

## Chapter 5

# Environmental Compliance and Commitments

## 5.1 Introduction

Federal requirements with which the Proposed Project would comply are listed and briefly summarized in Section 5.2. Detailed descriptions of State and local compliance requirements are contained in the impact analysis sections of the Draft EIR (see Appendix 1).

Specific environmental commitments applicable to the Proposed Project that are included in this Draft EIS/EIR and that would be implemented through permit conditions and lease measures are summarized below. Detailed descriptions of the compliance requirements and of the mitigation and lease measures that would be imposed by the LAHD are contained in the impact analysis sections of the Draft EIR (see Appendix 1).

## 5.2 Compliance With Applicable Federal Regulatory Requirements

State Implementation Plan (Clean Air Act; 42 USC 7401 et seq.).

EPA Emissions Standards for: Category 1, 2, and 3 Marine Diesel Compression Ignition Engines (73 FR 88 25098-25352; 40 CFR Part 9 and 94; 68 FR 9745-9789); Non-Road Diesel Engines (40 CFR 1039.101); Locomotives ([40 CFR Part 1033](#); 73 FR 88 25098-25352); On-Road Trucks (40 CFR 88.105-94).

EPA Non-Road Diesel Fuel Rule (49 CFR Parts 523 and 535).

EPA General Conformity Rule (Clean Air Act Section 176c(4); 40 CFR Parts 51 and 93.153).

Ballast Water Management Program (33 CFR 151 Part D).

Vessel General Permit (33 USC 1341; Clean Water Act Section 401).

Clean Water Act (33 USC 1251 et seq.).

Rivers and Harbors Appropriations Act (33 USC 401 et seq.) Section 10.

Endangered Species Act (16 USC 1531 et seq.).

Magnuson-Stevens Fishery Management and Conservation Act (16 USC 1801 et seq.).

Migratory Bird Treaty Act (16 USC 703 et seq.).

Marine Mammal Protection Act (16 USC 1361 et seq.).

1 Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA; 33 USC 1401 et  
2 seq.).

3 Fish and Wildlife Coordination Act (16 U.S.C. 661–666c).

## 4 **5.3 Environmental Commitments**

5 The USACE has adopted mitigation measures proposed for the Proposed Project by  
6 LAHD (federal mitigation is not feasible or applicable for the No Project Alternative and  
7 the No Federal Action Alternative because those alternatives are not subject to a federal  
8 approval of any kind – as a reminder, the No Project Alternative is a CEQA-only  
9 alternative; and the No Federal Action Alternative, which is equivalent to the NEPA  
10 baseline condition, would have no impact under NEPA). LAHD has proposed measures  
11 to mitigate the impacts of air pollutant emissions and of in-water construction noise.  
12 LAHD’s mitigation measures related to greenhouse gas emissions address an impact  
13 outside of federal jurisdiction and are not adopted by USACE. Some of the measures  
14 related to in/over/under-water construction may be incorporated into a Department of the  
15 Army (DA) permit, but in general the implementation of the measures will be the  
16 responsibility of the LAHD. The DA permit will impose additional requirements related  
17 to in/over/under-water construction or structures under Section 10 of the Rivers and  
18 Harbors Act; discharges of dredged or fill material in waters of the U.S. under Section  
19 404 of the Clean Water Act; and/or dredged material transport and disposal at the LA-2  
20 ocean disposal site under Section 103 of the Marine Protection, Research, and  
21 Sanctuaries Act. These additional requirements are expected to be similar to those  
22 included as conditions in other DA permits issued for Port container terminal  
23 improvement projects impacting navigable waters and other waters of the U.S.

### 24 **5.3.1 LAHD Mitigation Measures Adopted by This EIS**

25 **MM AQ-1: Harbor Craft Used During Construction.** Tug assist boats used during  
26 construction must be equipped with U.S. Environmental Protection Agency (EPA) Tier 3  
27 engine standards or cleaner at all times during construction.

28 **MM AQ-4: Cargo Ships Used During Construction.** All ships and barges used  
29 primarily to deliver construction-related materials or cranes shall comply with the  
30 expanded Vessel Speed Reduction Program (VSRP) of 12 knots between 40 nautical  
31 miles (nm) from Point Fermin and the Precautionary Area.

32 **MM AQ-5: Dredging Non-Road Equipment.** The dredger must be electric. This  
33 mitigation does not include barges, support vessels, trucks, or land-based construction  
34 equipment.

35 **MM AQ-8: Vessel Speed Reduction Program (VSRP).** All ships (100%) calling at  
36 Berths 121-131 shall comply with the expanded VSRP of 12 knots between 40 nm from  
37 Point Fermin and the Precautionary Area.

38 **MM BIO-1: Protect Marine Mammals.** Although it is expected that marine mammals  
39 will voluntarily move away from the area at the commencement of the vibratory or “soft  
40 start” of pile-driving activities, as a precautionary measure, pile-driving activities will  
41 include establishment of a safety zone, construction monitoring by a qualified marine  
42 mammal observer, including the area surrounding the operations and safety zones. The  
43 pile-driving site will move with each new pile; therefore, the safety zones will move  
44 accordingly.

1 Marine mammal professional qualifications shall be identified based on criteria  
2 established by the Los Angeles Harbor Department (LAHD) during the construction bid  
3 specification process. Upon selection as part of the construction award winning team, the  
4 qualified marine mammal professional shall develop site-specific pile-driving safety zone  
5 requirements, which shall follow the National Oceanic and Atmospheric Administration  
6 (NOAA) Fisheries Technical Guidance Assessing the Effects of Anthropogenic Sound on  
7 Marine Mammal Hearing (NOAA Fisheries 2024) in consultation with the Acoustic  
8 Threshold White paper prepared for this purpose by LAHD (LAHD 2017b). Final pile-  
9 driving safety zone requirements developed by the selected marine mammal professional  
10 shall be submitted to LAHD Construction and Environmental Management Divisions  
11 prior to commencement of pile driving.