

## 8.0 COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS

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The Proposed Action has been developed in accordance with the requirements of the environmental statutes and regulations outlined below. Conclusions concerning compliance or responsibility for compliance are identified in italics for each requirement.

### **National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA)**

This SEIS/SEIR has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, Public Law 91-190, and the California Environmental Quality Act (CEQA). The report was developed consistent with Article 9 Section 15120 to 15132 of the CEQA Guidelines and in accordance with the following NEPA requirements:

- Section 102 of the NEPA requires that all federal agencies use a systematic, interdisciplinary approach to protection of the human environment; this approach will ensure the integrated use of the natural and social sciences in any planning and decision making that may have an impact upon the environment. The NEPA also requires the preparation of a detailed EIS on any major federal action that may have a significant impact on the environment. This EIS must address any adverse environmental effects that cannot be avoided or mitigated, alternatives to the proposed action, the relationship between short-term uses and long-term productivity of the environment, and any irreversible and irretrievable commitments of resources involved in the project.
- Council of Environmental Quality's (CEQ) Regulations on implementing NEPA (40 C.F.R. § 1500 et seq.). These regulations provide for the use of the NEPA process to identify and assess the reasonable alternatives to proposed actions that avoid or minimize adverse effects of these actions upon the quality of the human environment. "Scoping" is used to identify the scope and significance of important environmental issues associated with a proposed federal action through coordination with federal, State, and local agencies; the public; and any interested individual or organization prior to the development of an impact statement. The process is also intended to identify and eliminate, from further detailed study, issues that are not significant or that have been covered by prior environmental review.
- U.S. Army Corps of Engineers (USACE) Environmental Quality Procedures for Implementing NEPA (33 C.F.R. Parts 230 and 325, Appendix B) provides guidance for implementation of the procedural provisions of NEPA for the Civil Works and Regulatory Programs of the USACE. It supplements CEQ Regulations at 40 C.F.R. §§ 1500-1508, November 29, 1978, in accordance with 40 C.F.R. § 1507.3, and is intended to be used in conjunction with the CEQ regulations. These regulations are applicable to all USACE personnel responsible for preparing and processing environmental documents in support of civil works and Regulatory programs.

*This ~~Draft~~ SEIS/SEIR is written in compliance with NEPA, CEQA and applicable regulations. As per guidelines provided in NEPA and CEQA, reasonable alternatives were developed and evaluated, as presented in Chapters 2 and 3. Potential environmental effects were identified and mitigation measures to reduce any potentially significant impacts to environmental resources to a less-than-significant level where feasible were developed.*

*The Notice of Intent and Notice of Preparation (NOI/NOP) were prepared to initiate the scoping process. Comments received through the scoping process have been addressed in the ~~Draft~~ SEIS/SEIR. In addition, the Draft SEIS/SEIR ~~will be circulated~~ was distributed to the public and regulatory agencies on July 14, 2008 for a 45-day period for public and resource agency review and comment. After period. Approximately 120 copies of the Draft SEIS/SEIR were distributed to various government agencies, organizations, individuals, and Port tenants. The 45-day public review period, a Final SEIS/SEIR will be prepared in accordance with both NEPA and CEQA requirements. The Final on the Draft SEIS/SEIR will be released for a 30-day review prior to signing of a Record of Decision (ROD) to comply with NEPA. officially closed on September 1, 2008. USACE, in cooperation with LAHD, held a public hearing on the Draft SEIS/SEIR on August 6, 2008, in the Port of Los Angeles Board Room to provide an overview of the Proposed Action and accept public comments on the Proposed Action and Draft SEIS/SEIR. Comments received on the Draft SEIS/EIR and responses are located in Section 14 of this Final SEIS/SEIR. The Final SEIS/EIR will be routed for the public review for 30-days from the Notice of Availability appears in the Federal Register.*

### **Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.)**

Passed in 1973, the ESA became one of the most comprehensive wildlife conservation laws in the world. The purpose of the ESA is to conserve “the ecosystems upon which endangered and threatened species depend” and to conserve and recover listed species. Under the law, species may be listed as either endangered or threatened. An endangered species is any species of fish, animal, or plant that is in danger of extinction throughout all or a significant portion of its range. Subspecies and distinct population segments of vertebrate species may also be listed. All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened.

The Department of the Interior, acting through the USFWS, is responsible for protecting most threatened and endangered species. The Department of Commerce, through the NOAA Fisheries, is responsible for marine species, including marine mammals and anadromous fish, such as salmon. The USFWS and NOAA Fisheries are required to “take into consideration the economic impact, and any other relevant impact of specifying any area as critical habitat.” The agencies

may exclude any area from critical habitat designation if “the benefits of such exclusion outweigh the benefits of specifying such areas as part of the critical habitat, unless the failure to designate such areas as critical habitat will result in the extinction of the species concerned.”

Critical habitat is defined as the geographic area containing physical or biological features essential to the conservation of a listed species or as an area that may require special management considerations or protection. Unless the USFWS or NOAA Fisheries finds that it is not “prudent” or “determinable,” critical habitat must be designated concurrently with a species’ listing. If “not determinable,” the USFWS or NOAA Fisheries has an additional year to determine critical habitat.

The ESA (16 U.S.C. 1531 et seq.) protects threatened and endangered species, and their designated critical habitat, from unauthorized take. Section 9 prohibits such take, and defines take as to harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct. Take incidental to otherwise lawful activities can be authorized under Section 7 when there is federal involvement and under Section 10 when there is no federal involvement. The USFWS and NOAA Fisheries share responsibilities for administering the ESA.

Consultation with the USFWS or NOAA Fisheries is required before any takings of endangered or threatened species are allowed, as described below.

Whenever actions authorized, funded, or carried out by federal agencies could adversely affect listed species, the action agency must conduct formal consultation under Section 7. The Biological Opinion issued at the conclusion of that consultation, depending on the outcome of the consultation, will include a statement authorizing any take that may occur incidental to an otherwise legal activity. Federal action agencies make a determination as to whether the action will have “no effect” or “may affect” a listed species or designated critical habitat. If a “not likely to adversely effect” determination is made, the action agency consults informally with the USFWS and/or NOAA Fisheries, as applicable.

*USACE coordinated with the USFWS during the planning process while developing alternatives to the Proposed Action. The Proposed Action may affect, but is not likely to adversely affect, any listed species and/or their designated critical habitat. As discussed in Section 3.3.6, construction in the immediate vicinity of the CSWH for construction of the CSWH Expansion Area ~~and Eelgrass Habitat Area~~ has the potential to adversely affect California least tern foraging by causing a decline in the availability of forage fish or the ability of least terns to find forage fish during the nesting season due to construction-related turbidity within the adjacent CSWH and surrounding areas. Construction would affect approximately 13 acres (2.5 percent) of the 512*

*acres of existing of shallow water California least tern foraging habitat available within the Harbor at any time during concurrent construction of the CSWH Expansion Area and Eelgrass Habitat Area. In coordination with the USFWS mitigation measures BIO-1 through BIO-3 have been developed to ensure that construction-related turbidity would not adversely affect California least tern (see Section 3.3 of this SEIS/SEIR for the complete text of these mitigation measures). Based on this impact analysis it has been determined that the Proposed Action may affect, but is not likely to adversely affect, the California least tern. The USACE has ~~initiated~~ completed informal Section 7 Consultation with the USFWS for placement of fill for construction of the ~~Eelgrass Habitat Area and CSWH Expansion Area (letters are;~~ the request for Informal Section 7 Consultation with USFWS is included in Appendix J of this SEIS/SEIR (May 2008). The NOAA Fisheries provided a comment letter on the Draft SEIS/SEIR. In this letter, dated September 2, 2008, NOAA Fisheries provided recommendations to minimize impacts to marine resources and EFH. Recommendations are included in the Final SEIS/SEIR. By letter dated March 19, 2009, the USACE provided a response to NOAA Fisheries indicating that their recommendations related to EFH have been accepted and included in the Final SEIS/SEIR. Letters are located in Appendix J of the Final SEIS/SEIR.*

### **Marine Mammal Protection Act (MMPA)**

The MMPA (16 U.S.C. §1361 et seq.) prohibits the taking (including harassment, disturbance, capture, and death) of any marine mammals, except as set forth in the act. NOAA Fisheries and the USFWS administer this act. Species found in the Harbor are under the jurisdiction of NOAA Fisheries.

*Construction activities would be unlikely to affect ~~marine mammals~~ California sea lions and harbor seals because few, if any, would be present within the disposal areas, they are agile and able to avoid injury by equipment, and other suitable foraging areas are present in the Harbor. Additionally, underwater noise from dredging activities would be less than the designated level A harassment level for pinnipeds, therefore, adverse impacts to pinnipeds would not be expected from clamshell dredging to key in the dikes at the three in-harbor disposal sites.*

### **Fish and Wildlife Coordination Act (16 U.S.C. § 661 et seq.)**

The Fish and Wildlife Coordination Act directs the Department of the Interior to provide assistance to Federal agencies in order to promote wildlife conservation in water resource development projects. Agencies must consult with the section of the Department of the Interior that has jurisdiction over the project, in this case the USFWS, on wildlife conservation measures to be implemented during construction and maintenance of the project. The Act also requires

consultation with the head of the State agency that administers wildlife resources in the affected State. Although the recommendations of the USFWS and State officials are not binding, the Federal agency must give them full consideration.

*The USFWS has participated in several meetings and provided their input or recommendation in development of the alternatives of the Proposed Action. The USFWS issued a Final Coordination Act Report (CAR) with the Final SEIS/SEIR (2000). The purpose of the Proposed Action is to complete the Channel Deepening Project, but the disposal sites have been modified because the disposal sites identified in the Final SEIS/SEIR (2000) do not have sufficient capacity to place dredge material. Therefore, new disposal sites have been evaluated in this Draft SEIS/SEIR. The USFWS provided a Draft Car on May 9, 2008. The USACE provided a response on the Draft CAR and the USFWS provided a ~~Draft~~Final Amended CAR dated ~~May 9, 2008~~ in March 2009, which has been prepared by the USFWS for the Proposed Action and is included ~~at in~~ Appendix J. The USFWS' Final Amended CAR will be provided in the Final SEIS/SEIR.*

## **Magnuson-Stevens Fishery Conservation and Management Act**

The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act (16 U.S.C. §1801 et seq.) require federal agencies that fund, permit, or carry out activities that may adversely impact Essential Fish Habitat (EFH) to consult with NOAA Fisheries regarding potential adverse effects of their actions on EFH and respond in writing to the recommendations of NOAA Fisheries. In addition, NOAA Fisheries is required to comment on any state agency activities that would impact EFH.

*The USACE determined that Alternative 1 ~~and Alternative 2~~ of the Proposed Action would result in a small loss of EFH at the Northwest Slip (Alternative 1 only), and Berths 243-245 (Alternative 1 only), ~~and the Eelgrass Habitat Area (Alternative 1 and Alternative 2)~~. This loss of EFH does not represent a substantial portion of the EFH in the Harbor, and the Northwest Slip and Berths 243-245 areas provide only low quality habitat for FMP species. However, impacts to EFH are still considered significant and loss of marine habitat from these areas would be mitigated through the use of existing mitigation credits as outlined in MM BIO-45. Impacts ~~Project~~ of the Proposed Action related impacts would be fully mitigated; therefore, the impacts would be less than significant. The new shallow habitat created by the Proposed Action would support more FMP species than the existing deep water. The USACE ~~will initiate~~initiated EFH Consultation with NOAA Fisheries for placement of fill for construction of the Northwest Slip and Berths 243-245 disposal sites in a letter dated July 31, 2008, which is included in Appendix J of this Final Eelgrass Habitat Area upon release of the Draft SEIS/SEIR. In a letter dated September 2, 2008,*

*NOAA Fisheries recommended EFH conservation measures. In subsequent meetings, and as discussed in Section 1.12 of this Final SEIS/SEIR, the USACE and POLA have reviewed the recommendations of NOAA Fisheries and have agreed to the conservation measures identified in the letter. Specifically, the Caulerpa Control Protocol has been included as Appendix L of the Final SEIS/SEIR and the USACE and POLA will coordinate with NOAA Fisheries to develop an appropriate monitoring program to ensure that the newly created CSWH Expansion will provide increased biological value. A letter dated March 19, 2009 has been submitted to the NOAA in response to their letter (see Appendix J).*

### **Migratory Bird Treaty Act, as amended (16 USC 703-711)**

The Migratory Bird Treaty Act (1916) requires management and protection of migratory birds. This act (1916), agreed upon between the United States and Canada; the Convention for the Protection of Migratory Birds and Animals (1936), agreed upon between the United States and Mexico; and subsequent amendments to these Acts provide legal protection for almost all breeding bird species occurring in the United States. These Acts restrict the killing, taking, collecting, and selling or purchasing of native bird species or their parts, nests, or eggs. Certain game bird species are allowed to be hunted for specific periods determined by federal and state governments. The intent of the Act is to eliminate any commercial market for migratory birds, feathers, or bird parts, especially for eagles and other birds of prey.

The Migratory Bird Treaty Act (MBTA) prohibits the taking or harming of any migratory bird, its eggs, nests, or young without an appropriate Federal permit. The take of all migratory birds is governed by the MBTA's regulation of taking migratory birds for educational, scientific, and recreational purposes and requiring harvest to be limited to levels that prevent over-utilization. Section 704 of the MBTA states that the Secretary of the Interior is authorized and directed to determine if, and by what means, the take of migratory birds should be allowed and to adopt suitable regulations permitting and governing take.

*Mitigation Measures BIO-1 through BIO-34 will be implemented to ensure that the Proposed Action will not entail the taking, killing, or possession of any migratory birds or waterfowl subject to this Act or adverse impact to their associated habitat. A California least tern expert will monitor construction of the CSWH Expansion Area~~Eelgrass Habitat Area~~. The monitor shall visually monitor and report to USACE field representative and Environmental Resources Branch (ERB) biologist any turbidity from project dredging which extends over greater than 6.5-acres of shallow Outer Harbor waters. If California least tern nests are found outside of the known least tern colonies during construction, the biologist shall determine the affected area and notify the*

USACE field representative and ERB biologist, and USACE shall halt work as appropriate. Therefore, the Proposed Action complies with the MBTA.

## **Marine Protection, Research and Sanctuaries Act of 1972**

Section 103 of the Marine Protection, Research and Sanctuaries Act (33 U.S.C. § 1413) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearing, for the transportation of dredged material for the purpose of disposal in the ocean where it is determined that the disposal will not unreasonably degrade or endanger human health, welfare, or amenities, of the marine environment, ecological systems, or economic potentialities. The USEPA can prevent the issuance of a permit under this authority if it finds that the disposal of the material will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries, or recreational areas.

Both Alternative 1 and Alternative 2 of the Proposed Action include ocean disposal of dredge material. Ocean disposal would be used for any remaining materials for which a beneficial use could not be determined. Disposal of material at ocean disposal site LA-2 or LA-3 would be consistent with the USEPA regulations for managing ocean dumping in accordance with the Marine Protection, Research and Sanctuaries Act. The need for ocean dumping of materials is determined by evaluation of the following factors (listed at 40 C.F.R. 227.15), including:

- the degree of treatment useful and feasible for the waste to be dumped (not applicable),
- raw materials and manufacturing or other processes that resulted in the waste (not applicable),
- the relative environmental risks, impact and cost as opposed to other feasible alternatives including but not limited to landfill, well injection (not applicable),
- incineration (not applicable),
- spread of materials over open ground, recycling or reuse of material, additional biological, chemical or physical treatment (not applicable),
- storage and irreversible or irretrievable consequences of the use of alternatives to ocean dumping.

These criteria were used to evaluate the need for ocean disposal under each alternative of the Proposed Action and to identify practicable alternatives to ocean disposal of dredged materials under the Proposed Action. Based on the above criteria, several practicable alternatives to ocean disposal of a portion of the dredged material have been identified, including: land-based storage of dredged materials at the ARSSS, reuse of the dredged material at Berths 243-245 to

*cap and confine contaminated sediment, reuse of the dredged material to improve terminal efficiency at the Northwest Slip, and reuse of the dredged material at the Cabrillo Shallow Water Habitat to expand and enhance shallow water habitat. As described in Section 2.4.3 of the Final SEIS/SEIR, no other practicable beneficial uses for the dredge material have been identified. The USACE and POLA will continue to coordinate with USEPA and will seek USEPA concurrence for use of LA-2 and/or LA-3 under the Proposed Action prior to execution of the Record of Decision. Additionally, based on the analysis presented in Chapter 3 of this SEIS/SEIR, the USACE determined that disposal of dredge material will not degrade or endanger human health, welfare, or amenities, of the marine environment, ecological systems, or economic potentialities. Therefore, the Proposed Action complies with Section 103 of the Marine Protection, Research and Sanctuaries Act.*

### **Clean Water Act of 1977**

This Act (33 U.S.C §1251 et seq.) provides for the restoration and maintenance of the physical, chemical, and biological integrity of the nation's waters. Discharges of pollutants must be authorized through National Pollutant Discharge Elimination System (NPDES) permits. Under Section 404, the USACE issues permits for discharge of dredge or fill materials into waters of the U.S. including wetlands and other special aquatic sites. A Section 401 water quality certification or waiver from the RWQCB is also necessary for issuance of a USACE permit. Additional water quality permitting requirements may include compliance with the Section 402 NPDES General Construction Permit for Storm Water Discharges Associated with Construction Activity (including the development of a Storm Water Pollution Prevention Plan [SWPPP]) issued by the State Water Resources Control Board (SWRCB) for projects that will disturb 1 or more acres (0.4 ha).

Relevant sections of the CWA include:

**Section 404(b)(1):** prohibits the discharge of dredged or fill materials into the waters of the United States, including wetlands, except as permitted under separate regulations by the USACE and the USEPA.

*Aaron Allen of the USACE Regulatory Division has participated in Study Team meetings and development of the 404(b)(1) alternatives analysis.*

*Construction of the Proposed Action would be performed by the USACE. Although the USACE does not issue itself a permit for civil works projects, the USACE must comply with this section. Therefore a Section 404(b)(1) analysis has been prepared and included in Appendix B of this*



~~Draft SEIS/SEIR. Section 404(b)(1) analysis addresses project related impacts to the waters of the United States and provides appropriate mitigation measures to minimize impacts.~~

However, some project features of the Proposed Action would need a Section 404 permit under the Clean Water Act. The Port has applied for a permit and it would be obtained prior to placement of the material at a subject disposal site. This SEIS/SEIR will be used to evaluate the Section 404 permit application.

The USACE Planning Division and POLA have coordinated with the USACE Regulatory Division on an ongoing basis and have provided the revised Draft Section 404(b)(1) Evaluation for their review. Recommendations provided by the Regulatory Division have been incorporated in the Draft Section 404(b)(1) Evaluation included in this Final SEIS/SEIR.

**Section 401:** ~~The USACE and POLA will submit an application for a 401 water quality certification (WQC) from the LARWQCB with the Draft SEIS/SEIR. Informal coordination was conducted with Michael Lyons of the LARWQCB. He indicated that the LARWQCB has issued Section 401 Certification in past with the Final SEIS/SEIR (2000), therefore, it is appropriate to amend the existing Section 401 WQC. The USACE and Port will request an amendment of the Section 401 WQC with this Draft SEIS/SEIR. The USACE and POLA will continue to coordinate with the RWQCB. By In a letter dated July 31, 2008, the USACE submitted a request to obtain Section 401 WQC. The LARWQCB indicated that they have received the application from the Port and USACE. However, due to the large size of the project the LARWQCB may issue a Waste Discharge Requirement (WDR). Therefore, the USACE submitted a letter in March 20, 2009, LARWQCB indicated that the Port should submit an application for WDR 120 days prior to commencement of construction.~~

**Section 402:** The USACE will also coordinate with the LARWQCB for requirements of the NPDES and storm water program prior to project construction. A Notice of Intent will be submitted to the LARWQCB to comply with section 402 of the CWA. A SWPPP will be prepared to meet the states' requirements of the NPDES storm water program prior to project construction. The SWPPP will be reviewed by the USACE Environmental Resources Branch (ERB) and Port staff prior to ensure that all environmental commitments are included in the SWPPP. The construction contractor will prepare the SWPPP and have it available on the project construction site.

## Rivers and Harbors Act of 1899

Sections 9 and 10 of the Act (33 U.S.C. §401 et seq.) regulate development in navigable water, including dredging, filling, and bridges. Section 9 relates to bridges and causeways and is administered by the U.S. Coast Guard. Under Section 10, the USACE issues permits for construction, dumping, and dredging in navigable waters as well as construction of piers, wharves, weirs, jetties, outfalls, aids to navigation, docks, and other structures. In coastal areas, it is typical for permits issued by the USACE to reference their Section 10 and Section 404 authorities.

*The Proposed Action does not include construction of any bridge, dam, or causeway over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States, and is therefore consistent with Section 9 of the Rivers and Harbors Act. However, some project features would need a Section 10 permit under the Rivers and Harbors Act. The Port has applied for a permit to dredge and place the material at a subject disposal site. This SEIS/SEIR will be used to evaluate the application. Should the permit be issued, the Proposed Action would be consistent with Section 10 of the Rivers and Harbors Act.*

## Clean Air Act of 1970 (Public Law 91-604), as amended

Section 118 specifies that any Federal activity which may result in discharge of air pollutants must comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution. Section 176(c) requires that all Federal projects conform to USEPA-approved or promulgated State Implementation Plans.

This Act directs the attainment and maintenance of NAAQS for six “criteria” pollutants (e.g., ozone, carbon monoxide). Under the CAA, the USEPA must approve a SIP, which defines the actions to be taken, and the time schedule for achievement of attainment, when a geographical area is classified as “nonattainment.” The USEPA implements the New Source Review (NSR) and Prevention of Significant Deterioration (PSD) regulations in areas of “attainment.”

Additional Federal laws related to air quality control are:

**1977 Clean Air Act:** enacted legislation to control seven air toxic pollutants. USEPA adopted the National Emission Standards for Hazardous Air Pollutants (NESHAP), which were designed to control Hazardous Air Pollutants (HAP) emissions to prevent adverse health effects in humans.

**1990 Amendments to the Clean Air Act:** determine the attainment and maintenance of NAAQS (Title I), motor vehicles and reformulation (Title II), hazardous air pollutant (Title III),

acid deposition (Title IV), operating permits (Title V), stratospheric ozone protection (Title VI), and enforcement (Title VII).

**General Conformity.** Under Section 176(c) of the Clean Air Act Amendments (CAAA) of 1990, the Lead Agency is required to make a determination of whether the proposed action “conforms” ~~with~~to the SIP. Conformity is defined in Section 176(c) of the CAAA as compliance with the SIP’s purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. However, if the total direct and indirect emissions from the proposed action are below the General Conformity Rule *de minimis* emission thresholds, the proposed action would be exempt from performing a comprehensive Air Quality Conformity Analysis, and would be considered to be in conformity with the SIP.

*Table 3.2-6 of the SEIS/SEIR summarizes the annual emissions estimated for construction activities associated with Alternative 1 and Alternative 2 of the Proposed Action ~~each project alternative~~. ~~These data show that the Proposed Action would exceed the NOx de minimis threshold of 10 tons per year in 2009 and (2) would remain below all de minimis thresholds in 2010. As a result, a General Conformity Determination is required for the Proposed Action.~~*

*Because annual NOx emissions from Alternatives 1 and 2 would exceed the NOx conformity threshold, a general conformity determination is required for proposed NOx emissions from Alternatives 1 and 2. This documentation, provided in Appendix M, concludes that both Alternatives 1 and 2 would conform to the most recent federally-approved SIP.*

*Construction of the Proposed Action would result in temporary and intermittent increases in air emissions in the project area. However, these short-term increases cannot be avoided and are necessary to achieve the long-term air quality benefits associated with the Proposed Action. Construction emissions would be minimized through the implementation of feasible mitigation measures identified in the Final SEIS/SEIR and would cease upon completion of construction activities. Therefore, the Proposed Action is in compliance with Section 176(c) of the Clean Air Act Amendments (CAAA) of 1990.*

### **National Historic Preservation Act of 1966 (Public Law 89-665), as amended.**

The NHPA establishes preservation as a national policy and directs the Federal government to provide leadership in preserving, restoring and maintaining the historic and cultural resources of the United States. Preservation is defined as the protection, rehabilitation, restoration and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology or engineering. Under Section 106, federal agencies are

prohibited from approving any federal “undertaking” (including the issuance of any license, permit, or approval), without (1) taking into account the effects of the undertaking on the historic properties, and (2) affording the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

The NHPA (16 U.S.C. 470) created the Advisory Council on Historic Preservation (ACHP), an independent Federal agency, to advise the President and Congress on matters involving historic preservation. The ACHP is authorized to review and comment on all actions licensed by the Federal government which will have an effect on properties listed in the National Register of Historic Places (NRHP), or eligible for such listing. Specifically, Section 106 of the Act (16 U.S.C. 470(f)) requires that a Federal agency involved in a proposed action or activity is responsible for initiating and completing the review process. The agency must confer with the State Historic Preservation Officer (an official appointed in each State or territory to administer the National Historic Program) and the NHPA. The prehistoric and historic setting of the POLA was described in the Deep Draft Navigation Improvements Project EIS/EIR (USACE and LAHD, 1992). Additional information regarding cultural resources in the Port was collected as part of the Phase I Cultural Resources Reconnaissance Survey of 7,500 Acres of Land and Water for the Port of Los Angeles (Fugro West, 1995). That report evaluated prehistoric, historic, and underwater archaeological literature reviews and previous studies to identify cultural resources in the Port. A later Phase II study evaluated the potential significance of all historic buildings and structures on Port lands (Fugro West, 1997). A recent Phase II study evaluated the historic and architectural significance of wooden wharves at Berths 104, 108-109, and 118-120 (Jones & Stokes, 2000). These studies, in combination with a recent marine archaeological study in the proposed CSWH Expansion Area (MacFarlane, 1999), were used to describe baseline conditions and assess potential impacts. The above reports indicate that the channel deepening dredge area once contained areas of sensitivity for historic shipwrecks and other historic maritime resources (Fugro West, 1995: 4.3). However, these sensitive areas were identified prior to the 1982 deepening of the Main Channel, West Basin, East Basin Channel, East Basin, and Cerritos Channel (Pierson et al., 1980). The 1982 dredging lowered these areas by 10’ to -45’ MLLW (LAHD, 1997: 1-1).

*Any intact submerged shipwrecks or other historic materials within these dredged areas likely would have been removed or severely disturbed by the 1984 dredging, although scattered debris may remain. Berths 243-245 are located adjacent to the former Southwest Marine Shipyard which currently contains World War II era buildings and equipment. Based on National Register of Historic Places (NRHP) criteria, the Southwest Marine Shipyard is eligible to be a historic district. As described in Section 3.4 of this SEIS/SEIR, Berths 243-245 is located adjacent to the*

*former Southwest Marine Shipyard. In the LAHD's 2006 EIR for the Southwest Marine Terminal, the Port identified that the Southwest Marine Shipyard is eligible to be a historic district. The USACE has determined that the wharves at Berths 243-245, which would be demolished as a result of implementation of Alternative 1 of the Proposed Action, no longer retain integrity from their period of significance and are not contributors to the Southwest Marine NRHP district and that use of these berths as a disposal site under the Proposed Action would not have an adverse effect on the district. Additionally, at the time of the November 2004 NOP, four Colby Cranes existed on the wharves that surround and divide Berths 243 and 245—wharves that would be demolished to construct the Berths 243-245 disposal site. These structures have been identified as facilities contributing to historic resources at the Southwest Marine Shipyard Site. Demolition or damage to these structures would result in adverse affects to a potentially significant historic resource. However, these cranes are mobile structures, and they would be relocated from their present locations to the adjacent Southwest Marine Shipyard facility prior to demolition activities at the Berths 243-245 disposal site and would not be damaged or destroyed. Therefore, the project as planned will have no adverse effect on properties that are eligible for inclusion or, are included in the National Register of Historic Places. The determinations in this SEIS/SEIR ~~have been~~ will be sent to the California State Historic Preservation Office for concurrence in a letter dated March 16, 2009, which is included in Appendix J of this SEIS/SEIR. ~~This consultation will occur in accordance with Section 106 of the NHPA (36 C.F.R. Part 800) prior to construction.~~*

**Executive Order 11990, Protection of Wetlands, May 24, 1977.** Section 2 of the Order states that each agency shall avoid undertaking new construction in wetlands unless there is no practicable alternative, and that the proposed action include all practicable measures to minimize harm to wetlands. This Executive Order requires that Federal agencies provide leadership to protect the natural and beneficial values served by wetlands and to minimize the destruction or degradation of wetlands.

*No wetlands are present in or near any of the disposal sites as part of the Proposed Action; therefore no impacts would occur. This Alternative 1 would result in the permanent loss of 0.042 acre (0.017 ha) of pickleweed salt marsh as a result of construction of the Northwest Slip disposal site. Plant cover in this salt marsh appears to be sparse to moderate, and high tides carry trash into this area. Concrete rubble is also present. The area supporting pickleweed meets the criteria for a USACE jurisdictional wetland, but the wetland functions of this area are minimal due to the small size and isolated location. Additionally, this pickleweed salt marsh is located in the Northwest Slip between the existing abandoned wharf and the shoreline in an area that of the Port that is not open or directly accessible to the public. Furthermore, pickleweed in*

*this salt marsh would be salvaged prior to filling and replanted at a 1:1 mitigation ratio in suitable habitat in the harbor or off site, and therefore would be fully mitigated and there would be no net effect to wetlands.*

*The only other practicable alternative is Alternative 2, which would result in ocean disposal of approximately 0.4 mcy of dredge material more than Alternative 1. Additionally, the confined disposal facility that would be constructed under Alternative 1 would result in long term benefits to the inner harbor as a result of improved water quality from permanent capping of existing contaminated sediments within Berths 243-245. Although Alternative 1 would result in permanent impacts to this marine habitat that exhibits relatively low physical and biological function, Alternative 1 reduces the amount of material disposed in the open ocean, minimizing temporary impacts to a larger marine habitat area that exhibits relatively high physical and biological functions (LA-2 and LA-3). Pursuant to 33 C.F.R. Section 320.4(b) and, based on the preliminary analysis in Appendix B to this Final SEIS/SEIR, the USACE has determined that the benefits associated with the proposed wetland alteration outweigh the damage to the wetland resource. Therefore, Alternative 1 complies with Executive Order 11990. Proposed Action complies with Executive Order 11990.*

**Executive Order 12898, Environmental Justice.** Executive Order 12898 requires that “to the extent practicable, each federal agency shall make achieving environmental justice part of its missions by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations.”

Executive Order (EO) 12898 of 1997 directs Federal agencies to assess the effects of their actions on minority and/or low-income populations within their region of influence. Agencies are encouraged to include demographic information related to race and income in their analysis of the environmental and economic effects associated with their actions.

*This SEIS/SEIR has determined that implementation of the Proposed Action would result in significant short term impacts relative to Air Quality and Environmental Justice. Construction activities would produce significant levels of daily nitrogen oxides (NO<sub>x</sub>) and ~~annual CO<sub>2</sub>e~~ one-hour NO<sub>2</sub> emissions. Consequently, dredge and disposal activities associated with the Proposed Action would potentially result in a disproportionate human health or significant environmental impact on minority and/or low-income populations at levels exceeding the corresponding medians for Los Angeles County. These impacts would be specific to air quality; no other significant unavoidable adverse impacts have been identified that could result in a disproportionate affect on minority and/or low-income populations. It should be noted that*

*construction related impacts are short term and temporary, conditions would be stabilized upon completion of construction. The project would not result in long-term permanent impacts related to air quality, or minority populations. However, temporary impacts would be significant and unavoidable. No feasible mitigation measures are available that would avoid the potential impacts or reduce impacts to less than significant levels. Therefore, potential impacts to these resource areas are considered significant and unavoidable. However, it should be noted that construction impacts of the Proposed Action are temporary and short term and conditions would be stabilized after completion of construction. Therefore, the Proposed Action would not result in long-term impacts to Air Quality or Environmental Justice.*

**Federal Water Project Recreation Act (Public Law 89-72), July 9, 1965.** This Act requires that any Federal water project must give full consideration to opportunities afforded by the project for outdoor recreation and fish and wildlife enhancement.

*This SEIS/SEIR has determined that implementation of the Proposed Action would result in temporary minor losses of recreational opportunities (boating, fishing, and swimming) and resources (open water) on which to conduct these activities. However, these impacts would be localized and temporary, and would therefore be less than significant. ~~The Proposed Action would result in the permanent removal of some open water through construction of a dike at the Eelgrass Habitat Area thereby precluding this area for use by recreational boaters. However, since the Outer Harbor provides other areas for recreational boating and the dike surrounding the Eelgrass Habitat Area would be marked with navigational aids (buoys and/or lights) to alert boaters to its presence; impacts would be less than significant.~~ The Proposed Action is in compliance with Federal Water Project Recreation Act.*

**Executive Order 13045, Environmental Health and Safety Risks to Children (62 Fed. Reg. 1988 [1997]).** On April 21, 1997, President Clinton signed this Executive Order. It is designed to focus Federal attention on actions that affect human health and safety conditions that may disproportionately affect children. Executive Order 13045 requires that federal agencies, to the extent permitted by law, and appropriate and consistent with the agency's mission:

Shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children.

Ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

*This SEIS/SEIR has determined that implementation of the Proposed Action would result in short term significant impacts relative to Air Quality and Environmental Justice. No feasible mitigation measures are available that would avoid the potential impacts or reduce impacts to*

*less than significant levels. Therefore, potential impacts to these resource areas are considered significant and unavoidable. However, it should be noted that construction impacts of the Proposed Action are temporary and short term and conditions would be stabilized after completion of construction. Therefore, the Proposed Action would not result in long-term impacts to Air Quality or Environmental Justice.*

### **Coastal Zone Management Act**

Congress created a federal and state partnership for management of coastal resources. The Coastal Zone Management Act (CZMA) preserves, protects, develops, and, where possible, restores or enhances the Nations coastal zone resources for this and succeeding generations. The CZMA encourages states to develop coastal management programs, through, among other means, the federal consistency procedures of the CZMA. Upon certification of a state's coastal management program, a federal agency must conduct its activities (including federal development projects, permits and licenses, and assistance to state and local governments) in a manner consistent with the state's certified program. The processes established to implement this requirement is called a **consistency determination** (CCD) for federal activities and development projects and a **consistency certification** for federal permits and licenses and federal support to state and local agencies. The federal government certified the California Coastal Management Program (CCMP) in 1978. The enforceable policies of that document are Chapter 3 of the California Coastal Act of 1976. All consistency documents are reviewed for consistency with these policies.

*Each commercial port in California has a certified Master Plan that identifies acceptable development uses. If a port desires to conduct or permit developments that are not included in its approved Master Plan, the port must apply to the California Coastal Commission (CCC) for an amendment to its respective Master Plan (LAHD, 2006). Prior to construction and development of the land and water areas associated with the Proposed Action, review and approval of an amendment to the Port Master Plan by the CCC would be necessary.*

*In addition to the requirements and procedures set-forth in the California Coastal Act for Master Plans, the USACE ~~and the Port are~~ is responsible for project compliance with the Federal Coastal Zone Management Act (CZMA). Section 307 of the CZMA, as amended, requires that Federal actions must be consistent, to the maximum extent practicable, with the approved State coastal management program applicable to the action. To document the degree of consistency with the applicable State's coastal management program, a CCD ~~Coastal Consistency Determination~~ will be prepared by USACE and a Port Master Plan amendment will be prepared*



by POLA. Review and approval by the CCC is required prior to implementation of the Proposed Action.

By letter dated July 31, 2008, the USACE submitted a CCD to the CCC; in satisfaction of CZMA requirements (Section 106(d)) to certify consistency to the maximum extent practicable with an approved State Coastal Zone Management Plan. The Proposed Action is located within the coastal zone and will have an effect on the coastal zone, as established by the California Coastal Act of 1976. The CCD and request letter are located in Appendix J of the Final SEIS/SEIR

Since October 2008 through the preparation of the Final SEIS/SEIR, USACE and POLA have participated in extensive coordination with CCC staff, Mr. Larry Simon, related to the CCC hearing of the CCD for construction of the project and the Port Master Plan Amendment (MPA). The hearing for construction of the project (USACE) was originally scheduled in October 2008. The USACE has submitted five requests (dated July 31, 2008; August 15, 2008, September 23, 2008; November 3, 2008; and February 4, 2009) to the CCC to postpone the hearing of the CCD until the Port MPA would be submitted. The Port will not be ready to submit its MPA until June 2009. Because these two projects are related to each other, the USACE and POLA agreed to present both actions at one hearing in April 2009. Correspondence with the CCC is located in Appendix J of the Final SEIS/SEIR.

**Article 2, Public Access, Sections 30210 - 30214.** Implementation of the Proposed Action would not require construction activities within a road right-of-way. All construction activities would occur within the waters of the Inner and Outer harbors of the POLA, in the open ocean, or within the Anchorage Road Soil Storage Site, which would not require use of a road right-of-way, and would not affect or interfere with access to the Port. Furthermore, construction of the Proposed Action would not require road or lane closures. The Proposed Action would not interfere with the public's right of access to the sea.

**Article 3, Recreation, Sections 30220 - 30221.** Construction activities would result in temporary restrictions of boating, fishing, and swimming activities in the immediate vicinity of dredge and disposal locations. However, as discussed in Section 3.11, Recreation, implementation of the Proposed Action would not result in long-term adverse impacts to recreational resources.

Detailed analysis of recreational impacts has been provided in Section 3.11 of this SEIS/SEIR. It has been determined that implementation of the Proposed Action would result in temporary minor losses of recreational opportunities (boating, fishing, and swimming) and resources (open water) on which to conduct these activities. However, these impacts would be localized and temporary, and would therefore be less than significant. ~~The Proposed Action would result in the permanent removal of some open water through construction of a dike at the Eelgrass Habitat~~

*Area thereby precluding this area for use by recreational boaters. However, since the Outer Harbor provides other areas for recreational boating and the dike surrounding the Eelgrass Habitat Area would be marked with navigational aids (buoys and/or lights) to alert boaters to its presence; large open water areas are available for the recreational activities, therefore impacts would be less than significant. The Port is coordinating with the recreational groups related to any of the construction activities on going within the Port. The Proposed Action is in compliance with Article # 3.*

**Article 4, Marine Environment, Sections 30230 - 30237.** *Construction of activities at the Eelgrass Habitat CSWH Expansion Area could impact California least tern foraging. A California least tern expert will monitor construction of the Eelgrass Habitat Area at this area. If least terns are present, construction shall stop until the least terns have left the work area, to avoid impacts to least tern. The Proposed Action would result in permanent loss of essential fish habitat at the Northwest Slip and Berths 243-245. These losses would be offset with mitigation credits. Additionally, the Proposed Action would result in approximately 50 acres of new shallow water habitat. Construction activities would result in temporary disturbance to hard-substrate habitat and benthic organisms. These areas would be recolonized upon completion of construction activities. In the long term, the habitat change at the CSWH Expansion Area and Eelgrass Habitat Area would be beneficial because it would provide foraging habitat for special status birds and other species. Detailed analysis of impacts is presented in section 3.3, Biological Resources.*

**Article 5, Land Resources, Sections 30240 - 30244.** *The majority of the Port is dedicated to shipping-related industrial and commercial uses, although other uses exist as well; it is divided into nine Development Areas. The Port of Los Angeles Master Plan (Port Master Plan), as amended, provides comprehensive descriptions of these Development Areas, including their existing uses, and is used as the principal planning document for long-range Port development (POLA, 2002). Very little vacant land is useable for development within the project area. The Proposed action would create 13 acres of new land area that would be available for future development. A 5-acre land area would be created at the Northwest Slip and would be developed as a realigned roadway. A new 8-acre land area would be created at Berths 243-245 that would be used as a confined disposal facility (CDF) to contain contaminated sediments. Approximately 0.15 mcy of clean surcharge will be deposited on the completed CDF to an approximate elevation of +30 feet MLLW to promote densification of deposited dredge material. Over time, the material would densify, however, the timeframe for densification is unknown. Therefore, the surcharge material would remain in place until post project geotechnical investigation/monitoring determines the fill has been consolidated. In the future, if the Port*

*decides to remove the surcharge material, the Port would prepare an appropriate CEQA document to remove the remaining surcharge.*

**Article 6, Development, Sections 30250 - 30255.** *The majority of the Port is dedicated to shipping-related industrial and commercial uses, although other uses exist as well; it is divided into nine Development Areas. The Port of Los Angeles Master Plan (Port Master Plan), as amended, provides comprehensive descriptions of these Development Areas, including their existing uses, and is used as the principal planning document for long-range Port development (POLA, 2002). Very little vacant land is useable for development within the project area. The Proposed action would create 13 acres of new land area that would be available for future development. A 5-acre land area would be created at the Northwest Slip and would be developed as a realigned roadway. A new 8-acre land area would be created at Berths 243-245 that would be used as a CDF to contain contaminated sediments. Approximately 0.15 mcy of clean surcharge will be deposited on the completed CDF to an approximate elevation of +30 feet MLLW to promote densification of deposited dredge material. Over time, the material would densify, however, the timeframe for densification is unknown. Therefore, the surcharge material would remain in place until post project geotechnical investigation/monitoring determines the fill has been consolidated. In the future, if the Port decides to remove the surcharge material, the Port would prepare an appropriate CEQA document to remove the remaining surcharge.*

**Article 7, Industrial Development, Sections 30260-30265.** *The majority of the Port is dedicated to shipping-related industrial and commercial uses, although other uses exist as well; it is divided into nine Development Areas. The Port of Los Angeles Master Plan (Port Master Plan), as amended, provides comprehensive descriptions of these Development Areas, including their existing uses, and is used as the principal planning document for long-range Port development (POLA, 2002). Very little vacant land is useable for development within the project area. The Proposed Action would create 13 acres of new land area that would be available for future development. A 5-acre land area would be created at the Northwest Slip and would be developed as a realigned roadway. A new 8-acre land area would be created at Berths 243-245 that would be used as a CDF to contain contaminated sediments. Approximately 0.15 mcy of clean surcharge will be deposited on the completed CDF to an approximate elevation of +30 feet MLLW to promote densification of deposited dredge material. Over time, the material would densify, however, the timeframe for densification is unknown. Therefore, the surcharge material would remain in place until post project geotechnical investigation/monitoring determines the fill has been consolidated. In the future, if the Port decides to remove the surcharge material, the Port would prepare an appropriate CEQA document to remove the remaining surcharge.*

## **State**

**CEQA (Public Resources Code Section 22,000 et seq.).** CEQA requires state and local agencies to disclose and consider the environmental implications of their actions. It further requires that agencies, when feasible, avoid or reduce the significant environmental impacts of their decisions. CEQA establishes requirements and procedures for State and local agency review of the environmental effects of projects proposed within their jurisdictions. It further requires that agencies, when feasible, avoid or reduce the significant environmental impacts of their decisions. CEQA requires the preparation of an Initial Study (IS) to determine whether a Negative Declaration or EIR should be prepared by a State or local agency for projects that may significantly impact the environment.

*An IS/NOP was prepared and distributed for public review and comment in November 2004. Based on public and agency comments the Proposed Action was modified and in October 2005, a Supplemental IS/NOP was prepared and distributed for public review and comment. This ~~Draft~~ SEIS/SEIR includes analysis of potential environmental impacts as compared to the environmental baseline, i.e. the environmental conditions that existed at the time the NOP for the project was released. The ~~Draft~~ SEIS/SEIR includes mitigation measures to minimize potential impacts with regard to Air Quality, Biological Resources, Land Use, and Noise. The ~~Draft~~ SEIS/SEIR ~~will be~~was released for a 45-day public review; comments and responses to comments received on the Draft SEIS/SEIR will be have been included in ~~the~~this Final SEIS/SEIR. Findings of Facts for significant impacts will be prepared and submitted for certification of the Final SEIR.*

**California Coastal Act of 1976, as amended.** The Act specifies basic goals for coastal conservation and development related to protection, enhancement and restoration of coastal resources, giving priority to coastal-dependent uses and maximizing public access to California residents and visitors. The Act defines the coastal zone of California, which generally extends three miles out to sea and inland generally 1,000 yards. It may be extended further inland in certain circumstances. It is also less than 1,000 yards wide in some urban areas. Each city and county in California which is on the coast must prepare a Local Coastal Program (LCP) for all areas within the coastal zone. The LCP includes Land Use Plans, zoning ordinance amendments and map changes to reflect the Coastal Act and LCP goals and policies at the local level.

*Under provisions of the California Coastal Act, the Port of Los Angeles Master Plan is incorporated into the Local Coastal Program of the City of Los Angeles. The LAHD has coastal development permit authority for activities in the Main Channel. Therefore, if the Proposed Action would be consistent with the Port of Los Angeles Master Plan, the Proposed Action would also be considered consistent with the Local Coastal Program. As discussed under Impact LU-2 in Section 3.8.6 of this SEIS/SEIR, the Proposed Action would be consistent with the Port of Los*

*Angeles Master Plan and therefore would also be consistent with the Local Coastal Program. The Port is coordinating with Mr. Larry Simon, and they will submit a CD for Master Plan Amendment to the CCC in June 2009.*

**California Endangered Species Act (Cal. Fish and Game Code section 2050-2116).** The California Endangered Species Act (CESA) parallels FESA. As a responsible agency, the California Department of Fish and Game (CDFG) has regulatory authority over state-listed endangered and threatened species. The state legislature encourages cooperative and simultaneous findings between state and federal agencies. Further, the General Counsel for the CDFG has issued a memorandum to CDFG regional managers and division chiefs clarifying the CESA consultation process wherein, if a federal Biological Opinion has been prepared for a species, the CDFG must use this Biological Opinion in lieu of its own findings unless it is inconsistent with CESA. CDFG Code Section 2095 authorizes participation in federal consultation and adoption of a federal Biological Opinion. By adopting the federal Biological Opinion, the CDFG need not issue a taking permit per Section 2081 of the state Code. If the Biological Opinion is consistent with CESA, the CDFG will complete a 2095 form in finalizing the adoption of the Biological Opinion.

*The USACE and POLA have been coordinating with CDFG and USFWS since July 2005. The USFWS provided a Draft Coordination Act Report (CAR) to the CDFG for their review and comments in May 2008. In May 2008, USACE coordinated with Chris Medak of USFWS and Loni Adams and Becky Ota of CDFG in response to the Draft CAR. CDFG indicated that they would provide comments on the Draft CAR after release of the public Draft SEIS/SEIR. The USACE ~~will submit~~ submitted a request for informal ESA Section 7 Consultation upon release of the Draft SEIS/SEIR and a copy of ~~this the request will be~~ was provided to CDFG. ~~CDFG will then either accept the USFWS' ESA Section 7 determination or they may request separate compliance by the Port for state listed species. Compliance would be achieved prior to construction.~~ A Final Amended CAR has been prepared by the USFWS for the Proposed Action and is included in Appendix J*

#### **RELATIONSHIP TO EXISTING PLANS**

One of the primary objectives of the NEPA/CEQA process is to ensure that the proposed action is consistent with applicable statutes, plans, policies, and other regulatory requirements. Table 8-1 lists the statutes, plans, policies, and other regulatory requirements applicable to the Proposed Action and alternatives. Additional analysis of plan consistency is contained in individual resource sections of Chapter 3 and, in particular, in Section 3.8 (Land Use).

**Table 8-1. Applicable Statutes, Plans, Policies, and Other Regulatory Requirements**

<i>Applicable Statutes, Plans, Policies, and Other Regulatory Requirements</i>	<i>Description</i>
California Tidelands Trust Act, 1911	Submerged lands and tidelands within the Port of Los Angeles, which are under the Common Law Public Trust, were legislatively granted to the City of Los Angeles pursuant to Chapter 656, Statutes of 1911 as amended. Those properties are held in trust by the City and administered by the City’s Harbor Department to promote and develop commerce, navigation and fisheries, and other uses of statewide interest and benefit, including but not limited to, commercial, industrial, and transportation uses, public buildings and public recreational facilities, wildlife habitat, and open space. The LAHD would fund the proposed action with trust revenues.
California Coastal Act of 1976	<p>The Coastal Act (PRC Div. 20 Section 30700 et seq.) identifies the Port of Los Angeles and its facilities as a “primary economic and coastal resources of the state, and an essential element of the national maritime industry (PRC Section 30701). The Port is responsible for modernizing and construction necessary facilities to accommodate deep-draft vessels and to accommodate the demands of foreign and domestic waterborne commerce and other traditional and water dependent and related facilities in order to preclude the necessity for developing new ports elsewhere in the state (Sections 30007.5 and 30701 (b)). The Act also establishes that the highest priority for any water or land area use within the jurisdiction of the Port of Los Angeles shall be for developments which are completely dependent on such harbor water areas and/or harbor land areas for their operations (Sections 30001.5 (d), 30255 and 31260). The Coastal Act further provides that the Port should “Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.” (Section 30708 (c)).</p> <p>Under the California Coastal Act, water areas may be diked, filled, or dredged when consistent with a certified port master plan only for specific purposes, including: (1) Construction, deepening, widening, lengthening, or maintenance of ship channel approaches, ship channels, turning basins, berthing areas, and facilities that are required for the safety and the accommodation of commerce and vessels to be served by port facilities; and (2) New or expanded facilities or waterfront land for port-related facilities.</p> <p>In accordance with provisions of the Coastal Act, the Port has a certified Master Plan which provides the Port with Coastal Development Permit authority for actions/developments consistent with that Master Plan. Items inconsistent such as new fills in water would require a Master Plan Amendment through the Coastal Commission. The proposed action is consistent with the Plan’s provisions.</p>
Port of Los Angeles Master Plan with Amendments (2002)	The Port of Los Angeles Master Plan (PMP: LAHD 1980) provides for the development, expansion, and alteration of the Port (both short-term and long-term) for commerce, navigation, fisheries, Port-dependent activities, and general public recreation. Those objectives are consistent with the provisions of the California Coastal Act (1976), the Charter of the City of Los Angeles, and applicable federal, state, and municipal laws and regulations. The proposed action is consistent with the Plan.
Port of Los Angeles Sustainable Construction Guidelines San Pedro Bay Clean Air Action Plan	<p>The Port, in conjunction with the Port of Long Beach and with guidance from AQMD, CARB and USEPA, has developed the <u>Port of Los Angeles Sustainable Construction Guidelines San Pedro Bay Clean Air Action Plan (CAAP)</u>, which was approved by the Los Angeles and Long Beach Boards of Harbor Commissioners <del>on November 20, in 2006</del> <u>in 2008</u>. The <u>Sustainable Construction Guidelines CAAP</u> focuses on reducing diesel particulate matter (DPM), NO<sub>x</sub>, SO<sub>x</sub>, and GHGs from construction, with two main goals: (1) to reduce Port related air emissions in the interest of public health, and (2) to disconnect cargo growth from emissions increases. The <u>Sustainable Construction Guidelines Plan</u> includes near-term measures implemented largely through the CEQA/NEPA process and construction contract specifications at</p>

**Table 8-1. Applicable Statutes, Plans, Policies, and Other Regulatory Requirements**

<i>Applicable Statutes, Plans, Policies, and Other Regulatory Requirements</i>	<i>Description</i>
	<del>the Port, new leases at both ports.</del> The proposed action includes air quality control measures outlined in the <u>Sustainable Construction Guidelines</u> CAAP, <del>both as mitigation that will be imposed via permits and lease provisions and as standard measures that will be implemented through the lease, agreements with other agencies and business entities, and Port contracting policies.</del> <u>construction contract specifications.</u>
Port of Los Angeles Strategic Plan	The Port of Los Angeles Strategic Plan (LAHD 2007) identifies the Port’s mission and provides eleven strategic objectives for the next five years. The mission includes promotion of “grow green” philosophy combined with fiduciary responsibility and promotion of global trade. The eleven strategic objectives include, minimization of land use conflicts, maximizing the efficiency and the capacity of current and future facilities, addressing needed infrastructure requirements, maintaining financial self-sufficiency, raising environment standards and enhancing public health, promoting emerging and environmentally-friendly cargo movement technology and energy sources, provide for safe and efficient operations and homeland security, strengthen local community relations and developing more and higher quality jobs. The proposed action is consistent with the Strategic Plan because it would help to maximize the efficiency and capacity of the Port by allowing larger vessels to access Port terminals, therefore resulting in lower air quality emissions per volume of throughput at the Port.
City of Los Angeles General Plan — Port of Los Angeles Plan	The Port of Los Angeles Plan is part of the General Plan for the City of Los Angeles (City of Los Angeles 1982a). This plan provides a 20-year official guide to the continued development and operation of the Port. It is designed to be consistent with the Port of Los Angeles Master Plan discussed above. Because the proposed action would be consistent with the Port of Los Angeles Master Plan it would also be consistent with the goals of the General Plan.
City of Los Angeles—Wilmington Harbor City District Plan	The Wilmington Harbor City District Plan is part of the General Plan of the City of Los Angeles (City of Los Angeles 1990). The proposed action is located in an area south of, and adjacent to, the Wilmington Harbor City District. Although the District Plan does not include the proposed action area, the plan recommends integrating future development of the Port with the Wilmington Community, including changes to transportation and circulation systems, and Port land acquisitions. The plan also recommends interagency coordination in the planning and implementation of Port projects to facilitate efficiency in Port operations, and to serve the interests of the adjacent communities. The proposed action would be consistent with these recommendations as the Port has been involved in interagency coordination in the planning of this proposed action and also has served the interests of adjacent communities through project scoping.
City of Los Angeles—San Pedro Community Plan	The San Pedro Community Plan (City of Los Angeles 1982b) serves as a basis for future development of the community. It is also the land use plan portion of the City’s Local Coastal Program for San Pedro. The Port of Los Angeles, although it is contiguous to San Pedro, is not part of the San Pedro Community Plan area. However, the San Pedro Community Plan does make recommendations regarding the Port, particularly for areas adjacent to commercial and residential areas of San Pedro. Although the proposed action site is not contiguous with San Pedro the proposed action would be consistent with these recommendations as the Port has taken into consideration the residential and commercial communities of San Pedro during project development through the scoping process.

**Table 8-1. Applicable Statutes, Plans, Policies, and Other Regulatory Requirements**

<i>Applicable Statutes, Plans, Policies, and Other Regulatory Requirements</i>	<i>Description</i>
City of Los Angeles General Plan— Air Quality Element	The City of Los Angeles General Plan has an Air Quality Element (City of Los Angeles 1992) that contains general goals, objectives, and policies related to improving air quality in the region. Policy 5.1.1 relates directly to the Port and requires improvements in harbor operations and facilities to reduce emissions. The LAHD is actively p for and implementing such improvements. The Proposed Action is consistent with the Air Quality Element in that it incorporates CAAP measures to reduce air quality impacts.
Water Quality Control Plan—Los Angeles River Basin	The Water Quality Control Plan for the Los Angeles River Basin (Region 4) was adopted by the Regional Water Quality Control Board, Los Angeles Region (RWQCB) in 1978 and updated in 1994 (RWQCB 1994a, 1994b). The Basin Plan designates beneficial uses of the basin’s water resources. The Basin Plan describes water quality objectives, implementation plans, and surveillance programs to protect or restore designated beneficial uses. The Proposed Action would be operated in conformance with objectives of the Water Quality Control Plan because it would be required by the lease to comply with the General Industrial permit for storm water.
Water Quality Control Policy—Enclosed Bays and Estuaries of California	In 1974, the State Water Resources Control Board (SWRCB) adopted a water quality control policy that provides principles and guidelines to prevent degradation and to protect the beneficial uses of waters of enclosed bays and estuaries (SWRCB 1974). Los Angeles Harbor is considered to be an enclosed bay under this policy. Activities, such as the discharge of effluent, thermal wastes, radiological waste, dredge materials, and other materials that adversely affect beneficial uses of the bay and estuarine waters are addressed. Waste discharge requirements developed by the RWQCB, among other requirements, must be consistent with this policy. The Proposed Action would be constructed and operated in conformance with objectives of the Water Quality Control Policy through controls on construction activities (dredging and fill, wharf demolition).
California Air Resources Board – Emission Reduction Plan for Ports and Goods Movements in California	California Air Resources Board (CARB) approved the Emission Reduction Plan for Ports and Goods Movement (CARB 2006e) on April 20, 2006. All of the proposed mitigations in this EIR were developed as part of the Port’s Clean Air Action Plan (POLA and POLB 2006; see Section 1.9.2). Thus, the Port’s air quality plan complies with CARB’s goals and meets and/or exceeds all reduction strategies.
AB 32	On September 27, 2006, Governor Schwarzenegger signed AB 32, the Global Warming Solutions Act. The Act caps California’s greenhouse gas emissions at 1990 levels by 2020. This legislation represents the first enforceable state-wide program in the U.S. to cap all GHG emissions from major industries that includes penalties for non-compliance. It requires the State Air Resources Board to establish a program for statewide greenhouse gas emissions reporting and to monitor and enforce compliance with this program. The Proposed Action’s consistency with AB 32 cannot be accurately evaluated until the Air Resources Board establishes its program.
Southern California Association of Governments Regional Plans	Southern California Association of Governments (SCAG) is responsible for developing regional plans for transportation management, growth, and land use, as well as developing the growth factors used in forecasting air emissions within the South Coast Air Basin. SCAG has developed a Growth Management Plan (GMP), a Regional Housing Needs Assessment, a Regional Mobility Plan (RMP), and in cooperation with the SCAQMD, the AQMPs. The Proposed Action would not generate population migration into the area or create a demand for new housing units, and thus would be consistent with these plans.



**Table 8-1. Applicable Statutes, Plans, Policies, and Other Regulatory Requirements**

<i>Applicable Statutes, Plans, Policies, and Other Regulatory Requirements</i>	<i>Description</i>
Congestion Management Plan	<p>The Congestion Management Program (CMP) is a state-mandated program intended as the analytical basis for transportation decisions made through the State Transportation Improvement Program process (LACMTA 1993). The CMP was developed to: (1) link land use, transportation, and air quality decisions; (2) develop a partnership among transportation decision makers on devising appropriate transportation solutions that include all modes of travel; and (3) propose transportation projects that are eligible to compete for state gas tax funds. The CMP includes a Land Use Analysis Program, which requires local jurisdictions to analyze the impacts of land use decisions on the regional transportation system. For development projects, an EIR is required based on local determination and must incorporate a Transportation Impact Analysis into the EIR. This EIR does include a transportation impact analysis and thus is consistent with the CMP.</p>