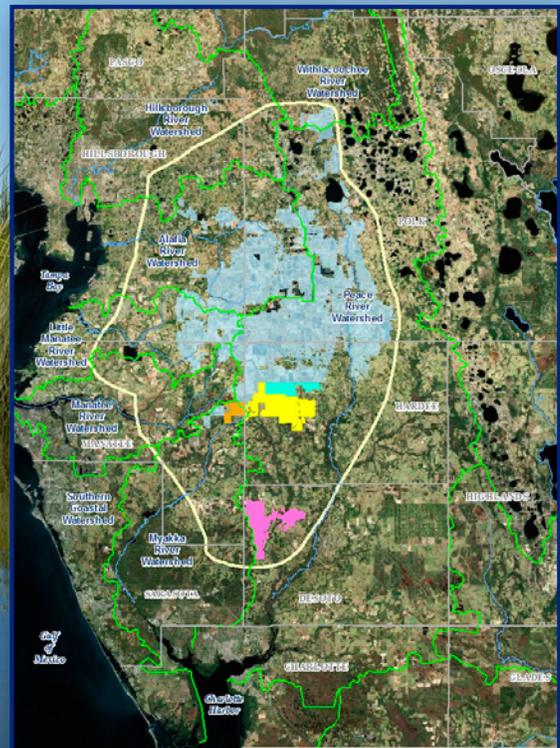


CHAPTER 6

COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS



1 **CHAPTER 6**
2 **COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS**

3 This chapter documents the major federal regulations and executive orders (EOs) that may apply to the
4 various alternatives evaluated in this Draft AEIS on phosphate mining in central Florida. Compliance
5 activities are described as they relate to proposed activities that may be associated with each of the
6 proposed mine locations.

7 **6.1 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969**

8 The purposes of NEPA (42 U.S.C. 4321 et seq.), as amended, are to: (1) declare a national policy that
9 will encourage productive and enjoyable harmony between man and his environment, (2) promote efforts
10 that will prevent or eliminate damage to the environment and biosphere and stimulate the health and
11 welfare of man, (3) enrich the understanding of the ecological systems and natural resources important to
12 the nation, and (4) establish a CEQ. NEPA establishes a national policy requiring that federal agencies
13 consider the environmental impacts of major federal actions significantly affecting the quality of the
14 human environment before making decisions and taking actions to implement those decisions.

15 Implementation of NEPA requirements in accordance with CEQ regulations (40 CFR 1500–1508) can
16 result in a Categorical Exclusion, an environmental assessment, a Finding of No Significant Impact, or an
17 EIS. This Final AEIS has been prepared in accordance with NEPA requirements, CEQ regulations (40
18 CFR 1500 et seq.), and USACE provisions for implementing the procedural requirements of NEPA (33
19 CFR 230, USACE Engineering Regulation ER 200-2-2). It discusses reasonable alternatives and their
20 potential environmental consequences.

21 **6.2 ENDANGERED SPECIES ACT OF 1973**

22 The Endangered Species Act (ESA) ([16 U.S.C. 1531 et seq.](#)) declares the intention of the Congress to
23 conserve threatened and endangered species and the ecosystems on which those species depend. The
24 ESA requires that federal agencies, in consultation with the USFWS and the NMFS, use their authorities
25 in furtherance of its purposes by carrying out programs for the conservation of endangered or threatened
26 species, and by taking such action necessary to ensure that any action authorized, funded, or carried out
27 by the agency is not likely to jeopardize the continued existence of such endangered or threatened
28 species or result in the destruction or adverse modification of habitat of such species which is determined
29 by the Secretary of the Interior or Commerce, as appropriate, to be critical (see 50 CFR Part 17 and
30 50 CFR Part 402).

31 Surveys for federally-protected species have been conducted and coordination with the USFWS is an
32 ongoing activity by the Applicants. The USFWS provided comments on the Draft AEIS as part of their
33 coordination role in the Final AEIS. These comments have been addressed in this Final AEIS.

1 **6.3 NATIONAL HISTORIC PRESERVATION ACT OF 1966**

2 The National Historic Preservation Act of 1966 ([16 U.S.C. 470](#)) created the Advisory Council on Historic
3 Preservation to advise the President and Congress on matters involving historic preservation. In
4 performing its function the Council is authorized to review and comment upon activities licensed by the
5 federal government which will have an effect upon properties listed in the NRHP, or eligible for such
6 listing. The concern of Congress for the preservation of significant historical sites is also expressed in the
7 Preservation of Historical and Archeological Data Act of 1974 ([16 U.S.C. 469 et seq.](#)), which amends the
8 Act of June 27, 1960. By this Act, whenever a federal construction project or federally licensed project,
9 activity, or program alters any terrain such that significant historical or archeological data are threatened,
10 the Secretary of the Interior may take action necessary to recover and preserve the data prior to the
11 commencement of the project.

12 Prior to initiation of ground disturbing activities, systematic archeological surveys should be performed. Such
13 surveys will be completed and the results reviewed prior to issuance of the permits under this document.
14 The purpose of the surveys will be to locate and assess the significance of historic properties and determine
15 if activities proposed under the permit will adversely affect these properties. If it is determined that significant
16 historic properties will be adversely affected by the project, a plan will be developed, in consultation with the
17 State Historic Preservation Officer, to avoid, minimize, or mitigate effects to historic properties. Actions
18 under the plan will be completed prior to initiation of ground disturbing activities. All work will be conducted
19 in compliance with the National Historic Preservation Act of 1966, as amended (Public Law 89-655) and the
20 Archeological and Historic Preservation Act, as amended (Public Law 93-291). Chapter 3 of this Final AEIS
21 includes information on surveys previously performed, and Chapter 4 contains an analysis of potential
22 impacts associated with cultural and historical resources.

23 **6.4 CLEAN WATER ACT OF 1972**

24 The CWA (33 U.S.C. 1251 et seq.) was enacted to “restore and maintain the chemical, physical, and
25 biological integrity of the Nation’s water.” The CWA prohibits the “discharge of toxic pollutants in toxic
26 amounts” to navigable waters of the U.S. Section 404 of the CWA established a program to regulate the
27 discharge of dredged and fill material into waters of the U.S., including wetlands. Activities regulated
28 under this program include fill for development, water resource projects (e.g., dams and levees),
29 infrastructure development (e.g., highways and airports), and conversion of wetlands to uplands for
30 farming and forestry.

31 Section 402 of the CWA authorizes USEPA to issue permits under procedures established to implement
32 the NPDES program. The administration of this program has been delegated to the State of Florida.

33 In 1990, the USEPA developed permitting regulations under the NPDES program to control stormwater
34 discharges associated with 11 categories of industrial activity, including mineral mining.

1 Section 401 of the CWA ([33 U.S.C. 1341](#)) requires any applicant for a federal license or permit that
2 conducts any activity that may result in a discharge of a pollutant into waters of the United States to
3 obtain a certification from the state in which the discharge originates or would originate, or, if appropriate,
4 from the interstate water pollution control agency having jurisdiction over the affected waters. The
5 jurisdiction is determined at the point where the discharge originates or would originate, and the
6 discharge is required to comply with the applicable effluent limitations and water quality standards. A
7 certification obtained for the construction of any facility must also pertain to the subsequent operation of
8 the facility.

9 CWA compliance was initiated through the Section 404 permit applications submitted to the USACE by
10 CF Industries on April 28, 2010, and by Mosaic on June 29 and 30, 2011. This Final AEIS addresses
11 potential impacts to waters of the U.S. by the Applicants' Preferred Alternatives, alternatives considered
12 to minimize those impacts, and management practices to further minimize impacts and mitigation. Public
13 notices of the Section 404 applications were released in parallel with the NOA for the Draft AEIS. Section
14 401 certification is being evaluated concurrently as part of the Section 404 permit application reviews.
15 Decisions on NPDES permits by FDEP will be completed before any mining operation begins. As a
16 cooperating agency, FDEP has provided input throughout the development of the Draft and Final AEIS.

17 **6.5 CLEAN AIR ACT OF 1972**

18 The CAA (42 U.S.C. 7401 et seq.) is intended to "protect and enhance the quality of the Nation's air
19 resources so as to promote the public health and welfare and the productive capacity of its population."
20 Section 118 of the CAA (42 U.S.C. 7418) requires that each federal agency with jurisdiction over any
21 property or facility engaged in any activity that might result in the discharge of air pollutants comply with
22 "all Federal, state, interstate, and local requirements" with regard to the control and abatement of air
23 pollution.

24 Section 109 of the CAA (42 U.S.C. 7409 et seq.) directs USEPA to set NAAQS for criteria pollutants.
25 USEPA has identified and set NAAQS under 40 CFR Part 50, for the following criteria pollutants:
26 particulate matter, sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, and lead. Section 111 of the
27 CAA (42 U.S.C. 7411) requires establishment of national standards of performance for new or modified
28 stationary sources of atmospheric pollutants. Section 160 of the CAA (42 U.S.C. 7470 et seq.) requires
29 that specific emission increases be evaluated prior to permit approval to prevent significant deterioration
30 of air quality. Section 112 of the CAA (42 U.S.C. 7412) requires specific standards for releases of
31 hazardous air pollutants (including radionuclides).

32 Air permits in Florida are issued by the FDEP. The state regulations are implemented to control emissions
33 of air pollutants such that the requirements of the CAA (including NAAQS and emission limits) are met.
34 An analysis of the potential impacts of the activities associated with the Applicants' Preferred Alternatives

1 in terms of their impact on air quality was completed for this Final AEIS in Chapter 4. It is the Applicants'
2 responsibility to obtain the necessary air permits and ensure compliance with the CAA.

3 **6.6 COASTAL ZONE MANAGEMENT ACT OF 1972**

4 Section 307(c) of the Coastal Zone Management Act of 1972, as amended ([16 U.S.C. 1456\(c\)](#)), requires
5 federal agencies conducting activities, including development projects, directly affecting a state's coastal
6 zone, to comply to the maximum extent practicable with an approved state coastal zone management
7 program. The Act also requires any non-federal applicant for a federal license or permit to conduct an
8 activity affecting land or water uses in the state's coastal zone to furnish a certification that the proposed
9 activity will comply with the state's coastal zone management program. Generally, no permit will be
10 issued until the state has concurred with the non-federal applicant's certification. This provision becomes
11 effective upon approval by the Secretary of Commerce of the state's coastal zone management program
12 (see 15 CFR Part 930).

13 The Florida Coastal Management Program (FCMP) was approved in September 1981, and includes the
14 entire state in Florida's "coastal zone." Within FDEP, the Office of Intergovernmental Programs
15 coordinates state review on the consistency of federal projects and federally-funded activities relative to
16 state policies and regulations. A federal consistency determination in accordance with 15 CFR Part 930
17 Subpart C will be conducted as part of the review process for the individual projects. State consistency
18 review will also be performed during the agency coordination of the individual projects to ensure
19 consistency with the FCMP.

20 **6.7 FARMLAND PROTECTION POLICY ACT OF 1981**

21 The Farmland Protection Policy Act of 1981 (7 U.S.C. 4201) attempts to minimize the effects federally
22 funded programs have on the conversion of farmland to non-agricultural uses. The act specifically targets
23 the urban sprawl resulting from the conversion and the associated waste of resources and energy.

24 According to 7 CFR, Section 658.2(c)(1)(i) of the Farmland Protection Policy Act, federal permitting,
25 licensing, or rate approval programs for activities on private or non-federal lands are not governed by this
26 act. Therefore, mining activities occurring in the CFPD are not subject to this act.

27 **6.8 SOLID WASTE DISPOSAL ACT OF 1965**

28 The Solid Waste Disposal Act of 1965, as amended by the Resource Conservation and Recovery Act of
29 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. 6901 et seq.), as
30 amended, governs the transportation, treatment, storage, and disposal of hazardous waste and
31 nonhazardous waste (that is, municipal solid waste). Under RCRA, USEPA defines and identifies
32 hazardous waste; establishes standards for its transportation, treatment, storage, and disposal; and
33 requires permits for persons engaged in hazardous waste activities. Regulations imposed on a generator

1 or on a treatment, storage, or disposal facility vary according to the type and quantity of hazardous waste
2 generated, treated, stored, or disposed of, and the methods of treatment, storage, and disposal. Florida
3 has adopted by reference portions of the federal regulations into Chapter 62-730, F.A.C. An analysis of
4 issues related to the generation and disposal of hazardous wastes associated with the Applicants’
5 Preferred Alternatives is included in Chapter 4 of this Final AEIS.

6 **6.9 ESTUARY PROTECTION ACT OF 1968**

7 The Estuary Protection Act of 1968 ((16 U.S.C. 1221-1226; P.L. 90-454; 82 Stat 625) was passed to
8 highlight the values of estuaries and the need to conserve their natural resources while providing a
9 means to achieve a balance between protection of resources and development. It authorized the
10 Secretary of the Interior to take a variety of actions, including study and inventory of estuaries of the U.S.,
11 in cooperation with other federal agencies and the states.

12 An adjunct to the Estuary Protection Act was the creation of the NEP in 1987, through amendments to the
13 CWA. The NEP was designed to identify, restore, and protect nationally-significant estuaries of the U.S.,
14 which are included in the program through a designation process. The USEPA administers the program,
15 with committees consisting of local government officials, private citizens, and representatives from other
16 federal agencies, academic institutions, industry, and estuary user-groups managing program decisions
17 and activities.

18 Charlotte Harbor was designated as part of the NEP on July 6, 1995. As described in Chapter 3, the
19 watersheds of the Peace, Myakka, and Caloosahatchee Rivers (nearly 4,500 square miles) feed
20 freshwater into the coastal area, which serves as a home, feeding ground and/or nursery area for more
21 than 270 species of resident, migrant, and commercial fishes of the Gulf of Mexico (CHNEP, 2005). This
22 estuarine system and its watershed are both directly and indirectly vitally important economic assets to
23 Florida (USEPA, 2007b).

24 Problems facing the Charlotte Harbor NEP include hydrologic changes, degradation of water quality, the
25 loss of fish and wildlife habitat, and land use change. The population in the watershed continues to grow
26 based on current trends, with a 33 percent increase between 2000 and 2020 (CHNEP, 2000).

27 All of the proposed mine locations fall within the CHNEP boundaries. There has been, and continues to
28 be, coordination with the partners to the CHNEP, including the counties, FDEP, SWFWMD, USACE,
29 USFWS, and the USEPA. This coordination has continued throughout the preparation of this Final AEIS
30 and therefore is in compliance with the Estuary Protection Act.

31 **6.10 NATIONAL WILD AND SCENIC RIVERS ACT**

32 Section 7(a) of the Wild and Scenic Rivers Act ([16 U.S.C. 1278 et seq.](#)) provides that no department or
33 agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any

1 water resources project that would have a direct and adverse effect on the values for which such river
2 was established, as determined by the Secretary charged with its administration.

3 A portion of the Myakka River is a designated Wild and Scenic River in Sarasota County between the
4 county line and SR 780. Based on the analyses in the Final AEIS there are not expected to be any
5 impacts from the Applicants' Preferred Alternatives to the Wild and Scenic portion of the Myakka River.

6 **6.11 FISH AND WILDLIFE COORDINATION ACT**

7 The Fish and Wildlife Act of 1956 ([16 U.S.C. 742a, et seq.](#)), the Migratory Marine Game–Fish Act ([16](#)
8 [U.S.C. 760c–760g](#)), the Fish and Wildlife Coordination Act ([16 U.S.C. 661–666c](#)) and other acts express
9 the will of Congress to protect the quality of the aquatic environment as it affects the conservation,
10 improvement and enjoyment of fish and wildlife resources. Reorganization Plan No. 4 of 1970 transferred
11 certain functions, including certain fish and wildlife-water resources coordination responsibilities, from the
12 Secretary of the Interior to the Secretary of Commerce. Under the Fish and Wildlife Coordination Act and
13 Reorganization Plan No. 4, any federal agency that proposes to control or modify any body of water must
14 first consult with the USFWS or the NMFS, as appropriate, and with the head of the appropriate state
15 agency exercising administration over the wildlife resources of the affected state.

16 Although the Act is not directly applicable to the projects that make up the Applicants' Preferred
17 Alternatives, which are not water-resources development projects, coordination with federal and state
18 resource agencies has been conducted throughout the preparation of the Draft AEIS and comments to
19 this document relative to fish and wildlife coordination are included in this Final AEIS. Additional
20 coordination is ongoing as requested by resource agencies.

21 **6.12 MIGRATORY BIRD TREATY ACT OF 1918 AND THE MIGRATORY BIRD** 22 **CONSERVATION ACT OF 1929**

23 The Migratory Bird Treaty Act (16 U.S.C. 703-712, July 3, 1918, as amended 1936 et seq.) implements
24 various treaties and conventions between the U.S. and Canada, Japan, Mexico, and the former Soviet
25 Union for the protection of migratory birds. Under the Act, it is unlawful to take, kill, or possess migratory
26 birds, or attempt the preceding actions. The Act also makes it unlawful to possess, sell, barter, purchase,
27 deliver, ship, import, export, or offer the preceding; or to receive any migratory bird, part, nest, egg, or
28 product unless allowed by permit. Permitting decisions may be based on temperature zones, distribution,
29 abundance, economic value, breeding habits, and flight patterns of migratory birds. The Migratory Bird
30 Conservation Act ([16 U.S.C. 715-715d, 715e, 715f-715r](#)) of February 18, 1929 (45 Stat. 1222) established
31 a commission to approve areas of land or water recommended by the Secretary of the Interior for
32 acquisition as reservations for migratory birds.

33 Although migratory birds use the areas proposed for mines at various times of the year, the Applicants'
34 Preferred Alternatives are not likely to result in violation of either of these acts. To avoid affecting

1 migratory waterfowl nesting, pre-clearing will be conducted by pedestrian transect surveys prior to
2 clearing any forested wetlands. Migratory winter species will also be recorded. If pre-clearing surveys
3 reveal active nesting, clearing activities will be restricted until the young have fledged and mining
4 activities would be rescheduled accordingly. Clearing of any nests will require consultation with the
5 FFWCC and a nest removal permit. This coordination will be conducted independently of the USACE
6 Section 404 permitting process.

7 **6.13 BALD AND GOLDEN EAGLE PROTECTION ACT OF 1940, AS AMENDED**

8 The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c), enacted in 1940 and amended several
9 times since then, prohibits anyone without a permit issued by the Secretary of the Interior from "taking"
10 bald or golden eagles, including their parts, nests, or eggs. In addition to immediate impacts, this
11 definition also covers impacts that could result from human-induced alterations around a previously used
12 nest site during a time when eagles are not present, if the alterations agitate or bother an eagle to a
13 degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, and causes injury,
14 death or nest abandonment when it returns.

15 Although bald eagles were removed from the endangered species list in June 2007, they are still
16 protected under this act as well as the Migratory Bird Treaty Act and the 1900 Lacey Act which protects
17 bald eagles by making it a federal offense to take, possess, transport, sell, import, or export their nests,
18 eggs and parts that are taken in violation of any state, tribal, or U.S. law. When the bald eagle was
19 delisted, USFWS established regulations (50 CFR 22.26, 22.27, and 22.28) creating a permit program to
20 authorize limited incidental take of bald eagles and golden eagles, with tighter restrictions for golden
21 eagles. Under the new regulations, permits associated with bald eagles can authorize disturbances
22 associated with development activities, with decisions made based on regional populations of eagles
23 among other factors.

24 Bald eagles and their nests have been reported on and around the proposed mine locations. Prior to
25 mining near active nests, the applicants will coordinate with the USFWS to obtain any necessary
26 clearances prior to mining near active nests. This coordination will be conducted independently of the
27 USACE Section 404 permitting process.

28 **6.14 EXECUTIVE ORDER 11988 – FLOODPLAIN MANAGEMENT**

29 EO 11988 requires federal agencies to avoid, to the extent possible, the long-term and short-term
30 adverse impacts associated with the occupancy and modification of floodplains, and to avoid direct and
31 indirect support of floodplain development wherever there is a practicable alternative. To meet these
32 goals, agencies are required to take action to reduce the risk of flood loss, to minimize the effect of floods
33 on human safety, health, and welfare, and to restore and preserve the natural and beneficial functions of
34 floodplains. The EO applies to federal actions that involve:

- 1 • Acquiring, managing, and disposing of federal lands and facilities
- 2 • Taking direct federal action or federal financing and assisting with construction and improvements to
- 3 nonfederal facilities
- 4 • Land use, including but not limited to water and related land resources planning, regulation, and
- 5 licensing activities

6 Compliance with EO 11988 has been initiated through the Section 404 permit applications submitted to
7 the USACE by CF Industries on April 28, 2010, and by Mosaic on June 29 and 30, 2011. This Final AEIS
8 addresses potential impacts to floodplains (Chapter 4) and management practices to further minimize and
9 mitigate potential impacts (Chapter 5). Current plans for avoiding or minimizing impacts to floodplains as
10 currently proposed include combinations of setbacks and avoidance of perennial and some intermittent
11 streams by the applicants. Additionally, industry optimization of design of ditch and berm systems is now
12 required by SWFWMD in Water Use Permit conditions in order to accomplish increased surficial aquifer
13 recharge where deemed necessary to help protect sensitive natural resources in floodplains or other
14 preservation areas.

15 **6.15 EXECUTIVE ORDER 11990 – PROTECTION OF WETLANDS**

16 EO 11990, adopted on May 24, 1977, and amended by EO 12608, directs federal agencies to preserve
17 and enhance the natural and beneficial values of wetlands and to avoid, to the extent possible, the long-
18 term and short-term adverse impacts associated with the destruction or modification of wetlands. Federal
19 agencies also are directed to avoid direct or indirect support of new construction in wetlands wherever
20 there is a practicable alternative, and to provide opportunities for early public review of any plans or
21 proposals for new construction in wetlands (Section 2(b)). EO 11990 does not apply to the permits,
22 licenses, or allocations issued by federal agencies to private parties for activities involving wetlands on
23 non-federal property.

24 Despite this limit to the applicability of EO 11990, the Applicants' Preferred Alternatives comply with the
25 intent of the EO as documented through the Section 404 permit applications submitted to the USACE by
26 CF Industries on April 28, 2010, and by Mosaic on June 29 and 30, 2011. Chapter 5 of the Final AEIS
27 addresses avoidance and minimization of impacts to waters of the U.S., including wetlands, and
28 compensatory mitigation for unavoidable impacts.

29 **6.16 EXECUTIVE ORDER 12898 – FEDERAL ACTIONS TO ADDRESS** 30 **ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW** 31 **INCOME POPULATIONS**

32 EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income
33 Populations (February 11, 1994), requires each federal agency to identify and address disproportionately
34 high and adverse human health or environmental effects of its programs, policies, and activities on

1 minority and low-income populations. EO 12898 requires the federal government to review the effects of
2 their programs and actions on minorities and low-income communities.

3 An environmental justice analysis was completed on the Applicants' Preferred Alternatives and the offsite
4 alternatives and is included in Chapter 4 of this Final AEIS.

5 **6.17 EXECUTIVE ORDER 13112 – INVASIVE SPECIES**

6 EO 13112 defines invasive species as "...an alien (or non-native) species whose introduction does, or is
7 likely to cause economic or environmental harm or harm to human health" and requires federal agencies
8 to prevent the introduction of invasive species, to provide for their control, and to minimize their economic,
9 ecological, and human health impacts (*Federal Register*, 1999). The National Invasive Species Council
10 (NISC) was established by EO 13112 to ensure that federal programs and activities to prevent and
11 control invasive species are coordinated, effective, and efficient. NISC comprises the secretaries and
12 administrators of 13 federal departments and agencies to provide high-level coordination on invasive
13 species and is co-chaired by the secretaries of Commerce, Agriculture, and the Interior.

14 Compliance with EO 13112 is documented by the applications provided by the Applicants including
15 identification of invasive species in the proposed mining locations. Protocols for management and control
16 are documented in the Final AEIS.

17 **6.18 RIVERS AND HARBORS ACT OF 1899**

18 Section 9 of the Rivers and Harbors Act, approved March 3, 1899 ([33 U.S.C. 401](#)), prohibits the
19 construction of any dam or dike across any navigable water of the United States in the absence of
20 Congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the
21 Army. [Section 9](#) also pertains to bridges and causeways but the authority of the Secretary of the Army
22 and Chief of Engineers with respect to bridges and causeways was transferred to the Secretary of
23 Transportation under the Department of Transportation Act of October 15, 1966 (49 U.S.C. 1155g(6)(A)).

24 Section 10 of the Rivers and Harbors Act approved March 3, 1899, ([33 U.S.C. 403](#)) (hereinafter referred
25 to as [Section 10](#)), prohibits the unauthorized obstruction or alteration of any navigable water of the United
26 States. The construction of any structure in or over any navigable water of the United States, the
27 excavating from or depositing of material in such waters, or the accomplishment of any other work
28 affecting the course, location, condition, or capacity of such waters is unlawful unless the work has been
29 recommended by the Chief of Engineers and authorized by the Secretary of the Army.

30 Neither Section 9 nor Section 10 of the Act is applicable since the activities associated with the
31 Applicants' Preferred Alternatives are not located in navigable waters.

1 **6.19 EXECUTIVE ORDER 13045 – PROTECTION OF CHILDREN FROM**
2 **ENVIRONMENTAL HEALTH RISKS AND SAFETY RISKS**

3 EO 13045, Protection of Children from Environmental Health Risks and Safety Risks, was originally
4 signed in 1997 and amended in 2001 by EO 13229 and in 2003 by EO 13296. This EO orders that each
5 federal agency make it a high priority to identify and assess environmental health risks and safety risks
6 that may disproportionately affect children and ensure that its policies, programs, activities, and standards
7 address disproportionate risks to children that result from environmental health risks or safety risks. Risks
8 to health or to safety are attributable to products or substances that a child is likely to come in contact
9 with or ingest (such as air, food that a child consumes, water consumed or used for recreation, soil, and
10 products a child uses or is exposed to).

11 Compliance with EO 13045 is documented in Chapter 4.9 of the Final AEIS, Land Use, which discusses the
12 lack of special population land uses such as schools and daycares near the Applicants' Preferred
13 Alternatives.

14 **6.20 MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT**
15 **ACT/FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976**

16 The purposes of these Acts are to conserve and manage fishery resources off the U.S. coasts as well as
17 U.S. anadromous species and Continental Shelf fishery resources; support implementation and
18 enforcement of international fishery agreements for the conservation and management of highly migratory
19 species; promote domestic commercial and recreational fishing under sound conservation and management
20 principles; provide for preparing and implementing fishery management plans to achieve and maintain the
21 optimum yield of each fishery on a continuing basis; establish Regional Fishery Management Councils to
22 protect fishery resources by preparing, monitoring, and revising plans that allow for participation of states,
23 fishing industry, consumer and environmental organizations; and to encourage the development of
24 underutilized U.S. fisheries. Congress amended the Magnusen-Stevens Fishery Conservation and
25 Management Act extensively when it passed the Sustainable Fisheries Act (SFA) in 1996.

26 The SFA promotes the protection of essential fish habitat. Essential fish habitat is defined as those waters
27 and substrate necessary to fish for spawning, breeding, feeding or growing to maturity. Although
28 Charlotte Harbor and the lower Peace River may be essential fish habitat, given the distance of the
29 proposed projects from these areas and the lack of adverse impacts to the Peace River or Charlotte
30 Harbor from the projects, the Applicants' Preferred Alternatives would have no adverse impact on
31 essential fish habitat. Therefore, the Applicants' Preferred Alternatives is in compliance with this Act.