

APPENDIX I

COMPLIANCE WITH ENVIRONMENTAL LAWS AND
REGULATIONS

COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS.

6.1 National Environmental Policy Act of 1969, as amended. Environmental information on the project has been compiled and the draft Environmental Assessment, was made available for public review through public notice in compliance with 33 CFR Parts 335-338. These regulations govern the Operations and Maintenance of US Army Corps of Engineers Civil Works Projects involving the Discharge of Dredged or Fill Material into Waters of the US or Ocean Waters. This public coordination and environmental impact assessment complies with the intent of NEPA. The process will fully comply with the Act once the Findings of No Significant Impact has been signed by the District Commander.

6.2 Endangered Species Act of 1973, as amended. Consultation with the USFWS was completed for dredging and beach placement by USFWS Biological Opinion dated 10 February 1987 (Log No. 4-1-87-024). The dredging and placement of material in the nearshore disposal area was evaluated. A No Effects determination was made and submitted by letter dated 20 June 1994 requesting concurrence in a No Effects determination for impacts on manatees and sea turtles. The USFWS concurred in that determination by letter dated 28 July 1994. Because a new dredging area was added and questions concerning the suitability of the material had been previously been raised, consultation with the USFWS was reinitiated by letter dated 13 September 1996. The USFWS responded by letter dated 15 November 1996 concurring that the project if carried out outside the sea turtle nesting season would have no impacts. This project was fully coordinated under the Endangered Species Act; therefore, this project is in full compliance with the Act.

6.3 Fish and Wildlife Coordination Act of 1958, as amended. The project has been coordinated with the USFWS during the public notice period. The National Marine Fisheries Service and the USFWS responded with concerns for nearshore hardbottoms. A review of the aerial photographs for the St. Lucie Inlet Management Plan revealed that no hardbottoms are located within the nearshore disposal area. The NMFS and the USFWS were notified of this information. Therefore, coordination has occurred and therefore, the project is in compliance with the Act.

6.4 National Historic Preservation Act of 1966, as amended (PL 89-665). An archival and literature review, including a review of the current National Register of Historic Places listing and consultation with the Florida State Historic Preservation Officer (SHPO), was conducted to determine if significant cultural resources are present in the project area. No significant archeological sites or historic properties are recorded in the project area, and the area is judged to have little potential for containing significant cultural resources. No response from the SHPO was received during the public notice period. Therefore, the project would be in compliance.

6.5 Clean Water Act of 1972, as amended.

6.5.1. Section 401. A Water Quality Certification was issued by the Florida Department of Environmental Protection by Permit No. 430753659. On February 16, 1994 the WQC was modified to extend the permit from 10 August 1994 to 30 September 1995. A new permit (No. 432477899) was issued for the nearshore disposal area dated 12 September 1994.

6.5.2. Section 404. The purpose of Section 404(b)(1) Evaluation of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States through the control of discharges of dredged or fill material (Appendix IV). The discharge of dredged material is subject to evaluation pursuant this Section. The project is to be evaluated and comply with the following restrictions: (a) there would be no other practicable alternatives to the proposal that would have less adverse impacts on the aquatic environment, (b) that the discharge would not adversely impact water quality, violate State water quality standards, toxic effluent standards, or jeopardize the continued existence of a threatened or endangered species as identified under the Endangered Species Act, (c) the discharge would not cause or contribute to the significant degradation of waters of the United States, or (d) the project would be designed in such a manner as to minimize to the extent possible the adverse impacts on the aquatic environment. Based on the probable impacts addressed above, compliance with the restrictions, and all other information concerning the fill materials to be used, the proposed work would comply with the Guidelines and the intent of Section 404(b)(1) of the Clean Water Act.

6.6 Clean Air Act of 1972, as amended. Since the project area is within an attainment area, the EPA rules for conformity determination do not apply. No air quality permits will be required for this project. Therefore, this project is in compliance with the Act.

6.7 Coastal Zone Management Act of 1972, as amended. The project has been evaluated in accordance with Section 307 of the Coastal Zone Management Act. It has been determined that the project would have no unacceptable impacts and would be consistent with the Florida Coastal Management Plan (Appendix III). In accordance with the 1979 Memorandum of Understanding and the 1983 Addendum to the Memorandum concerning acquisition of water quality certifications and other State of Florida authorizations, the preliminary Environmental Assessment and Section 404(b)(1) Evaluation have been submitted to the State in lieu of a summary of environmental impacts to show consistency with the Florida Coastal Zone Management Plan.

6.8 Farmland Protection Policy Act of 1981. No prime or unique farmland will be impacted by implementation of this project. This act is not applicable.

6.9 Wild and Scenic River Act of 1968, as amended. No designated Wild and Scenic river reaches will be affected by project related activities. This act is not applicable.

6.10 Marine Mammal Protection Act of 1972, as amended. Incorporation of the safe

guards used to protect manatees during dredging and disposal operations will be implemented during construction, therefore, this project is in compliance with the Act.

6.11 Estuary Protection Act of 1968. No designated estuary will be affected by project activities. This act is not applicable.

6.12 Federal Water Project Recreation Act as amended. There is no recreational development proposed for maintenance dredging or disposal. Therefore, this Act does not apply.

6.13 Resource Conservation and Recovery Act of 1976, (PL 94-580- 7 U.S.C. 100, et sec. This law has been determined not to apply as there are no items regulated under this act being disposed of or affected by this project.

6.14 Toxic Substances Control Act of 1976. (PL 94-469; U.S.C. 2601, et seq. This law has been determined not to apply as there are no items regulated under this act being disposed of or affected by this project.

6.15 Migratory Bird Treaty Act. The work has been evaluated pursuant to the Migratory Bird Treaty Act. The Districts' Migratory Bird Protection Policy has been prepared to address protecting migratory bird nesting. This Plan has been coordinated with the US Fish and Wildlife Service, the Florida Inland Navigation District, the Audubon Society and the Florida Game and Freshwater Fish Commission. As part of the Policy, conditions will be incorporated into the Plans and Specifications to protect the birds during the nesting season. This plan would insure no adverse impacts on nesting migratory birds in compliance with the Act.

6.16 E.O. 11990, Protection of Wetlands. No wetlands will be affected by project activities. This project is in compliance with the goals of this Executive Order.

6.16 E.O. 11988, Floodplain Management. No activities associated with this project will take place within a floodplain, therefore this project is in compliance with the goals of this Executive Order.

6.17 E.O. 11593, Protection and Enhancement of the Cultural Environment. An archival and literature review, including a review of the current National Register of Historic Places listing and consultation with the Florida State Historic Preservation Officer (SHPO), was conducted to determine if significant cultural resources are present in the project area. No significant archeological sites or historic properties are recorded in the project area, and the area is judged to have little potential for containing significant cultural resources. Therefore, the work would comply with this Act.