



## APPENDIX B

# Regulatory Setting

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## APPENDIX B REGULATORY SETTING

This appendix lists the primary federal statutes, regulations, and executive orders related to each resource category identified by the Federal Aviation Administration in FAA Order 1050.1F, *Environmental Policies and Procedures*. Relevant state and local regulations are also listed. The information in this appendix is provided for informational purposes and is meant to provide context to the analyses and discussions in this EA. The summary information in each table provides a broad overview of regulatory setting and is not intended to serve as a checklist or detailed guidance for the preparation of this EA.

TABLE B-1 REGULATORY SETTING – AIR QUALITY

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Environmental Protection Agency (USEPA)	Clean Air Act (CAA)	The CAA regulates air pollutant emissions from stationary and mobile sources. The Act authorized the USEPA to establish National Ambient Air Quality Standards (NAAQS) for criteria pollutants (ozone [O <sub>3</sub> ], nitrogen dioxide [NO <sub>2</sub> ], carbon monoxide [CO], sulfur dioxide [SO <sub>2</sub> ], and particulate matter less than or equal to 10 micrometers in size [PM <sub>10</sub> ] and 2.5 micrometers in size [PM <sub>2.5</sub> ]). The CAA also specifies future dates for achieving compliance with the NAAQS and mandates that states submit and implement a State Implementation Plan (SIP) for local areas not meeting these standards. 1990 CAA amendments identify emission reduction goals for areas not meeting the NAAQS and require a demonstration of reasonable further progress toward attainment and incorporation of additional sanctions for failure to attain or meet interim milestones.

SOURCE: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.

TABLE B-2 (1 OF 2) REGULATORY SETTING – BIOLOGICAL RESOURCES

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
<b>Federal</b>		
US Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS)	Endangered Species Act (ESA) of 1973	The ESA was established to protect threatened and endangered species and their habitat. The ESA is administrated by the USFWS, with responsibility for terrestrial and freshwater species; and the NMFS, with responsibility for marine species. Activities affecting protected species and their habitats are prohibited unless authorized by a permit from the USFWS and/or NMFS. Section 7(a)(2) of the ESA requires federal agencies, in consultation with the USFWS and/or the NMFS, to ensure any federal action authorized, funded, or carried out is not likely to jeopardize the continued existence of a protected species or result in the destruction or adverse modification of designated critical habitat.
USFWS	Bald and Golden Eagle Protection Act	The Bald and Golden Eagle Protection Act protects bald and golden eagles from the unauthorized capture, purchase, or transportation of the birds, their nests, or their eggs.
USFWS and NFMS	Fish and Wildlife Coordination Act	The Fish and Wildlife Coordination Act requires federal agencies to consult with the USFWS, NMFS (in some instances), and appropriate state fish and wildlife agencies regarding the conservation of wildlife resources when proposed federal projects may result in control or modification of the water of any stream or other water body.
NMFS	Magnuson-Stevens Fishery Conservation and Management Act	The Act governs the conservation and management of ocean fishing, including essential fish habitat (EFH) and requires consultation with the Secretary of Commerce with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any EFH identified under the Act. The NMFS reviews potential impacts to EFH.

TABLE B-2 (2 OF 2) REGULATORY SETTING – BIOLOGICAL RESOURCES

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
NMFS, USFWS	Marine Mammal Protection Act	The Act protects marine mammals and prohibits, with certain exceptions, the take of marine mammals in US waters.
USFWS	Migratory Bird Treaty Act (MBTA)	The MBTA protects migratory birds by prohibiting intentional taking, selling, or other activities that would harm migratory birds, their eggs, or nests (such as removal of an active nest or nest tree), unless authorized under a special permit from the USFWS.
<i>State</i>		
Florida Fish and Wildlife Conservation Commission (FFWCC)	Florida Statutes, Chapter 379, Fish and Wildlife Conservation	This statute provides protection of wildlife from activities that may harm or jeopardize species.
FFWCC	Florida Administrative Code (FAC) Chapter 68A-27, Rules Relating to Endangered or Threatened Species	Rules and regulations in FAC Chapter 68A-27 represent the Wildlife Code of the State of Florida. Pursuant to the State Wildlife Code, a list of state species for wildlife is maintained by the FFWCC. All species protected by the USFWS and NMFS that occur in Florida are now included on the Florida Endangered and Threatened Species list as federal Endangered, Threatened, Threatened Due to Similarity of Appearance, or Non-Essential Experimental population species. Species protected by the FFWCC are included on the list of Florida Endangered and Threatened Species. The Florida Department of Agriculture and Consumer Services is responsible for the preservation of native flora in the state of Florida. State endangered, threatened, and commercially exploited plants are listed in FAC 5B-40.
Florida Water Management Districts and the Florida Department of Environmental Protection (FDEP)	Florida Water Resources Act of 1972	The Act provides authority for all Florida water management districts and the FDEP to protect the water resources of the state, including natural resources, fish, and wildlife.
<i>Local</i>		
Monroe County Planning and Environmental Resources Department	Monroe County Comprehensive Plan and Land Development Regulations	The Monroe County Comprehensive Plan and Land Development Regulations provides for protection of native, federal, and state protected plant species. The County also protects all federal and state special status wildlife species.

SOURCES: Ricondo & Associates, Inc., February 2021, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015; The 2019 Florida Statutes, <http://www.leg.state.fl.us/statutes/> (accessed July 14, 2020); Florida Department of State, Florida Administrative Code & Florida Administrative Register, <https://www.flrules.org/> (accessed July 14, 2020); and Monroe County, Florida, *Year 2030 Comprehensive Plan*, [https://library.municode.com/fl/monroe\\_county/codes/comprehensive\\_plan](https://library.municode.com/fl/monroe_county/codes/comprehensive_plan) (accessed May 2020).

TABLE B-3 REGULATORY SETTING – CLIMATE

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Environmental Protection Agency (USEPA)	Clean Air Act (CAA)	The CAA regulates greenhouse gas (GHG) emissions from on-road surface transportation vehicles and stationary power generational sources.

SOURCES: Ricondo & Associates, Inc., February 2021, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.

TABLE B-4 REGULATORY SETTING – COASTAL RESOURCES

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
National Oceanic and Atmospheric Administration (NOAA)	The Coastal Zone Management Act (CZMA) of 1972	The CZMA ensures effective management, beneficial use, protection, and development of the coastal zone. Coastal zone management programs, prepared by states according to guidelines issued by the NOAA, are designed to address issues affecting coastal areas.
US Fish and Wildlife Service (USFWS), Federal Emergency Management Agency (FEMA)	Coastal Barrier Resources Act (CBRA) of 1982	The CBRA prohibits, with some exceptions, federal financial assistance for development within the John H. Chafee Coastal Barrier Resources System (CBRS).
NOAA	National Marine Sanctuaries Act (NMSA)	The NMSA protects areas of the marine environment with special national significance, and it requires federal agencies with actions that could impact sanctuary resources to consult with the program before taking action.
Florida Department of Environmental Protection (FDEP)	Florida Coastal Management Program (FCMP)	The FCMP, implemented by FDEP, protects state coastal resources under 24 statutes designed to protect and enhance the state's natural, cultural, and economic coastal resources. The FCMP authorizes the State of Florida to review certain federal activities affecting the land or water uses, or natural resources of its coastal zone, for consistency with its program.
FDEP	Florida Environmental Land and Water Management Act of 1972	The Act protects natural resources and the environment; plans for and guides development in order to ensure a water management system that will reverse the deterioration of water quality and provide optimum use of limited water resources; facilitates orderly and well-planned development; and protects the health, welfare, safety, and quality of life of Florida residents.
Not Applicable	Florida Statutes, Chapter 380.05, Areas of Critical State Concern	This statute establishes the Area of Critical State Concern (ACSC) program. The purpose of this action is to strengthen the capability of local government planning to protect resources of statewide and regional importance. Rule 28-36 of the FAC established the City of Key West ACSC.

SOURCES: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015; Florida Department of Environmental Protection, Florida Coastal Management Program, <https://floridadep.gov/rcp/fcmp> (accessed July 2020); and The 2019 Florida Statutes, <http://www.leg.state.fl.us/statutes/> (accessed July 2020).

TABLE B-5 REGULATORY SETTING – DEPARTMENT OF TRANSPORTATION ACT, SECTION 4(f)

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Department of Transportation (USDOT)	Section 4(f) of the Department of Transportation (DOT) Act	Section 4(f) provides that the Secretary of Transportation may approve a transportation program or project only if there is no feasible and prudent alternative to the use of specific properties and the program or project includes all possible planning to minimize harm resulting from the use of such properties. A Section 4(f) property is defined as a publicly owned park, recreational area, or wildlife and waterfowl refuge of national, state, or local significance; or land of a publicly or privately owned historic site of national, state, or local significance.  For Section 4(f) purposes, the term "use" includes not only actual physical takings of Section 4(f) properties, but also constructive use of those lands. Constructive use occurs if Section 4(f) properties are substantially impaired by a proposed action or other action alternatives, which includes substantially diminishing the activities, features, or attributes that contribute to the significance or enjoyment of the Section 4(f) property.
USDOT	49 United States Code (U.S.C.) § 303	Amends Section 4(f) to simplify the process and approval of projects that have only <i>de minimis</i> impacts on Section 4(f) properties.

SOURCE: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.

TABLE B-6 REGULATORY SETTING – HAZARDOUS MATERIAL, SOLID WASTE, AND POLLUTION PREVENTION

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Environmental Protection Agency (USEPA) and Florida Department of Environmental Protection (FDEP)	Resource Conservation and Recovery Act (RCRA), as amended by the Federal Facilities Compliance Act of 1992	The RCRA governs the generation, treatment, storage, and disposal of hazardous wastes. The USEPA delegates authority in Florida to FDEP to regulate household, industrial, and manufacturing solid wastes under the RCRA. Subtitle I of the RCRA Subtitle I required the USEPA to develop a comprehensive regulatory program for underground storage tanks storing petroleum or certain hazardous substances. Subtitle D of the RCRA establishes the Solid Waste Program, which encourages states to develop comprehensive plans to manage nonhazardous solid waste, sets criteria for municipal solid waste landfills, and prohibits the open dumping of solid waste.
USEPA	Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	The CERCLA as amended (also known as Superfund) provides for the cleanup of any release of a hazardous substance (excluding petroleum) in the environment.
USEPA	Clean Water Act (CWA)	The CWA regulates the discharge of pollutants, including stormwater, into navigable waters, referred to as Waters of the United States. Section 402 of the CWA formed the National Pollutant Discharge Elimination System (NPDES). The USEPA delegated authority in Florida to the Florida Department of Environmental Protection (FDEP) to issue NPDES permits and to monitor permit compliance.

SOURCES: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015; and Florida Department of Environmental Protection, Hazardous Waste Management Main Page, <https://floridadep.gov/waste/permitting-compliance-assistance/content/hazardous-waste-management-main-page> (accessed July 2020).

TABLE B-7 REGULATORY SETTING – HISTORICAL, ARCHITECTURAL, ARCHEOLOGICAL, AND CULTURAL RESOURCES

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
National Park Service, Advisory Council on Historic Preservation, State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO)	National Historic Preservation Act (NHPA)	The NHPA established the National Register of Historic Places (NRHP). Section 106 of the NHPA requires federal agencies to consider whether proposed activities have the potential to have an adverse effect on historic properties that are already listed, determined eligible, or not yet evaluated under the NRHP criteria. Properties that are either listed in or eligible for listing in the NHRP are provided the same measure of protection under Section 106. Federal agencies are required to consider the effects of proposed undertakings on historic properties through consultation with the SHPO and THPO.
Not Applicable	American Indian Religious Freedom Act	The American Indian Religious Freedom Act requires federal agencies to consult with Native American groups concerning federal actions that may affect sacred sites. The Archeological and Historic Preservation Act provides for the preservation of historical and archeological data that might otherwise be destroyed or irreparably lost due to a federal action.
National Park Service	Native American Graves Protection and Repatriation Act	The Native American Graves Protection and Repatriation Act addresses the disposition of certain Native American cultural items, including human remains, and governs the inadvertent discovery of Native American cultural items on federal and tribal lands.

SOURCE: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.

TABLE B-8 REGULATORY SETTING – LAND USE

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
Federal Aviation Administration (FAA)	49 U.S.C. § 47107(a)(10)	CEQ regulations require the discussion of environmental impacts, including possible conflicts between a proposed action and land use plans. The land use evaluation must include documentation, pursuant to 49 U.S.C. § 47107(a)(10), to support assurance that appropriate action has been or will be taken to ensure existing and planned land uses adjacent to or in the immediate vicinity of an airport are compatible with normal airport operations.
National Oceanic and Atmospheric Administration (NOAA), Florida Department of Environmental Protection (FDEP), Florida Fish and Wildlife Conservation Commission (FFWCC)	Florida Keys Area Protection Act	The Florida Keys are in a state-designated ACSC. Under the Florida Keys Area Protection Act, any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in Chapter 27F-8 of the FAC, as amended, effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt.
Monroe County	Monroe County Comprehensive Plan	The Monroe County Comprehensive Plan guides future growth and development through a series of goals, objectives, and policies. Goals and objectives relating to airport and airfield development in the Comprehensive Plan primarily focus on the facilitation and encouragement of compatible land use, maximizing safety and convenience, economic benefit, environmental compatibility, and consistency with other elements of the Comprehensive Plan.

SOURCES: Ricondo & Associates, Inc., February 2021, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015; National Oceanic and Atmospheric Administration, Florida Keys National Marine Sanctuary Administration and Legislation, <https://floridakeys.noaa.gov/legislation.html> (accessed July 2020); and Monroe County, Florida, *Year 2030 Comprehensive Plan*, [https://library.municode.com/fl/monroe\\_county/codes/comprehensive\\_plan](https://library.municode.com/fl/monroe_county/codes/comprehensive_plan) (accessed May 2020).

TABLE B-9 REGULATORY SETTING – NATURAL RESOURCES AND ENERGY SUPPLY

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
Not Applicable	CEQ Regulations Sections 1502.16(e) and (f)	CEQ Regulations Sections 1502.16(e) and (f) require that federal agencies consider energy requirements, natural depletable resource requirements, and the conservation potential of alternatives and mitigation measures (if required) in NEPA documents. Implementation of an action often requires the use of consumable natural resources (such as water, asphalt, aggregates, wood) and energy (such as oil for electricity, natural gas for heating, and fuel for aircraft and vehicles). Consistent with NEPA and CEQ Regulations, the FAA encourages the development of facilities that exemplify the highest standards of efficiency, including the principles of sustainability, and prioritizes taking actions to support energy independence.

SOURCE: Ricondo & Associates, Inc., February 2021, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.

TABLE B-10 REGULATORY SETTING – NOISE AND COMPATIBLE LAND USE

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Environmental Protection Agency (USEPA), Federal Aviation Administration (FAA)	Noise Control Act of 1972, Aviation Safety and Noise Abatement Act of 1979, Airport and Airway Improvement Act of 1982, and Airport Noise and Capacity Act of 1990	<p>The FAA has a long history of providing guidance regarding aviation noise and land use criteria near airports. Several federal laws pertain to aircraft noise and noise-compatible land use impacts, including the Noise Control Act of 1972, Aviation Safety and Noise Abatement Act of 1979, Airport and Airway Improvement Act of 1982, and Airport Noise and Capacity Act of 1990. These laws and regulations provide a basis for the local development of airport plans, an analysis of potential impacts from airport development, and land use compatibility policies. In terms of land use compatibility, the primary role of the FAA is the regulation of noise at the source. This includes the development of noise standards for certificated aircraft and the approval of noise abatement plans and policies to ensure land uses in the immediate vicinity of airports are compatible with normal airport operations.</p> <p>The FAA defines DNL 65 dB as the threshold of noise compatibility for residential and other noise-sensitive land uses, such as schools, libraries, and religious facilities. The FAA requires an analysis of noise exposure when development actions may change the cumulative noise exposure of individuals to aircraft noise in areas surrounding an airport. Common development actions that may change the cumulative noise environment include the following: runway reconfiguration, changes in aircraft operations and/or movements, changes in aircraft types using the airport, or changes in aircraft tracks and profiles.</p>

SOURCE: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.

TABLE B-11 REGULATORY SETTING – SOCIOECONOMICS, ENVIRONMENTAL JUSTICE, AND CHILDREN'S ENVIRONMENTAL HEALTH AND SAFETY RISKS

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Environmental Protection Agency (USEPA)	Executive Order 12898, <i>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>	The Executive Order was signed in 1994 to ensure the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The Executive Order requires that, to the greatest extent practicable, each federal agency must identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.
US Department of Transportation (USDOT)	USDOT Order 5610.2(a), <i>Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>	USDOT Order 5610.2(a) is a key component of the DOT's environmental justice strategy to comply with Executive Order 12898. The Order sets forth policy to consider environmental justice principles in all DOT policies, programs, and activities.
Not Applicable	Executive Order 13045, <i>Protection of Children from Environmental Health and Safety Risks</i>	Executive Order 13045 requires federal agencies to prioritize the identification and assessment of environmental health and safety risks resulting from policies, programs, activities, and standards that may disproportionately affect children.

SOURCE: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.



TABLE B-12 REGULATORY SETTING – WATER RESOURCES: WETLANDS

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Army Corps of Engineers (USACE), US Environmental Protection Agency (USEPA)	Clean Water Act (CWA)	Section 401 gives the USEPA and states certification responsibility and authority over violation of water quality standards within their respective jurisdictions. Section 404 of the CWA (and Section 10 of the Rivers and Harbors Act) gives the USACE responsibility and authority over activities that result in the discharge of dredge or fill material into wetlands and waterways.
US Department of Transportation (USDOT)	Executive Order 11990, Protection of Wetlands	The Executive Order requires consideration of indirect effects on wetlands and provides a long-term goal of no net loss of wetlands.
USDOT	DOT Order 5660.1A, Preservation of the Nation's Wetlands	The USDOT Order implements the guidelines set forth in Executive Order 11990 to assure the protection, preservation, and enhancement of the nation's wetlands to the extent practicable.
US Fish and Wildlife Service (USFWS)	Fish and Wildlife Coordination Act	The Fish and Wildlife Coordination Act requires federal agencies to consult with the USFWS, the National Marine Fisheries Services (NMFS), in some instances, and appropriate state fish and wildlife agencies regarding the conservation of wildlife resources when proposed federal projects may result in control or modification of the water of any stream or other water body.
South Florida Water Management District (SFWMD)	Florida Statutes, Chapter 373 and Florida Administrative Code (FAC) 62-330	Chapter 373 of the Florida Statutes and FAC 62-330 regulate activities in waters of the state including wetlands. To obtain an Environmental Resource Permit (ERP) for regulated activities, criteria are established to ensure that the project will meet state water quality standards and ensure that the project is not contrary to the public interest. The SFWMD has the regulatory authority for the state's review of projects of this type in the project area.
Monroe County	Monroe County Comprehensive Plan and Land Development Regulations	The Monroe County Planning and Environmental Resources Department is responsible for the administration of the Monroe County Comprehensive Plan and Land Development Regulations, which regulates activities in wetlands and protected uplands habitats.

SOURCES: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015; The 2019 Florida Statutes, <http://www.leg.state.fl.us/statutes/> (accessed July 14, 2020); and Monroe County, Florida, *Year 2030 Comprehensive Plan*, [https://library.municode.com/fl/monroe\\_county/codes/comprehensive\\_plan](https://library.municode.com/fl/monroe_county/codes/comprehensive_plan) (accessed May 2020).

TABLE B-13 REGULATORY SETTING – WATER RESOURCES: FLOODPLAINS

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Department of Transportation (USDOT)	Executive Order 11988, Floodplain Management	Executive Order 11988 directs federal agencies to take action to reduce the risk of flood loss; minimize the impact of floods on human safety, health, and welfare; and restore and preserve the natural and beneficial values served by floodplains.
USDOT	USDOT Order 5650.2, Floodplain Management and Protection	This USDOT Order implements the guidelines set forth in Executive Order 11988, including stating that USDOT agencies should give proper consideration to avoiding and mitigating adverse floodplain impacts.
Federal Emergency Management Agency (FEMA)	National Flood Insurance Act of 1968, and the Flood Disaster Act of 1973	The Act established the National Flood Insurance Program (NFIP), a voluntary floodplain management program for communities. Actions within FEMA-mapped floodplains of communities participating in the NFIP must follow the community's FEMA-approved floodplain management regulations.
Florida Department of Environmental Protection (FDEP), South Florida Water Management District (SFWMD)	Florida Statutes, Chapter 373, Part IV, Management and Storage of Surface Waters	Under Florida Statutes, Chapter 373, Part IV, the FDEP and the SFWMD are responsible for reviewing development projects to ensure they are not harmful to water resources or inconsistent with the public interest through the ERP process.

SOURCES: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015; and The 2019 Florida Statutes, [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0300-0399/0373/0373ContentsIndex.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0373/0373ContentsIndex.html) (accessed July 14, 2020).

TABLE B-14 REGULATORY SETTING – WATER RESOURCES: SURFACE WATERS

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Environmental Protection Agency (USEPA)	The Clean Water Act	<p>The CWA is the primary law that seeks to safeguard water quality in the United States. The CWA enabled the establishment of water quality standards, surface water use classifications, and state reporting of impairment of water quality in streams and open water bodies under Section 303(d). Typically, 303(d)-listed streams and waterbodies suffer from impairment due to elevated levels of pollutants, excess nutrients, elevated levels of bacteria, or low levels of dissolved oxygen, and due to this impairment they are not able to fully support their designated use classifications.</p> <p>The CWA also enabled the development of programs to remediate such impairment (total maximum daily loads) and the requirement of water quality certification for federally permitted or licensed activities under Section 401. Section 401 requires a Water Quality Certificate for a project to ensure it does not violate state or Tribal water quality standards. The Section 401 certifications are generally issued by the state or tribe with jurisdictional authority.</p> <p>Under Section 402 of the CWA, the NPDES permitting system was established to regulate point source discharges, such as releases from wastewater treatment plants and industrial facilities (including airports) and discharges such as mobilized sediments and erosion from construction sites. Section 402 also resulted in the establishment of the requirement that facilities that store oil and oil-based products have Spill Prevention Control and Countermeasures (SPCC) Plans to minimize the likelihood or severity of water quality impacts in the event of a spill.</p> <p>Direct physical impacts to Waters of the United States, including surface waters, are also subject to permitting by the USACE under Section 404 of the CWA, as well as Florida's ERP requirements.</p>
US Fish and Wildlife Service (USFWS)	Fish and Wildlife Coordination Act	The Fish and Wildlife Coordination Act requires federal agencies to consult with the USFWS, National Marine Fisheries Service (NMFS), in some instances, and appropriate state fish and wildlife agencies regarding the conservation of wildlife resources when proposed federal projects may result in control or modification of the water of any stream or other water body.
USEPA	Safe Drinking Water Act	The Act prohibits federal agencies from funding actions that would contaminate a USEPA-designated sole source aquifer or its recharge area.
South Florida Water Management District (SFWMD)	FAC 62-302, Surface Water Quality Standards	The State of Florida's surface water quality standards are defined in FAC Chapter 62-302. A water may be designated as an Outstanding Florida Water (OFW) under FAC 62-302.700, because the water is deemed worthy of special protection due to the value of its natural attributes. An OFW designation is intended to protect existing good water quality. Proposed activities or discharges that may affect an OFW must not lower existing ambient water quality of that water and must meet a public interest test that requires demonstration that the discharge or activity is "clearly in the public interest." This evaluation is conducted as part of the ERP process, managed by the SFWMD for activities and discharges in Key West.

SOURCES: Ricondo & Associates, Inc., February 2021, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015; and Florida Department of State, Florida Administrative Code & Florida Administrative Register, <https://www.flrules.org/> (accessed July 14, 2020).

TABLE B-15 REGULATORY SETTING – WATER RESOURCES: GROUNDWATER

OVERSIGHT AGENCY	STATUTE, REGULATION, PLAN, OR POLICY	SUMMARY
US Environmental Protection Agency (USEPA)	Safe Drinking Water Act (SDWA)	The SDWA authorizes the USEPA to set standards for drinking water quality. The USEPA can delegate authority to states to implement the SDWA within their jurisdictions if they meet or exceed USEPA standards. In 40 CFR Parts 141 through 149, federal agencies are prohibited from funding actions that would contaminate USEPA-designated sole-source aquifers or recharge zones.

SOURCE: Ricondo & Associates, Inc., October 2020, based on US Department of Transportation, Federal Aviation Administration, Office of Environment and Energy, *1050.1F Desk Reference*, July 2015.