

## 7.0

### CONSISTENCY WITH OTHER STATE AND FEDERAL REGULATIONS

This FEIS has been prepared to satisfy the requirements of all applicable environmental laws and regulations and has been prepared using the CEQ's NEPA regulations (40 CFR Part 1500) and the USACE's regulation ER 200-2-2 (Environmental Quality: Policy and Procedures for Implementing NEPA, 33 CFR 230). The following sections present a summary of environmental laws, regulations, and coordination requirements applicable to this FEIS.

#### 7.1 NATIONAL ENVIRONMENTAL POLICY ACT

This FEIS has been prepared in accordance with CEQ regulations in compliance with NEPA provisions. All impacts on terrestrial and aquatic resources have been identified, significant adverse impacts requiring mitigation have been identified, and mitigation has been proposed.

#### 7.2 NATIONAL HISTORIC PRESERVATION ACT OF 1966

Compliance with the NHPA of 1966, as amended, requires identification of all NRHP-listed or NRHP-eligible properties in the project area and development of mitigation measures for those adversely affected in coordination with the SHPO and the Advisory Council on Historic Preservation (ACHP). As indicated in Section 4.7, this project will have no impacts on NRHP-listed properties or SALs. This FEIS has been coordinated with the Texas SHPO.

#### 7.3 CLEAN WATER ACT

Section 404 of the Act applies to the preferred alternative and compliance will be achieved under Section 404(r). Section 404(r) provides an exemption from obtaining either State water quality certification or a 404 permit if specific requirements are met. These requirements include a discussion based on the Section 404(b)(1) Guidelines in the FEIS and submittal of that document to Congress before the proposed project is authorized. The FEIS contains the necessary evaluation (Appendix A) and will be submitted to Congress for authorization. The basis for concluding that 404(r) requirements have been met is the fact that all relevant sediment and water quality data for both new-work and maintenance material were reviewed by a team of State and Federal resource agencies (Contaminants Workgroup), including the TNRCC, and they found no cause for concern over water or sediment quality in any channel reach, except the Inner Harbor. New-work sediments were deemed suitable for use in constructing BU sites or placement in the open bay or upland confined PAs. Maintenance material will be handled according to the DMM/BU Plan. The Inner Harbor dredged material will be placed in fully confined upland PAs and the decant water returned to the Inner Harbor to avoid potential contamination of other areas.

#### 7.4 ENDANGERED SPECIES ACT

Interagency consultation procedures under Section 7 of this act have been undertaken. A BA was prepared describing the study area, Federally listed endangered and threatened species likely to occur in the area (as provided by the FWS and NMFS), and potential impacts on these listed species (attached as Appendix C). The USACE has determined that no significant impacts to Federally listed

species or designated Critical Habitat will occur as a result of the project addressed in this FEIS. Agency comments, including concurrence from FWS and the NMFS Biological Opinion, have been included as an attachment to this FEIS. The NMFS has guidelines to protect sea turtles when hopper dredges are being used. These guidelines will be followed.

#### 7.5 FISH AND WILDLIFE COORDINATION ACT OF 1958

This act requires the FWS to prepare an official Fish and Wildlife Coordination Act Report (CAR). The Final CAR is included in this FEIS as part of the Appendix D, Coordination, and constitutes compliance with the act. All project alternatives, including the preferred alternative, have been extensively coordinated with the FWS and other State and Federal resource agencies, including an 8-month piping plover survey in the project area and FWS participation in the RACT and the Workgroups concerned with mitigation and beneficial uses.

#### 7.6 FISHERY CONSERVATION AND MANAGEMENT ACT OF 1996

Congress enacted amendments to the Magnuson-Stevens Fishery Conservation and Management Act (PL 94-265) as amended in 1996 that established procedures for identifying Essential Fish Habitat (EFH) and required interagency coordination to further the conservation of Federally managed fisheries. Rules published by the National Marine Fisheries Service (50 CFR Sections 600.805 – 600.930) specify that any Federal agency that authorizes, funds or undertakes, or proposes to authorize, fund, or undertake an activity that could adversely affect EFH is subject to the consultation provisions of the above-mentioned act and identifies consultation requirements.

EFH consists of those habitats necessary for spawning, breeding, feeding, or growth to maturity of species managed by Regional Fishery Management Councils in a series of Fishery Management Plans. Sections 3.5.1.3 and 4.4.1.4 of the FEIS were prepared to address EFH in the project area and meet the requirements of the act.

#### 7.7 COASTAL BARRIER IMPROVEMENT ACT OF 1990

This act is intended to protect fish and wildlife resources and habitat to prevent loss of human life and to preclude the expenditure of Federal funds that may induce development on coastal barrier islands and adjacent nearshore areas. Certain exceptions exist which allow for such expenditures. The preferred alternative is exempt from the prohibitions identified in the act.

#### 7.8 MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

This 1972 act requires a determination that dredged material placement in the ocean will not reasonably degrade or endanger human health, welfare, or amenities or the marine environment, ecological systems, or economic potentialities (shellfish beds, fisheries, or recreational areas). All construction material destined for the Gulf of Mexico has been evaluated using the CWA 404(b)(1) guidelines (Appendix A) and will be used beneficially, as determined by the RACT. Maintenance material proposed for placement at the existing Ocean Dredged Material Disposal Site designated by the EPA for

maintenance material from the Corpus Christi Entrance Channel is subject to evaluation using the ocean dumping environmental criteria.

#### 7.9 FEDERAL WATER PROJECT RECREATION ACT

This 1995 act requires consideration of opportunities for outdoor recreation and fish and wildlife enhancement in planning water resource projects. The beneficial uses included in the project for the construction material include uses requested by various recreational groups, environmental groups, and State and Federal regulatory agencies. All will benefit one or more of the items listed above.

#### 7.10 EXECUTIVE ORDER 11988, FLOODPLAIN MANAGEMENT

This Executive Order (EO) directs Federal agencies to evaluate the potential effects of proposed actions on floodplains. Such actions should not be undertaken that directly or indirectly induce growth in the floodplain unless there is no practical alternative. The preferred alternative will not significantly affect the Corpus Christi Bay floodplain.

#### 7.11 EXECUTIVE ORDER 11990, PROTECTION OF WETLANDS

This EO directs Federal agencies to avoid undertaking or assisting in new construction located in wetlands, unless no practical alternative is available. The preferred alternative has been analyzed for compliance with EO 11990. Erosion protection measures and beneficial uses should result in a net gain in wetland habitat.

#### 7.12 TEXAS COASTAL MANAGEMENT PROGRAM

Section 6.0 and Appendix E address the compliance of the preferred alternative addressed in this FEIS with the TCMP, including a Consistency Agreement by the Coastal Coordination Council.

#### 7.13 CEQ MEMORANDUM DATED 11 AUGUST 1980, PRIME OR UNIQUE FARMLANDS

There will be no impacts to prime and unique farmlands from the preferred alternative.

#### 7.14 EXECUTIVE ORDER 12898, ENVIRONMENTAL JUSTICE

This EO directs Federal agencies to determine whether the preferred alternative will have a disproportionate adverse impact on minority or low-income population groups within the project area.

The preferred alternative has been analyzed for compliance with EO 12898. The preferred alternative will not significantly affect any low-income or minority population.

7.15 CLEAN AIR ACT OF 1972

This act is intended to protect and enhance the quality of the nation's air resources; to initiate and accelerate research and development to prevent and control air pollution; to provide technical and financial assistance for air pollution prevention and control programs; and to encourage and assist regional air pollution prevention and control programs. The preferred alternative is in compliance with this Act.

7.16 MARINE MAMMAL PROTECTION ACT OF 1972

This act, passed in 1972 and amended through 1997, is intended to conserve and protect marine mammals, establish a marine mammal commission, establish the International Dolphin Conservation Program, and establish a Marine Mammal Health and Stranding Response Program. The preferred alternative is in compliance with this Act.