-05	23	1	-	-	-	-	8	100%	sawcut existing pavement
	Backhoe	2.98E-02	4.95E-03	1.91E-02	1.69E-04	1.62E-04	7.55E-05	23	1	-	-	-	-	8	100%	remove pavement, trench
exhaust	Haul Trucks - AC pavement (offsite)	1.99E-04	8.44E-05	3.27E-03	1.39E-05	1.33E-05	8.01E-06	23	-	160	16	20	20	-	-	
brake wear	Haul Trucks - AC pavement (offsite)	-	-	-	9.20E-05	3.94E-05	-	23	-		16	20	20	-	-	
tire wear	Haul Trucks - AC pavement (offsite)	-	-	-	8.47E-06	2.12E-06	-	23	-		16	20	20	-	-	
entrained road dust	Haul Trucks - AC pavement (offsite)	-	-	-	1.35E-04	2.03E-05	-	23	-		16	20	20	-	-	
exhaust	Haul Trucks - AC pavement (onsite)	4.53E-05	1.50E-05	3.08E-04	6.42E-07	6.15E-07	5.74E-07	23	-	160	16	-	-	-	-	
brake wear	Haul Trucks - AC pavement (onsite)	-	-	-	2.30E-06	9.85E-07	-	23	-		16	-	-	-	-	
tire wear	Haul Trucks - AC pavement (onsite)	-	-	-	2.12E-07	5.29E-08	-	23	-		16	-	-	-	-	
entrained road dust	Haul Trucks - AC pavement (onsite)	-	-	-	2.35E-04	3.53E-05	-	23	-		16	-	-	-	-	
exhaust	Haul Trucks - soil (offsite)	2.84E-03	1.20E-03	4.67E-02	1.99E-04	1.90E-04	1.14E-04	23	-	960	48	200	95	-	-	
brake wear	Haul Trucks - soil (offsite)	-	-	-	1.31E-03	5.62E-04	-	23	-		48	200	95	-	-	
tire wear	Haul Trucks - soil (offsite)	-	-	-	1.21E-04	3.02E-05	-	23	-		48	200	95	-	-	
entrained road dust	Haul Trucks - soil (offsite)	-	-	-	1.93E-03	2.90E-04	-	23	-		48	200	95	-	-	
exhaust	Haul Trucks - soil (onsite)	1.36E-04	4.49E-05	9.23E-04	1.93E-06	1.84E-06	1.72E-06	23	-	960	48	-	-	-	-	
brake wear	Haul Trucks - soil (onsite)	-	-	-	6.90E-06	2.96E-06	-	23	-		48	-	-	-	-	
tire wear	Haul Trucks - soil (onsite)	-	-	-	6.35E-07	1.59E-07	-	23	-		48	-	-	-	-	
entrained road dust	Haul Trucks - soil (onsite)	-	-	-	7.06E-04	1.06E-04	-	23	-		48	-	-	-	-	
Loading	fugitive dust (offsite)	-	-	-	5.42E-05	8.20E-06	-	23								
Loading	fugitive dust (onsite)	-	-	-	5.42E-05	8.20E-06	-	23								
	Vibrating Compactor	4.39E-04	7.30E-05	2.82E-04	2.49E-06	2.38E-06	1.48E-06	6	1	-	-	-	-	8	100%	compact footprint
exhaust	Slurry Truck (offsite)	3.21E-03	1.36E-03	5.27E-02	2.24E-04	2.15E-04	1.29E-04	18	-	1025	103	50	50	-	-	backfill trench
brake wear	Slurry Truck (offsite)	-	-	-	1.48E-03	6.34E-04	-	18	-		103	50	50	-	-	
tire wear	Slurry Truck (offsite)	-	-	-	1.36E-04	3.41E-05	-	18	-		103	50	50	-	-	
entrained road dust	Slurry Truck (offsite)	-	-	-	2.18E-03	3.27E-04	-	18	-		103	50	50	-	-	
exhaust	Slurry Truck (onsite)	2.91E-04	9.63E-05	1.98E-03	4.14E-06	3.96E-06	3.69E-06	18	-	1025	103	-	-	-	-	backfill trench
brake wear	Slurry Truck (onsite)	-	-	-	1.48E-05	6.34E-06	-	18	-		103	-	-	-	-	
tire wear	Slurry Truck (onsite)	-	-	-	1.36E-06	3.41E-07	-	18	-		103	-	-	-	-	
entrained road dust	Slurry Truck (onsite)	-	-	-	1.51E-03	2.27E-04	-	18	-		103	-	-	-	-	
	Forklift	1.69E-02	2.80E-03	1.08E-02	9.55E-05	9.14E-05	4.10E-05	12	1	-	-	-	-	8	100%	move rebar
exhaust	Concrete Trucks (offsite)	1.21E-04	5.14E-05	2.00E-03	8.49E-06	8.13E-06	4.88E-06	12	-	30	3	65	65	-	-	concrete foundation
brake wear	Concrete Trucks (offsite)	-	-	-	5.60E-05	2.40E-05	-	12	-		3	65	65	-	-	
tire wear	Concrete Trucks (offsite)	-	-	-	5.16E-06	1.29E-06	-	12	-		3	65	65	-	-	
entrained road dust	Concrete Trucks (offsite)	-	-	-	8.25E-05	1.24E-05	-	12	-		3	65	65	-	-	
exhaust	Concrete Trucks (onsite)	8.49E-06	2.80E-06	5.77E-05	1.20E-07	1.15E-07	1.08E-07	12	-	30	3	-	-	-	-	concrete foundation
brake wear	Concrete Trucks (onsite)	-	-	-	4.31E-07	1.85E-07	-	12	-		3	-	-	-	-	
tire wear	Concrete Trucks (onsite)	-	-	-	3.97E-08	9.92E-09	-	12	-		3	-	-	-	-	
entrained road dust	Concrete Trucks (onsite)	-	-	-	4.41E-05	6.62E-06	-	12	-		3	-	-	-	-	
exhaust	Equipment Trucks (offsite)	2.33E-04	9.87E-05	3.83E-03	1.63E-05	1.56E-05	9.37E-06	19	-		19	20	20	8	100%	electricians truck
brake wear	Equipment Trucks (offsite)	-	-	-	1.08E-04	4.61E-05	-	19	-		19	20	20	-	-	
tire wear	Equipment Trucks (offsite)	-	-	-	9.90E-06	2.48E-06	-	19	-		19	20	20	-	-	
entrained road dust	Equipment Trucks (offsite)	-	-	-	1.58E-04	2.38E-05	-	19	-		19	20	20	-	-	
exhaust	Equipment Trucks (onsite)	5.29E-05	1.75E-05	3.60E-04	7.52E-07	7.19E-07	6.71E-07	19	-		19	-	-	8	100%	electricians truck
brake wear	Equipment Trucks (onsite)	-	-	-	2.69E-06	1.15E-06	-	19	-		19	-	-	-	-	
tire wear	Equipment Trucks (onsite)	-	-	-	2.48E-07	6.19E-08	-	19	-		19	-	-	-	-	
entrained road dust	Equipment Trucks (onsite)	-	-	-	2.75E-04	4.13E-05	-	19	-		19	-	-	-	-	
exhaust	Equipment Trucks (offsite)	3.84E-04	1.63E-04	6.31E-03	2.69E-05	2.57E-05	1.54E-05	31	-		31	20	20	8	100%	electricians truck
brake wear	Equipment Trucks (offsite)	-	-	-	1.77E-04	7.59E-05	-	31	-		31	20	20	-	-	
tire wear	Equipment Trucks (offsite)	-	-	-	1.63E-05	4.08E-06	-	31	-		31	20	20	-	-	
entrained road dust	Equipment Trucks (offsite)	-	-	-	2.61E-04	3.92E-05	-	31	-		31	20	20	-	-	

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		CO	VOC	NOx	PM10	PM2.5	SOx									
exhaust	Equipment Trucks (onsite)	8.72E-05	2.88E-05	5.92E-04	1.24E-06	1.18E-06	1.10E-06	31	-		31	-	-	8	100%	electricians truck
brake wear	Equipment Trucks (onsite)	-	-	-	4.43E-06	1.90E-06	-	31	-		31	-	-	-	-	
tire wear	Equipment Trucks (onsite)	-	-	-	4.08E-07	1.02E-07	-	31	-		31	-	-	-	-	
entrained road dust	Equipment Trucks (onsite)	-	-	-	4.53E-04	6.80E-05	-	31	-		31	-	-	-	-	
	Crane	4.90E-02	8.15E-03	3.15E-02	2.78E-04	2.66E-04	1.04E-04	18	1	-	-	-	-	8	100%	place equipment
exhaust	Worker Commute (offsite)	1.25E-02	1.42E-03	1.11E-03	2.45E-05	2.26E-05	3.27E-05	120	-		330	12.7	12.7	-	-	
brake wear	Worker Commute (offsite)	-	-	-	3.40E-04	1.46E-04	-	120	-		330	12.7	12.7	-	-	
tire wear	Worker Commute (offsite)	-	-	-	7.39E-05	1.85E-05	-	120	-		330	12.7	12.7	-	-	
entrained road dust	Worker Commute (offsite)	-	-	-	1.77E-03	2.66E-04	-	120	-		330	12.7	12.7	-	-	
DWP new service	Equipment Trucks (offsite)	7.47E-04	3.16E-04	1.23E-02	5.23E-05	5.00E-05	3.00E-05	60	-		60	20	20	8	100%	electricians truck
brake wear	Equipment Trucks (offsite)	-	-	-	3.45E-04	1.48E-04	-	60	-		60	20	20	-	-	
tire wear	Equipment Trucks (offsite)	-	-	-	3.17E-05	7.94E-06	-	60	-		60	20	20	-	-	
entrained road dust	Equipment Trucks (offsite)	-	-	-	5.08E-04	7.62E-05	-	60	-		60	20	20	-	-	
exhaust	Equipment Trucks (onsite)	1.70E-04	5.61E-05	1.15E-03	2.41E-06	2.31E-06	2.15E-06	60	-		60	-	-	8	100%	electricians truck
brake wear	Equipment Trucks (onsite)	-	-	-	8.62E-06	3.69E-06	-	60	-		60	-	-	-	-	
tire wear	Equipment Trucks (onsite)	-	-	-	7.94E-07	1.98E-07	-	60	-		60	-	-	-	-	
entrained road dust	Equipment Trucks (onsite)	-	-	-	8.82E-04	1.32E-04	-	60	-		60	-	-	-	-	
Phase 3: Install Electrical Substation & Cable Tot Emissions, tpy		**0.15**	**0.03**	**0.22**	**0.02**	**0.005**	**0.001**									

Port of Los Angeles
Berths 226-236 (Everport) Container Terminal Improvements Project
Federal Action General Conformity Determination

Construction Phase/Element		Federal Action Emissions, tpy						No. Days	No. Equip	Loads (cy)	Loads (veh)	One-way Distance (mi)	One-way Distance in SCAB (mi)	Hours	Usage	Notes
		CO	VOC	NOx	PM10	PM2.5	SOx									
Crane Delivery - 2019																
	Cargo Ship (Berth+Zones 1-5)	7.04E-01	3.07E-01	8.46E+00	1.54E-01	1.42E-01	3.00E-01	7	2					24	100%	
	Tug Boat	1.61E-02	1.04E-03	1.90E-02	4.71E-04	4.19E-04	1.76E-05	2	4					1.1	100%	
	Crane	3.90E-02	6.48E-03	2.50E-02	2.21E-04	2.11E-04	8.26E-05	7	2	-	-	-	-	8	100%	
	Welder	9.06E-03	1.51E-03	5.82E-03	5.14E-05	4.91E-05	2.30E-05	7	2	-	-	-	-	8	100%	
	Tractor	9.46E-02	1.57E-02	6.08E-02	5.36E-04	5.13E-04	2.30E-04	7	2	-	-	-	-	8	100%	
exhaust	Worker Commute (offsite)	3.70E-03	4.22E-04	3.31E-04	7.27E-06	6.70E-06	9.71E-06	7	-		98	12.7	12.7	-	-	
brake wear	Worker Commute (offsite)	-	-	-	1.01E-04	4.32E-05	-	7	-		98	12.7	12.7	-	-	
tire wear	Worker Commute (offsite)	-	-	-	2.20E-05	5.49E-06	-	7	-		98	12.7	12.7	-	-	
entrained road dust	Worker Commute (offsite)	-	-	-	5.27E-04	7.91E-05	-	7	-		98	12.7	12.7	-	-	
Crane Delivery Total Emissions, tpy		**0.87**	**0.33**	**8.57**	**0.16**	**0.14**	**0.30**									

2018 FEDERAL ACTION TOTAL EMISSIONS w/OCEAN DISPOSAL, TPY	**7.21**	**1.21**	**11.99**	**0.38**	**0.35**	**0.02**

2018 FEDERAL ACTION TOTAL EMISSIONS w/UPLAND DISPOSAL, TPY	**6.85**	**1.43**	**14.30**	**0.59**	**0.42**	**0.03**

2019 FEDERAL ACTION TOTAL EMISSIONS, TPY	**1.02**	**0.36**	**8.79**	**0.17**	**0.15**	**0.30**

Attachment C

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

August 24, 2016

Mr. Chris Cannon
Director of Environmental Management
The Port of Los Angeles
425 S. Palos Verdes Street
P.O. Box 151
San Pedro, CA 90733-0151

Dear Mr. Cannon,

South Coast Air Quality Management District (SCAQMD) staff is in receipt of the construction emissions for NOx (dated June 8, 2016 and attached) for the Berths 226-236 [Everport] Container Terminal Improvement Project (Everport Project) for general conformity purposes. Based on your review of the construction emissions of the Everport Project, only the NOx emissions in 2018 will exceed the de minimis threshold and a conformity determination is necessary for those emissions.

The conformity determination process is intended to demonstrate that a proposed Federal action will not: (1) cause or contribute to new violations of a national ambient air quality standard (NAAQS); (2) interfere with provisions in the applicable SIP for maintenance of any NAAQS; (3) increase the frequency or severity of existing violations of any standard; or (4) delay the timely attainment of any standard.

The South Coast Air Basin (Basin) is designated as extreme non-attainment for ozone and serious non-attainment for PM2.5. To streamline the review process and to facilitate conformity determinations for projects in the Basin while ensuring no interference of the attainment determination, a NOx general conformity budget was established in the Final 2012 AQMP: 1 tpd of NOx was set aside for this purpose every year, starting in 2013 until 2030, from the projected emission growth in the Final 2012 AQMP. SCAQMD has set up a tracking system for projects requiring conformity determinations on a first come first serve basis, whereby the project emissions are debited from the applicable set aside accounts until they are depleted.

SCAQMD staff has reviewed the construction emissions submitted for the Everport Project and determined that the NOx emissions from 2018 can be accommodated within the General Conformity Budgets established in the Final 2012 AQMP. Therefore, the project will conform to

the SIP and is not expected to result in any new or additional violations of the NAAQS or impede the projected attainment of the standards.

If you have any questions, please contact me at (909) 396-2239 or pfine@aqmd.gov.

Sincerely,

Philip M. Fine, Ph.D.
Deputy Executive Officer
Planning, Rule Development & Area Sources
South Coast Air Quality Management District

MK:JW
Attachment

cc: Tom Kelly, US EPA Region IX
Barbara Baird, SCAQMD
Henry Hogo, SCAQMD
Sang-Mi Lee, SCAQMD

THE PORT
OF LOS ANGELES 425 S. Palos Verdes Street Post Office Box 151 San Pedro, CA 90733-0151 TEL/TDD 310 SEA-PORT www.portoflosangeles.org

June 8, 2016

Jillian Wong, Ph.D.
Program Supervisor
Planning, Rule Development & Area Sources
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Dear Dr. Wong:

SUBJECT: PORT OF LOS ANGELES, BERTHS 226-236 [EVERPORT] CONTAINER TERMINAL IMPROVEMENTS PROJECT, FEDERAL ACTION EMISSIONS AND UNITED STATES ENVIRONMENTAL PROTECTION AGENCY GENERAL CONFORMITY RULE

This letter concerns the Berths 226-236 [Everport] Container Terminal Improvement Project (Project) and the mitigated nitrogen oxides (NOx) emissions associated with the construction activities that require a Department of the Army (DA) permit and General Conformity with the Clean Air Act. The U.S. Army Corps of Engineers (Corps) is the lead federal agency and the City of Los Angeles Harbor Department (Harbor Department) is the local lead agency. A joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) is being prepared (the Notice of Intent/Notice of Preparation is enclosed), and the Harbor Department is coordinating efforts related to the collection of data, while the Corps will be responsible for completing the General Conformity determination. The Notice of Intent/Notice of Preparation provides a description of the proposed Project. The Federal action is issuance of a DA permit to conduct work and install structures in navigable waters of the United States as described below. Construction activities that are expected to occur following completion of the EIS/EIR and issuance of a DA permit, and determined to be part of the Federal action include:

- Dredging of approximately 45,000 cubic yards of sediment from Berths 226-232 and disposal of all dredged material at the United States Environmental Protection Agency's (EPA) offshore disposal site (LA-2). See Table 1 for details on dredging at specific berths.

- Installation of approximately 2,800 linear feet of sheet piles and approximately 1,400 linear feet of king piles to stabilize the wharf.

- Installation of electric substation and feeder cable conduit for three (3) new wharf cranes.

- Delivery and installation of three (3) new electric wharf cranes.

Table 1. Mitigated NOx Emissions from Construction of Federal Action Project Elements

Project Element	2018 NOx emissions in tons per year
Berths 230-232 Dredging, Material Disposal, and Installation of sheet/king piles	5.35
Berths 226-228 Dredging, Material Disposal, and Installation of sheet/king piles	10.65
Installation of Electric Substation & Feeder Cable Conduit	0.22
Delivery & Installation of three (3) New Electric Wharf Cranes	4.29
Total Federal Action Emissions	**20.51**

1. Peak year estimated to be 2018. Assumes that all Federal Action emissions occur in this year.

2. Based on upland disposal of dredged material. If ocean disposal were to be ultimately selected, 2018 NOx emissions from the Federal Action would be less than approximately 1.78 tons per year.

The NOx emissions are based on the mitigated estimate under the California Environmental Quality Act (CEQA) for the proposed Project elements that comprise the Federal action. The preliminary mitigation measures which would reduce emissions from the above construction activities include:

- Fleet modernization for construction equipment (except vessels, harbor craft, on-road trucks, and dredging equipment - all off-road diesel-fueled construction equipment greater than 50 horsepower must meet EPA Tier 4 off-road emission standards.

- Fleet modernization for on-road trucks used during construction - trucks with a Gross Vehicle Weight Rating of 19,500 pounds or greater, including import haulers and earth movers, must comply with EPA 2007 model year on-road emission standards.

- Harbor craft used during construction - Harbor craft with C1 or C2 marine engines must use EPA Tier 3 or cleaner engines.

- Crane delivery ships used during construction - all ships and barges must comply with the expanded Vessel Speed Reduction Program of 12 knots between 20 nautical miles (nm) and 40 nm from Point Fermin.

In light of these preliminary findings, the Harbor Department respectfully requests the Air Quality Management District determine that the NOx emissions are included in the General Conformity Budget identified in the Final 2012 Air Quality Management Plan (Appendix III, Chapter 2).

If you have questions regarding the Corps Federal action, please contact Theresa Stevens, Ph.D., at (805) 585-2146 or by email at theresa.stevens@usace.army.mil. Otherwise contact James Bahng of the Harbor Department's Environmental Management Division regarding any other matters, at (310) 732-0363 or by email at jbahng@portla.org.

Sincerely,

Lisa Ochsner for

CHRISTOPHER CANNON
Director of Environmental Management

CC:LO:JB:mx
APP No.: 160420-056

cc: James Bahng, City of Los Angeles Harbor Department, Env. Mgmt. Division
Theresa Stevens, Ph.D., U.S. Army Corps of Engineers, Regulatory Division

Enclosure