

APPENDIX A

APPLICABLE LAWS AND EXECUTIVE ORDERS

Applicable Laws and Executive Orders ¹

Title, Citation	Summary
Archeological and Historical Preservation Act, 16 United States Code (U.S.C.) 469	Protects and preserves historical and archeological data. Requires Federal agencies to identify and recover data from archeological sites threatened by a proposed action(s).
Clean Air Act, 42 U.S.C. 7401–7671q, as amended	Establishes Federal standards for air pollutants. Prevents significant deterioration in areas of the country where air quality fails to meet Federal standards.
Clean Water Act, 33 U.S.C. 1251–1387 (also known as the Federal Water Pollution Control Act)	Comprehensively restores and maintains the chemical, physical, and biological integrity of the nation’s waters. Implemented and enforced by the U.S. Environmental Protection Agency (USEPA).
Coastal Barrier Resources Act, 16 U.S.C. 3501–3510	Discourages coastal barrier island degradation by prohibiting direct or indirect Federal financial funds (including flood insurance) for development, except for emergency life-saving activities.
Coastal Zone Management Act of 1972, 16 U.S.C. 1451–1464	Establishes a policy to preserve, protect, develop, and, where possible, restore and enhance the resources of the nation’s coastal zone. Encourages and assists states in developing and implementing coastal zone management programs.
Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9675 (also known as “Superfund”)	Provides for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and cleanup of inactive hazardous substances disposal sites. Establishes a fund financed by hazardous waste generators to support cleanup and response actions.
Endangered Species Act of 1973, 16 U.S.C. 1531–1543, as amended	Protects threatened, endangered, and candidate species of fish, wildlife, and plants and their designated critical habitats. Prohibits Federal action that jeopardizes the continued existence of endangered or threatened species. Requires consultation with U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA) Fisheries and a biological assessment when such species are present in an area affected by government activities.
Fish and Wildlife Coordination Act, 16 U.S.C. 661–667e, as amended	Authorizes the Secretaries of the Interior and Commerce to provide assistance to and cooperate with Federal and state agencies to protect, rear, stock, and increase the supply of game and fur-bearing animals, as well as to study the effects of domestic sewage, trade wastes, and other polluting substances on wildlife. The 1946 amendments require consultation with the USFWS and the state fish and wildlife agencies involving any waterbodies that are proposed or authorized, permitted, or licensed to be impounded, diverted, or otherwise controlled or modified by any agency under a Federal permit or license.

Title, Citation	Summary
Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801–1883, as amended	Establishes regional fisheries councils that set fishing quotas and restrictions in U.S. waters. Requires Federal agencies to consult with NOAA Fisheries on all actions (authorized, funded, or undertaken) that might adversely affect essential fish habitat.
Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1389, 1401–1407, 1538, 4107	Establishes a moratorium on the taking and importation of marine mammals. Prohibits harassing, hunting, capturing, collecting, or killing of marine mammals or attempting such actions. Requires permits for taking marine mammals. Requires consultations with USFWS and NOAA Fisheries if impacts on marine mammals are possible.
Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1401–1445	Regulates dumping of materials into ocean waters. Provides a permitting process to control ocean dumping of dredged materials. Establishes the marine sanctuaries program.
Maritime Transportation Security Act of 2002, Public Law (P. L.) 107-295	Designed to protect the nation’s ports and waterways from a terrorist attack. Requires vessels and port facilities to conduct vulnerability assessments and develop security plans that could include passenger, vehicle, and baggage screening procedures; security patrols; establishing restricted areas; personnel identification procedures; access control measures; and installation of surveillance equipment. Mandates regulations for AIS carriage requirements for certain vessels.
Migratory Bird Treaty Act, 16 U.S.C. 703–712	Implements treaties and conventions between the United States, Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds. Unless otherwise permitted by regulations, the Act makes it unlawful to pursue, hunt, take, capture, or kill; attempt to take, capture, or kill; possess, offer to sell, barter, purchase, or deliver; or cause to be shipped, exported, imported, transported, carried, or received any migratory bird, part, nest, egg, or product, manufactured or not. The Act also makes it unlawful to ship, transport or carry from one state, territory, or district to another, or through a foreign country, any bird, part, nest, or egg that was captured, killed, taken, shipped, transported, or carried contrary to the laws from where it was obtained; and import from Canada any bird, part, nest, or egg obtained contrary to the laws of the province from which it was obtained. The U.S. Department of the Interior has authority to arrest, with or without a warrant, a person violating the Act.
National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370e, as amended	Requires Federal agencies to use a systematic approach when assessing environmental impacts of government activities. Proposes an interdisciplinary approach in a decisionmaking process designed to identify unacceptable or unnecessary impacts to the environment.

Title, Citation	Summary
National Historic Preservation Act, 16 U.S.C. 470–470x-6	Requires Federal agencies to consider the effect of any federally assisted undertaking or licensing on any district, site, building, structure, or object eligible for inclusion, or listed in the National Register of Historic Places (NRHP). Provides for the nomination, identification (through NRHP listing), and protection of significant historical and cultural properties.
National Marine Sanctuaries Act, 16 U.S.C. 1431 <i>et seq.</i>	Authorizes the Secretary of Commerce to designate national marine sanctuaries based on statutory criteria and stipulated factors to be considered by the Secretary as a basis for designation. Stipulates consultation requirements with various Federal agencies, Congressional committees, state agencies, and regional fishery councils.
Noise Control Act of 1972, 42 U.S.C. 4901–4918	Establishes a national policy to promote an environment free from noise that jeopardizes health and welfare. Authorizes the establishment of Federal noise emissions standards and provides relevant information to the public.
Nonindigenous Aquatic Nuisance Prevention Control Act of 1990, 16 U.S.C. 4701–4751	Establishes aquatic nuisance species.
Northwest Atlantic Fisheries Convention Act of 1995, 16 U.S.C. 5601–5610	Implements provisions of international conventions and establishes regulatory framework.
Occupational Safety and Health Act of 1970, 29 U.S.C. 651–678	Establishes standards to protect workers, including standards on industrial safety, noise, and health standards.
Outer Continental Shelf Lands Act of 1953, 43 U.S.C. 1331–1356, as amended	Defines the Outer Continental Shelf as all submerged lands lying seaward of state coastal waters that are 3 miles offshore. Delegates leasing authority to the Secretary of the Interior to promulgate regulations in an effort to reduce waste and conserve natural resources.
Port and Waterways Safety Act, 33 U.S.C. 1221–1232	Sets boat operating and towing safety requirements and establishes enforcement provisions. Authorizes the U.S. Coast Guard (USCG) to establish vessel traffic service/separation schemes for ports, harbors, and other waters subject to congested vessel traffic.
Resource Conservation and Recovery Act, 42 U.S.C. 6901–6992k	Establishes requirements for safely managing and disposing of solid and hazardous waste and underground storage tanks.

Title, Citation	Summary
Executive Order (EO) 11988, <i>Floodplain Management</i> , May 24, 1977	Directs agencies to consider alternatives to avoid adverse effects and incompatible development in floodplains. An agency may locate a facility in a floodplain if the head of the agency finds there is no practicable alternative. If it is found there is no practicable alternative, the agency must minimize potential harm to the floodplain, and circulate a notice explaining why the action is to be located in the floodplain prior to taking action. Finally, new construction in a floodplain must apply accepted floodproofing and flood protection to include elevating structures above the base flood level rather than filling in land.
EO 11990, <i>Protection of Wetlands</i> , May 24, 1977	Directs agencies to consider alternatives to avoid adverse effects and incompatible development in wetlands. Federal agencies are to avoid new construction in wetlands, unless the agency finds there is no practicable alternative to construction in the wetland and the proposed construction incorporates all possible measures to limit harm to the wetland. Agencies should use economic and environmental data, agency mission statements, and any other pertinent information when deciding whether or not to build in wetlands. EO 11990 directs each agency to provide for early public review of plans for construction in wetlands.
EO 12372, <i>Intergovernmental Review of Federal Programs</i> , July 14, 1982, 47 Federal Register (FR) 30959 (6/16/82), as supplemented	Requires Federal agencies to consult with state and local governments when proposed Federal financial assistance or direct Federal development impacts interstate metropolitan urban centers or other interstate areas.
EO 12898, <i>Environmental Justice</i> , February 11, 1994, 59 FR 7629 (2/16/94), as amended	Requires certain Federal agencies, to the greatest extent practicable permitted by law, to make environmental justice part of their missions by identifying and addressing disproportionately high and adverse health or environmental effects on minority and low-income populations.
EO 13089, <i>Coral Reef Protection</i> , June 11 1998, 64 FR 232 (12/3/99)	Mandates that all Federal agencies whose actions might affect U.S. coral reef ecosystems (1) identify their actions that might affect U.S. coral reef ecosystems; (2) use their programs and authorities to protect and enhance the conditions of such ecosystems; and (3) to the extent permitted by law, ensure that any actions they authorize, fund, or carry out will not degrade the conditions of such ecosystems. Federal agencies shall, subject to the availability of appropriations, provide for the implementation of measures needed to research, monitor, manage, and restore affected ecosystems, including measures reducing impacts from pollution, sedimentation, and fishing.

Title, Citation	Summary
EO 13148, <i>Greening the Government Through Leadership in Environmental Management</i> , April 21, 2000, 65 FR 24595 (4/26/00)	Designates the head of each Federal agency to ensure that all necessary actions are taken to integrate environmental accountability into agency day-to-day decisionmaking and long-term planning processes, across all agency missions, activities, and functions. Establishes goals for environmental management, environmental compliance, right-to-know (informing the public and their workers of possible sources of pollution resulting from facility operations) and pollution prevention, and similar matters.
EO 13175, <i>Consultation and Coordination with Indian Tribal Governments</i> , November 6, 2000, 65 FR 67249 (11/09/00)	Requires Federal agencies to establish an accountable process that ensures meaningful and timely input from tribal officials in developing policies that have tribal implications.
EO 13186, <i>Responsibilities of Federal Agencies to Protect Migratory Birds</i> , January 10, 2001, 66 FR 3853 (1/17/01)	Requires each agency to ensure that environmental analyses of Federal actions (required by the National Environmental Policy Act or other established environmental review processes) evaluate the effects of actions and agency plans on migratory birds, emphasizing species of concern. Agencies must support the conservation intent of migratory bird conventions by integrating bird conservation principles, measures, and practices into agency activities, and by avoiding or minimizing, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions. The EO provides broad guidelines on conservation responsibilities and requires the development of more detailed guidance in a Memorandum of Understanding (MOU). The EO is coordinated and implemented by the USFWS. The MOU will outline how Federal agencies will promote conservation of migratory birds. The EO requires the support of various conservation planning efforts already in progress; incorporation of bird conservation considerations into agency planning, including NEPA analyses; and reporting annually on the level of take of migratory birds.
EO 11593, <i>Protection and Enhancement of the Cultural Environment</i> , May 13, 1971, 36 FR 8921 (5/15/71)	Requires all Federal agencies to locate, identify, and record all cultural resources, including significant archeological, historical, or architectural sites.

Note: ¹ This table only reflects those laws and EOs that might reasonably be expected to apply to the Proposed Action and alternatives.

Other laws and EOs that are relevant include, but are not limited to:

- Abandoned Shipwreck Act, 43 U.S.C. 2102, *et seq.*
- American Indian Religious Freedom Act, 42 U.S.C. 1996, *et seq.*
- Antiquities Act, 16 U.S.C. 433, *et seq.*; Archeological Resources Protection Act, 16 U.S.C. 470 aa-ll, *et seq.*
- Architectural Barriers Act, 42 U.S.C. 4151, *et seq.*
- Community Environmental Response Facilitation Act, 42 U.S.C. 9620, *et seq.*
- Department of Transportation Act, P.L. 89-670, 49 U.S.C. 303, Section 4(f), *et seq.*
- Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001–11050, *et seq.*
- Environmental Quality Improvement Act, P.L. 98-581, 42 U.S.C. 4371, *et seq.*
- Farmlands Protection Policy Act, P.L. 97-98, 7 U.S.C. 4201, *et seq.*
- Federal Insecticide, Fungicide, and Rodenticide Act, P.L. 86-139, 7 U.S.C. 135, *et seq.*
- Federal Records Act, 44 U.S.C. 2101–3324, *et seq.*
- Fish and Wildlife Act of 1956, P.L. 85-888, 16 U.S.C. 742, *et seq.*
- Flood Disaster Protection Act, 42 U.S.C. 4001, *et seq.*
- Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001, *et seq.*
- Pollution Prevention Act of 1990, 42 U.S.C. 13101-13109, *et seq.*
- Safe Drinking Water Act, P.L. 93-523, 42, U.S.C. 201, *et seq.*
- Toxic Substances Control Act, 7 U.S.C. 136, *et seq.*
- Wild and Scenic Rivers Act, P.L. 90-542, 16 U.S.C. 1271, *et seq.*
- EO 12902, *Energy Efficiency and Water Conservation at Federal Facilities*, March 8, 1994, 59 FR 11463
- EO 12114, *Environmental Effects Abroad of Major Federal Actions*, January 9, 1979, 44 FR 1957
- EO 12088, *Federal Compliance with Pollution Control Standards*, 43 FR 47707, October 13, 1978, as amended by EO 12580, January 23, 1987, and revoked (in part) by EO 13148, April 21, 2000
- EO 13132, *Federalism*, August 4, 1999, 64 FR 43255
- EO 13007, *Historic Sites Act*, May 24, 1996, 16 U.S.C. 46, *et seq.*; Indian Sacred Sites, 61 FR 26771
- EO 13112, *Invasive Species*, February 3, 1999, 64 FR 6183, as amended by EO 13286, February 28, 2003, 68 FR 10619
- EO 13158, *Marine Protected Areas*, May 26, 2000, 65 FR 2490
- EO 11514, *Protection and Enhancement of Environmental Quality*, March 5, 1970, 35 FR 4247, as amended by EO 11541, July 1, 1970, 35 FR 10737 and EO 11991, May 24, 1977, 42 FR 26967

- EO 13045, *Protection of Children from Environmental Health and Safety Risks*, 62 FR 19885, April 21, 1997, as amended by EO 13229, October 9, 2001, 66 FR 52013 and EO 13296, April 18, 2003, 68 FR 19931
- EO 12962, *Recreational Fisheries*, June 7, 1995, 60 FR 307695
- EO 13123, *Greening the Government Through Efficient Energy Management*, June 3, 1999, 64 FR 30851

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