

CLEAN AIR ACT DRAFT STATEMENT OF CONFORMITY
For Permit Application No. NAN-2007-1334-WOR
by the New Jersey Department of Transportation Office of Maritime Resources

The 1990 Clean Air Act Amendments include the provision of Federal Conformity, which is a regulation that ensures that Federal Actions (funding, permitting, licensing, etc.) conform with a non-attainment area's State Implementation Plan (SIP) thus not adversely impacting the area's progress toward attaining the National Ambient Air Quality Standards (NAAQS). The Federal Action in this case is initiated by the permit application from the New Jersey Department of Transportation, Office of Maritime Resources (NJDOT/OMR) for dredging within the existing consolidated Port Jersey Channel (Contracts 3 and 4) in the Cities of Bayonne and Jersey City, Hudson County, New Jersey. The construction activities associated with this project occur within the State of New Jersey. Dredged material transit will occur in both New York and New Jersey waters. Transit emissions, which occur in both states, are de minimis in New York.

There are two types of Federal Conformity: 1) Transportation Conformity and 2) General Conformity (GC). Transportation Conformity does not apply to this project because it is not funded by the Federal Highway Administration and does not impact the onroad transportation system. However, this project does trigger a GC review because of the permit application for new dredging (Federal Action).

The New York New Jersey Long Island Non Attainment area (where the project is located) is classified as a moderate nonattainment area for ozone (precursors of oxides of nitrogen (NOx) and volatile organic compounds), a nonattainment area for particulate matter less than 2.5 microns (PM_{2.5}) and a maintenance area for carbon monoxide (CO). The emissions analysis predicts that NOx emissions in 2008, 2009 and any necessary additional years will be above the de minimis level of 100 tons per year, which is the trigger level for performing a GC determination in moderate ozone nonattainment areas. The project will not exceed the maintenance area 100 tons per year de minimis level for CO, nor will it exceed the de minimis level for PM_{2.5}.

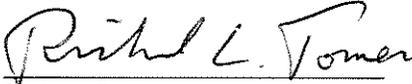
Based on a review of the emissions analysis (summarized in Dredge and Dredged Material Transport Emission Estimates and Statement of General Conformity for the New Jersey Department of Transportation Office of Maritime Resources, Port Jersey Channel Deepening Project April 2008 Update and follow-up letter dated April 18, 2008) provided to the U.S. Army Corps of Engineers, New York District (NYD) by the NJDOT/OMR, NOx emissions in 2008, 2009 and any necessary additional years will be above de minimis levels (NOx at 100 tons per year) for General Conformity in severe ozone nonattainment areas.

In order to offset project emissions the Port Authority of New York and New Jersey (PANY&NJ) in support of NJDOT/OMR has implemented a program to repower three local tugboats with cleaner engines, which was completed in 2006, the offsets from which will be valid for a 10 year period. This program was implemented in accordance with the Clean Air Act Final Statement of Conformity issued by this office in association with the issuance of Department of the Army Permit Number 2004-01167. Since much of the dredging approved under Permit Number 2004-01167 cannot be completed by the September 24, 2008, permit expiration date, Application Number NAN-2007-1334-WOR was submitted to continue the dredging project, once the existing permit expires. The emissions offsets provided by the completed tug repowering would fully offset NOx emissions from this project.

Potential project changes (e.g. schedule, equipment changes, etc.) could result in emissions that exceed the offset provided by the completed tug repowering. In that case, the NJDOT/OMR will acquire additional air emissions credits from other sources, including the Harbor Deepening Project. Complete emissions offsets will be required as a condition of any permit issued by the NYD.

In summary, conformity for NOx will be achieved through offsetting of the project's emissions. I have determined that this project can meet General Conformity provided that the impacts generated as a result of dredging and dredged material management activities are reduced through the measures outlined in this statement.

May 2, 2008
Date


Richard L. Tomer
Chief, Regulatory Branch