CLEAN AIR ACT DRAFT STATEMENT OF CONFORMITY
For Permit Application No. 2001-01360-J2
by The Port Authority of New York & New Jersey (Contract Area 5)

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 by the Port Authority of New York and New Jersey (PANY&NJ) for drilling, blasting and dredging at Bergen Point of Newark Bay and the Kill Van Kull in the City of Bayonne, New Jersey.

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 construction activities associated with this project occurs 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. All transit emissions will be accounted for in the emissions analysis.

Based on a review of the emissions analysis (summarized in Emissions Estimates for Dredging and Dredged Material Transport for the Kill Van Kull Contract 5 Deepening Project, 12 June 2002) provided to the U.S. Army Corps of Engineers, New York District (NYD) by the PANY&NJ, NOx emissions in 2002 and 2003 will be above de minimis levels (NOx at 25 tons per year) for General Conformity in severe ozone nonattainment areas. Therefore, conformity will be met for the entire project.

The PANY&NJ is committed to offset these emissions and pursue real reduction of emissions generated as a result of construction of the project, as practicable. Additionally, the PANY&NJ has proposed to pursue the purchase of credits to offset all remaining project emissions. 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. Compensation will occur through prioritizing the use of emission reduction technologies where practicable and with the purchase of credits. 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.

June 14, 2002
Date

Richard L. Tomer
Richard L. Tomer
Acting Chief, Regulatory Branch