

**APPENDIX B – COASTAL ZONE CONSISTENCY DETERMINATION**

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

**SUPPLEMENTAL PROPOSED FINDING OF NO SIGNIFICANT IMPACT**

**TEMPORARY EMERGENCY DEVIATION TO AFFECT RELIEF OF HIGH WATER  
LEVELS WITHIN WATER CONSERVATION AREA 3A (S-344 DEVIATION)**

**BROWARD, COLLIER, AND MIAMI-DADE COUNTIES, 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](http://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 <a href="http://www.dep.state.fl.us/cmp/federal/24_statutes.htm">www.dep.state.fl.us/cmp/federal/24_statutes.htm</a> )	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 Federal 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 Federal Action has been coordinated with various Federal, state and local agencies during the planning process. The Federal Action meets the primary goal of the State Comprehensive Plan through preservation and protection of the environment. The Federal Action has been coordinated with the State through the review of this document.*

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 (G-3273 Constraint Relaxation/S-356 Field Test and S-357N Operational Strategy) which is a deviation to the 2012 Water Conservation Areas (WCAs), Everglades National Park (ENP) and the ENP to South Dade Conveyance System (SDCS) Water Control Plan. The U.S. Army Corps of Engineers (Corps), Jacksonville District, initiated a temporary emergency deviation to the current operating constraint of 7.5 feet National Geodetic Vertical Datum (of 1929 NGVD) in the L-29 Canal up to 8.5 feet NGVD for purposes of providing high water relief in WCA 3A. National Environmental Policy Act (NEPA) documentation to support the temporary emergency deviation was completed on February 12, 2016 with signing of a Finding of No Significant Impact (FONSI), incorporating an EA. Implementation of the temporary emergency deviation occurred on February 15, 2016. A Supplemental EA and Proposed FONSI is currently being provided to the public to provide further documentation of the potential environmental effects resulting from the alternatives considered and the action taken.*

*Due to the critical nature of elevated water levels in WCA 3A and in compliance with the existing request by the Governor to maximize water releases, a second emergency NEPA is being prepared to deviate from the current water control plan for Structure 344 (S-344) on the L-28*

*Levee. The purpose of S-344 and associated features located along the L-28 Levee and Borrow Canal, are to restore overland flow to an area of BCNP just south of the L-28 Tieback; prevent over drainage of the eastern BCNP under dry conditions; and provide a means of making regulatory releases from WCA 3A into BCNP. This deviation would open S-344 immediately instead of waiting for July 15, 2016 which is the normal opening date in the approved water control plan. The opening would allow water to be released from WCA 3A into Big Cypress BCNP and the L-28 Canal. The temporary emergency deviation is expected to benefit natural resources within WCA 3A and BCNP.*

*Multiple purposes of the Central and Southern Florida (C&SF) Project to provide flood control, water supply for municipal, industrial, and agricultural uses, prevention of saltwater intrusion, water supply for ENP, and protection of fish and wildlife will be maintained. 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: The purpose of the emergency deviation is to provide high water relief in WCA 3A and benefit BCNP. There is no dredge or fill as part of this project. The Federal 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 the current WCAs-ENP-SDCS WCP, this chapter does not apply. Lands would not be acquired by the Federal government for the field test.*

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 Federal Action area is located within WCA 3A, eastern BCNP, and western ENP. The Federal Action will not adversely impact lands within the project area. Hydrologic benefits to wetlands within WCA 3A and BCNP 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 Federal 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. The Federal 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 Federal Action is not anticipated to have a negative impact on recreation in the project area. Implementation of the Federal Action would alleviate high water levels within WCA 3A which has been currently closed for purposes of recreation. 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 Federal 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 Federal 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 Federal 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: The purpose of the emergency deviation is to provide high water relief in WCA 3A and benefit BCNP. The Federal 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 Federal 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 Federal 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 Federal 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 Federal 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: 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 Federal 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 Federal 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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