
Appendix N
Laws, Regulations, Policies and Executive Orders

Final DRAFT

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Federal Laws

American Antiquities Act of 1906 (Public Law 59-209; 16 USC §431-433) – authorizes the President to designate historic and natural resources of national significance, located on federal lands, as National Monuments for the purpose of protecting items of archeological significance.

American Indian Religious Freedom Act of 1978 (Public Law 95-341; 42 United States Code [USC] §1196) – requires the US, where appropriate, to protect and preserve religious rights of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

Animal Damage Control Act of 1931 (7 USC §426 *et seq.*) – provides broad authority for investigation, demonstrations and control of mammalian predators, rodents and birds.

Anti-Deficiency Act of 1982 (31 USC §1341 *et seq.*) - provides that no federal official or employee may obligate the government for the expenditure of funds before funds have been authorized and appropriated by Congress for that purpose.

Archeological and Historical Preservation Act of 1974 (Public Law 93-291; 16 USC §469 *et seq.*) – provides for the preservation of historical and archeological data, including relics and specimens, threatened by federally funded or assisted construction projects.

Archeological Resources Protection Act of 1979 (16 USC §470 *et seq.*) – prohibits the excavation or removal from federal or Indian lands any archeological resources without a permit.

Bald Eagle Protection Act of 1940 (Public Law 87-884; 16 USC §668a-d) – prohibits the taking or harming (i.e. harassment, sale, or transportation) of bald eagles or golden eagles, including their eggs, nests, or young, without appropriate permit.

Clean Air Act of 1970 (42 USC §7401 *et seq.*) – regulates air emissions from stationary, area, and mobile sources. This law authorizes the US Environmental Protection Agency (USEPA) to establish National Ambient Air Quality Standards (NAAQS) to protect public health and the environment.

Clean Water Act of 1972 (Public Law 92-500; 33 USC §1251 *et seq.*) – aims to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. Under Section 401, states have authority to review federal permits that may result in a discharge to wetlands or water bodies under state jurisdiction. Under section 404, a program is established to regulate the discharge of dredged or fill material into the Nation's waters, including wetlands.

Coastal Barrier Resources Act of 1982, and amendments (16 U.S.C. § 3501 *et seq.*; 12 U.S.C. § 1441 *et seq.*) - designates relatively undeveloped coastal barriers along the Atlantic and Gulf coasts and made these areas ineligible for most new federal expenditures and financial assistance; encourages the conservation of hurricane prone, biologically rich coastal barriers by

restricting federal expenditures that encourage development, such as federal flood insurance. The Act seeks to minimize the loss of human life, reduce wasteful expenditures of federal revenues, and protect fish and wildlife and their habitats.

Coastal Zone Management Act of 1972 (Public Law 92-583; 16 USC §1451 *et seq.*) – provides incentives for coastal states to develop coastal zone management programs. Federal actions that impact the coastal zone must be consistent to the maximum extent practicable with the state program.

Conservation and Rehabilitation Program on Military and Public Lands (Public Law 93-452; 16 USC §670 *et seq.*) – provides for fish and wildlife habitat improvements, range rehabilitation, and control of off-road vehicles on federal lands.

Conservation Programs on Military Reservations (Public Law 90-465; 16 USC §670 *et seq.*) – Requires each military department to manage natural resources and to ensure that services are provided which are necessary for management of fish and wildlife resources on each installation; to provide their personnel with professional training in fish and wildlife management; and to give priority to contracting work with federal and state agencies that have responsibility for conservation or management of fish and wildlife. In addition it authorizes cooperative agreements (with states, local governments, non-governmental organizations, and individuals) which call for each party to provide matching funds or services to carry out natural resources projects or initiatives.

Endangered Species Act of 1973, as amended (16 USC §1531 *et seq.*) – provides for the identification and protection of threatened and endangered plants and animals, including their critical habitats. Requires federal agencies to conserve threatened and endangered species and cooperate with state and local authorities to resolve water resources issues in concert with the conservation of threatened and endangered species. This law establishes a consultation process involving federal agencies to facilitate avoidance of agency action that would adversely affect species or habitat. Further, it prohibits all persons subject to US jurisdiction from taking, including any harm or harassment, endangered species.

Federal Agency Consultation with the Secretary (Wildlife and Fisheries, Subpart K Essential Fish Habitat (EFH) Consultation, Coordination, and Recommendations, 50 CFR Section 600.920). Federal agencies must consult with NMFS regarding any of their actions authorized, funded, or undertaken, or proposed to be authorized, funded or undertaken that may adversely affect EFH.

Federal Insecticide, Fungicide, and Rodenticide Act of 1947 (Public Law 92-516; 7 USC §136 *et seq.*) – governs the use and application of pesticides in natural resource management programs. This law provides the principal means for preventing environmental pollution from pesticides through product registration and applicator certification.

Federal Land Policy and Management Act of 1976 (43 USC §1701) – establishes public land policy and guidelines for its administration and provides for the management, protection, development, and enhancement of the public lands.

Federal Noxious Weed Act of 1974 (Public Law 93-629; 7 USC §2801) – provides for the control and eradication of noxious weeds and their regulation in interstate and foreign commerce.

Fish and Wildlife Conservation Act of 1980 (Public Law 96-366; 16 USC §2901 *et seq.*) – encourages management of non-game species and provides for conservation, protection, restoration, and propagation of certain species, including migratory birds threatened with extinction.

Fish and Wildlife Coordination Act of 1934 (16 USC §661 *et seq.*) – provides a mechanism for wildlife conservation to receive equal consideration and coordinate with water-resource development programs.

Land and Water Conservation Act of 1965 (16 USC §4601 *et seq.*) – assists in preserving, developing, and assuring accessibility to outdoor recreation resources.

Magnuson-Steven Fishery Conservation and Management Act and 1996 amendments (**Public Law 94-265**) - projects occurring on federal property are required to address Essential Fish Habitat (EFH) requirements, as mandated by the 1996 amendments. Regional Fishery Management Officials (FMCs) are responsible for designating EFH in their management plans for all managed species with the Exclusive Economic Zone (EEZ), which is a managed fisheries area that extends from the shoreline to 200 miles offshore along the coastline of U. S. waters. For the marine area surrounding CCAFS and PAFB, the South Atlantic Fishery Management Council (SAFMC) is the managing body.

Marine Mammal Protection Act of 1972, as amended (16 USC §1361-1407 *et seq.*) – prohibits, with certain exceptions, the "take" of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. All marine mammals (manatees, sea otters, marine otters, whales, porpoises, dolphins, walruses, seals, sea lions, dugongs, and polar bears) are protected by the Act.

Migratory Bird Conservation Act of 1929 (16 USC §715 *et seq.*) – establishes a Migratory Bird Conservation Commission to approve areas recommended by the Secretary of the Interior for acquisition with Migratory Bird Conservation Funds.

Migratory Bird Treaty Act of 1918 (Public Law 65-186; 16 USC §703 *et seq.*) – provides for regulations to control taking of migratory birds, their nests, eggs, parts, or products without the appropriate permit and provides enforcement authority and penalties for violations.

National Environmental Policy Act of 1969 (Public Law 91-190; 42 USC §4321 *et seq.*) – mandates federal agencies to consider and document environmental impacts of proposed actions and legislation. In addition it mandates preparation of comprehensive environmental impact statements where proposed action is "major" and significantly affects the quality of the human environment.

Native American Graves Protection and Repatriation Act of 1990 (Public Law 101-601; 25 USC §§3001-3013) – addresses the recovery, treatment, and repatriation of Native American and

Native Hawaiian cultural items by federal agencies and museums. It includes provisions for data gathering, reporting, consultation, and issuance of permits.

Resource Conservation and Recovery Act of 1976 (42 USC §6901 *et seq.*) – establishes a comprehensive program which manages solid and hazardous waste. Subtitle C, Hazardous Waste Management, sets up a framework for managing hazardous waste from its initial generation to its final disposal. Waste pesticides and equipment/containers contaminated by pesticides are included under hazardous waste management requirements.

Rivers and Harbors Appropriation Act of 1899, Section 10 (33 U.S.C. 403) - addresses the construction of bridges, causeways, dams or dikes generally; exemptions. The Act prohibits the excavation or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or enclosure within the limits of any breakwater, or of the channel of any navigable water of the United States,

Sikes Act Improvement Act of 1997 (Public Law 105-85; 16 USC §670a *et seq.*) – amends the Sikes Act of 1960 to mandate the development of an integrated natural resources management plan through cooperation with the Department of the Interior (through the US Fish and Wildlife Service [USFWS]), Department of Defense, and each state fish and wildlife agency for each military installation supporting natural resources.

Soil Conservation Act of 1935 (16 USC §590a *et seq.*) – provides for soil conservation practices on federal lands.

Federal Regulations

40 Code of Federal Regulations [CFR] 1500-1508 – Council on Environmental Quality (CEQ) Regulations on Implementing National Environmental Policy Act (NEPA) Procedures

40 CFR 6 – USEPA Regulations on Implementation of NEPA Procedures

40 CFR 162 – USEPA Regulations on Insecticide, Fungicide, and Rodenticide Use

15 CFR 930 – Federal Consistency with Approved Coastal Management Programs

50 CFR 17 – USFWS list of Endangered and Threatened Wildlife

50 CFR 10.13 – List of Migratory Birds

32 CFR 190 – Natural Resources Management Program

Federal Executive Orders (EOs)

Coral Reef Protection (EO 13089) – directs all federal agencies to protect coral reef ecosystems including endemic mangrove and seagrass ecosystems, and instructs particular agencies to develop coordinated, science-based plans to restore damaged reefs as well as mitigate current and future impacts on reefs; established the interagency U.S. Coral Reef Task Force. Coral reef communities are not located in the waters off of CCAFS and PAFB. However, all three species of mangroves: red (*Rhizophora mangle*), white (*Laguncularia racemosa*), and black (*Avicennia germinans*) are present along the Indian River Lagoon system that parallels the western boundaries of PAFB and CCAFS.

Energy Efficiencies and Water Conservation at Federal Facilities (EO 12902) – federal agency use of energy and water resources is directed towards the goals of increased conservation and efficiency.

Environmental Safeguard for Activities for Animal Damage Control on Federal Lands (EO 11870) - restricts the use of chemical toxicants for mammal and bird control.

Exotic Organisms (EO 11987) – restricts federal agencies in the use of exotic plant species in any landscape and erosion control measures.

Floodplain Management (EO 11988) – specifies that agencies shall encourage and provide appropriate guidance to applicant to evaluate the effects of their proposals in floodplains prior to submitting applications. This includes wetlands that are within the 100-year floodplain and especially discourages filling.

Greening the Government through Leadership in Environmental Management (EO 13148) – requires the head of each federal agency to be responsible for ensuring that all necessary actions are taken to integrate environmental accountability into agency day-to-day decision making and long-term planning processes across all agency missions, activities, and functions.

Indian Sacred Sites (EO 13007) – provides for the protection of and access to Indian sacred sites.

Invasive Species (EO 13112) – directs federal agencies to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause.

Protection and Enhancement of Environmental Quality (EO 11514) – provides for environmental protection of federal lands and enforces requirements of NEPA.

Protection of Wetlands (EO 11990) – directs all federal agencies to take action to minimize the destruction loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. This applies to the acquisition, management, and disposal of federal lands and facilities; to construction or improvements undertaken, financed, or assisted by the federal government; and to the conduct of federal activities and programs which affect land use.

Responsibilities of Federal Entities to Protect Migratory Birds (EO 13186) – directs all federal agencies taking actions that have a potential to negatively affect migratory bird populations to develop and implement a Memorandum of Understanding with the USFWS by January 2003 that shall promote the conservation of migratory bird populations.

Department of Defense Instructions/Manual (DoDI/M), Air Force Instructions (AFI), Air Force Pamphlets (PAM) & Air Force Policy Directive (PD)

DoDM 4715.03 – Integrated Natural Resources Management Plan (INRMP) Implementation Manual

DoDI 4715.03 – Natural Resources Conservation Program

DoDI 4150.07 – Pest Management Program

DoDI 4165.57 – Air Installations Compatible Use Zones

DoDI 6055.06 – Fire and Emergency Services Program

AFPAM 91-212 – Bird/Wildlife Aircraft Strike Hazard (BASH) Management Techniques

AFPD 34-1 – Air Force Services

Air Force Instructions (AFI)

AFI 32-1053 – Integrated Pest Management Program

AFI 32-7001 – Environmental Management

AFI 32-7062 – Comprehensive Planning

AFI 32-7064 – Integrated Natural Resources Management

AFI 32-7065 – Cultural Resources Management Program

AFI 32-7086 – Hazardous Materials Management

45th Space Wing Instructions (SWI)

SWI 32-7001 – Exterior Lighting Management

Department of Defense Memoranda

Memorandum, Assistant Secretary of Army (Environment, Safety and Occupational Health), Deputy Assistant Secretary of the Navy (Environment), Deputy Assistant Secretary of the Air Force (Environment, Safety and Occupational Health), 20 Sep 11, *Subject: Interim Policy on Management of White Nose Syndrome in Bats.*

Memorandum, Assistant Deputy Under Secretary of Defense (Environment, Safety and Occupational Health), 3 Apr 07, *Subject: Guidance to Implement the Memorandum of Understanding to Promote the Conservation of Migratory Birds.*

Memorandum, Assistant Deputy Under Secretary of Defense (Environment, Safety and Occupational Health), 14 Aug 06, *Subject: Integrated Natural Resource Management Plan (INRMP) Template*

Memorandum, Assistant Deputy Under Secretary of Defense (Environment), 5 Aug 02, *Subject: Access to Outdoor Recreation Programs on Military Installations for Persons with Disabilities.*

State Laws and Regulations

Additional criteria for activities in surface waters and wetlands (Section 373.414 of the Florida Statutes [F.S.]). Sets forth provisions that give the State jurisdiction over those areas that are delineated as surface waters and wetlands, including all isolated wetlands (i.e., non-jurisdictional wetlands).

Aquatic Plant Importation, Transportation, Non-Nursery Cultivation, Possession and Collection (FAC 5B-64). Establishes that FDACS shall administer the aquatic plant management program of the state as necessary for the eradication, control, or prevention of the introduction and dissemination of noxious or prohibited aquatic plants, protect sovereignty lands from the improper and excessive collection of native aquatic plants for purposes of sale, revegetation, restoration, or mitigation.

Endangered and Threatened Animal Species (FAC 68A-27.003 and 68A-27.005). Contains the list of animals designated and maintained by the FWC as federally endangered or threatened, state threatened or state species of special concern in accordance with rules 68A-27.003 and 68A-27.005 FAC, respectively.

Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program (Section 403.0885 of F.S.). This statute provides the power and authority to the Florida Department of Environmental Protection (FDEP) to assume the NPDES permitting program from the USEPA and to implement the program in accordance with the CWA.

Federal Consistency (Chapter 373 Water Resources, F.S. 373.428). When an activity regulated under this part is subject to federal consistency review under s. 380.23, the final agency action on a permit application submitted under this part shall constitute the state's determination

as to whether the activity is consistent with the federally approved Florida Coastal Management Program.

Florida Endangered and Threatened Species Act (Chapter 379.2291, F.S.). This act was established to conserve and protect fish and wildlife in the state, with particular attention to those species defined by the Florida Fish and Wildlife Conservation Commission (FWC), the FDEP, or the US Department of Interior, or successor agencies, as being endangered or threatened.

Florida Manatee Sanctuary Act (FAC 68C.22 and Section 370.12, FS). This act declares Florida a refuge and sanctuary for the manatee, the Florida state marine mammal. The act declares it unlawful for any person at any time, by any means, or in any manner to intentionally or negligently annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee. The Florida statute provides guidelines for counties to establish manatee speed zones on county waters, as well as manatee protection zones. The Florida Administrative Code sets forth rules by county where manatee protection applies.

Florida Mangrove Trimming and Preservation Act (Section 403.9321 *et seq.* of F.S.). This act regulates the trimming of mangroves; requires a professional mangrove trimmer; identifies acceptable circumstances for trimming.

Florida Prescribed Burning Act (Section 590.125 of F.S.). The Act establishes the standards for prescribed burning in the state of Florida, including required permits, proper training, care caution and control measures.

Florida Water Resources Act of 1972 (Chap 373 of F.S.). This Act established the five water management districts in Florida with broad authority and responsibilities. Responsibilities encompass the four broad categories of water supply (including conservation and allocation), water quality, flood protection and natural systems management.

Ground Water Classes, Standards, Exemptions (FAC 62-520). Establishes groundwater classifications and sets minimum standards for groundwater quality.

Introduction or Release of Plant Pests, Noxious Weeds, Arthropods and Biological Control Agents (FAC 5B-57). The purpose of this rule chapter is to control the introduction into, or movement or spread within this state of any plant pest, noxious weed, or arthropod, and to establish procedures under which the field release of plant pests, noxious weeds, arthropods, and biological control agents or biomass plantings are permitted. Such procedures will assist in confirming that introductions and field releases are conducted in a manner which provides for public and environmental protection.

Limitation on liability of persons making available to public certain areas for recreational purposes without charge (FAC 375.251). The purpose of this act is to encourage persons to make available to the public land, water areas and park areas for outdoor recreational purposes

by limiting their liability to persons going thereon and to third persons who may be damaged by the acts or omissions of persons going thereon.

NPDES Generic Permits (Florida Administrative Code [FAC] 62-621.300). – Establishes generic permits and their coverage's under the NPDES program that are issued by FDEP, including the new generic permit for pollutant discharges to surface waters of the state from the application of pesticides.

Open Burning (FAC 5I-2). Establishes the rules for prescribed burning in accordance with the Florida Prescribed Burning Act. Rules include authorizations for certified and non-certified burners, the minimum requirements for the prescription, smoke management requirements, and open burning restrictions.

Preservation of Native Flora of Florida (FAC 5B-40). Contains the list of plants designated and maintained by Florida Department of Agriculture and Consumer Services (FDACS) Division of Plant Industry as endangered, threatened and commercially exploited.

Surface Water Quality Standards (FAC 62-302.500 and 62-302.700). Rule 62-302.500 establishes the minimum and general criteria for water quality in Florida, while rule 62-302.700 sets establishes special protection for certain categories of waters, including Outstanding Florida Waters (OFW) and Outstanding National Resource Waters (ONRW), and includes a list of waterways designated for greater protection.