

**APPENDIX B: COASTAL ZONE MANAGEMENT ACT
CONSISTENCY DETERMINATION**

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**FLORIDA COASTAL ZONE MANAGEMENT PROGRAM
FEDERAL CONSISTENCY EVALUATION PROCEDURES**

**2018: L-29 CANAL AND G-3273 CONSTRAINT RELAXATION INCLUDING THE
NORTHERN DETENTION AREA
(REVISED OPERATIONAL STRATEGY INCREMENT 2)**

Miami-Dade County, Florida

Enforceable Policy. Florida State Statutes considered “enforceable policy” under the Coastal Zone Management Act (www.dep.state.fl.us/cmp/federal/24_statutes.htm).

Applicability of the Coastal Zone Management Act. The following summarizes the process and procedures under the Coastal Zone Management Act for Federal Actions and for non-Federal Applicants*

Item	Non-Federal Applicant (15 CFR 930, subpart D)	Federal Action (15 CFR, 930 subpart C)
Enforceable Polices	Reviewed and approved by NOAA (in FL www.dep.state.fl.us/cmp/federal/24_statutes.htm)	Same
Effects Test	Direct, Indirect (cumulative, secondary), adverse or beneficial	Same
Review Time	6 months from state receipt of Consistency Certification (30-days for completeness notice) Can be altered by written agreement between State and applicant	60 Days, extendable (or contractible) by mutual agreement
Consistency	Must be Fully Consistent	To Maximum Extent Practicable**
Procedure Initiation	Applicant provides Consistency Certification to State	Federal Agency provides “Consistency Statement” to State
Appealable	Yes, applicant can appeal to Secretary (NOAA)	No (NOAA can “mediate”)
Activities	Listed activities with their geographic location (State can request additional listing within 30 days)	Listed or Unlisted Activities in State Program
Activities in Another State	Must have approval for interstate reviews from NOAA	Interstate review approval NOT required.
Activities in Federal Waters	Yes, if activity affects state waters	Same

* There are separate requirements for activities on the Outer Continental Shelf (Subpart E) and for “assistance to an applicant agency” (subpart F).

** Must be fully consistent except for items prohibited by applicable law (generally does not count lack of funding as prohibited by law, 15 CFR 930.32).

Chapter 161, Beach and Shore Preservation. The intent of the coastal construction permit program established by this chapter is to regulate construction projects located seaward of the line of mean high water and which might have an effect on natural shoreline processes.

Response: Coastal construction is not proposed as a part of this project. The Proposed Action is not seaward of the mean high water line and would not affect shorelines or shoreline processes.

Chapters 163(part II), 186, and 187, County, Municipal, State and Regional Planning. These chapters establish the Local Comprehensive Plans, the Strategic Regional Policy Plans, and the State Comprehensive Plan (SCP). The SCP sets goals that articulate a strategic vision of the State's future. Its purpose is to define in a broad sense, goals, and policies that provide decision-makers directions for the future and provide long-range guidance for an orderly social, economic and physical growth.

Response: The Proposed Action has been coordinated with various Federal, state and local agencies during the planning process. The Proposed Action meets the primary goal of the State Comprehensive Plan through preservation and protection of the environment.

Chapter 252, Disaster Preparation, Response and Mitigation. This chapter creates a state emergency management agency, with the authority to provide for the common defense; to protect the public peace, health and safety; and to preserve the lives and property of the people of Florida.

Response: Operations in the project area have been governed by Increment 1.1 and 1.2 for the operation of water management infrastructure connected to the Modified Water Deliveries (MWD) to Everglades National Park (ENP) and Canal 111 (C-111) South Dade Projects and subsequently approved deviations to include the June 2017 Water Conservation Area (WCA 3A) Planned Temporary Deviation, the July 2017 WCA 2A Planned Temporary Deviation, and the September 2017 WCA 3A Emergency and Planned Temporary Deviation post Hurricane Irma. Increment 1.1 and 1.2 is a deviation to the 2012 WCAs, ENP, and ENP to South Dade Conveyance System (SDCS) Water Control Plan. The U.S. Army Corps of Engineers, Jacksonville District (Corps) is proposing to modify the operational strategy, currently defined in the Increment 1.1 and 1.2 Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) (dated February 16, 2017) to raise the maximum operating limit in the L-29 Canal up to 8.5 feet National geodetic Vertical Datum of 1929, while replacing the G-3273 stage constraint for S-333 inflows to NESRS with local gages that trigger flood mitigation actions in 8.5 Square Mile Area (8.5 SMA) and continuing using to utilize S-356 for control of seepage into the L-31N Canal. This allows for an increase in deliveries from WCA 3A into NESRS for the benefit of natural resources, thereby, reducing Column 2 operations implemented under the 2012 Water Control Plan.

Increment 2 seeks to increase flow to NESRS while providing operational flexibility needed to: (1) maintain operating limits in the L-29 Canal that ensure the stability and safety of the Tamiami Trail (U.S. 41 Highway) between S-333 and S-334; (2) support MWD Project construction for the installation of S-357N, if needed; (3) facilitate the remaining South Detention Area construction of C-111 South Dade Contract 8A and any remaining construction components of the North

Detention Area (NDA) Contract 8; (4) maintain authorized flood mitigation for 8.5 SMA; (5) maintain pre-existing flood protection along the L-31N and C-111 Canals; (6) provide supplemental flows to Taylor Slough; and (7) provide operational flexibilities for prescribed extreme high water conditions in WCA 3A.

Multiple purposes of the Central and Southern Florida Project include flood control, navigation, preservation of fish and wildlife, drainage, salinity control and water supply. These will be maintained under Increment 2. A monitoring plan has been developed. Therefore, this project would be consistent with the efforts of Division of Emergency Management.

Chapter 253, State Lands. This chapter governs the management of submerged state lands and resources within state lands. This includes archeological and historical resources; water resources; fish and wildlife resources; beaches and dunes; submerged grass beds and other benthic communities; swamps, marshes and other wetlands; mineral resources; unique natural features; submerged lands; spoil islands; and artificial reefs.

Response: Operational modifications under Increment 2 would enable increased water deliveries to WCA 3A to ENP through NESRS for the benefit of natural resources. There is no dredge or fill as part of this project. The Proposed Action would comply with the intent of this chapter.

Chapters 253, 259, 260, and 375, Land Acquisition. This chapter authorizes the state to acquire land to protect environmentally sensitive areas.

Response: Since this action includes operational changes to current water management features, this chapter does not apply. Lands would not be acquired by the Federal government for the Proposed Action.

Chapter 258, State Parks and Aquatic Preserves. This chapter authorizes the state to manage state parks and preserves. Consistency with this statute would include consideration of projects that would directly or indirectly adversely impact park property, natural resources, park programs, management or operations.

Response: The Proposed Action area is located within ENP and will not adversely impact lands within this location. Hydrologic benefits to wetlands within ENP are expected. The project is consistent with this chapter.

Chapter 267, Historic Preservation. This chapter establishes the procedures for implementing the Florida Historic Resources Act responsibilities.

Response: The Proposed Action has been coordinated with the Florida State Historic Preservation Officer in accordance with the National Historic Preservation Act and the Archaeological and Historic Preservation Act. It is anticipated that the Proposed Action will not adversely affect historic properties eligible or potential eligible for the National Register of Historic Places. The project is consistent with the goals of this chapter.

Chapter 288, Economic Development and Tourism. This chapter directs the state to provide guidance and promotion of beneficial development through encouraging economic diversification and promoting tourism.

Response: The Proposed Action is not anticipated to have a negative impact on recreation in the project area. This would be compatible with tourism for this area and therefore, is consistent with the goals of this chapter.

Chapters 334 and 339, Transportation. This chapter authorizes the planning and development of a safe balanced and efficient transportation system.

Response: The Proposed Action would not impact existing public transportation and is therefore consistent with the goals of this chapter.

Chapter 370, Saltwater Living Resources. This chapter directs the state to preserve, manage and protect the marine, crustacean, shell and anadromous fishery resources in state waters; to protect and enhance the marine and estuarine environment; to regulate fishermen and vessels of the state engaged in the taking of such resources within or without state waters; to issue licenses for the taking and processing products of fisheries; to secure and maintain statistical records of the catch of each such species; and, to conduct scientific, economic, and other studies and research.

Response: No saltwater resources are anticipated to be significantly impacted by the Proposed Action; therefore the project is consistent with the goals of this chapter.

Chapter 372, Living Land and Freshwater Resources. This chapter establishes the Game and Freshwater Fish Commission and directs it to manage freshwater aquatic life and wild animal life and their habitat to perpetuate a diversity of species with densities and distributions which provide sustained ecological, recreational, scientific, educational, aesthetic, and economic benefits.

Response: The Proposed Action will not negatively impact freshwater aquatic life or wild animal life. The project is consistent with the goals of this chapter.

Chapter 373, Water Resources. This chapter provides the authority to regulate the withdrawal, diversion, storage, and consumption of water.

Response: Operational modifications under Increment 2 would enable increased water deliveries to WCA 3A to ENP through NESRS for the benefit of natural resources. The Proposed Action does not include any significant changes to the withdrawal, diversion, storage, or consumption of water. Therefore, this project is consistent with the goals of this chapter.

Chapter 376, Pollutant Spill Prevention and Control. This chapter regulates the transfer, storage, and transportation of pollutants and the cleanup of pollutant discharges.

Response: This chapter is not applicable as storage or transfer of pollutants will not result from the Proposed Action.

Chapter 377, Oil and Gas Exploration and Production. This chapter authorizes the regulation of all phases of exploration, drilling, and production of oil, gas, and other petroleum products.

Response: The Proposed Action does not involve the exploration, drilling or production of gas, oil or petroleum product and therefore, this chapter does not apply.

Chapter 380, Environmental Land and Water Management. This chapter establishes criteria and procedures to assure that local land development decisions consider the regional impact nature of proposed large-scale development. This chapter also deals with the Area of Critical State Concern program and the Coastal Infrastructure Policy.

Response: The Proposed Action does not involve land development as described by this chapter, therefore this chapter does not apply.

Chapters 388 (selected subsections on on-site sewage treatment and disposal systems) and 388 (Mosquito/Arthropod Control). Chapter 388 provides for a comprehensive approach for abatement or suppression of mosquitoes and other pest arthropods within the state.

Response: The Proposed Action would not further the propagation of mosquitoes or other pest arthropods.

Chapter 403, Environmental Control. This chapter authorizes the regulation of pollution of the air and waters of the state by the Florida Department of Environmental Regulation (now a part of the Florida Department of Environmental Protection).

Response: The EA addressing project impacts has been reviewed by the appropriate resource agencies including the Florida Department of Environmental Protection. A monitoring plan has been developed and will be implemented to ensure that no lasting adverse effects on water quality, air quality, or other environmental resources will occur. The Proposed Action complies with the intent of this chapter.

Chapter 582, Soil and Water Conservation. This chapter establishes policy for the conservation of the state soil and water through the Department of Agriculture. Land use policies will be evaluated in terms of their tendency to cause or contribute to soil erosion or to conserve, develop, and utilize soil and water resources both onsite or in adjoining properties affected by the project. Particular attention will be given to projects on or near agricultural lands.

Response: The Proposed Action would not cause or contribute to soil erosion and is related to the larger 2012 WCAs-ENP-SDCS Water Control Plan to better utilize water resources in the region. The project complies with the intent of this chapter.

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