

CHAPTER 8
PERMITS AND LICENSE

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8.0 PERMITS AND LICENSES

This section summarizes the federal permits and licenses that will be required for the action alternatives. The South Florida Water Management District (SFWMD) is responsible for obtaining the required regulatory documents and approvals. Chapter 6 described compliance with environmental requirements, which includes many of the same agencies and regulatory requirements as described below.

8.1 CLEAN WATER ACT, SECTION 404 PERMIT

The construction of the shallow FEB, deep FEB or STA will require a Clean Water Act Section 404 Permit issued by the U.S. Army Corps of Engineers (USACE). Under Section 404 of the Clean Water Act, discharge of dredged or fill material into waters of the United States is subject to Section 404 regulation. This environmental impact statement (EIS) has been prepared in accordance with National Environmental Policy Act (NEPA) and Council on Environmental Quality Act (CEQ) regulations and will serve as the primary document to aid the USACE in its decision to issue, issue with special conditions, or deny the Section 404 Permit for the proposed project. A permit application has been submitted to USACE. Once a Record of Decision (ROD) has been finalized for the EIS and all NEPA requirements completed, final agency action for the U.S. Department of the Army (DA) 404 permit will be made.

8.2 COASTAL ZONE MANAGEMENT ACT

The National Oceanic and Atmospheric Administration has the authority to administer the federal Coastal Zone Management Program (CZMP) under the Coastal Zone Management Act (CZMA). The purpose of the CZMP is to protect, preserve, develop, restore, or enhance the coastal environment. States are required to develop coastal management programs to protect and manage uses in the coastal zone. The Florida Department of Environmental Protection (FDEP) will determine CZMP consistency for the proposed action.

8.3 SECTION 7 ENDANGERED SPECIES ACT

Under Section 7 of the Endangered Species Act (ESA), federal agencies are required to consult with the USFWS and/or NMFS for activities that are funded, permitted, or carried out that may affect federally listed species including designated critical habitat. This project would require a Biological Opinion from the USFWS for the effects of the project on the endangered Everglades snail kite. The USACE is in formal consultation with the USFWS. The USFWS will finalize the Biological Opinion prior to final agency action for the U.S. Department of the Army (DA) 404 permit.

8.4 CLEAN AIR ACT

Pump stations would be required for the action alternatives, which may require a permit under the Clean Air Act (CAA). Final pump station designs will be in compliance with the requirement. The SFWMD would apply for these permits during the construction phases, which FDEP and the U.S. Environmental Protection Agency (USEPA) would review for compliance with the requirements of the CAA.

8.5 EVERGLADES FOREVER ACT PERMIT/SECTION 401 CERTIFICATION

Prior to issuance of a DA 404 permit, State Water Quality Certification (WQC) must be provided. The FDEP will issue the WQC in the form of an Everglades Forever Act (EFA) permit. Pursuant to Florida Statutes, Chapter 373.4592, Florida Legislature authorizes FDEP to issue EFA permits to SFWMD for projects that are part of the long-term plan. EFA permits required for construction, operation, and maintenance of the facilities are issued for 5-year terms and renewed as appropriate. SFWMD has submitted applications implement new permit-related compliance for monitoring.

8.6 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT FOR OPERATIONS

The NPDES permitting program regulates point sources that discharge pollutants in waters of the United States. FDEP administers Florida's NPDES permits under Sections 403.088 and 403.0885 of Florida Statute, from authority granted by USEPA. The issued NPDES permits anticipate operation of the Shallow FEB and no modification would be required if the Shallow FEB is authorized. If the deep FEB or STA alternative is authorized, the existing permits would need to be modified once construction activities are completed.

8.7 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT FOR CONSTRUCTION

An NPDES stormwater permit for construction under FAC Rule 62-621.300(4) is not required for the shallow FEB or deep FEB alternative, but would be required for the construction of the STA. The selected contractor will apply for the NPDES permit from FDEP and must provide a stormwater pollution prevention plan prior to start of construction if one is required.

8.8 CLEAN AIR ACT (TITLE V) PERMIT

The FDEP is responsible for Title V air permits, which regulate both major and minor facilities based on emissions. In order to determine the applicable air permit for the facility, there are three permitting thresholds to consider:

- Exempt from permitting: Station will consume less than 32,000 gallons per rolling year. This is a self-implementing exemption.
- State General Permit: Station will consume less than 250,000 gallons per rolling year. A General Permit can be obtained at least 30 days prior to operation and permit is valid for 5 years.
- Title V Operation Permit: Station has the potential to emit more than 100 tons per year of NO_x. Title V Air Construction Permit must be issued prior to construction. It takes about 6 to 8 months lead time to get permit and permit is valid for 5 years.

Final pump station designs will control the requirement. SFWMD will apply for the appropriate permit during the construction phases of the project, which FDEP and USEPA will review for compliance with the requirements of the CAA.

8.9 FEDERAL REQUIREMENTS UNDER 1996 FARM BILL, SECTION 390

The action alternatives will require the approval of the DOI. Under Section 390 of the 1996 Farm Bill (Public Law 104-127, 110 Statue 1022, April 1996), funds were provided to the Secretary of the Interior to fund or conduct restoration activities in the Everglades ecosystem. Under Section 390, the Secretary of the Interior has the responsibility to ensure that Section 390 funds are used for restoration purposes. The project site lands were purchased with Section 390 funds and title was transferred to the SFWMD pursuant to a Grant Agreement. Pursuant of the terms of the Framework Agreement and Grant Agreement referenced in earlier chapters of this EIS, the SFWMD must request and receive approval of the DOI for any change in land use. This EIS serves as the NEPA analysis for the decision on interim land use change for construction.