



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

July 28, 2020

Policy Analysis Branch

SUBJECT: Permit No. SWG-1998-01818; Port of Houston Authority,
General Conformity Concurrence

Attn: Ms. Donna Huff, Director
Air Quality Division
Texas Commission on Environmental Quality (TCEQ), MC 206
P.O. Box 13087
Austin, TX 78711-3087

Dear Ms. Huff:

The Port of Houston Authority (PHA) applied in December 2019 to the US Army Corps of Engineers (Corps) for a permit renewal for the construction of the Bayport Container Terminal. Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899, the proposed activities are subject to the jurisdiction of the Corps. Under the current permit, a special permit condition requires that PHA stay under 25 tons per year of Nitrogen Oxides (NO_x) emissions for general conformity related construction emissions. As part of the permit renewal, PHA has requested that the Corps remove this special condition because a General Conformity Determination (GCD) will be completed instead for the construction of the next three wharves and the associated berth dredging.

Issuance of the permit renewal would be a federal action subject to general conformity regulations under Title 40 Code of Federal Regulations (CFR) Part 93, Subpart B. As this project is located in the Houston-Galveston-Brazoria (HGB) area, which is classified as serious nonattainment for the 2008 ozone standard as well as being classified as marginal nonattainment for the 2015 ozone standard, and the NO_x emissions are expected to be above the 50 tons-per-year *de minimis* threshold that is representative of the more stringent serious ozone classification, a general conformity determination will be required.

The Corps and PHA have previously provided information on the project as well as providing a preliminary draft General Conformity analysis for review. This letter is being used to formally submit the Draft General Conformity Determination (GCD) and to ask for concurrence from TCEQ that the project can be accommodated in the HGB State Implementation Plan (SIP).

The permit renewal is requested by PHA as it continues to expand its wharf capacity at the Bayport Container Terminal and will be adding three new wharves (6, 7, and 1). The attached GCD provides the emission estimates in more detail but they are summarized in Table 1. below:

Table 1. Estimated Emissions from Proposed Project Construction (Tons Per Year)

Year	Total Emissions (tons)	
	VOC	NOx
2021	1.35	54.56
2022	0.62	11.55
2023	--	--
2024	0.95	18.75
2025	0.61	10.13
2026	--	--
2027	0.95	18.75
2028	0.61	10.13

The NOx emissions will be above the 50 tons-per-year *de minimis* threshold in 2021 while VOCs emissions will be below the *de minimis* threshold for all years. Although the NOx emissions are above the 50 tons *de minimis* threshold in 2021, when you compare the project emissions to the emissions inventories in the SIP for the HGB area, it is evident that this project represents a very small percentage of the emissions inventories in the SIP. As a result of this, the Corps believes that this project can be accommodated in the SIP as allowed in 40 CFR 93.458(a)(5)(i)(A) which states that the State agency responsible for the SIP can make a determination that the emissions from the federal action, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the applicable SIP.

For purposes of comparing the project emissions to the applicable SIP, the general conformity regulations require that the most recent US Environmental Protection Agency (EPA) approved SIP is used. For the HGB area, this is the HGB 2008 Eight-Hour Ozone RFP SIP revision, adopted by the TCEQ Commission on December 15, 2016, and approved by EPA on February 13, 2019. Table 2. below compares the project emissions to the applicable SIP inventory categories.

Table 2. Comparison of Proposed Project NOx Emissions to the SIP Emissions Budgets (tpy)

Source	Construction Emissions	SIP Budget	% of SIP Budget
Non-Road Mobile	54.09	31,744	0.17%
On-Road Mobile	0.47	35,825	0.001%

The Corps believes that it has shown that this project can easily be accommodated into the SIP since the proposed project construction emissions of NOx represent only 0.17% of the Non-Road Mobile SIP budget and 0.001% of the On-Road Mobile SIP budget and as such seeks concurrence from TCEQ as allowed at 40 CFR 93.458(a)(5)(i)(A).

If you have any concerns regarding this letter, please contact Kristy Farmer by telephone at 409-766-3935 or by electronic mail at Kristy.L.Farmer@usace.army.mil.

Sincerely,

Robert W. Heinly
Chief, Policy Analysis Branch

Enclosures

Donna Huff, TCEQ, by electronic mail: Donna.Huff@tceq.texas.gov

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