

## Conformance with Federal, State, and Local Plans, Policies and Controls

This section summarizes the major federal, state, and local plans, policies, and controls with which the proposed action must comply. Conformance of the proposed reuse and redevelopment with specific components or requirements of these plans, policies, and controls is discussed in more detail in Section 4. This section provides a general overview of compliance issues and regulatory programs identified by agencies in letters of response contained in Appendix A.

### 5.1 Federal Laws, Plans, and Programs

The proposed disposal and reuse of the Truman Waterfront property would be consistent with the goals and action plans of the FKNMS. All applicable aspects of the Clean Vessel Act and the FKNMS Management Plan must be implemented in redevelopment of the Truman Waterfront property (see FDEP letter dated May 21, 1998, in Appendix A). Development and operation of proposed port and harbor facilities would be conducted in conformance with applicable strategies identified in the FKNMS Water Quality Action Plan, specifically those regarding domestic wastewater, stormwater, marinas, and hazardous materials (see FKNMS letter dated May 13, 1998, in Appendix A).

All proposed construction that would require dredging and filling activities would require federal authorization under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. The EPA would review those permit applications to assure that the proposed activities conform to the Section 404 (b)(1) guidelines (see EPA letter dated May 1, 1998, in Appendix A).

Marinas involved in boat maintenance activities (including vessel rehabilitation, mechanical repairs, painting, fueling, and lubrication) or equipment cleaning operations are considered industrial activities according to 40 CFR 122.26 and must comply with NPDES Permit Application Regulations for Stormwater Discharges. To obtain NPDES stormwater permits, applicants must identify Best Management Practices they intend to use to eliminate pollutants from stormwater runoff generated as a result of their marina activities (see EPA letter dated May 1, 1998, in Appendix A).

Receptacles for oil, noxious liquid substances, and garbage are required by 33 CFR 158 for ports or terminals used by certain oceangoing ships (carrying oil or noxious liquid substances) and by

all vessels for the transfer of garbage. Operation of the cruise ship terminal, and potentially the ferry terminal, would require compliance with these federal regulations. A Certificate of Adequacy must be issued by the U.S. Coast Guard and reception facilities must meet U.S. Coast Guard inspection standards at all times for the terminal to be in compliance with the regulations (see U.S. Coast Guard letter dated May 15, 1998, in Appendix A).

Federal laws (Oil Pollution Act, Clean Water Act, and CERCLA) generally require that any person who spills oil or releases hazardous materials into the marine environment or creates the threat of a spill or release to the marine environment, must immediately notify the U.S. Coast Guard and take immediate steps to mitigate, contain, and clean up the spilled or released substance (see U.S. Coast Guard letter dated May 15, 1998, in Appendix A).

If operation of any of the proposed facilities may cause an increased potential for vessel collisions with endangered or threatened species or marine mammals protected under the Marine Mammal Protection Act, consultation with NMFS or USFWS may be required under the Endangered Species Act (see NMFS letter signed by Andreas Mager, Jr., dated July 20, 1998, in Appendix A).

## **5.2 State Statutes and Regulations**

The Florida DCA has determined that the Chapter 288 Military Base Reuse Plan (Chapter 288 Plan; a refined version of the Federal Base Reuse Plan) complies with Chapter 288, FS, Defense Conversion and Transition Act, and Chapter 380, FS, Development of Regional Impact. Through compliance with these statutes, the Chapter 288 Plan has been determined to be consistent with the FCMP; Chapter 380 FS, ACSC; and Chapter 163 Part II, Local Government Comprehensive Planning and Land Development.

Waters adjacent to Truman Waterfront are classified as OFW. (Waters within Truman Harbor are not OFW, but are Class III waters.) Any activities in OFWs must be in the public interest and must meet stringent water quality criteria, pursuant to Sections 62-4.242(2) and 62-302.700, FAC. Docking facilities must also comply with additional water quality criteria specified in the SFWMD's *Basis of Review* (see SFWMD letter dated May 8, 1998, in Appendix A).

Construction of the marinas would require a State Lands Environmental Resource Permit and granting of sovereign submerged land lease by the State. The submerged land within Truman Harbor is owned by the State and under an existing lease with the Navy. To implement the proposed reuse plan, this lease would have to be transferred or a new lease granted. The permitting process would incorporate an appropriate title search of submerged land ownership prior to official transfer of the property, or preparation of submerged land lease agreements (see FDEP letter dated May 21, 1998, in Appendix A).

New construction, rehabilitation of existing structures, and street scaping must be appropriately designed to avoid or minimize adverse impacts to any historic properties listed, or which satisfy the criteria of eligibility for listing (36 CFR 60.4), in the NRPH. The SHPO requested that the City consult with the Florida Division of Historical Resources to identify and evaluate any archeological sites and/or pre-1948 structures that may be impacted by the proposed redevelopment activities (see Florida Department of State/Division of Historical Resources letter dated May 15, 1998, in Appendix A).

### **5.3 Local Plans and Regulations**

The Chapter 288 Plan has provided the guidance for updating the City of Key West Comprehensive Plan and LDRs. The City of Key West LDRs, adopted pursuant to Chapter 163, Part II, FS, guide the physical characteristics of site development through procedural requirements, design criteria, application reviews and approvals, and permit issuance. The development review process would include a comprehensive plan, zoning, and concurrency determination; subdivision/site plan approval; and permit approval. Permits may be required from, but are not limited to, the local government and the SFWMD.

In the local development review process, principal reviewers and approval entities include the DCA and Administration Commission, the Planning and Building Departments, Public Utilities Department, Planning Board, and the city and/or county commission, depending on the specific component of an application for development.

No significant conflict with local land use regulatory requirements would be expected from implementation of the proposed action. The land use activities of the proposed action would be consistent with the existing land use classification/zoning for the property.

The proposed redevelopment of Truman Waterfront would be consistent with the goals and policies of the *Strategic Regional Policy Plan for South Florida* (see South Florida Regional Planning Council letter dated April 24, 1998, in Appendix A).